



REGULAR MEETING OF THE MILPITAS CITY COUNCIL



AGENDA

TUESDAY, NOVEMBER 18, 2025

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_8ypBpDDHSX6tGnPrUtF60w

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.
- Use electronic devices appropriately 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 APPOINTMENT AND HIRING

Pursuant to Government Code Section 54957(b)(1)
Employee Position: City Attorney

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 (Vice Mayor Barbadillo)

PRESENTATIONS

- Dagupan Key to the City Presentation and Proclamation

PUBLIC FORUM

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

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

Recommendation: Receive City Council Calendar of Meetings for November and December 2025.

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

Recommendation: Approve City Council Meeting minutes of October 28 and November 4, 2025.

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: Receive the list of items that have been requested by City Councilmembers and received consensus in previous meetings to date.

C5. Adopt Ordinance No. 38.859 Approving Zoning Text and Zoning Map Amendment ZA25-0002 for the Gateway-Main Street Specific Plan (Staff Contact: Jay Lee, Planning Director, 408-586-3077)

Recommendation: (1) Determine that the Subsequent Environmental Impact Report (EIR) adequately analyzes the potential environmental impacts associated with the proposed Zoning Amendments and is in compliance pursuant to CEQA Guidelines Section 15162; and (2) Waive the second reading and adopt Ordinance No. 38.859 approving Zoning Text and Map Amendment No. ZA25-0002 for the Gateway-Main Street Specific Plan.

C6. Approve and Authorize the City Manager, or Designee, to Execute a Fee Reimbursement Agreement with Toll West Coast, LLC for the City's Share Cost of Sango Court Road Extension (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; Michael Silveira, City Engineer, 408-586-3303)

Recommendation: Approve and authorize the City Manager, or designee, to execute a Fee Reimbursement Agreement with Toll West Coast, LLC, in an amount not to exceed \$1,110,530, for the City's share of the cost of the Sango Court Road extension.

C7. Approve and Authorize the City Manager, or Designee, to Execute the Improvement Agreement with Duke Realty Limited Partnership for a New Industrial Building at 475-525 Sycamore 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, or designee, to execute the Improvement Agreement between the City of Milpitas and Duke Realty Limited Partnership with a value of \$929,000 for a new industrial building at 475-525 Sycamore Drive to be completed within one (1) year from the date of the Improvement Agreement.

C8. Authorize the City Manager, or Designee, to Negotiate and Execute an Agreement with Paladin Drones, Inc., for the Purchase of an Additional Drone Docking Station and Renew the Annual Subscription Fee (Staff Contact: Luz Cofresí-Howe, Finance Director, 408-586-3111; and Jared Hernandez, Chief of Police, 408-586-2406)

Recommendation: (1) Authorize the City Manager, or designee, to negotiate and execute a purchase order agreement with Paladin Drones Inc. for the purchase of an additional drone docking station and renew annual subscription fee for a 1-year term for a not-to-exceed amount of \$91,875, subject to the appropriation of funds; and (2) Authorize the City Manager, or designee, to amend the agreement to extend it for up to one (1) additional twelve (12) month term and add additional compensation as required, subject to the appropriation of funds.

C9. Consider Donation Request from Knights of Columbus St. John Council (Staff Contact: Renée Lorentzen, Recreation and Community Services Director, 408-586-3409)

Recommendation: Approve a Donation request of \$500 for the Knights of Columbus St. John Council Annual Free Thanksgiving Dinner.

C10. Approve Milpitas Arts and Culture Grant Request for a Cultural Menorah Lighting Event (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)

Recommendation: Approve a Milpitas Arts and Culture in-kind grant request from Dina and Marvin Serber for a Cultural Menorah Lighting Event on December 21, 2025.

COMMUNITY DEVELOPMENT

11. **Adopt a Resolution Accepting Metropolitan Transportation Commission's Transit-Oriented Communities Planning and Implementation Projects Grants (Staff Contact: Jay Lee, Planning Director, 408-586-3077)**

Recommendation: Adopt a resolution accepting Metropolitan Transportation Commission Transit-Oriented Communities Planning and Implementation Projects Grant funding totaling to \$400,000 to support development of a parking and transportation demand management policy and increased allowable floor area ratio for commercial development in Transit-Oriented Communities areas.

COMMUNITY SERVICES AND SUSTAINABLE INFRASTRUCTURE

12. **Receive Presentation on Considering an Increase to Milpitas Assistance Program Water Utilities Bill Subsidy Amount (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)**

Recommendation: Receive presentation on Increasing the Milpitas Assistance MAP Water Utilities Bill Subsidy and provide feedback to staff.

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

Members of the City Council or City Manager may make brief announcements at this time. Members of the City Council may also suggest future agenda items. 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

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: ccreech@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.

October 2025						
S	M	T	W	T	F	S
	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

MILPITAS CITY COUNCIL CALENDAR

November 2025

December 2025						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3 7:00 PM -Parks, Recreation & Cultural Resources Commission (EC) 4:30 PM - Economic Development and Trade Commission Special Meeting (WL) (MUSD Innovation Campus)	4 5:00 PM -City Council Special Meeting 6:00 PM -Closed Session 7:00 PM -City Council	5 2:00 PM -Santa Clara VTA Monthly Briefing - Northeast Group (CM) (Santa Clara)	6 5:30 PM -Santa Clara VTA Board of Directors (CM) 5:30 PM -Milpitas Chamber of Commerce Board (GB)	7	8
9	10	11  CITY HALL CLOSED IN OBSERVANCE OF VETERANS DAY	12 12:00 PM -Santa Clara Valley Water District - Water Commission (CM) 4:30 PM -City Council Finance Subcommittee (CM/EC) 7:00 PM -Silicon Valley Clean Energy Board of Directors (GB) (Cupertino)	13 4:00 PM -Santa Clara VTA Policy Advisory Committee (EC) 4:00 PM -Treatment Plant Advisory Committee (CM) (San Jose) 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 (WL) 7:00 PM -Library and Education Commission (HL) (Milpitas Public Library)	18 5:00 PM -Closed Session 7:00 PM -City Council	19 6:00 PM -Energy and Environmental Sustainability Commission (EC) 5:30 PM - Planning Commission Special Meeting	20 6:30 PM -Bay Area Water Supply Conserv Agency (CM) (Oak Room - San Mateo Main Library) 7:00 PM -Public Safety and Emergency Preparedness Commission (WL)	21	22
23	24 7:00 PM -Arts Commission (CM)	25	26	27  CITY HALL CLOSED FOR THANKSGIVING		28
30						

November 2025						
S	M	T	W	T	F	S
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2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

Milpitas City Council Calendar

December 2025

January 2026						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1 7:00 PM -Parks, Recreation & Cultural Resources Commission (EC)	2 6:00 PM -Closed Session 7:00 PM -City Council	3 2:00 PM -Santa Clara VTA Monthly Briefing - Northeast Group (CM) (Santa Clara) 5:30 PM -Veterans Commission (GB) 7:00 PM -Community Housing Commission (EC)	4 5:30 PM -Milpitas Chamber of Commerce Board (GB) 5:30 PM -Santa Clara VTA Board of Directors (CM)	5	6
7	8	9	10 4:30 PM -City Council Finance Subcommittee (CM/EC) 7:00 PM -Silicon Valley Clean Energy Board of Directors (GB) (Cupertino) 7:00 PM -Planning Commission	11 4:00 PM -Treatment Plant Advisory Committee (CM) (San Jose) 4:00 PM -Santa Clara VTA Policy Advisory Committee (EC) 6:00 PM -Youth Advisory Commission (HL) 7:00 PM -Cities Assoc of SCC (CM)	12	13
14	15 7:00 PM -Science, Technology, and Innovation Commission (WL)	16 5:00 PM -Closed Session 7:00 PM -City Council	17 6:00 PM -Energy and Environmental Sustainability Commission (EC)	18	19	20
21	22	23	 City Hall and City Facilities Closed (Fire and Police are not affected)			
28	29	30				
	 City Hall and City Facilities Closed (Fire and Police are not affected)					



SPECIAL MEETING OF THE MILPITAS CITY COUNCIL

MINUTES

TUESDAY, OCTOBER 28, 2025

The City Council of the City of Milpitas convened in a Special Meeting of the Milpitas City Council October 28, 2025, 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 5:31 PM. Roll Call was taken by City Clerk Guzzetta.

PRESENT: Mayor Montano, Vice Mayor Barbadillo (5:34 PM), Councilmember Chua, Councilmember Lam, Councilmember Lien

ABSENT: None.

Acting City Attorney Creech briefed the City Council on the Closed Session items.

There were no public comments and the Council adjourned to closed session at 5:33 PM.

ADJOURN TO CLOSED SESSION

(a) CONFERENCE WITH LABOR NEGOTIATOR

Pursuant to Government Code Section 54957.6

Agency's Designated Representative(s): Rick Bolanos, Liebert Cassidy Whitmore

Employee Organization(s): Professional and Technical Employees, Mid-Management and

Confidential Employees, Milpitas Employees Association, Unrepresented Employees

(b) PUBLIC EMPLOYEE EMPLOYMENT AND RESIGNATION

Pursuant to California Government Code Section 54957(b)(1)

Position: Interim City Manager

CLOSED SESSION ANNOUNCEMENT:

The City Council reconvened at 7:17 PM. Acting City Attorney Creech reported that there was nothing to report out of closed session at this time.

PLEDGE OF ALLEGIANCE

Councilmember Lam led the Pledge of Allegiance.

INVOCATION

Councilmember Chua provided the invocation.

PRESENTATIONS

Mayor Montano, joined by the Milpitas City Council, presented proclamations in recognition of Fire Prevention Week, Hindu American Awareness and Appreciation Month, California Clean Air Day, and Breast Cancer Awareness Month.

PUBLIC FORUM

There were no public speakers.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

Acting 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. Acting City Attorney Creech 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

Councilmember Lien read the Milpitas City Council Code of Conduct.

APPROVAL OF AGENDA

Assistant City Manager Matt Cano requested that agenda item C5 be deferred to the following week due to new information requiring adjustments to the agenda report.

After discussion, motion: to approve the agenda, continuing Item C5 to the November 4, 2025, City Council Meeting.

Motion/Second: Councilmember Lien / Vice Mayor Barbadillo

Motion carried by the following:

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

NOES: None

CONSENT CALENDAR

There were no public comments.

After discussion, motion: to approve the Consent Calendar item C1-C4.

Motion/Second: Councilmember Chua / Councilmember Lien

Motion carried by the following:

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

NOES: None

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

Received City Council Calendar of Meetings for November 2025.

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

Approved City Council Meeting minutes of October 2, 2025.

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)

Received the list of items that have been requested by City Councilmembers and received consensus in previous meetings to date.

5. Authorize the City Manager, or Designee, to Execute an Amendment to the Agreement with NJ Associates for Architectural Services (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)

Continued to November 4, 2025.

PUBLIC HEARINGS

6. Adopt the Gateway-Main Street Specific Plan and Certify the Associated Subsequent Environmental Impact Report (Staff Contact: Jay Lee, Planning Director, 408-586-3077)

Assistant City Manager Cano introduced the item. Planning Director Lee presented the report, joined by Ascent Environmental Consultants Christine Babla and Claudia Watts, Economic Development and Strategic Initiatives Director Andrade, and Recreation and Community Services Director Lorentzen.

Mayor Montano opened the public hearing.

There were the following public speakers:

1. Manuel Salazar from SV@Home

Mayor Montano closed the public hearing.

Councilmember Chua commended the implementation team and was enthusiastic about the public arts installations and ongoing projects on Main Street.

Mayor Montano emphasized that the plan was overdue, noting discussions dating back to when she was on the Planning Commission in 1996. She stressed the importance of mixed-use development and providing incentives for businesses to invest in the area. She asked about Floor Area Ratio (FAR) incentives, connectivity between Abel Street and Main Street through a paseo, and the timing of impact fees. The Mayor also expressed concern about missed opportunities to collect impact fees from developments already underway.

Planning Director Lee clarified that the FAR bonuses were beyond baseline maximums and that projects could be 100% commercial or mixed-use. He noted that the plan identifies areas where greenways and paseos would be desirable as redevelopment occurs. Regarding impact fees, he explained that while citywide impact fees exist, the nexus study is required to establish area-specific fees that would directly benefit the specific plan area.

Vice Mayor Barbadillo emphasized the importance of uniformity in implementing improvements along Main Street, hoping to see consistency from Highway 880 to the library.

Councilmember Lien asked about shared parking arrangements, and Director Lee explained that the plan identifies strategic locations for public parking spread throughout the area to minimize walking distances.

Acting City Attorney Creech read the title of the ordinance aloud.

After discussion, motion: to (1) Adopt **Resolution No. 9452** to approve Specific Plan Amendment SP20-0002 to adopt the Gateway-Main Street Specific Plan, (2) Approve a Zoning Map and Text Amendment ZA25-0002 and introduce **Ordinance No. 38.859** to amend the Zoning Ordinance and Zoning Map to establish new Specific Plan boundaries, zoning districts, and zoning regulations, (3) Waive the reading of the ordinance beyond the title; and (4) Adopt **Resolution No. 9453** to adopt General Plan Amendment GP25-0002 to amend the Land Use Element Map; and (4) Certify the Subsequent Environmental Impact Report (EIR) to the Milpitas 2040 General Plan EIR for the Gateway-Main Street Specific Plan.

Motion/Second: Councilmember Chua / Mayor Montano

Motion carried by the following:

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

NOES: None

COMMUNITY DEVELOPMENT

7. Receive a Presentation on the Work Completed on the Milpitas Gateway-Main Street Sense of Place Plan and Provide Comments to Staff (Staff Contact: Jay Lee, Planning Director, 408-586-3077)

Assistant City Manager Cano introduced the item. Planning Director Lee and Principal Planner Van Hua presented the report, joined by Thule Design Group Consultant Anjolie Palta.

From the selections presented, Council members provided feedback on their preferences:

- For streetscape design, all members preferred Option 1 (Expanded Edge)
- For the palette, the Council preferred Option 2 (Playful and family-friendly) for its vibrant colors

Councilmembers provided the following local insights:

- Councilmember Lien emphasized making Main Street a vibrant, family-oriented place where different cultures can be showcased and history preserved.
- Councilmember Chua stressed making it a destination place that would attract businesses and create a place for families to enjoy.
- Councilmember Lam suggested potentially organizing the street by cultural sections, with areas dedicated to Indian, Chinese, and Vietnamese businesses.
- Mayor Montano requested historical lighting, murals depicting diversity and history, more flowers and trees, planter boxes, trash bins, sidewalk enhancements such as mosaic tiles, and businesses like ice cream shops and coffee shops.

There were no public speakers.

LEADERSHIP AND SUPPORT SERVICES

8. Adopt a Resolution Approving the City of Milpitas Investment Policy for Fiscal Year 2025-26 (Staff Contact: Luz Cofresí-Howe, Director of Finance, 408-586- 3111)

Finance Director Cofresí-Howe presented the report.

There were no public speakers.

Councilmember Lam asked about the management of investments and the fees paid to investment advisors. Finance Director Cofresí-Howe explained that the city contracts with Chandler Investments for its general portfolio and PFM Assets for the Section 115 trust. She noted that both contracts will expire in spring 2026, and an RFP process is underway.

Councilmember Lam expressed concern about the return on investment rate of 3.84% for the general portfolio, suggesting it should be higher. Finance Director Cofresí-Howe emphasized that return is the third priority after safety and liquidity, but agreed to discuss this further with Councilmember Lam.

After discussion, motion: to adopt **Resolution No. 9454** approving the City of Milpitas Investment Policy for FY 2025-26..

Motion/Second: Vice Mayor Barbadillo / Councilmember Lien

Motion carried by the following:

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

NOES: None

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

Assistant City Manager Matt Cano announced the Dia de Muertos 5K and Wellness Fair on Saturday, November 1, from 9 AM to 12 PM at Gill Park and the Milpitas Community Theater's production of "James and the Giant Peach" running November 6-9.

Councilmember Lam expressed concern about the upcoming priority meeting scheduled for the next council meeting, suggesting that more time might be needed for discussion than the scheduled one hour. After discussion, the Council agreed to maintain the original 5 PM start time, failing to come to consensus on his request (Noes: Barbadillo, Chua, Lien, Montano).

Vice Mayor Barbadillo proposed installing defibrillators on city properties, noting a recent emergency at an event he attended with Councilmember Lam where a defibrillator could have made a difference. The Council unanimously supported adding the item to the priority list.

Councilmember Chua thanked the Milpitas Unified School District and the Economic Development Team for a successful Manufacturing Day event.

Mayor Montano echoed appreciation for the Manufacturing Day event, noting she had attended the morning session and found it valuable for students.

ADJOURNMENT

Mayor Montano adjourned the meeting at 9:45 PM.

Draft meeting minutes submitted by City Clerk, Suzanne Guzzetta



SPECIAL JOINT MEETING OF THE MILPITAS CITY COUNCIL AND HOUSING AUTHORITY

MINUTES

TUESDAY, NOVEMBER 4, 2025

The City Council of the City of Milpitas convened in a Special Meeting of the Milpitas City Council and Housing Authority on November 4, 2025, 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 5:02 PM. Roll Call was taken by City Clerk Guzzetta.

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

ABSENT: None

Acting City Attorney Creech briefed the City Council on the Closed Session.

There were the following public speakers:

1. Veronica Bejines
2. Zuha Lambert
3. Margarita Mendoza
4. Joseph Weinstein
5. Toni Charlop
6. Dave Morris

The City Council adjourned to Closed Session at 5:14 PM

ADJOURN TO CLOSED SESSION

(a) CONFERENCE WITH LABOR NEGOTIATOR

Pursuant to Government Code Section 54957.6

Agency's Designated Representative(s): Rick Bolanos, Liebert Cassidy Whitmore

Employee Organization(s): Professional and Technical Employees, Mid-Management and Confidential Employees, Milpitas Employees Association, Unrepresented Employees

(b) PUBLIC EMPLOYEE APPOINTMENT AND HIRING

Pursuant to Government Code Section 54957(b)(1)

Employee Position: City Attorney

CLOSED SESSION ANNOUNCEMENT:

The City Council reconvened at 7:01 pm.

Acting City Attorney Creech had no report from closed session.

PLEDGE OF ALLEGIANCE

Scout Troop 2163 Milpitas Rotary presented the colors and led the Pledge of Allegiance.

INVOCATION

Vice Mayor Barbadillo provided the invocation.

PRESENTATIONS

Mayor Montano, joined by the Milpitas City Council, presented a proclamation in recognition of Nurse Practitioners Week.

PUBLIC FORUM

There were the following public speakers:

1. Martin
2. Gwan Alisantosa
3. Linda Jiang
4. Michelle Liu
5. Kavi
6. Michael Fossati
7. Minh Gloria
8. Padma
9. Iris Zhou

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

Acting 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. Acting City Attorney Creech 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

Councilmember Chua read the City Council Code of Conduct.

APPROVAL OF AGENDA

After discussion, motion: to approve the agenda.

Motion/Second: Councilmember Chua / Vice Mayor Barbadillo

Motion carried by the following:

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

NOES: None

CONSENT CALENDAR

Councilmember Lam pulled items C4, C7, and C9 from the consent calendar for separate discussion.

After discussion, motion: to approve the consent calendar except for items C4, C7, and C9.

Motion/Second: Councilmember Lien / Vice Mayor Barbadillo

Motion carried by the following:

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

NOES: None

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

Received City Council Calendar of Meetings for November 2025.

2. 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.

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

Received the list of items that have been requested by City Councilmembers and received consensus in previous meetings to date.

4. Accept the Commission and Committee Annual Report and Approve Work Plans for FY 2025-26 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Item pulled from Consent Calendar.

5. Authorize the Executive Director of the Milpitas Housing Authority, or Designee to Take All Necessary Actions, Including Negotiating with the Necessary Parties, to Retain the Below Market Rate Unit at 173 Parc Place Drive (Staff Contact: Matt Cano, Assistant City Manager, 408-586-3012)

Authorized the Executive Director of the Milpitas Housing Authority, or designee, to take all necessary actions to retain the below market unit at 173 Parc Place Drive.

6. Approve and Authorize the City Manager to Execute an Amendment to the Agreement with Liebert Cassidy Whitmore to Provide Essential Labor Relations and Other Services (Staff Contact: Kelli Parmley, Human Resources Director, 408-586-3086)

Approved and authorized the City Manager, or designee, to execute Amendment No. 4 to the Professional Services Agreement with Liebert Cassidy Whitmore to provide essential labor relations and other services for an additional amount of \$100,000 for a total amount not-to-exceed \$600,000, subject to the annual appropriation of funds, and to extend the term of the Agreement to June 30, 2027.

7. Adopt a Resolution to Approve Project Plans and Specifications, Authorize Advertisement for Bid Proposals, and Approve Budget Appropriation for Calaveras Median Conversion Project (Staff: Christian Di Renzo, Public Works Director, 408-586-2602; and Michael Silveira, City Engineer, 408-586-3303)

Item pulled from Consent Calendar.

8. Adopt a Resolution to Approve Project Plans and Specifications, Award Construction Contract to Chrisp Company, and Approve an Amendment to the Agreement with Hexagon

Transportation Consultants, Inc. for Bicycle Improvement Project (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; and Michael Silveira, City Engineer, 408-586-3303)

Adopted **Resolution No. 9455** to: (1) Approve the Project plans and specifications; (2) Award the construction contract to Chrisp Company in the amount of \$620,412.75; (3) Authorize the City Manager, or designee, to award and execute the construction contract with Chrisp Company; (4) Authorize the Public Works Director, or designee, to negotiate and execute contract change order(s) in an aggregate amount not to exceed \$180,000; and (5) Approve and authorize the City Manager, or designee, to execute Amendment No. 1 to the Design Services Agreement with Hexagon Transportation Consultants, Inc. in an amount not-to-exceed \$25,000 for Bicycle Improvement Project, CIP No. 4299.

9. Authorize the City Manager, or Designee, to Execute an Amendment to the Agreement with NJ Associates for Architectural Services (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)

Item pulled from Consent Calendar.

LEADERSHIP AND SUPPORT SERVICES

10. City Council Priority Setting (Staff Contact: Matt Cano, Assistant City Manager, 408-586-3012)

Interim City Manager Santana introduced the item. Assistant City Manager Cano presented the report. Assistant City Manager Cano reviewed the prioritization process, noting that the referrals were continued from the October 2, 2025, priority-setting session for final voting and ranking.

There were no public speakers.

Councilmember Lam announced he would withdraw referral 7, Citizen Evidence Upload, because the Police Department was already implementing that functionality through the Evidence.com platform. For referral 6, Status-tracking of Online Reports, Lam supported a low-cost alternative using voicemail or email for status updates and asked that it remain on the list for potential prioritization.

Vice Mayor Garry Barbadillo asked Councilmember Chua to clarify her vision for the Ring Doorbell Initiative and whether the City would be responsible for ongoing subscription costs. She explained that her proposal was modeled after San Leandro's program, which covered only installation and equipment, not subscriptions. City Manager Santana asked Chief Hernandez to comment, and he confirmed that the City would not pay subscription fees. He explained that residents in similar programs pay their own subscriptions but often share footage voluntarily, noting that Milpitas already has a community camera registry for that purpose. Councilmember Chua suggested making participation in the registry a requirement for anyone receiving a City-funded device.

Mayor Montano withdrew referral 16, flight-path review, explaining she only wanted meeting information posted online for residents, which staff had already accomplished.

Councilmember Evelyn Chua asked about previously adopted items 3 and 4 on the older priority list, Small Business Open House and Animal Cruelty Ordinance. Assistant City Manager Cano advised that small business outreach was already underway through the business license reform project and that the ordinance would remain for later ranking. Councilmember Chua opted to withdraw both items 3 and 4.

The City Council conducted the first round of voting to determine which referrals would advance to the ranking process. IT Director Nam explained the electronic voting procedure, and City Clerk Guzzetta

reported that two referrals received enough votes to move forward. The results of the first round were as follows:

R3 – Explore expansion of SMART transportation services to San Jose International Airport, and
R11 – Storefront and Crime Prevention Business Initiative.

The City Council then conducted the second round of voting. City Clerk Guzzetta reported that five additional referrals received enough votes to move forward to the ranking process. The results of the second round were as follows:

R1 – Update Mural Program Policy
R4 – Ring Doorbell Neighborhood Initiative
R10 – Strategic Land Acquisition Revenue Reserve
R13 – Council Special Events Fund
R14 – ADU Permit Subsidy

Assistant City Manager Cano explained that staff would reset the voting system to prepare for the ranking process, during which Councilmembers would rank the seven selected referrals from highest to lowest priority. IT Director Nam instructed Council to refresh their screens, and City Clerk Guzzetta explained that members could drag and drop the items into order of priority and select “Submit” to record their rankings.

The results of the ranking process were as follows:

R3 – Explore Expansion of SMART Transportation Services to San Jose International Airport
R11 – Storefront and Crime Prevention Business Initiative
R10 – Strategic Land Acquisition Revenue Reserve
R17 – Temporary Police Office on Main Street
R18 – Develop Fentanyl Policy
R4 – Ring Doorbell Neighborhood Initiative
R1 – Update Mural Program Policy
R14 – ADU Permit Subsidy
R13 – Council Special Events Fund

Following the ranking results, Councilmember Chua made a motion: to continue the funding allocation discussion to December.

Motion/Second: Councilmember Chua / Vice Mayor Barbadillo
by the following:

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

NOES: None

Acting City Attorney Creech advised that the City Council would need to make a motion and conduct a vote to confirm the prioritization list.

After discussion, motion: to confirm the prioritization list as ranked.

Motion/Second: Councilmember Chua / Vice Mayor Barbadillo
by the following:

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

NOES: None

ITEMS PULLED FROM CONSENT CALENDAR

4. Accept the Commission and Committee Annual Report and Approve Work Plans for FY 2025-26 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Councilmember Lam provided insights on why he pulled the item. City Clerk Guzzetta presented the report, joined by Assistant City Manager Cano, Economic Development Specialist Thomas, Planning Director Lee, Emergency Services Coordinator Charlop, and Recreation and Community Services Director Lorentzen.

There was no council discussion.

There were no public comments.

Motion: to Accept the Annual Report and approve proposed FY 2025-26 Work Plans for the (a) Community Housing Commission, (b) Economic Development and Trade Commission, (c) Energy and Environmental Sustainability Commission, (d) Planning Commission, (e) Public Safety and Emergency Preparedness Commission, and (f) Youth Advisory Commission..

Motion/Second: Councilmember Lam / Councilmember Lien

Motion carried by the following:

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

NOES: None

7. Adopt a Resolution to Approve Project Plans and Specifications, Authorize Advertisement for Bid Proposals, and Approve Budget Appropriation for Calaveras Median Conversion Project (Staff: Christian Di Renzo, Public Works Director, 408-586-2602; and Michael Silveira, City Engineer, 408-586-3303)

City Engineer Silveira presented the report

Councilmember Lam asked about weed control, and City Engineer Silveira explained that matting would minimize weeds with minimal annual maintenance required.

Mayor Montano asked about vegetation and welcome signs. The City Engineer confirmed no vegetation would be included and the welcome sign would be refurbished at Highway 880 instead. The Mayor expressed appreciation for the beautification project.

There were no public comments.

After discussion, motion: to Adopt **Resolution No. 9456** to (1) Approve the project plans and specifications; (2) Authorize advertisement for bid proposals; and (3) Approve a budget appropriation in the amount of \$360,000 from the General Government CIP Fund in Park & Street Landscape Irrigation, CIP No. 3449 Improvements and Annual Tree Replacement, CIP No. 3438 for Calaveras Median Conversion Project, CIP No. 3468..

Motion/Second: Councilmember Lam / Mayor Montano

Motion carried by the following:

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

NOES: None

9. **Authorize the City Manager, or Designee, to Execute an Amendment to the Agreement with NJ Associates for Architectural Services (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)**

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

There were no public comments.

After discussion, motion: to Adopt **Resolution No. 9457** to authorize the City Manager, or designee, to negotiate and execute an amendment to the Professional Services Agreement with NJ Associates for Construction Management Technical Services in the amount of \$49,391 for a total not-to-exceed amount of \$139,391 and extend the term of the agreement to November 14, 2026.

Motion/Second: Councilmember Lam / Vice Mayor Barbadillo

Motion carried by the following:

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

NOES: None

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

Councilmember Chua requested the Acting City Attorney provide the council with the current cellular installation policy to respond to resident concerns. Councilmember Lam noted that cell antenna installations previously went through the Science Technology Innovation Commission and questioned why this process was skipped. Acting City Attorney Creech offered to provide information about the laws and regulations. Mayor Montano requested the information be sent to all councilmembers given the level of concern about the issue.

ADJOURNMENT

Mayor Montano adjourned the meeting 9:43 PM.

Draft meeting minutes submitted by City Clerk, Suzanne Guzzetta

TENTATIVE CITY COUNCIL AGENDA ITEM LIST

as of 11/14/2025

December 2, 2025 – Regular Meeting (7:00 PM)

CLOSED SESSION

- Labor Relations

INVOCATION (Councilmember Barbadillo)

PRESENTATION

- Manufacturing Day and Event Partners Recognition

CONSENT CALENDAR

1. Receive City Council calendar for December 2025 (City Clerk)
2. Approve City Council Meeting minutes of October 21, 24 and November 18, 2025 (City Clerk)
3. Preview list of items for December 16, 2025 (City Clerk)
4. Councilmember Request List (City Clerk)
5. 2026 City Council Meeting Calendar (City Clerk)
6. CMO Winter Recess Authority (City Manager)
7. Establishment of Rental Review Board (Housing)
8. PLHA Funding Application for 2022 & 2023 and Potential County Consortium Membership for Next Cycle (Housing)
9. Approved Coop. Purchase Agreement for Hammond Street Light Project, CIP 4301 (Public Works / Engineering)

PUBLIC HEARINGS

10. Fee Schedule (Finance)
11. Appeal Planning Commission Decision on 1000 Gibraltar (Industrial Development) (Planning)

LEADERSHIP AND SUPPORT SERVICES

12. FY 2024-25 Comprehensive Annual Financial Report (Finance)
13. MidCon Agreement (Human Resources)

**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	Install debrillators on city properties	Barbadillo	10/28/2025	An update will be provided to the City Council on this item in November 2025
2	Place a billboard at the Sport Center to inform the community about events and activities	Montano	10/21/2025	An update on this item will be included in the next quarterly prioritization update.
3	Explore the creation of small parks in neighborhoods without them	Montano	10/21/2025	An update on this item will be included in the next quarterly prioritization update.

ACTIVE ITEMS				
Request No.	Topic	Submitted by:	Date Requested	STATUS and/or DATE scheduled on City Council meeting agenda:
4	Increase the amount of funding for the ADU Permit Subsidy	Council	11/4/2025	An update on this item will be included in the next quarterly prioritization update.
5	Council Special Events Fund to provide funding for City Councilmembers to attend local, non-political, events where their attendance is beneficial for the City of Milpitas	Montano/Chua	11/4/2025	An update on this item will be included in the next quarterly prioritization update.
6	Add to the existing Strategic Land Acquisition Revenue Reserve	Council	11/4/2025	An update on this item will be included in the next quarterly prioritization update.
7	Storefront and Crime Prevention Initiative by making funding available for businesses to focus on public safety related physical improvements to their storefronts.	Montano	11/4/2025	An update on this item will be included in the next quarterly prioritization update.
8	Revisit the mural selection committee process to make it more inclusive by involving all commissioners in the Arts Commission	Montano	8/19/2025	An update on this item will be included in the next quarterly prioritization update.
9	Expand the Milpitas SMART program to include service to the San Jose Airport	Lam	8/12/2025	An update on this item will be included in the next quarterly prioritization update.
10	Staff explore a program similar to San Leandro's, which provides Ring doorbell cameras to residents	Chua	8/12/2025	An update on this item will be included in the next quarterly prioritization update.
11	Develop a project management informational memo.	Barbadillo	4/1/2025	An update on this item will be included in the next quarterly prioritization update.
12	Look into adding an entertainment zone to Main Street.	Montano	3/4/2025	An update on this item will be included in the next quarterly prioritization update.
13	Staff provide a detailed analysis of overtime expenditures by department.	Barbadillo	3/4/2025	An update on this item will be included in the next quarterly prioritization update.
14	Look into a policy to require a Super Majority vote by Council for any deductions to budget reserves.	Chua	2/18/2025	An update on this item will be included in the next quarterly prioritization update.
15	Bring back a discussion regarding fentanyl-related issues	Barbadillo	2/18/2025	An update on this item will be included in the next quarterly prioritization update.
16	Feasibility study regarding a police satellite office.	Montano	2/18/2025	An update on this item will be included in the next quarterly prioritization update.
17	Staff organize a job fair for City job openings	Chua	11/19/2024	An update on this item will be included in the next quarterly prioritization update.
18	Bring back a study or analysis of the permit process	Chua	11/19/2024	An update on this item will be included in the next quarterly prioritization update.
19	Explore updating the city's business tax rate schedule	Chua	10/1/2024	An update on this item will be included in the next quarterly prioritization update.
20	Explore funding options for new signage following the decision to rename the Milpitas Library to the Milpitas Jose Esteves Library	Barbadillo	9/3/2024	An update on this item will be included in the next quarterly prioritization update.
21	Look into adopting an ordinance similar to San Jose allowing ADUs (Accessory Dwelling Units) to have a separate title and be sold separately.	Chua	8/13/2024	An update on this item will be included in the next quarterly prioritization update.
22	Conduct a traffic study on Escuela Parkway to address circulation concerns	Montano	5/7/2024	An update on this item will be included in the next quarterly prioritization update.

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:
23	Explore the possibility of augmenting the Planning Commission stipend	Barbadillo	4/16/2024	An update on this item will be included in the next quarterly prioritization update.
24	Consideration of the 20% Low Income Below Market Rate Housing	Montano	12/5/2023	An update on this item will be included in the next quarterly prioritization update.
25	Referral for utility infrastructure cost on Main Street from Carlo to Corning Streets	Montano	10/17/2023	An update on this item will be included in the next quarterly prioritization update.
26	Main Street International Festival	Lien	10/3/2023	An update on this item will be included in the next quarterly prioritization update.
27	Pickleball Pilot Project	Chua	2/28/2023	An update on this item will be included in the next quarterly prioritization update.
28	Main Street Infrastructure Projects	Montano	2/28/2023	An update on this item will be included in the next quarterly prioritization update.
29	Main Street Flooding at Library	Chua	2/28/2023	An update on this item will be included in the next quarterly prioritization update.
30	Have the City look into the possibility of a Citywide Senior Discount	Barbadillo	2/7/2023	An update on this item will be included in the next quarterly prioritization update.
31	Quarterly or Monthly crime statistics on Homekey Project	Chua	6/7/2022	An update on this item will be included in the next quarterly prioritization update.
32	Evaluate reopening the childcare center with a non-profit organization running the center	Montano	2/1/2022	An update on this item will be included in the next quarterly prioritization update.
33	Staff to look into mural Art on Great Mall Parkway on the VTA owned Light rail pillars	Montano	11/16/2021	An update on this item will be included in the next quarterly prioritization update.
34	Consider Community Museum and Park on Main St.	Phan	8/20/2019	Discussions with the property owner of this site are ongoing and staff is tracking returning to council by June 2025 with an update.

NOTE: Deferred and Completed Items are not listed



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt Ordinance No. 38.859 Approving Zoning Text and Zoning Map Amendment ZA25-0002 for the Gateway-Main Street Specific Plan (Staff Contact: Jay Lee, Planning Director, 408-586-3077)
Category:	Public Hearings-Community Development
Meeting Date:	11/18/2025
Recommendation:	(1) Determine that the Subsequent Environmental Impact Report (EIR) adequately analyzes the potential environmental impacts associated with the proposed Zoning Amendments and is in compliance pursuant to CEQA Guidelines Section 15162; and (2) Waive the second reading and adopt Ordinance No. 38.859 approving Zoning Text and Map Amendment No. ZA25-0002 for the Gateway-Main Street Specific Plan.

BACKGROUND:

This Ordinance, which will allow the Gateway-Main St. Specific Plan to serve as a regulatory document that establishes zoning districts and regulations for the Plan area, was introduced at the City Council meeting held on [October 28, 2025](#).

The following amendments to the Zoning Text and Map are required.

1. Amend Table B.2.020-A (Zones Established) to add "Gateway-Main St. Specific Plan" as a row with the following text: "See Chapter B.14 (Gateway-Main St. Specific Plan)."
2. Replace "Reserved." text for Chapter B.14 with "Gateway-Main St. Specific Plan" and add "See Gateway-Main St. Specific Plan for the zones and associated standards."
3. Amend the Zoning Map to change the zoning for all properties within the new Plan area to "Gateway-Main St. Specific Plan Area" and add the following note: "See the Gateway-Main St. Specific Plan Figure 3-1, Land Use Framework, for the zones within the Gateway-Main St. Specific Plan area."

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

FISCAL IMPACT:

This Ordinance, which will help effectuate the land use and zoning regulations in the Gateway-Main St. Specific Plan, will help facilitate the mixed-use redevelopment of Main Street, Calaveras Boulevard, and the surrounding area. If this redevelopment were to occur, the City would receive development impact fees and experience increased property and sales tax revenues. Furthermore, the Gateway-Main St. Specific Plan establishes the policy framework for the Main Street Sense of Place Plan currently under development, which will establish a Plan-specific impact fee to fund future public improvements in the Plan area, further improving the likelihood of redevelopment and reinvestment.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The City has prepared a Subsequent EIR to the Milpitas 2040 General Plan EIR for consideration and certification by the Council prior to Specific Plan adoption. The Final Subsequent EIR includes a Draft Subsequent EIR that was publicly circulated for 45 days to seek input from responsible agencies and the general public. The Draft Subsequent EIR, with comments and prepared responses to them comprise the Final Subsequent EIR. Two public agencies responded to the Draft Subsequent EIR: California Department of Transportation (Caltrans) and Santa Clara Valley Transportation Authority (VTA). Both comment letters make recommendations related to Vehicle Miles Traveled (VMT) mitigation through Transportation Demand Management (TDM) measures, which the response to comments in the Final EIR addresses.

The Subsequent EIR provides an assessment of the reasonably foreseeable and potentially significant adverse environmental effects that may occur beyond what was evaluated in the City of Milpitas 2040 General Plan EIR. Potentially significant impacts were identified based on review of comments received as part of the public scoping process and additional research and analysis of relevant project data during preparation of the Subsequent EIR. Three distinct levels of environmental evaluation have been addressed by this CEQA review:

1. As described in Section 1.3, Effects Found Not to Be Significant, of the Draft Subsequent EIR, it was determined the project would result in no impact to the following environmental resources topics: agriculture and forestry resources, geology and soils, hazards and hazardous materials, hydrology and water quality, mineral resources, and wildfire. Accordingly, these resources are not addressed further in the Subsequent EIR.
2. Analysis of environmental resource topics in the Subsequent EIR that, in some cases, call for policy mitigations to be applied to future project approvals include: aesthetics, air quality, cultural and tribal cultural resources, biological resources, energy, greenhouse gas emissions and climate change, land use and planning, noise and vibration, population and housing, public services and recreation, transportation, and utilities and service systems. Each of these impacts, their significance criteria prior to and following any necessary mitigation measures, and the mitigation measures that are called for in each category are spelled out in the summary table, Table ES-1 of the Draft Subsequent EIR.
3. Significant and unavoidable impacts and cumulative impacts that cannot be reduced to a level less than significant or for which there is no feasible mitigation include impacts to the following environmental resource topics: cultural and tribal cultural resources and utilities and services systems. A summary of these impacts can be found on pages ES-2 through ES-3 of the Draft Subsequent EIR. These call for a statement of overriding considerations that explain that the benefits of the Specific Plan overall outweigh the consequences of the adverse environmental effect. The overriding considerations and benefits of the Specific Plan include: creation of a walkable mixed-use community that attracts and retains residents and businesses; increase in housing opportunities to support future anticipated population growth and the City's effort to meet the State-mandated Regional Housing Needs Allocation; increase in economic opportunities and investment in vacant and underutilized properties; improved connectivity throughout the neighborhood; new public parks and plazas and improvements to other recreational amenities; and establishment of policies for Urban Reserve Areas to guide future redevelopment in an integrated manner.

Additionally, the Subsequent EIR presents two Project Alternatives that might lessen or avoid some potential environmental effects compared to the proposed project: No Project Alternative and Increased Residential Development for Main Street and Crossroads Districts Alternative. The Alternatives are explored in Chapter 5 of the Draft Subsequent EIR. While the Alternatives reduce potential effects, they do not meet the objectives of the Specific Plan (see Section 2.3 of the Draft Subsequent EIR). As such, no alternatives are recommended.

The Final Subsequent EIR reflects the limited environmental impact of the Specific Plan by describing policy-based mitigation, and these policies are applied to individual projects that move forward and are based upon the Specific Plan. Projects which might go beyond the scope of the analysis of this program level Subsequent EIR may require both an amendment to the Specific Plan and further environmental analysis before they could receive entitlement.

ATTACHMENT(S):

(a) Ordinance No. 38.859

REGULAR

NUMBER: 38.859

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING THE MILPITAS MUNICIPAL CODE TITLE XIII, PART B, CHAPTERS B.2 AND B.14 TO ESTABLISH THE GATEWAY-MAIN ST. SPECIFIC PLAN ZONING DISTRICTS AND REGULATIONS; AND AMENDING THE ZONING MAP OF THE CITY OF MILPITAS TO ESTABLISH THE NEW SPECIFIC PLAN BOUNDARIES.

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:

Christopher Creech, Acting 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, 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, California Government Code Sections 65450-65457 authorize cities to prepare specific plans to systematically implement the General Plan, specify the required contents of specific plans, allow specific plans to be adopted by resolution or ordinance and amended as often as deemed necessary by the legislative body, and requires specific plans to be consistent with the General Plan; and

WHEREAS, on March 19, 2002, the Milpitas City Council adopted the Midtown Specific Plan to maximize land use, transportation, and economic opportunities along the City’s historic Main Street and energize and catalyze mixed-use, transit-oriented development in the Midtown area, known as the “heart” of Milpitas; and

WHEREAS, since May 19, 2002, the Milpitas City Council adopted various amendments to the Midtown Specific Plan to incorporate updates associated with the Transit Area Specific Plan, Park and Recreation Master Plan, and Bikeway Master Plan; and

WHEREAS, the City’s Zoning Ordinance was originally adopted in 1955 and the City Council adopted a comprehensive update to the Zoning Ordinance on September 2, 2025; 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 wishes to adopt the Gateway-Main St. Specific Plan, which is a comprehensive update of the Midtown Specific Plan, to carry forward some of the major goals of the Midtown Specific Plan while substantially updating the Plan area and policies to address current local conditions and community priorities; and

WHEREAS, the City has prepared a Zoning Text and Zoning Map Amendment (“Amendments”) to establish new Specific Plan boundaries, zoning districts, and zoning regulations; and

WHEREAS, in accordance with the Government Code, the City has duly consulted with other governmental agencies, local Native American tribes, and other entities and stakeholders, and complied with all prerequisites for the adoption of the Specific Plan and related actions herein; and

WHEREAS, pursuant to Milpitas Municipal Code Section XIII.D.6.050 the City Council finds that all the findings required for the Amendments have been met; 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, the City prepared a Draft Subsequent EIR to the Milpitas 2040 General Plan EIR for the Specific Plan (State Clearinghouse No. 2024070432) that identifies the potential environmental impacts of the project and recommends mitigation measures to reduce the impacts to a less than significant level where feasible, released the Draft Subsequent EIR on April 17, 2025 for a 45-day public review period that was set to end on June 2, 2025 but was extended to July 24, 2025, and prepared a Findings of Fact and Statement of Overriding Considerations to comprehensively describe the potential impacts, mitigations measures, and overriding considerations in adopting the Specific Plan; and

WHEREAS, the City has received comments on both the Public Review Draft Specific Plan and the Draft Subsequent EIR, considered and analyzed the comments, made changes to the Specific Plan, and prepared a Final Subsequent EIR, which includes the comments received and responses to comments; and

WHEREAS, on September 24, 2025, 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 25-014 recommending that the City Council approve Specific Plan Amendment SP20-0002, Zoning Map and Text Amendment ZA25-0002, and General Plan Amendment GP25-0002, and certify the Subsequent EIR to the Milpitas 2040 General Plan EIR for the Specific Plan (State Clearinghouse No. 2024070432); and

WHEREAS, all legal prerequisites to the adoption of this ordinance and the City Council's review and approval of the 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

The City prepared a Draft Subsequent EIR to the Milpitas 2040 General Plan EIR for the Specific Plan (State Clearinghouse No. 2024070432) that identifies the potential environmental impacts of the project and recommends mitigation measures to reduce the impacts to a less than significant level where feasible, released the Draft Subsequent EIR on April 17, 2025 for a 45-day public review period that was set to end on June 2, 2025 but was extended to July 24, 2025, and prepared a Findings of Fact and Statement of Overriding Considerations to comprehensively describe the potential impacts, mitigations measures, and overriding considerations in adopting the Specific Plan. The Subsequent EIR finds that the Specific Plan would result in significant and unavoidable impacts and cumulative impacts that cannot be reduced to a level less than significant or for which there is no feasible mitigation include impacts to the following environmental resource topics: cultural and tribal cultural resources (Impacts 3.4-1, 3.4-2, and 3.4-3 and Cumulative Impact 4.4.4-1) and utilities and services systems (Impact 3.13-1 and Cumulative Impact 4.4.12-1). However, the overriding considerations and benefits of the Specific Plan outweigh the consequences of the adverse environmental effect. The Subsequent EIR further concludes that while the two Project Alternatives might lessen or avoid some potential environmental effects compared to the proposed project, they do not meet the objectives of the Specific Plan. 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 has approved and adopted this Subsequent EIR, the Findings of Fact, and the Statement of Overriding Considerations, as set forth in Resolution No. 25-XXX, and incorporates those records, findings, and facts as if fully set forth herein.

SECTION 3. ZONING TEXT AND MAP AMENDMENT FINDINGS (XIII.D.6.050)

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 Milpitas Municipal Code, including Section XIII.D.6.050. The City Council makes the following further and specific findings based on the evidence in the public record in support of Zoning Amendment No. ZA25-0002:

- A. The proposed Zoning Amendment is consistent with and conforms to the goals and policies of the General Plan.*

The proposed Zoning Amendment would 1) amend the Zoning Text to add references to the Specific Plan regulations in the Milpitas Zoning Ordinance and 2) amend the Zoning Map to change the zoning for all properties within the new Plan area to “Gateway-Main St. Specific Plan Area” and reference the zoning districts and regulations in the Specific Plan for those properties. These amendments would establish the Specific Plan as the regulatory document for land use and zoning in the Plan area and are necessary to update and effectuate the Specific Plan, which would achieve many of the General Plan policies and actions, including Policies LU 1-4, LU 4-2, CIR 1-5, CIR 4-1, CD 4-1, ED 3-2, and

UCS 1-1and Actions LU-2a, ED-3c, and ED-3f. These policies and actions call for the City to review and update its specific plans, facilitate housing and commercial redevelopment in these areas, encourage multimodal transportation, prioritize redevelopment of the Serra Center and Main Street, and provide public improvements to support new development. The proposed Zoning Amendment and Specific Plan would help achieve these goals. Therefore, the proposed Zoning Amendment is consistent with and conforms to the goals and policies of the General Plan.

- B. *The proposed Zoning Amendment is consistent with and conforms to the goals and policies of any Specific Plan, if applicable.*

The goal of the proposed Zoning Amendment is simply to establish the Specific Plan as the regulatory document for land use and zoning the Plan area. No other amendments to the Zoning Ordinance are proposed. The existing Midtown Specific Plan will be repealed and replaced with the adoption of this plan. However, the Gateway-Main Street Specific plan updates, modernizes, effectuates, and furthers the objectives of the Midtown Specific Plan in a manner that reflects current market conditions and current best land use and zoning practices. Therefore, the proposed Zoning Amendment is consistent with and conforms to the goals and policies of the Specific Plan.

- C. *The proposed Zoning Amendment will not be detrimental to the public interest, health, safety, convenience, and general welfare.*

The proposed Zoning Amendment will establish the land use regulations and development standards in the Specific Plan intended to protect the public interest, health, safety, convenience, and general welfare. These include maximum residential densities, maximum height limits, minimum setbacks from property lines, minimum parking ratios, context-sensitive design standards, required public improvements, and other requirements and standards. These regulations will ensure new development minimizes impacts to existing neighborhoods related to privacy, shade, neighborhood and community character, transportation, parking, utilities, and visual aesthetics.

- D. *The proposed Zoning Amendment is in compliance with the provisions of California Environmental Quality Act.*

The City prepared a Draft Subsequent EIR to the Milpitas 2040 General Plan EIR for the Specific Plan (State Clearinghouse No. 2024070432) that identifies the potential environmental impacts of the project and recommends mitigation measures to reduce the impacts to a less than significant level where feasible, released the Draft Subsequent EIR on April 17, 2025 for a 45-day public review period that was set to end on June 2, 2025 but was extended to July 24, 2025, and prepared a Findings of Fact and Statement of Overriding Considerations to comprehensively describe the potential impacts, mitigations measures, and overriding considerations in adopting the Specific Plan. The Subsequent EIR finds that the Specific Plan would result in significant and unavoidable impacts and cumulative impacts that cannot be reduced to a level less than significant or for which

there is no feasible mitigation include impacts to the following environmental resource topics: cultural and tribal cultural resources (Impacts 3.4-1, 3.4-2, and 3.4-3 and Cumulative Impact 4.4.4-1) and utilities and services systems (Impact 3.13-1 and Cumulative Impact 4.4.12-1). However, the overriding considerations and benefits of the Specific Plan outweigh the consequences of the adverse environmental effect. The Subsequent EIR further concludes that while the two Project Alternatives might lessen or avoid some potential environmental effects compared to the proposed project, they do not meet the objectives of the Specific Plan. Additionally, City staff conducted consultation regarding the Specific Plan and associated Subsequent EIR with local Native American tribes, pursuant to Assembly Bill (AB) 52 and Senate Bill (SB) 18. Therefore, the proposed Specific Plan is in compliance with California Environmental Quality Act requirements.

- E. *The proposed Zoning Amendment would not result in a net loss of potential housing units.*

No downzoning of any property within the Plan area is proposed as part of the Specific Plan. The standards proposed increase the viability of redevelopment and strengthen the likelihood of housing development as expressed in the Housing Element of the General Plan. Moreover, the plan facilitates housing production on non-inventory sites that will help the City meet its RHNA obligations. Therefore, the proposed Specific Plan would not result in a net loss of potential housing units.

- F. *The proposed Zoning Amendment is internally consistent with other applicable provisions of this Title.*

The primary goal of the proposed Zoning Amendment is to establish the Specific Plan as the regulatory document for land use and zoning the Plan area. No other amendments to the Zoning Ordinance are proposed. Pursuant to Section XIII.D.10.020(C) of the Milpitas Municipal Code, “The regulations provided by an adopted Specific Plan shall replace those of the current or underlying zone or zones, and the development standards and/or design standards or guidelines identified in the Specific Plan shall take precedence over the general standards included in this Title and any adopted design standards or guidelines.” Therefore, the proposed Zoning Amendment is internally consistent with other applicable provisions of Title XIII (Zoning).

- G. *The affected site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire, medical, etc.) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, etc.), to accommodate the uses and development densities of intensities allowed in the proposed new zone.*

The proposed densities are suitable for the Plan area and can be accommodated as future redevelopment occurs. Early in the planning process, the project consultant prepared an Existing Conditions Report that includes the following: Land Use, Zoning and Urban Form Analysis, Market Analysis, Affordable Housing, Equity, and Community Benefits

Analysis, Transportation and Circulation Analysis, Public Utilities and Infrastructure Analysis, and Resilience and Climate Adaptation Assessment. This analysis informed the proposed densities and scale of development in the Specific Plan by demonstrating what level of development would be feasible in the Plan area given the size and shape of parcels, existing transportation and utilities infrastructure, real estate market realities, and other physical and regulatory constraints. Additionally, through the Gateway-Main St. Specific Plan TAC, the Specific Plan identifies potential infrastructure and service challenges and recommends improvements to ensure adequate provision of infrastructure and services, which will be implemented as development occurs. Furthermore, the City prepared a Subsequent EIR to the Milpitas 2040 General Plan for the Specific Plan, which analyzes potential impacts to many of these topics and identifies mitigation measures to minimize impacts. The analysis found that impacts to public services (including fire, police, and schools) and utilities and services systems (including sewer, stormwater, and solid waste) resulting from the anticipated development from the Specific Plan would be less than significant. Lastly, through the City's development review process, City staff will evaluate each future development proposal and require improvements and impose conditions of approval as needed.

- H. *If located within or adjacent to residential areas, the requested zone change is compatible with the character of the residential neighborhood.*

The Plan area includes a residential neighborhood south of the Serra Center and east of the Calaveras Center, and other residential neighborhoods near the Great Mall (Parc Metro and Montevista Apartments). There are also residential neighborhoods adjacent to the Plan area to the north (other neighborhoods are separated by railroads or major thoroughfares). Although the new Specific Plan zoning districts will allow for higher-density residential development near these existing neighborhoods, the Specific Plan and Citywide Residential and Mixed-Use ODS will provide design standards to ensure appropriate transitions from new development to existing neighborhoods. Design standards include upper floor step-backs, 45-degree daylight planes, enhanced setbacks, and significant building articulation. These standards will be applied to new development proposals to ensure adequate daylight, minimize shadows, and maintain privacy and views for existing neighborhoods.

SECTION 4. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XIII, PART B, CHAPTER B.2, SECTION B.2.020

Title XIII, Part B, Chapter B.2, Section B.2.020 of the Milpitas Municipal Code is hereby amended to read as follows:

The following zones are established and shall be shown on the official Zoning Map.

Table B.2.020-A: Zones Established

Abbreviation	Zone Name	General Plan Land Use Designation
Residential Zones		
R1	Single-Family Zone	Low Density Residential (LDR), Medium Density Residential (MDR)
R2	One and Two-Family Zone	Medium Density Residential (MDR)
R3	Multi-Family Zone	High Density Residential (HDR)
R4	Multi-Family Very High Density Zone	Very High Density Residential (VHDR)
MHP	Mobile Home Park Zone	Mobile Home Park (MHP)
Commercial Zones		
CO	Administrative and Professional Office Zone	General Commercial (GNC), Neighborhood Commercial (NC)
C1	Neighborhood Commercial Zone	Neighborhood Commercial (NC)
C2	General Commercial Zone	General Commercial (GNC), Neighborhood Commercial (NC), Neighborhood Commercial Mixed Use (NCMU)
HS	Highway Service Zone	General Commercial (GNC), Neighborhood Commercial (NC)
Mixed Use Zones		
MXD	Mixed Use Zone	Neighborhood Commercial Mixed Use (NCMU)
MXD3	Very High Density Mixed Use Zone	Very High Density Mixed Use (VHDMU)
TC	Town Center Zone	Town Center (TC)
Industrial Zones		
M1	Light Industrial Zone	Manufacturing (MFG)
M2	Heavy Industrial Zone	Manufacturing (MFG)
MP	Industrial Park Zone	Industrial Park (INP)
BPRD	Business Park Research and Development Zone	Business Park/Research & Development (BPRD)
Metro Specific Plan Zones		
R3-Metro	Metro Multi-Family High Density Residential Zone	Milpitas Metro Specific Plan
R4-Metro	Metro Multi-Family Very High Density Residential Zone	Milpitas Metro Specific Plan
R5-Metro	Metro Urban Residential Zone	Milpitas Metro Specific Plan
MXD2-Metro	Metro High Density Mixed Use Zone	Milpitas Metro Specific Plan
MXD3-Metro	Metro Very High Density Mixed Use Zone	Milpitas Metro Specific Plan
BPRD-R-Metro	Metro Business Park Research and Development, Limited Residential Zone	Milpitas Metro Specific Plan
BPRD-Metro	Metro Business Park Research and Development Zone	Milpitas Metro Specific Plan
Milpitas Commercial Specific Plan Area		

Table B.2.020-A: Zones Established		
Abbreviation	Zone Name	General Plan Land Use Designation
See Chapter B.16 (Milpitas Commercial Specific Plan Area)		
Gateway-Main St. Specific Plan Zones		
See Chapter B.14 (Gateway-Main St. Specific Plan Area)		
Other Zones		
A	Agricultural Zone	All
I	Institutional Zone	Public Facilities (PF)
POS	Park and Open Space Zone	Permanent Open Space (POS)
Overlay Zones		
FC	Freeway Corridor Overlay Zone	n/a
S	Site and Architectural Overlay Zone	n/a
"H"	"H" Hillside Combining District	Hillside Very Low Density (HVL), Hillside Low Density (HLD), Hillside Medium Density (HMD)

SECTION 5. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XIII, CHAPTER B.14

Title XIII, Part B, Chapter B.14 (Reserved) of the Milpitas Municipal Code is hereby amended to read as follows:

Chapter B.14 Gateway-Main St. Specific Plan Area

Sections:

B.14.010 Purpose

B.14.020 Metro Specific Plan Zones Use Regulations

B.14.010 Purpose

- A. **Main Street Mixed-Use (MS-MU) Zone.** The MS-MU zone supports a mix of residential infill and smaller pedestrian-oriented retail shops, restaurants, services, and office uses, as well as urban parks, plazas, and open spaces within the framework of an active streetscape environment. Active retail, restaurant, and residential uses generate pedestrian activity at the street level, with office and residential uses above the ground floor encouraged.
- B. **Crossroads Mixed-Use (XR-MU) Zone.** The XR-MU zone has a commercial mixed-use focus and supports a mix of retail, entertainment, and office, together with urban multifamily residential,

civic, and recreational uses. The XR-MU zone is a pedestrian-oriented streetscape environment, with ground-floor commercial uses prioritized along retail priority streets and corners.

- C. **Library District Mixed-Use (LD-MU) Zone.** The LD-MU zone, centered around the Milpitas Library on N. Main Street, supports a compatible mix of retail, office, multifamily residential, and civic uses within a pedestrian-oriented streetscape environment.
- D. **Gateway Mixed-Use (GW-MU) Zone.** The GW-MU zone supports a freeway and commercial corridor service orientation along Calaveras Boulevard and I-880, transitioning to a neighborhood-oriented residential focus to the north, and a commercial/mixed-use focus adjacent to Crossroads Mixed-Use.
- E. **Abbott District Business Park (AD-BP) Zone.** The AD-BP zone allows for a compatible mix of commercial, office, light industrial, open space, and public uses, organized within a campus setting.
- F. **Urban Reserve Overlay (URO Zone).** The URO is applied as an overlay for areas that will be subject to future study when these uses are ready for redevelopment. The policies of the Specific Plan found in Section 3.8 apply within these areas.

B.14.020 Metro Specific Plan Zones Use Regulations and Development Standards

Pursuant to Subsection D.10.020.D, the standards and regulations adopted by the Gateway-Main St. Specific Plan shall replace those of the current or underlying zone or zones, if any, and the development standards and/or design standards or guidelines identified in the Gateway-Main St. Specific Plan shall take precedence over the general standards included in this Title and any adopted design standards or guidelines.

SECTION 6. AMENDMENT OF THE ZONING MAP OF THE CITY OF MILPITAS

The Zoning Map of the City of Milpitas, as amended, which was originally adopted as part of Ordinance No. 38.858 (“Zoning Map”), is hereby amended as depicted within the map as attached hereto in **Exhibit A**.

SECTION 7. 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.

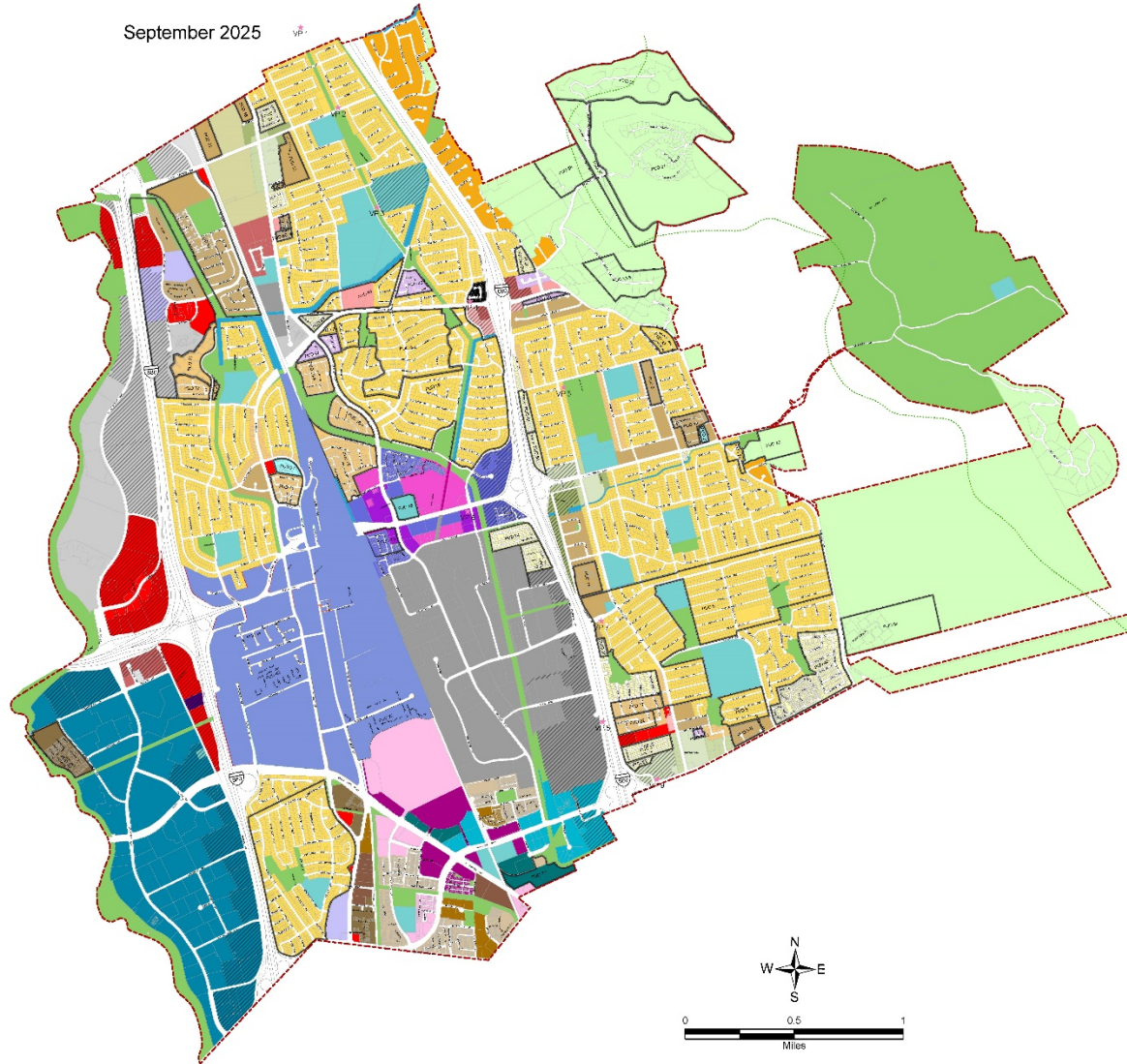
SECTION 8. EFFECTIVE DATE AND POSTING

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 Amendment

CITY OF MILPITAS ZONING MAP

September 2025



Zones

- Single-Family minimum lot size 2,500 s.f. (R1-2.5)
- Single-Family minimum lot size 3,000 s.f. (R1-3)
- Single-Family minimum lot size 4,000 s.f. (R1-4)
- Single-Family minimum lot size 5,000 s.f. (R1-5)
- Single-Family minimum lot size 6,000 s.f. (R1-6)
- Single-Family minimum lot size 10,000 s.f. (R1-10)
- Single-Family with Hillside Combining District (R1-H)*
- One or Two-Family (R2)
- Multi-Family (R3)
- Multi-Family Very High Density (R4)
- Mobile Home Park (MHP)
- Mixed Use (MXD)
- Very High Density Mixed Use (MXD3)
- Town Center (TC)
- Town Center (TC1)
- Town Center (TC2)
- Town Center (TC3)
- Neighborhood Commercial Mixed Use (NCMU1)
- Neighborhood Commercial Mixed Use (NCMU2)
- Neighborhood Commercial Mixed Use (NCMU3)
- Administrative and Professional Office (CO)
- Neighborhood Commercial (C1)
- General Commercial (C2)
- Highway Services (HS)
- Light Industrial (M1)
- Heavy Industrial (M2)
- Industrial Park (MP)
- Business Park Research & Development (BPRD)
- Institutional (I)
- Agricultural (A)
- Park and Open Space (POS)
- Waterway

Milpitas Metro Specific Plan Zones

- 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 & Development, Limited Residential (BPRD-R-Metro)
- Metro Business Park Research & Development (BPRD-Metro)

Milpitas Gateway-Main St. Specific Plan Zones

- See Milpitas Gateway-Main St. Specific Plan for zones

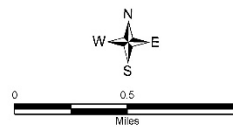
Overlay

- Freeway Corridor Overlay (FC)

Other Features

- Planned Unit Development (PUD)
- Precise Plan Area of the Midtown Specific Plan
- Midtown Specific Plan Area
- Metro Specific Plan Area
- City Boundary
- Parcels
- Crestline
- View Points

*Note: The "H" Hillside Combining District is mapped as R1-H. The Site and Architectural (S) Overlay was adopted through a voter initiative and is not currently mapped on any parcel.





CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve and Authorize the City Manager, or Designee, to Execute a Fee Reimbursement Agreement with Toll West Coast, LLC for the City's Share of the Cost of the Sango Court Road Extension (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:	11/18/2025
Recommendation	Approve and authorize the City Manager, or designee, to execute a Fee Reimbursement Agreement with Toll West Coast, LLC, in an amount not to exceed \$1,110,530, for the City's share of the cost of the Sango Court Road extension.

BACKGROUND:

In June 2008, the City Council adopted the Transit Area Specific Plan (TASP) to support the Milpitas Transit Center, including the Bay Area Rapid Transit (BART), Valley Transportation Authority light rail and bus services; and adopted the Milpitas Metro Specific Plan (MMSP), an update to the TASP, in February 2023. The TASP/MMSP was developed to accommodate substantial new development, minimize traffic impacts on local roadways, and reduce urban sprawl, thereby transforming the industrial area into a high-density, mixed-use, transit-oriented district. To support anticipated growth in residents and the workforce within the district, the TASP/MMSP developed a Basic Infrastructure Program (BIP) to meet infrastructure needs for community, parks, transportation, and utility facilities, as well as associated land acquisition. To ensure new development in the TASP pays its fair share of public improvement costs, the City enacted the Transit Area Development Impact Fee (TADIF) in 2008.

The extension of Sango Court to Tarob Court (Sango Road Extension) is identified in the TASP/MMSP as critical transportation infrastructure by improving circulation between Capital Avenue, Montague Expressway, South Milpitas Boulevard, Trade Zone Boulevard, and Milpitas Transit Center. The Sango Road Extension will provide direct bicycle, pedestrian, and vehicle access from nearby commercial areas, neighborhoods, parks, schools, and transit centers to the planned Metro Tango Park and residential developments in the Tango District; and will be constructed according to road standards set forth in the TASP/MMSP, which is 11' vehicular travel lanes with a 12' planter and sidewalk in both directions and an 8' parking lane. The Sango Road Extension is a function of BIP items #9, 28, 29, and 43.

The City is responsible for building half of the Sango Road Extension that fronts the City's planned Metro Tango Park. As 355 Sango Court and the Parkside West 2 residential development projects are conditioned to dedicate and construct half of the road along their respective frontage, the City partnered with the developer of each project to construct the City's half of Sango Road Extension to have a fully functional road after construction. In turn, the City will reimburse each developer for the City's cost-share of the road. 355 Sango Court development completed its portion of the road in 2023, and the Parkside West 2 development is anticipated to complete the remaining portion of the road by the end of 2026.

On June 11, 2024, the City Council adopted Resolution No. 9341 ("**Attachment b**"), approving Site Development Permit No. SD23-0011, Conditional Use Permit No. UP23-0007, Vesting Tentative Map No. MT23-0001, Density Bonus Permit DB23-0002, Tree Removal Permit TR23-0015, and Environmental Assessment No. EA23-0002 to construct a 43-unit townhome-style condominium subdivision at 1905 Tarob Court ("Parkside West 2 Development") by Toll West Coast, LLC ("Developer"). As part of the resolution, the Developer is conditioned to enter into a Fee Reimbursement Agreement ("**Attachment a**") with the City to be reimbursed for the design and construction of the City's half portion of the Sango Road Extension as highlighted in orange in the agreement. On August 19, 2025, the City Council approved the Final Map for

Tract No. 10643 and the Subdivision Improvement Agreement for Parkside West 2 Development for the construction of public improvements.

ANALYSIS:

The South Milpitas Boulevard Road Extension, Project No. 2016 (“SMB Project”), is included in the adopted FY 2026-2030 Capital Improvement Program and provides for the design and construction or reimbursement of the South Milpitas Boulevard and Sango Road Extension. The estimated cost for the SMB Project is \$15.7 million, of which \$12.7 million is funded by TADIF and \$3.0 million is funded by a federal earmark authorized through the Community Project Funding/Congressionally Directed Spending bill in March 2022.

Per the Resolution No. 9341, the Developer will construct the remaining portion of the Sango Road Extension (from 355 Sango Court development to Tarob Court) and the City will reimburse the Developer for the City’s cost share. The reimbursement will be for the construction of the asphalt concrete pavement, decorative pavement for the parking lane, concrete improvements for sidewalks, curbs, gutters, and driveway approach, streetlights, traffic flashing beacons, landscaping and irrigation, various utilities mains and services, and associated environmental compliance required by the California Water Resources Control Board.

Staff recommends that the City Council approve and authorize the City Manager, or designee, to execute the Fee Reimbursement Agreement with Toll West Cost, LLC, in an amount not-to-exceed \$1,110,530 for the City’s cost share of the remaining portion of the Sango Road Extension that fronts Metro Tango Park as highlighted in orange in the agreement. The Developer will be reimbursed for the actual cost of construction of the public improvements eligible for reimbursement, which is to be funded by TADIF through the SMB Project, where the funding has already been appropriated.

PROJECT SCHEDULE/KEY MILESTONES:

The work is anticipated to be completed by the end of 2026, allowing City staff to begin construction of the South Milpitas Boulevard Road extension in 2027.

POLICY ALTERNATIVE(S):

Alternative 1: Do not approve and authorize the City Manager, or designee, to execute a Fee Reimbursement Agreement with Toll West Coast, LLC.

Pros: None

Cons: Staff resources will have to be reallocated to manage the construction of the City’s portion of the Sango Road Extension, which will postpone the construction schedule for the road extension of South Milpitas Boulevard and Metro Tango Park projects. In addition, the opening of the Sango Court to Tarob Court will be delayed by one to two years and continue to cause circulation issues between neighborhoods.

Reason for not recommending: Staff has determined that there is a financial benefit and greater efficiency in having the Developer construct the entire road extension of Sango Court and to be fully functional after the completion of construction that is anticipated by the end of 2026.

FISCAL IMPACT:

As of October 31, 2025, the available funding in the SMB Project is \$11,586,512, which is funded by TADIF and a federal earmark through the Community Project Funding/Congressionally Directed Spending bill of 2022. There is sufficient funding available to execute a Fee Reimbursement Agreement with Toll West Coast, LLC in the amount not to exceed \$1,110,530. The City will reimburse the Developer for the actual construction cost upon the City’s acceptance of the improvements.

Summary of Estimated Project Expenditures

Estimated Construction Budget for S. Milpitas Boulevard Road Extension	\$10,400,000
Reimbursement Agreement with Toll Brothers	\$1,110,530
Total Project Cost	\$11,510,530

California Environmental Quality Act (CEQA):

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

Attachments:

- (a) Fee Reimbursement Agreement
- (b) Resolution No. 9341

**CITY OF MILPITAS
FEE REIMBURSEMENT AGREEMENT
1905 TAROB COURT PUBLIC IMPROVEMENTS**

This Fee Reimbursement Agreement for Public Improvements (the “Agreement”), dated as of November 18, 2025, is by and between the City of Milpitas, a municipal corporation of the State of California (“City”), and Toll West Coast, LLC, a Delaware limited liability company (“Developer”).

WITNESSETH:

WHEREAS, Developer is the permittee of that certain real property (APN No. 086-36-041) located at 1905 Tarob Courtt in Milpitas, California; and

WHEREAS, on June 11th, 2024, the City Council conditionally approved Site Development Permit No.SD23-0011, Conditional Use Permit No. UP23-0007, Vesting Tentative Map no. MT23-0001, Density Bonus Permit No. DB23-0007, Tree Removal Permit No. TR23-0015 and Environmental Assessment No. EA23-0002 for a multi-family development project consisting of 56 townhome units in 8 buildings and including 13 accessory dwelling units located at 1905 Tarob Court in Milpitas, California (the “Project”); and

WHEREAS, on August 19, 2025 when the City Council conditionally approved the Project, the City Council also approved the certain Subdivisions Improvement Agreement between the City and Developer (the “Improvement Agreement”). The Improvement Agreement sets forth Developer’s obligations to provide security for and construct specified public Improvements and Designs defined below; and

WHEREAS, pursuant to the conditions of approval for the Project set forth in City Council Resolution No. 9341 on June 11, 2024, Developer shall construct certain public facilities and improvements on Tarob and Sango Court, such as the installation of 50% of the Sango Court to Tarob Court street extension per the Transit Area Specific Plan (TASP) residential standards and guidelines. A complete list of reimbursable items is shown in Exhibit A, (the foregoing being the “Improvements” and the construction documents describing the Improvements being the “Designs”). The Improvements and Designs are included in the Financing Plan and would otherwise be financed by the Milpitas TASP Fee, and which Improvements and Designs will serve more than the Project; and

NOW, THEREFORE, in consideration of the mutual promises contained herein, City and Developer hereby agree as follows:

SECTION 1. Allowable Fee Reimbursements

Subject to the terms, conditions, and obligations of this Agreement, the City shall provide reimbursement to the Developer, from a portion of the Milpitas TASP Fee actually paid by Developer, in an amount based on verifiable actual costs of the Improvements and Designs pursuant to the procedure in Section 9 of this Agreement, which shall equal up to 100% of the actual amount paid by Developer to complete the Improvements and Designs. Under no circumstance shall the reimbursement exceed the amount of One Million One Hundred Ten Thousand Five Hundred Thirty Dollars (\$1,110,530). Under no circumstance shall the reimbursement exceed the actual amount of the TASP fee paid by the developer.

SECTION 2. Reimbursement Issuance Timing

- 2.1 Developer shall pay the City the full applicable developer fees, at the time of building permit issuance, for each residential unit subject to any annual adjustment as provided for in Section 9 of City Resolution No. 9341.
- 2.2 City shall pay to Developer the reimbursement required hereunder upon Developer's completion and City's acceptance of the Improvements and Designs as stipulated hereinafter, including Developer's provision of all supporting documentation for all costs in accordance with the timing specified in Section 9 below.

SECTION 3. Completion of the Improvements

- 3.1 Developer shall complete construction of the Improvements in accordance with the plans and specifications approved by City and in accordance with City standard construction specifications and this Agreement, and the related Improvement Agreement. All Improvements shall be completed (determined by filing of a notice of completion) prior to issuance of first certificate of occupancy for the Project.
- 3.2 In the event the Improvements are not fully constructed and accepted by City as set forth herein, Developer shall be in breach of this Agreement, and in violation of the Project conditions of approval. In addition to all other legal remedies available at law or equity, City may seek reimbursement from Developer for all reimbursements provided under this Agreement including interest at the legal rate. Additionally, City may withhold any and all certificates of occupancy, building permits or any other City approval or permit relating to the Project.

SECTION 4. Inspection of Improvements

- 4.1 City shall at all times have reasonable access to the construction site during construction of the Improvements. Developer shall furnish City with all reasonable information necessary for ascertaining full knowledge of the Improvements with respect to the progress, workmanship and character of materials and equipment used and employed in the work contemplated herein.
- 4.2 Neither observation of the work by City nor failure of City to inspect the Improvements or to discover defects in material or workmanship shall relieve Developer from its obligations to complete construction in accordance with the plans and specifications approved by City and to ensure that the Improvements are free of defects in materials and workmanship.

SECTION 5. Acceptance of the Improvements

- 5.1** At such time as the Developer believes that the Improvements are complete, the Developer shall provide written notice of completion to the City, requesting an inspection. Within ten (10) business days, or as mutually agreed in writing following the date of receipt of the Developers' written notice of completion of Improvements, the City shall conduct a final inspection of the applicable Improvements. If during the final inspection, the City determines the Improvements have not been completed in accordance with all applicable codes, regulations, permits and approved plans, the City shall prepare a punch list of all items to be completed by the Developer and shall provide such punch list to the Developer within ten (10) business days or as mutually agreed in writing following the final inspection.
- 5.2** If the City delivers such punch list to the Developer within said ten (10) business day period, or such other mutually agreed in writing upon period, then the Developer shall undertake to repair such punch list items in a diligent manner within twenty (20) calendar days. Upon completion of the punch list work, the Developer shall request another final inspection from the City and within ten (10) business days following such written notice from the Developer, the City shall conduct another final inspection.
- 5.3** If the City determines that the punch list work is complete and no other deficiencies are identified, the Developer shall be deemed to have successfully completed the final inspection. If the City determines that the punch list work is not complete, then City and Developer shall repeat the inspection/punch list procedures specified in this Section until the successful completion of the punch list work and a final inspection. At such time as Developer has successfully completed the final inspection, City shall schedule the initial acceptance of the completed Improvements within thirty (30) calendar days thereafter before the City Council.

SECTION 6. Conveyance of the Improvements

Once the Improvements are accepted by the City Council and no liens have been filed with respect to such Improvements within ninety (90) days following the date of filing the Notice of Completion for such Improvement, or if valid liens were filed during such period, such liens have been bonded around or removed prior to acceptance, the Improvements shall become the property of the City. The Developer shall take any and all actions necessary to convey to the City and vest in the City full, complete and clear title to the Improvements through the City's initial and final acceptance procedures.

SECTION 7. Completion and Acceptance of the Designs

- 7.1** Developer shall perform and complete the Designs in accordance with the Project conditions. The Designs are considered deemed complete upon approval of the construction plans and specifications, including all required supporting documents by the City.
- 7.2** In the event the Designs are not fully completed and approved by City and/or other public agencies as set forth herein, Developer shall be in breach of this Agreement and in violation of the Project conditions of approval. In addition to all other legal remedies available at law or equity, City may seek reimbursement from Developer for all reimbursements provided under this Agreement including interest at the legal rate (if and to the extent any such reimbursements

have been provided hereunder). Additionally, City may withhold any and all certificate of occupancy, building permit, or any other City approval or permit relating to the Project. City approved plans and specifications, including all supporting documents become City property upon completion of the Designs.

SECTION 8. Delivery of Design Plans and Specifications

Prior to acceptance of the Improvements by the City, the Developer shall deliver to the City copies of all plans, specifications, shop drawings, as-built plans, operating manuals, service manuals, warranties and other documents relating to the design, construction, installation and operation of the applicable Improvements. Plans shall be submitted in CAD format, GIS format and/or PDF format as acceptable to the City.

SECTION 9. Supporting Documents for the Actual Costs

Following Developer's completion and City's acceptance of the Improvements and the Designs provided in Sections 3 to 8 above, the Developer shall provide final invoices, records, change order documents, payment invoices, cancelled checks and other necessary documents, as requested by the City, to provide the City a final accounting of the total amount of actual costs for the Improvements and the Designs. The City shall thereafter have sixty (60) days in which to review and approve such items. If the City notifies the Developer within that 60-day period that it does not approve all such items and, if the Developer disputes the disapproval of such items by the City, the sixty (60) days may be extended as mutually agreed upon to provide an opportunity for the Parties to use diligent and good faith effort to resolve said dispute. Once said dispute has been resolved, the City shall, within thirty (30) days thereafter, reimburse the Developer in the amount of one hundred percent (100%) of the actual costs to complete the Improvements and Designs, as documented in the final accounting. The amount of the actual costs for the Improvements and the Designs shall not exceed the estimated value for the Improvements identified on Exhibit A in the amount not to exceed One Million One Hundred Ten Thousand Five Hundred Thirty Dollars (\$1,110,530) without the express prior written approval of the City, which will require an amendment of this Agreement approved by the City Council.

SECTION 10. Limited City Obligation

The reimbursement obligations arising from this Agreement are neither a debt of the City nor a legal or equitable pledge, charge, lien, or encumbrance upon any of its property or upon any of its income, receipts, or revenues, except for the Developer impact fees that would have otherwise been collected for the Improvements, the Designs and other capital facilities set forth in the Project plans for the Project. Neither the City of Milpitas general fund nor any other fund of the City, except the Sewer Infrastructure Fund, shall be liable for the reimbursement or payment of any obligations arising from this Agreement. The reimbursement or taxing power of the City is not pledged for the payment of any obligation arising from this Agreement. The Developer shall not compel the forfeiture of any of the City's property to satisfy any obligations arising from this Agreement.

SECTION 11. Liens, Claims, and Encumbrances

Prior to acceptance of the Improvements by the City, the Developer shall provide a written guarantee and assurance to the City that there are no liens, claims, or monetary encumbrances on the Improvements and the Designs, together with unconditional final releases from all contractors and material suppliers, and with copies of invoices and corresponding checks

issued by the Developer for all items for which fee reimbursements are requested under this Agreement for the Improvements and the Designs. The City shall have no obligation to accept the Improvements, or to issue any reimbursements for Improvements and the Designs until the Developer has cleared any and all liens, claims and monetary encumbrances from the Improvements and the Designs and provided the required documentation, guarantee and assurance in writing, to the satisfaction of the City.

SECTION 12. No Third Party Beneficiary

By entering into this Agreement, City is not entering into any contract or agreement with any general contractor, subcontractor, or other party nor is any general contractor, subcontractor, or other party a third party beneficiary of this Agreement, and City shall have no obligation to pay any general contractor, subcontractor, or other party for any work that such general contractor, subcontractor, or other third party may do pursuant to the plans and specifications for the Improvements and the Designs.

SECTION 13. Warranty and Repair

In accordance with this Section 13 and the terms and conditions of the Subdivision Improvement Agreement, Developer hereby warrants the Improvements as to materials and workmanship and should any failure of any Improvements occur within a period of one (1) year after initial acceptance of such Improvements by City Council, the Developer shall promptly cause the needed repairs to be made without cost to the City. The provisions contained herein shall not be deemed to limit any rights Developer has or may have to seek damages or other relief from any acts or omissions of any contractor involved in the construction or design of the Improvements. Nothing herein shall be construed to limit any other warranties City may have from the manufacturer or any materials used in the Improvements nor in any way limit any rights of City in equity or law under this Agreement.

SECTION 14. Notice

Any notice, payment, or instrument required or permitted by this Agreement to either party shall be deemed to have been received when personally delivered to that party or seventy-two (72) hours following deposit of the same in any United States Post Office, first class, postage prepaid, addressed as follows:

City:	Milpitas City Hall 455 East Calaveras Boulevard Milpitas, CA 95035 Attn: Michael Silveira, P.E., City Engineer Phone: 408-586-3303
Developer:	Steve Savage, Vice President Land Development Toll West Coast, LLC 6800 Koll Center Parkway, Suite 320 Pleasanton, CA 94566

Any party hereto may, by notice given hereunder, designate a different address to which subsequent notices, payments, and instruments shall be delivered to it.

SECTION 15. Term

The term of this Agreement shall start as of the date first written above and shall remain in effect until all the terms and conditions contained in this Agreement have been satisfied.

SECTION 16. Captions

Captions to Sections of this Agreement are for convenience purposes only and are not part of this Agreement.

SECTION 17. Severability

If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, such portion shall be deemed severed from this Agreement and the remaining parts shall remain in full effect as though such invalid or unenforceable provision had not been a part of this Agreement.

SECTION 18. Successors and Assigns/Reimbursements to Developer

This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. The Reimbursement granted herein shall run with the land with respect to their application against the Sewer Infrastructure Fund otherwise payable upon development of the Project.

SECTION 19. Governing Law Venue

This Agreement is made under, and shall in all respects be interpreted, enforced, and governed by the laws of the State of California. In the event of a dispute concerning the terms of this Agreement, the venue for any legal action shall be with the appropriate court in the County of Santa Clara, State of California.

SECTION 20. Indemnity

To the fullest extent permitted by law, Developer shall protect, indemnify, defend (with counsel acceptable to City) and hold City, its officers, employees, and agents harmless from and against any and all liability, loss, cost and obligations arising out of or resulting from any injury or loss caused directly or indirectly by any cause whatsoever in connection with or incidental to the (i) activities performed by Developer, its officers, employees, or agents under this Agreement, or (ii) negligence, omission or willful misconduct by Developer, its officers, employee, or agents.

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.

SECTION 21. Time of Essence

Time is of the essence in the performance of this Agreement.

SECTION 22. Waiver

Developer agrees that waiver by City of any breach or violation of any term, condition, or obligation of this Agreement shall not be deemed to be a waiver of any other term, condition, or obligation contained herein or a waiver of any subsequent breach or violation of the same term, condition or obligation.

SECTION 23. Compliance with Laws

Developer has been alerted to the requirements of California Labor Code Sections 1720 *et seq.* and 1770 *et seq.*, which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. If the work to be performed under this Agreement by Developer is being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, Developer agrees to fully comply with such Prevailing Wage Laws. Developer 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. It shall be mandatory upon Developer and its contractors 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 Section 1776), hours of labor (Labor Code Sections 1813 and 1815), public works contractor registration (Labor Code Sections 1725.5 and 1771.1) and debarment of contractors and subcontractors (Labor Code Sections 1777.1). It shall be the sole responsibility of Developer to determine whether to comply with Prevailing Wage Laws 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 comply with Prevailing Wage Laws for work required by this Agreement.

SECTION 24. Entire Agreement

This Agreement contains the entire agreement between the parties with respect to the matters contained herein and may be amended only by subsequent written agreement signed by all parties.

SECTION 25. Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one instrument.

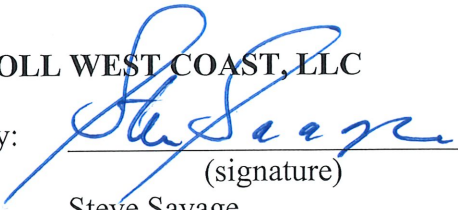
[signatures on following page]

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

CITY OF MILPITAS

By: _____
(signature)
Deanna J. Santana
(print name)
Interim City Manager
City of MILPITAS

TOLL WEST COAST, LLC

By:  _____
(signature)
Steve Savage
(print name)
Vice President
Land Development

APPROVED AS TO FORM:

By: _____
(signature)
Christopher Creech
(print name)
Acting City Attorney
City of MILPITAS

APPROVED AS TO CONTENT:

By: _____
(signature)
Luz Cofresí-Howe
(print name)
Finance Director / Risk Manager
City of MILPITAS

APPROVED AS TO SUFFICIENCY:

By: _____
(signature)
Christian Di Renzo
(print name)
Public Works Director
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.

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 Alameda)

On October 27, 2025 before me, Rosana Haydee Martinez Sedano, Notary Public
(insert name and title of the officer)

personally appeared Steve Savage,
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

Rosana Martinez Sedano

(Seal)

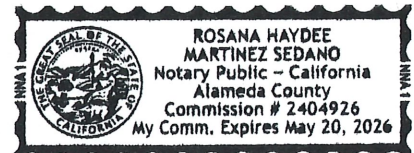


Exhibit A
1905 Tarob Court Public Improvements - Cost Estimate



ENGINEERS ■ PLANNERS ■ SURVEYORS

ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COSTS
PARKSIDE WEST II - PUBLIC STREET IMPROVEMENTS
CITY OF MILPITAS, CALIFORNIA
(For Public Street Improvements Bonding Purposes)
(For City)

Sep 30, 2025
Job No. 221066
Page 1 of 4

SUMMARY

A. CONSULTANT FEE	\$68,350
B. DEMOLITION/SITE WORK	\$159,920
C. ASPHALT PAVING	\$137,280
D. CONCRETE	\$147,200
E. SANITARY SEWER	\$25,100
F. STORM DRAIN	\$50,950
G. POTABLE WATER	\$90,250
H. RECYCLED WATER	\$41,300
I. MISCELLANEOUS	\$133,900
	SUBTOTAL = \$854,250
	20% CONSTRUCTION CONTINGENCY = \$170,850
	10% PROJECT MANAGEMENT = \$85,430
	TOTAL ESTIMATED CONSTRUCTION COST = \$1,110,530

Notes:

1. All cost figures are given as estimates only. Actual cost will be dependent on the cost figures at bidding time; the general market situation, contractor's work load, seasonal factor, labor and cost, etc. This engineering firm cannot be responsible for fluctuations in cost factors.
2. This engineer's opinion is based on Parkside West Phase 2 Public Street Improvement Plans, dated July 08, 2025.



Exhibit A
1905 Tarob Court Public Improvements - Cost Estimate



ENGINEERS ■ PLANNERS ■ SURVEYORS

ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COSTS
PARKSIDE WEST II - PUBLIC STREET IMPROVEMENTS
CITY OF MILPITAS, CALIFORNIA
(For Public Street Improvements Bonding Purposes)
(For City)

Sep 30, 2025
Job No. 221066
Page 2 of 4

ITEM	DESCRIPTION	QUANTITY	UNIT PRICE	AMOUNT
A. CONSULTANT FEE				
1.	Civil	1 LS	\$17,800.00	\$17,800
2.	Survey	1 LS	\$13,500.00	\$13,500
3.	Geotech	1 LS	\$25,050.00	\$25,050
4.	Landscape & Irrigation	1 LS	\$6,000.00	\$6,000
5.	Joint Trench	1 LS	\$6,000.00	\$6,000
SUBTOTAL =				\$68,350
B. DEMOLITION/SITEWORK				
1.	Mobilization	1 LS	\$10,000.00	\$10,000
2.	Remove and Offhaul Existing Curb, Gutter	520 LF	\$25.00	\$13,000
3.	Remove and Offhaul Existing Driveway & Sidewalk	200 SF	\$4.00	\$800
4.	Remove of Existing Tree (Allowance Only)	6 EA	\$1,000.00	\$6,000
5.	Remove and Offhaul Existing AC Pavement	9,560 SF	\$2.00	\$19,120
6.	Remove Ex 10" Storm Drain	50 SF	\$120.00	\$6,000
7.	Remove and Offhaul of Contaminated Soil (Assuming 2' Depth within ROW)	875 CY	\$120.00	\$105,000
SUBTOTAL =				\$159,920
C. ASPHALT PAVING				
1.	Mobilization	1 LS	\$20,000.00	\$20,000
2.	Fine Grading	11,610 SF	\$3.60	\$41,796
3.	12" Pavement (4"AC/12"AB)	4,160 SF	\$18.00	\$74,880
4.	Sawcut	30 LF	\$20.00	\$600
SUBTOTAL =				\$137,280
D. CONCRETE				
1.	Mobilization	1 LS	\$6,000.00	\$6,000
2.	6" Curb & Gutter	400 LF	\$40.00	\$16,000
3.	Sidewalk	1,925 SF	\$8.00	\$15,400
4.	Stamped Concrete Pavement	985 SF	\$20.00	\$19,700
5.	Residential Driveway/Project Entrance	200 SF	\$20.00	\$4,000
6.	Commercial Driveway/Project Entrance	200 SF	\$16.00	\$3,200
7.	Deepened Curb at Sidewalk	100 LF	\$260.00	\$26,000
8.	Deepened Curb at C&G	65 LF	\$360.00	\$23,400
9.	6"x6" Concrete Band at Stamped Concrete	170 LF	\$28.00	\$4,760
10.	Curb Ramp (including Truncated Domes)	1 EA	\$3,000.00	\$3,000
11.	AB Rock (100% Virgin)	4,400 SF	\$5.85	\$25,740
SUBTOTAL =				\$147,200

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**ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COSTS
PARKSIDE WEST II - PUBLIC STREET IMPROVEMENTS
CITY OF MILPITAS, CALIFORNIA
(For Public Street Improvements Bonding Purposes)
(For City)**

Sep 30, 2025
Job No. 221066
Page 3 of 4

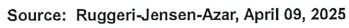
ITEM	DESCRIPTION	QUANTITY	UNIT PRICE	AMOUNT
<u>E. SANITARY SEWER</u>				
1.	Mobilization	1 LS	\$8,000.00	\$8,000
2.	4" PVC DR-18	90 LF	\$190.00	\$17,100
			SUBTOTAL =	\$25,100
<u>F. STORM DRAIN</u>				
1.	10" RCP CLASS III	10 LF	\$80.00	\$800
2.	15" RCP CLASS III	60 LF	\$190.00	\$11,400
3.	Manhole Structure	1 EA	\$10,250.00	\$10,250
4.	Replace Ex.Grate with a Storm Drain Manhole Cover & Adjust to Finished Grade	3 EA	\$1,300.00	\$3,900
5.	Drop Inlet (18"x18")	2 EA	\$4,000.00	\$8,000
6.	Storm Water Inlet	1 EA	\$5,200.00	\$5,200
7.	Connect to Existing Storm Drain	3 EA	\$3,800.00	\$11,400
			SUBTOTAL =	\$50,950
<u>G. POTABLE WATER</u>				
1.	12" PVC DR-18	50 LF	\$310.00	\$15,500
2.	2" Water Service with 2" Water Meter	1 EA	\$6,750.00	\$6,750
3.	2" Water Service Backflow	1 EA	\$7,000.00	\$7,000
4.	4" Fire Service	1 EA	\$20,700.00	\$20,700
5.	4" Fire Service Backflow	1 EA	\$21,800.00	\$21,800
6.	Post Indicator Valve	1 EA	\$4,200.00	\$4,200
7.	Fire Department Connection	1 EA	\$3,200.00	\$3,200
8.	1" Water Testing Station	1 EA	\$7,000.00	\$7,000
9.	Water Blow Off Assembly	1 EA	\$2,500.00	\$2,500
10.	Temporary Blowoff at End of Fire Service Stub	1 EA	\$1,600.00	\$1,600
			SUBTOTAL =	\$90,250
<u>H. RECYCLED WATER</u>				
1.	8" PVC DR-18	40 LF	\$280.00	\$11,200
2.	2" Recycled Water Service with 2" Water Meter	2 EA	\$6,800.00	\$13,600
3.	2" Water Service Backflow	2 EA	\$7,000.00	\$14,000
4.	Recycled Water Blow Off Assembly	1 EA	\$2,500.00	\$2,500
			SUBTOTAL =	\$41,300
<u>I. MISCELLANEOUS</u>				
1.	Mobilization	1 LS	\$10,000.00	\$10,000
2.	Signing & Striping	1 LS	\$5,000.00	\$5,000
3.	Bio-Retention	450 SF	\$90.00	\$40,500
4.	Landscaping, Irrigation and Irrigation Controller	450 SF	\$68.00	\$30,600

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ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COSTS
PARKSIDE WEST II - PUBLIC STREET IMPROVEMENTS
CITY OF MILPITAS, CALIFORNIA
(For Public Street Improvements Bonding Purposes)
(For City)

Sep 30, 2025
Job No. 221066
Page 4 of 4

ITEM	DESCRIPTION	QUANTITY	UNIT PRICE	AMOUNT
5.	Street lights, including costs for the conduit, pole, pull box, and conductors	1 LS	\$20,000.00	\$20,000
6.	Curb Cut 12"x18" Non Skid Heelproof Plate	6 EA	\$1,300.00	\$7,800
7.	Rectangular Rapid Flashing Beacons and Assembly	1 LS	\$20,000.00	\$20,000
SUBTOTAL =				\$133,900



RESOLUTION NO. 9341

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING SITE DEVELOPMENT PERMIT NO. SD23-0011, CONDITIONAL USE PERMIT NO. UP23-0007, VESTING TENTATIVE MAP NO. MT23-0001, DENSITY BONUS PERMIT NO. DB23-0003, TREE REMOVAL PERMIT NO. TR23-0015, AND ENVIRONMENTAL ASSESSMENT NO. EA23-0002 TO ALLOW DEMOLITION OF ONE INDUSTRIAL BUILDING, REMOVAL AND REPLACEMENT OF 21 ORDINANCE-SIZE TREES, AND DEVELOPMENT OF A MULTI-FAMILY RESIDENTIAL PROJECT CONSISTING OF EIGHT RESIDENTIAL BUILDINGS, UP TO 39-FEET (THREE STORIES) IN HEIGHT, WITH 104 VEHICLE PARKING SPACES, AND ASSOCIATED SITE IMPROVEMENTS ON A 2.3-ACRE SITE LOCATED WITHIN THE TRANSIT AREA SPECIFIC PLAN / MILPITAS METRO SPECIFIC PLAN AREA AT 1905 TAROB COURT (APN 086-36-041) AND MAKING FINDINGS OF CEQA EXEMPTION

WHEREAS, pursuant to the California Environmental Quality Act (Public Resources Code, § 21000 et seq.), the State CEQA Guidelines (California Code of Regulations, title 14, § 15000 et seq.) (collectively, “CEQA”), the City of Milpitas is the lead agency for the proposed project described below; and

WHEREAS, on June 3, 2008, the City Council of the City of Milpitas certified an Environmental Impact Report (State Clearinghouse No. 2006032091) prepared to analyze the environmental impacts associated with the proposed Transit Area Specific Plan, and subsequently adopted the Transit Area Specific Plan (TASP); and

WHEREAS, the Transit Area Specific Plan encompasses some 437 acres and envisions the development of 7,109 dwelling units, 287,075 square feet of retail space, and 993,843 square feet of office space and industrial, and includes development standards, goals and policies guiding development within the Plan area. Due to the physical characteristics of the area, including major streets, railroads and creeks, the Transit Area Specific Plan also established sub-districts with specific goals and policies to accommodate those unique characteristics; and

WHEREAS, on February 3, 2023, Nick Kosla of Toll Brothers (Applicant) submitted a complete pre-application and paid the required pre-application fee for a multi-family residential development that includes 43 townhomes and 13 accessory dwelling units at 1905 Tarob Court, pursuant to California Senate Bill 330 (SB 330) to the City of Milpitas; and

WHEREAS, on February 7, 2023, the City Council of the City of Milpitas certified the Milpitas Metro Specific Plan Final Subsequent Environmental Impact Report (SEIR) and adopted the Milpitas Metro Specific Plan (Metro) which replaced the existing Transit Area Specific Plan and implemented key elements and strategies of the 2040 Milpitas General Plan such as expanding the Plan area from 437 to 510 acres, provided capacity for up to 7,000 additional new housing units through 2040, providing capacity of up to three million square feet of new commercial employment space, 300,000 square feet of new retail space, and 700 new hotel rooms, as well as establish an Innovation District Plan area for job creation and enhanced City revenues, and opportunities for mixed-use development on the 99-acre Great Mall site; and

WHEREAS, since the Applicant submitted a complete pre-application prior to adoption of the Metro Specific Plan, the Project has the benefit to comply with the development standards associated with the TASP Specific Plan, which was in force at the time of the pre-application submittal, and

WHEREAS, on July 25, 2023, Toll Brothers submitted a formal application to the City of Milpitas for the entitlements necessary to allow the development of a multi-family residential development project contemplated within the aforementioned pre-application. The project is a 56-unit townhome condominium subdivision, comprised of eight multi-family buildings up to 39 feet in height, 104 parking spaces, and associated site improvements on a 2.3-acre site located at 1905 Tarob Court in the Trade Zone/Montague Subdistrict of the Transit Area Specific Plan (TASP) area (Project). The Project requires approvals of the following entitlements:

- a. Site Development Permit No. SD23-0011: To allow the development of eight multi-family buildings, up to three stories in height, with up to 43 townhouse condominiums and 13 accessory dwelling units on the 2.3-acre site; and
- b. Conditional Use Permit No. UP23-0007: To allow the subdivision of the residential townhome units (not including the accessory dwelling units) into condominiums; and
- c. Vesting Tentative Map No. MT23-0001: To establish 43 residential condominium spaces, related common areas, and associated easements; and
- d. Density Bonus Permit No. DB23-0002: To ensure the Project is compliant with State Density Bonus law and regulations; and
- e. Tree Removal Permit No. TR23-0015: To remove 21 ordinance-sized trees and replace them with 107 new trees.

WHEREAS, the Planning Department completed Environmental Assessment No. EA22-0003 for the Project in accordance with the California Environmental Quality Act (CEQA), and recommends that the City Council determine this Project is covered under CEQA Guidelines Section 15183.3(b) (Residential Infill) as discussed within a memorandum (the “Memorandum,” a true and correct copy of which is attached hereto and incorporated herein as **Exhibit 2**); and

WHEREAS, the Project site is located within the TASP area and is therefore further exempt from environmental review pursuant to CEQA Guidelines Section 15182 (Residential Projects Pursuant to a Specific Plan); and

WHEREAS, the Planning Department recommends the City Council determine this Project is found to be consistent with the goals, policies, and regulations of the California Density Bonus Law (Government Code Section 65915 et seq.), Milpitas General Plan 2040, Transit Area Specific Plan (Milpitas Metro Specific Plan) and Milpitas Zoning Ordinance, specifically Milpitas Municipal Code Section XI-10-54.15 (Density Bonus for Affordable Housing Developments), which permits waivers and concessions to development standards, as analyzed and documented in the staff report; and

WHEREAS, the Planning Commission is an advisory body to the City Council pursuant to Milpitas Municipal Code Section XI-10-64.03 (Consideration of Concurrent Applications), where, as here, due to the application for a Tentative Map pursuant to Milpitas Municipal Code Section XI-1-4.03 and a density bonus pursuant to Milpitas Municipal Code Section XI-10-54.15, the City Council is the highest review authority for the Project and, accordingly, all review by other bodies with approval authority over the application shall be in the form of a recommendation to the City Council; and

WHEREAS, the City Council has reviewed the draft “Site Development Permit No. SD23-0011, Conditional Use Permit No. UP23-0007, Vesting Tentative Map No. MT23-0001, Density Bonus Permit No. DB23-0003, Tree Removal Permit No. TR23-0015 and Environmental Assessment No. EA23-0002 for 1905 Tarob Court,” attached hereto and incorporated herein as **Exhibit 1**; and

WHEREAS, the City Council hereby finds and determines that the Project is exempt from further CEQA review pursuant to CEQA Guidelines Section 15183.3(b) (Residential Infill); and, as separate and independent basis, the Project is exempt from further CEQA review pursuant to CEQA Guidelines Section 15182 (Projects Pursuant to a Specific Plan); and

WHEREAS, the Planning Commission accepted as its own the findings those findings set forth in this resolution; and

WHEREAS, on May 22, 2024, the Planning Commission held a duly noticed public hearing, during which meeting the Planning Commission considered the CEQA exemption findings as well as Site Development Permit No. SD23-0011, Conditional Use Permit No. UP23-0007, Vesting Tentative Map No. MT23-0001, Density Bonus Permit No. DB23-0002, Tree Removal Permit No. TR23-0015 and Environmental Assessment No. EA23-0002 for 1905 Tarob Court, heard a presentation from staff, and had the opportunity to hear from members of the public and closed the public hearing on the item; and

WHEREAS, by adoption of Resolution No. 23-021, the Planning Commission recommended that the City Council approve Site Development Permit No. SD23-0011, Conditional Use Permit No. UP23-0007, Vesting Tentative Map No. MT23-0001, Density Bonus Permit No. DB23-0007, Tree Removal Permit No. TR23-0015 and Environmental Assessment No. EA23-0002 for 1905 Tarob Court; and

WHEREAS, the documents and other materials which constitute the record of proceedings upon which the City Council bases the recommendation and the findings contained within this Resolution are available and may be reviewed at Milpitas City Hall, located at 455 E. Calaveras Boulevard, Milpitas, California 95035; and

WHEREAS, on June 11, 2024, the City Council held a duly-noticed public hearing, during which meeting the City Council considered the CEQA exemption findings as well as Site Development Permit No. SD23-0011, Conditional Use Permit No. UP23-0007, Vesting Tentative Map No. MT23-0001, Density Bonus Permit No. DB23-0007, Tree Removal Permit No. TR23-0015 and Environmental Assessment No. EA23-0002 for 1905 Tarob Court, heard a presentation from staff, and had the opportunity hear from members of the public; and

WHEREAS, the findings and conclusions made by the City Council pursuant to this Resolution are based upon the oral and written evidence before it as a whole; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

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, such things as 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 incorporated herein by reference.

SECTION 2. California Environmental Quality Act Findings

The proposed 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), and no new information has become available regarding any residential infill project has become known, 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).

SECTION 3. Development Fees

The project is subject to the Transit Area Specific Plan Development Impact Fee (TADIF), Parkland Impact Fee, Public Art Fee, and a fee in-lieu of creating affordable housing. The City Council finds and determines, based upon the full record before it, including studies, analysis, and approvals supporting the adoption of these fees that there is an essential nexus between these fees and the Project and these fees are roughly proportional to the Project's impact on the City's land use and other interests.

The purpose of the TADIF fees, as adopted on March 4, 2014, by Resolution No. 8344 of the Milpitas City Council, is to finance basic public infrastructure facilities, as identified in the Basic Infrastructure Program, as amended, that are needed to provide essential public services and assure public safety for new development within the Transit Area Specific Plan (TASP) area. The Project will be supported by the basic infrastructure facilities financed by the TADIF. The Council finds that an essential nexus exists between the basic public infrastructure facilities financed by the TADIF and the Project, which those facilities will support.

In adopting the TADIF, the City relied on a nexus study to ensure that each project within the TASP area would pay only its fair share of the basic public infrastructure facilities. The nexus study relied on the uses and densities of the parcels within the plan area in calculating the TADIF fee to be applied. The Project has the same use as contemplated in the nexus study. As such, the TADIF fees owed by the project will be roughly proportional to the basic public infrastructure facilities that the project will require. The Council finds that TADIF fee is roughly proportional to the Project's impact on the City's land use interest.

The purpose of the Parkland Impact Fee, as adopted on June 15, 1976, by Ordinance No. 18.17 and amended thereafter, is to finance open space for park or recreational purposes as a condition of approval of a subdivision map as contemplated by the Subdivision Map Act. The City has adopted a General Plan containing a Recreation Element with definite principles and standards for the park and recreational facilities to serve the residents of the city and through this obligation requires dedication of land, payment of a fee, or both to proportionately contribute to this plan and provide park and recreational facilities to serve future residents of such subdivision. The Project will be supported by the infrastructure financed by the Parkland Impact Fee. The Council finds that an essential nexus exists between the basic public infrastructure facilities financed by the fee and the Project, which those facilities will support.

In adopting and updating over time the Parkland Impact Fee, the City relied upon studies to ensure that each project would pay only its fair share of the basic public infrastructure facilities. The City found and determined through this study that the public interest, convenience, health, welfare and safety require that eighteen and one-half (18-½) acres of property, for each one-thousand (1,000) persons residing within this City, be devoted to park and recreational purposes. This fee is made proportionate to the population of each project and the consequent increase in infrastructure for this additional residential need. The land and fees received are used only for the purpose of providing park and recreational facilities to serve the subdivision for which received and the location of the land and amount of fees bear a reasonable relationship to the use of the park and recreational facilities by the future inhabitants of the subdivision. The Council finds that Parkland Impact Fee is roughly proportional to the Project's impact on the City's land use interest.

The purpose of the Public Art Fee, as adopted on May 19, 2015, by Ordinance No. 38.821, promote the aesthetics and arts in the City of Milpitas by requiring the inclusion of a public artwork component in new private development projects in Milpitas. Developers may either include publicly accessible works of art of placement in the development itself or contribute a Public Art Program In-Lieu Contribution as a condition of project approval. This obligation therefore should foremost provide a direct public infrastructure improvement in the Project itself and only require contribution at the applicant's decision not to install improvements within the Project. The Council finds that an essential nexus exists between the basic public infrastructure facilities financed by the fee and the Project, which those facilities will support.

In adopting the Public Art Fee, the City relied upon studies to ensure that each project would pay only its fair share of the basic public infrastructure facilities. The City found and determined through this study that the public interest, convenience, health, welfare and safety require that private residential building developments of 20

or more new dwelling units shall devote an amount not less than one-half of one percent of Building Development Costs for acquisition and installation of Publicly Accessible Art on the development site. This obligation therefore proportionally requires the developer to contribute proportionately in the first instance to the aesthetics and arts for the Project itself. The Council finds that the Public Art Fee is roughly proportional to the Project's impact on the City's land use interest.

The purpose of fees paid in lieu of the creation of affordable units that the applicant would otherwise be required to construct pursuant to Chapter 1 – Affordable Housing Ordinance of Title XII – Housing within the Milpitas Municipal Code are for requirements to construct fractional units of less than 0.5 units as set forth in Milpitas Municipal Code Section XII-1-3.00 – 15 Percent Affordability Requirement.

In adopting an in-lieu fee for affordable housing, the City found and determined affordable housing investment enhances the public welfare and assures that further housing development contributes to the attainment of the City's housing goals by increasing the production of residential units affordable by households of very low, low and moderate income. Furthermore, the affordable housing fee will assure that the limited remaining developable land in the City's planning area is utilized in a manner consistent with the City's housing policies and needs. This obligation is determined and calculated based on the gross square footage constructed for each new residential use, taking into account any fee credits that would be applicable based on existing building area. While accessory dwelling units are not counted towards either calculating or meeting the 15% on-site affordable housing requirement pursuant to Milpitas Municipal Code Section XII-1-3.00, any payment of in-lieu fees must be based on the total gross square footage of all dwelling units developed as part of the project, including any accessory dwelling units.. The Council finds that the Public Art Fee is roughly proportional to the Project's impact on the City's land use interest.

SECTION 4. Vesting Tentative Map Findings (Section XI-1-20.01)

The City Council makes the following findings based on the evidence in the administrative record in support of Vesting Tentative Map No. MT23-0001 as referenced as "Vesting Tentative Map Geomax II", dated December 21, 2023, on file with the Planning Department:

1. The tentative subdivision map is consistent with the General Plan.

The General Plan designation for the project site references Milpitas Metro Specific Plan (METRO), but since the applicant submitted a complete pre-application pursuant to Senate Bill (SB 330) before the METRO was officially adopted by the City Council, the TASP development standards currently apply. Both the METRO and TASP standards intend to facilitate the development of higher intensity, mixed-use neighborhoods near the Milpitas Transit Center and encourage walking, biking, and alternative modes of transportation.

The TASP designates this project site as Multiple Family – High Density Transit-Oriented Development (R3-TOD). The intent of this designation is to provide high-density housing at a density range of 21-40 dwelling units/acre. As this project proposes 25.5 dwelling units/acre, it is consistent with both the intended General Plan land use and the relevant density requirement. In addition, the Housing Element does not identify the project site for yielding affordable housing units. Therefore, there is no net loss of affordable housing opportunities.

Lastly, the Project is consistent with the Milpitas General Plan, as demonstrated and outlined in Table 1 below:

Table 1: General Plan Consistency

Policy	Conformance
Policy LU 1-4: <i>Continue to provide for a variety of housing types and densities that meet the needs of individuals and families and offer residents of all income levels, age groups, and special needs sufficient housing opportunities and choices for locating in Milpitas.</i>	Consistent. The Project provides townhome condominiums and accessory dwelling units. This variety of housing types will meet the needs of individuals, families, and residents of all demographics and income levels. The Project includes six affordable and 37 market-rate townhome condominiums, consistent with the policy to provide housing types for all income levels. Additionally, an in-lieu fee into the affordable housing fund for the remaining 0.45 units required.
Policy LU 1-8: <i>Maintain equitable land use patterns to ensure that all residents in neighborhoods have access to community amenities and transportation choices, and have safe places to walk and bike.</i>	Consistent. The Project is located directly east of the future Augustus Rathbone Park extension. Furthermore, the Project's off-site improvement plan includes connecting Tarob Court with Sango Court, which will provide Tango District residents an additional connection to Montague Expressway. These improvements will ensure all residents in the Tango District area have greater access to community amenities and transportation choices.
Policy LU 5-3: <i>Ensure new development is consistent with specific height limits established within the City's Zoning Ordinance as applied through the zoning district for all properties within the City.</i>	Consistent. The Project meets the height standards by proposing three-story buildings, up to 39 feet in height, in a zoning district that allows building heights up to 50-feet. The Project's height is consistent with the recently entitled townhome project at 2001 Tarob Court, which will have buildings up to 50 feet in height, and 675 Tradezone Blvd., with 37-foot tall residences.

2. *None of the conditions identified in California Government Code Section 66474 exist, to wit:*

- A. *The proposed map is not consistent with applicable general and specific plans as specified in Government Code Section 65451.*

As outlined above, the Project includes the development of 43 residential condominium units with 13 ADUs, at a density of 25.5 dwelling units/acre. The Milpitas General Plan and Milpitas Metro Specific Plan/Transit Area Specific Plan land use designation applicable to the site (Milpitas Metro Specific Plan (MMSP), and High Density, Transit-Oriented Residential (HD-TOR)) allows residential development at 21 to 40 dwelling units/acre. The map is therefore consistent with the General Plan and Milpitas Metro Specific Plan/Transit Area Specific Plan designations.

- B. *The design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.*

The Project proposes 25.5 dwelling units per acre, consistent with the 21-40 dwelling units per acre allowed by the general plan and corresponding specific plans. Additionally, the Project is consistent with the policies associated with the MMSP/TASP, as identified in Tables 3 and 5 above, except for

front building orientations facing streets and the amount of vehicle parking standards. Both standards can be waived because the Project qualifies for Density Bonus Law waivers and concessions.

C. The site is not physically suitable for the type of development.

The site is surrounded by high density, transit-oriented residential development and future park / open space lands under the City's General Plan and zoned for this type of development under the Milpitas Metro Specific Plan/Transit Area Specific Plan. In addition, this site is suitable for the higher density development based on the location, physical attributes, and existing and proposed infrastructure improvements.

D. That the site is not physically suitable for the proposed density of development.

The project site is within the MMSP/TASP specific plan designation of Multiple Family, High Density Transit-Oriented Development (R3-TOD), permitting residential development at 21 to 40 dwelling units/acre. The site is physically suitable for the proposed density because the site has (or will have) adequate utilities, sufficient open space, and adequate residential living facilities.

E. The design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

The Project, including the subdivision and its associated improvements, is in an urbanized area and was previously developed as an industrial building without wildlife habitat. Therefore, it will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

F. The design of the subdivision or type of improvements is likely to cause serious public health problems.

The Project, including the subdivision and its associated improvements, have been designed in a manner that will not cause serious public health problems. The Project has been reviewed and conditioned by Building, Fire, Land Development, and Utility Departments. As a result, it has been determined that the development can be adequately serviced to preserve public health and wellness.

G. The design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Upon review of the subdivision map, it has been determined that the design of the subdivision or the type of improvements will not conflict with any access easements acquired by the public at large, for access through or use of, property within the proposed subdivision. The subdivision involves the vacation of a utility easement, which is no longer needed.

SECTION 5. Site Development Permit Findings (Milpitas Municipal Code Section XI-10-57.03(F))

The City Council makes the following findings based on the evidence in the public record in support of Site Development Permit No. SD23-0011, as referenced as "Toll Bros Tarob – Geomax II", dated December 21, 2023, on file with the Planning Department:

a. The layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development.

The Project's site design is consistent with the MMSP/TASP development standards for the Trade Zone/Montague Sub-district. The Project consists of 43 condominium units, 13 attached Accessory Dwelling Units and associated site amenities on a 2.3-acre site. The building's contemporary architectural design visually relates to and is compatible with the adjacent townhome projects along Tarob Court. Colors

are earth tone shades of tans and grays with black metal railings. In addition, future residents will access garages via private streets, similar to nearby residential developments.

b. The Project is consistent with the Milpitas Zoning Ordinance.

The proposed Project is consistent with the Milpitas Zoning Ordinance, as demonstrated in Table 2, below. The proposed multi-family residential building is permitted in the R3-TOD Multiple-Family, High Density Residential Zoning District with a Transit Oriented Development Overlay. The project design conforms to the site and development standards of the R3-TOD zone.

The Project also conforms to MMC Section XI-10-54.015 (Density Bonus for Affordable Housing Developments) and XI-10-57.05 (Density Bonus Permits). Where exceptions from the R3-TOD standards are needed, the applicant has requested waivers and parking exceptions under the State Density Bonus Law (Gov. Code § 65915 et seq.). The requested waivers and parking exception will support the development of affordable housing on a site where it would not otherwise be possible through a strict application of the specified standard.

Table 2: Summary of TASP R3-TOD Development Standards

Development Standard (R3-TOD)	Required	Proposed	Conformance
Density	21-40 du/ac	25.5 du/ac; 56 units total	Yes
Front yard Setback (from Tarob Court)	8 foot-15 foot (max.) from back of sidewalk	12 feet	Yes
Front yard Setback (from Sango Court)	8 foot-15 foot (max.) from back of sidewalk	8 feet	Yes
Side Yard Setback	15 foot (min.), 20 foot over three stories when abutting residential	15 feet	Yes
Rear Yard Setback	15 foot (min.), 20 foot over three stories when abutting residential	15 feet	Yes
Height	75 feet	39-feet	Yes
Landscaping	A minimum of twenty-five percent (25%) of the total lot area shall be landscaped or recreational open space. 25% x 2.2 = 0.55 acres / 23,958 sq. ft. required	0.63 acres / 27,632 sq. ft.	Yes

Development Standard (R3-TOD)	Required	Proposed	Conformance
Private Open Space	An average of 200 sq. ft. of usable open space shall be provided for each dwelling unit. 200 sq. ft. x 43 units = 8,600 sq. ft. Balconies and porches may be no less than 60 sq. ft. and patios no less than 100 sq. ft.	5,690 sq. ft. (private open space) + 27,632 sq. ft. (on-site open space) = 33,322 sq. ft. Private balconies range from 60 sq. ft to 174 sq. ft.	Yes

c. *The Project is consistent with the Milpitas General Plan.*

The proposed Project is consistent with the Milpitas General Plan, as demonstrated and outlined in Table 1 above. Furthermore, as the Project is an eligible housing project under the State Density Bonus Law, Government Code Section 65915(p)(5), the Project is entitled to waivers and reduced parking requirements. The requested waivers and parking exception will support the development of affordable housing units on a site where it would not otherwise be possible through a strict application of the specified standard.

d. *The Project is consistent with the Transit Area Specific Plan*

The proposed Project is consistent with the applicable policies and design guidelines of the TASP/METRO, as demonstrated in Tables 1 and 2, above, and 3, below. The Project is eligible for State Density Bonus Law provisions per Government Code Section 65915(p)(5), and therefore entitled to design waivers and reduced parking requirements. The requested waiver and parking exception will support affordable housing unit development on a site where it would not otherwise be possible through a strict application of those specified standards.

Table 3: Additional Development Standards Applicable in the TASP/METRO

	Standard	Proposed	Conformance
Projections into Required Yards	Porches, stairs, balconies, bay windows, and awnings may project up to six feet into required setbacks.	Porches, stairs, balconies, bay windows and awnings project less than six feet into required setbacks	Yes
Building Orientation and Entrances	Building must face the street, and primary building entrances must be oriented toward the street.	Buildings are either facing the external streets, internal streets, future Augustus Rathbone Park, or internal paseos	Yes, with approval of a Density Bonus Waiver

	Standard	Proposed	Conformance
Vehicle Parking	Two / Three Br. Units – 27 spaces Four Br. Units – 68 spaces Guest Parking – 19 spaces Total – 114 spaces (86 covered, 28 uncovered)	86 garage spaces 18 guest spaces 104 total (86 covered, 18 uncovered)	Yes, with approval of a Density Bonus waiver
Bicycle Parking	On-street guest racks equivalent to five percent (5%) of the parking requirement. Six (6) bicycle parking spaces	Six (6) bicycle parking spaces	Yes
Parking Location	Parking must be located so that it is not visible from the street.	43 private garage entrances face the interior drive aisle	Yes
Parking Garages attached to individual units	Garages may not occupy more than 50% of Ground Level Frontage facing street.	No parking garage is facing the street frontage.	Yes
Parking Access and Curb Cuts	Maximum two curb cuts per lot per street frontage	Two curb cuts along Tarob Court (one curb cut at the Tarob/Sango connection)	Yes
Park Acreage Requirements	0.04 acres (after payment of TASP/METRO fee) must be provided	0.29 acres	Yes

SECTION 6. Conditional Use Permit Findings (Milpitas Municipal Code Section XI-10-57.04(F))

The City Council makes the following findings based on the evidence in the public record in support of Conditional Use Permit No. UP23-0007, as referenced as “Toll Bros Tarob – Geomax II”, dated December 21, 2023, on file with the Planning Department:

a. The proposed use, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety and general welfare.

The Project will not be detrimental or injurious to property or improvements in the vicinity or public health, safety, or general welfare. The Project is consistent with other multi-family residential projects within the

immediate area and has been conditioned to preserve the health and wellness of future residents. In addition, the condominium project creates housing opportunities and increases the diversity of housing types in the City of Milpitas by utilizing accessory dwelling unit provisions.

b. The Project is consistent with the Milpitas Zoning Ordinance.

The proposed Project is consistent with the Milpitas Zoning Ordinance, as demonstrated in Table 2. The proposed multi-family residential building is permitted in the R3-TOD Multiple-Family, High Density Residential Zoning District with a Transit Oriented Development Overlay. The project design conforms to the site and development standards of the R3-TOD zone. Therefore, a conditional use permit is required to allow the subdivision of the proposed townhome units.

The Project also conforms to MMC Section XI-10-54.015 (Density Bonus for Affordable Housing Developments) and XI-10-57.05 (Density Bonus Permits). Where exceptions from the R3-TOD standards are in conflict, the applicant has requested a waiver and parking exceptions pursuant to State Density Bonus Law (Gov. Code § 65915 et seq.). The requested waiver and parking exception will support the development of affordable housing on a site where it would not otherwise be possible through a strict application of the specified standard.

c. The Project is consistent with the Milpitas General Plan.

The proposed Project is consistent with the Milpitas General Plan, as demonstrated and outlined in Table 1, above.

d. The Project is consistent with the Transit Area Specific Plan.

The proposed Project is consistent with the applicable policies and design guidelines of the TASP/METRO, as demonstrated in Tables 1, 2, and 3, above. The Project is eligible for State Density Bonus Law provisions per Government Code Section 65915(p)(5), and therefore entitled to design waivers and reduced parking requirements. The requested waiver and parking exception will support affordable housing unit development on a site where it would not otherwise be possible through a strict application of those specified standards.

SECTION 7. Density Bonus Permit (Milpitas Municipal Code Section XI-10-54.15(D))

The City Council makes the following findings based on the evidence in the public record in support of Density Bonus Permit No. DB23-0002, as referenced as “Toll Bros Tarob – Geomax II”, dated December 21, 2023, on file with the Planning Department:

1. The maximum allowable base density specified in the General Plan, including any other permitted increases to density.

The proposed Project includes 43 townhome condominiums and 13 accessory dwelling units, equaling to 25.5 dwelling units per acre and within the General Plan density allowed in the immediate area.

2. All affordable units shall be reasonably dispersed throughout the project, shall contain on average the same number of bedrooms as the non-affordable units in the project, and shall be comparable with the non-affordable units in terms of appearance, materials and finished quality. The Planning Commission may recommend to the City Council and/or Redevelopment Agency modifying the requirements as to unit size or type, if it is found that such a modification would better serve the affordable housing need of Milpitas.

The applicant has allocated 6 of the townhome condominiums (1 two-bedroom, 1 three-bedroom, and 4 four-bedroom townhomes) to be reserved for moderate-income households (below 80 percent Average

Median Income) to fully comply with the City's Affordable Housing Ordinance. The approximate locations for the 6 units will be adequately dispersed per the City of Milpitas Housing Department. The proposed affordable units will be developed with the same specifications as the standard, market-rate units. Additionally, the 0.45 unit will be paid by in-lieu Affordable Housing fee, calculated at time of Building Permit Issuance.

3. *Prior to final building inspection and occupancy for a project containing affordable units, the applicant shall execute and record at the Santa Clara County Recorder's Office the City's Agreement Imposing Restrictions on Real Property, which Agreement shall explain the affordability requirements. The agreement shall be approved by the Milpitas City Attorney prior to recordation.*

The Project has been conditioned to provide an agreement to the City of Milpitas explaining the affordability requirements, processes and procedures, to the satisfaction of the Milpitas City Attorney prior to the release of any Certificate of Occupancy.

4. *Retaining Affordability. A developer shall agree to, and the City shall insure continued affordability of, all lower- or very low-income density bonus units for thirty (30) years or a longer period of time, if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.*

Prior to final building inspection and occupancy for the Project containing affordable units, the applicant shall execute and record at the Santa Clara County Recorder's Office the City's Agreement Imposing Restrictions on Real Property (Agreement). The Agreement shall explain the affordability requirements, including continued affordability for moderate-income households if the unit were to ever be sold, for a period of 30 years. The agreement shall be approved by the Milpitas City Attorney for content and form prior to recordation.

5. *Affordable Rents. Those units targeted for lower-income households, as defined in Section 50079.5 of the Health and Safety Code shall be affordable at a rent that does not exceed thirty (30%) of sixty (60%) percent of the Santa Clara County median income. Those units targeted for very low-income households, as defined in Section 50105 of the Health and Safety Code, shall be affordable at a rent that does not exceed thirty (30%) of fifty (50%) percent of County median income.*

The standard is not applicable to the Project, as the Project is creating townhome condominiums for sale, rather than for rent. Affordability provisions will be assessed on the sale of the individual townhome condominium.

6. *Relation to Statute. Density bonus requirements not specified in these regulations shall be governed by the State Density Bonus Law, Government Code section 65915, et seq.*

The developer has identified and requested waivers and parking exceptions as permitted within the State Density Bonus Law, Government Code Section 65915, et seq.

Density Bonus Concessions, Incentives and Waivers

In accordance with California Government Code Section 65915 and MMC Section X-10-54.15, the City must grant the requested incentives/concessions unless the City can make either of the following findings in writing and based on substantial evidence:

- a. *The concession is not required in order to provide for affordable housing costs as defined in State Health and Safety Section 50052.2 or for rents for the affordable units pursuant to Section XI-10-54.15(D)(5), Standards, of Chapter 10 (Zoning) of the Milpitas Municipal Code.*
- b. *The concession would have a specific adverse impact as defined in State Government Code Section 65589.5(d) (2) upon the public health and safety or the physical environment, or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.*

If findings cannot be made, then the proposed concessions/incentives and waivers must be granted, based on the requirements of the City's Municipal Code and California Government Code Sections 65915 – 65918.

The City does not have substantial evidence to demonstrate that the concessions/incentives and waivers described in Table 4 would fail to result in actual and identifiable cost savings, and/or that these savings are unnecessary to provide the level of affordability proposed. Moreover, the City has no substantial evidence that any of the requested concessions, incentives or waivers would result in any specific, adverse impacts to public health, safety, the physical environment, or historical resources. Accordingly, the City Council hereby approves such requested concessions/incentives and waivers.

Table 4: State Density Bonus – Concessions, Waivers, and Incentives

Type of Modification	Standard	Applicant Request	Justification	Discretion
<i>Waiver(s)</i>	Building Orientation and Entrances	29 buildings facing either internal courtyard, shared courtyard, or future Augustus Rathbone Park TASP requires building entrances face streets	In order to provide 25.5 du/acre and parking garage access, the developer had to design a proposal that required certain building entrances to face internal courtyards instead of streets.	This waiver is allowed under State Density Bonus Law and must be granted by the City.

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 Site Development Permit No. SD23-0011, Conditional Use Permit No. UP23-0007, Vesting Tentative Map No. MT23-0001, Density Bonus Permit No. DB23-0007, Tree Removal Permit No. TR23-0015 and Environmental Assessment No. EA23-0002 for 1905 Tarob Court (subject to the Conditions of Approval attached hereto and incorporated herein as **Exhibit “1”**), based on the above findings.

PASSED AND ADOPTED this 11th day of June 2024, by the following vote:

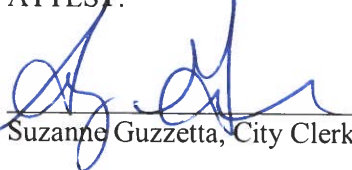
AYES: (5) Councilmembers Barbadillo, Lien, Phan, Vice Mayor Chua, Mayor Montano

NOES: (0) None

ABSENT: (0) None

ABSTAIN: (0) None

ATTEST:


Suzanne Guzzetta, City Clerk

APPROVED:


Carmen Montano, Mayor

APPROVED AS TO FORM:


Christopher Creech, Assistant City Attorney
On Behalf of Michael Mutalipassi, City Attorney

**CONDITIONS OF APPROVAL
GEOMAX II RESIDENTIAL DEVELOPMENT**

**SITE DEVELOPMENT PERMIT NO. SD23-0011
CONDITIONAL USE PERMIT NO. UP23-0011
VESTING TENTATIVE MAP NO. MT23-0001
DENSITY BONUS PERMIT NO. DB23-0002
TREE REMOVAL PERMIT NO. TR23-0015
ENVIRONMENTAL ASSESSMENT NO. EA23-0002**

The City of Milpitas Planning Commission and City Council approve Site Development Permit No. SD23-0011, Conditional Use Permit No. UP23-0011, Vesting Tentative Map No. MT23-0001, Density Bonus Permit No. DB23-0002, and Tree Removal Permit No. TR23-0015 in accordance with Section X-2-4.02, XI-1-20.01, XI-10-54.15, XI-10-57.03, XI-10-57.04, and XI-10-57.05 of the Milpitas Municipal Code, subject to and conditioned upon all applicable State and local laws and regulations and the Conditions of Approval outlined below. This Site Development Permit, Conditional Use Permit, Vesting Tentative Map, Density Bonus Permit, and Tree Removal Permit entitlement is to allow the removal and replacement of 21 ordinance-sized trees and development of a multi-family residential project with 43 townhomes and 13 accessory dwelling units. The residential development will consist of eight multi-family residential buildings up to 39 feet in height (three stories), with 104 vehicle parking spaces and associated site improvements (Project) on a 2.3-acre site located in the High-Density Residential (R3-TOD) Zoning District with a Transit Oriented Development Overlay at 1905 Tarob Court (APN: 086-36-041). These approvals are subject to all other necessary reviews, approvals, studies, and inspections necessary for such development including for the issuance building permits or occupancy.

GENERAL CONDITIONS

1. General Compliance: The Permittee and owner, including all successors in interest (collectively "Permittee") shall comply with each and every condition set forth in this Permit, known as "Toll Bros Tarob – Geomax II", and "Vesting Tentative Map Geomax II", both dated December 21, 2023, on file with the Planning Department. **SITE DEVELOPMENT PERMIT SD23-0011, CONDITIONAL USE PERMIT UP23-0011 VESTING TENTATIVE MAP MT23-0001, DENSITY BONUS PERMIT NO. DB23-0002, TREE REMOVAL PERMIT NO. TR23-0015 and ENVIRONMENTAL ASSESSMENT EA23-0002** (collectively "Permit") shall have no force or effect and no building permit shall be issued unless and until all things required by the below-enumerated precedent conditions have been performed or caused to be performed. The Permittee shall develop the site in accordance with the approved Attachments and as modified by these Conditions of Approval.
2. Effective Date: Unless there is a timely appeal filed in accordance with the Milpitas Zoning Code, the date of approval of this Permit is the date on which the City Council approved this Permit.
3. Acceptance of Permit: Should Permittee fail to file a timely appeal within twelve (12) calendar days of the date of approval of this Permit, inaction by Permittee shall be deemed to constitute each of the following:
 - a. Acceptance of this Permit by Permittee; and
 - b. Agreement by the Permittee to be bound by, comply with, and to do all things required of or by Permittee pursuant to all of the terms, obligations, and conditions of this Permit.
4. Permit Expiration: Pursuant to Section XI-10-64-06 of the Milpitas Municipal Code, this Permit shall become null and void if the activity permitted by this Permit is not commenced within two (2) years from the date of approval, or for a project submitted with a tentative map, within the time limits of the approved tentative map. Pursuant to Section XI-10-64.06(B) of the Milpitas Municipal Code, an activity permitted by this Permit shall be deemed to have commenced when the Project:

- a. Completes a foundation associated with the Project; or
 - b. Dedicates any land or easement as required from the zoning action; or
 - c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.
- 5. Time Extension: Pursuant to Section XI-10-64.07 of the Milpitas Municipal Code, unless otherwise provided by State law, Permittee shall have the right to request a one-time extension of the Permit if the request is made in writing to the Planning Division prior to the expiration date of the approval. **(P)**
- 6. Project Job Account: If Permittee's project job account is at any time delinquent or below the required deposit amount, City will not continue to review or process the application until Permittee's project job account is paid in full and the required deposit has been made. Additionally, prior to the issuance of any building permit or occupancy permit as applicable, Permittee shall pay in full the Project account balance and establish a remaining balance of at least twenty-five percent (25%) of the required initial deposit. **(P/E)**
- 7. Notice: Pursuant to California Government Code Section 66020, any protest filed in court relating to the imposition of fees, dedication, reservations, or other exactions to be imposed on the development project shall be filed within ninety (90) days after the date of the adoption of this Resolution. This provision serves as notice from the local agency to the Permittee that the ninety (90) day period in which the Permittee may file a protest has begun under California Government Code Section 66020(d)(1).
- 8. Cost and Approval: Permittee shall fully complete and satisfy each and every condition set forth in this Resolution and any other condition applicable to the Project to the sole satisfaction of the City. Additionally, Permittee shall be solely responsible and liable for the cost to satisfy each and every condition. **(ALL)**
- 9. Conditions: Each and every condition set forth in this Exhibit shall apply to the Project and continue to apply to the Project so long as the Project is operating under the permits and approvals in this Resolution. **(ALL)**
- 10. Compliance with Laws: The construction, use, and all related activity authorized under this Permit shall comply with all applicable local, state and federal laws, rules, regulations, guidelines, requirements and policies. **(CAO/P/E/B)**
- 11. Indemnification: To the fullest extent permitted by law, Permittee shall indemnify, defend with counsel of the City's choosing, and hold harmless City, its City Council, its boards and commissions, officials, officers, employees and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to (i) City's approval of the project, including, but not limited to, the approval of the discretionary permits, the approval of any waivers, exemptions, alternatives, modifications, or amendments to the City's General Plan or Municipal Code, maps under the Subdivision Map Act, and/or the City's related determinations or actions under the California Environmental Quality Act, and (ii) Permittee's construction, operation, use or related activity under this Permit. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Permittee, City and/or the parties initiating or bringing such proceeding. Permittee shall indemnify the City for all of City's costs, attorneys' fees and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. Permittee shall pay to the City upon demand or, as applicable, to counsel of City's choosing, any amount owed pursuant to the indemnification requirements prescribed in this condition. The above indemnification is intended to be as broad as permitted by applicable law. To the extent the above indemnification is limited by Government Code Section 66474.9, any limitations shall only apply to Vesting Tentative Map No. MT23-0001, and the balance of the Permit shall be unaffected by Government Code Section 66474.9.

12. Certificate of Insurance: Permittee shall provide certificate of insurance and name City as an additional insured in its insurance policies for the Project.
13. Revocation, Suspension, Modification: This Permit may be suspended, revoked or modified in accordance with Section XI-10-63.06 of the Milpitas Municipal Code.
14. Severability: If any term, provision, or condition of this Permit is held to be illegal or unenforceable by the Court, such term, provision or condition shall be severed and shall be inoperative, and the remainder of this Permit shall remain operative, binding and fully enforceable.
15. Response to Conditions of Approval: Permittee shall provide a written response to comments upon submittal for building permit application. The responses should clearly indicate how each condition of approval has been addressed in the plans and shall note the appropriate plan sheet. **(P)**
16. Compliance with Fire Department and California Fire Code: The project shall comply with the requirements of the Milpitas Fire Department and the California Fire Code, as adopted by the City. Changes to the site plan and/or buildings requires review and re-approval by the Fire Department. **(F)**
17. Compliance with Building Department and California Building Code: The project shall comply with the requirements of the Milpitas Building Department and the California Building Code, as adopted by the City. Changes to the site plan and/or buildings requires review and re-approval by the Building Department. **(B)**
18. Development in Conformance with Approved Plans: Permittee shall develop the approved Project in conformance with the architectural plans dated December 21, 2023, tentative map plans dated April 17, 2024, and plans approved by the City Council on _____, in accordance with these Conditions of Approval. Any deviation from the approved site plan, elevations, materials, colors, landscape plan or other approved submittal shall require that, prior to the issuance of building permits, the Permittee shall submit modified plans and any other applicable materials as required by the City for review, and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Planning Commission or City Council, as applicable, in accordance with the Milpitas Zoning Code. **(P)**

PLANNING CONDITIONS

19. Landscape: All approved landscaping shall be permanently maintained and replaced with substantially similar plant material as necessary to provide a permanent, attractive and effective appearance.
20. Parking: Parking shall be provided as depicted on the Site Plan approved by the City Council and shall consist of the following:
 - a. **RESIDENT**: A total of 86 vehicle spaces within unit parking garages for each townhome condominium.
 - b. **GUEST**: A total of 18 surface vehicle spaces are to be provided on site.
21. Bicycle Racks: A total of six short-term bicycle parking spaces shall be installed on the site.
22. Trees: The project will remove up to 21 ordinance-sized trees and replace with approximately 107 trees, in conformance with the plans approved by City Council on June 11, 2024.

23. Public Art Requirement: Permittee shall comply with the City's Public Art Requirements for Private Development, as set forth in Milpitas Municipal Code Section XI-10-14. Fee shall be no less than one-half of one percent of building development costs and shall be payable at time of building permit issuance.
24. Accessory Dwelling Units: In conformity with Milpitas Municipal Code Section XI-10-13.08, prior to the issuance of building permits for the construction of any accessory dwelling unit ("ADU") or junior accessory dwelling unit ("JADU"), Permittee shall record in the Santa Clara County Recorder's Office a deed restriction, in a form approved by the Milpitas City Attorney, and file a copy with the Milpitas Planning Department. The deed restriction shall run with the land and bind all future owners, heirs, and assigns. The ADU or JADU are not permitted to be subdivided as a condominium from the attached townhome condominium.
25. Density Bonus: Permittee shall provide up to 56 residential units, six of which will be offered at moderate-income levels. The Project may have the following waivers:
 - a. Waiver #1: Allow certain building entrances to not face a street.
 - b. Parking concession: Project will provide a total of 104 parking spaces as permitted by State Density Bonus Law. **(P)**

PLANNING & BUILDING PROJECT-RELATED TASP MITIGATION MEASURES & REQUIRED PROJECT DESIGN FEATURES

Biological Resources (TASP Policy 5.26)

26. Nesting Birds: To mitigate impacts on non-listed special-status nesting raptors and other nesting birds, a qualified biologist will survey the site for nesting raptors and other nesting birds within 14 days prior to any ground disturbing activity or vegetation removal. Results of the surveys will be forwarded to the U.S. Fish and Wildlife Services (USFWS) and CDFG (as appropriate) and, on a case-by-case basis, avoidance procedures adopted. These can include construction buffer areas (several hundred feet in the case of raptors) or seasonal avoidance. However, if construction activities occur only during the non-breeding season between August 31 and February 1, no surveys will be required. **(P)**
27. Environmental Site Assessment (ESA): Permittee shall provide and prepare a Phase I ESA, and a Phase II ESA if necessary, prior to the issuance of any demolition or building permits. **(P)**

Noise (TASP Policy 5.10))

28. Noise Insulation: Prior to issuance of any building permit, Permittee shall demonstrate that the Project will meet the required 45 dBA maximum interior noise standard.

Air Quality (TASP Policy 5.16)

29. Dust Control Emissions: During the construction of the Project, Permittee shall comply with all of the following:
 - a. All exposed surfaces (e.g. parking areas, staging areas, soil piles, graded areas and unpaved roads) shall be watered two times per day.
 - b. All haul trucks transporting soil, sand or other loose material off the site shall be covered.
 - c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day or more often if determined necessary by City Engineer or designee. The use of dry power sweeping is prohibited.
 - d. All vehicle speeds on unpaved roads shall be limited to 15 MPH.
 - e. All roadways, driveways and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

- f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five (5) minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- h. Post a publicly visible sign with the telephone number and person to contact at the City regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations. **(B)**

30. ROG Emissions: Prior to issuance of any building permit, Permittee shall develop, submit and obtain approval from the City of a plan to reduce ROG emissions by 17 percent or greater during the architectural coating phase of the construction. Acceptable measures to achieve this goal include, but are not limited to, architectural coating containing 125 grams per liter of VOC or less, the use of pre-fabricated building materials, or a combination of both. The plan shall be implemented as approved by the City. **(P)**

HOUSING CONDITIONS

31. Affordable Housing Requirement: Permittee shall comply with the City's Affordable Housing Ordinance, as set forth in Milpitas Municipal Code Section XI-1-3.00. The City Council has granted the following deviation from the City's AHO **(H)**:
- a. Permittee shall reserve six townhome condominium units for moderate income households, with the option of also reserving for low or very-low income households, consisting of:
 - i. One, two-bedroom townhome unit
 - ii. One, three-bedroom townhome units
 - iii. Three, four-bedroom townhome units
 - iv. One, four-bedroom townhome units with ADU
32. Affordable Housing Agreement: Prior to final building inspection and occupancy for a project containing affordable units, the applicant shall execute and record at the Santa Clara County Recorder's Office the City's Agreement Imposing Restrictions on Real Property, which Agreement shall explain the affordability requirements. The agreement shall be approved by the Milpitas City Attorney prior to recordation. **(H)**
33. Retaining Affordability. Developer shall agree to, and the City shall insure continued affordability of, all lower- or very low-income density bonus units for fifty (50) years or a longer period of time, if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. **(H)**

ENGINEERING CONDITIONS

PRIOR TO CONSTRUCTION PLAN SUBMITTALS

*The following conditions shall be met **prior to** any detailed construction plan check submittals (Building or Engineering, except demolition and rough grade plans), unless otherwise approved by the Director of Engineering/City Engineer. City reserves the right to reject any plan check submittal if any of the following conditions are not met. **(E)***

33. Modifications: The Site Development Plan dated December 21, 2023 is subject to change during the plan check stage based upon City's previous comments and conditions stated herein.
34. Solid Waste and Recycling Handling Plan: Permittee shall submit final Solid Waste and Recycling Handling Plan based upon City's previous comments for City's review and approval by the Engineering Department

Solid Waste Program. The subject Plan shall show calculations of waste generation volumes and how materials will be transferred from the waste generation areas to the trash enclosure/external collection point; demonstrate how recycling, food waste, and yard trimmings shall have a separately maintained process from garbage handling; address other requirements such as waste generation and compactor sizing, chute shut-off and property management responsibility for bin management and litter control; outreach and education to tenants/occupants, and procure sufficient service frequency based upon waste generation calculation volumes.

35. Stormwater Control Plan: Permittee shall submit City approved final Stormwater Control Plan (SWCP) that complies with the latest Municipal Regional Stormwater NPDES Permit (MRP3.0), including Low Impact Development (LID) Section C3.c.i.(2)(b) measures for harvesting and reuse, infiltration, or evapo-transpiration, for City's review and approval by the Engineering Department.
36. Photometric Analysis: Permittee shall submit streetlight photometric analysis for City's review and approval by the Engineering Department along Tarob and Sango Court that meet the Illuminating Engineering Society of North America (IESNA), RP8, for roadway and sidewalk lighting standards and City standard design guidelines.
37. Recycle Water Cross-Connection Specialist: In order to comply with the California Code of Regulations Title 17 and 22, and for timely plan approval by the California State Water Resources Control Board/Division of Drinking Water as well as by the South Bay Water Recycling, Permittee must hire a certified cross-connection specialist for their consultation as to irrigation water system design and construction phasing. The name and contact information of the certified cross-connection specialist shall be provided on all landscape submittal plans.
38. Submittal Requirements: Permittee to ensure that all plan check submittals are in accordance with City's submittal check list for each permit type, including but not limited to, payment of permit fees and/or fee deposit at the time of the submittal.
39. Project Job Account/Fee Deposit: Permittee shall open a new PJ account as a deposit to cover the costs for Engineering Department's services for review and inspection of the project. The amount shall be determined based on the approved City fee schedule at the time of application submittal.
40. Coordination with other Projects: Permittee shall coordinate designs with 675 Trade Zone, 355 Sango Court, 1980 and 1841 Tarob Court (VOC Project) in advance prior to any plan submittal.

PRIOR TO FINAL MAP APPROVAL/RECORDATION

*The following conditions shall be addressed during the final map plan check process and shall be met **prior to** any final approval/recordation (except demolition permit and rough grade permit), unless otherwise approved by the Director of Engineering/City Engineer. (E)*

41. Dedication on the Final Map: Permittee shall provide all necessary right of way and easement dedications to the City for construction of 50% of the future Sango Court to Tarob Court street extension along the northern project frontage per TASP standards and guidelines.
42. Abandonment/Quitclaim Easements: Permittee shall abandon/quit claim existing easements that are in conflict with or unnecessary for the project.
43. Partial Street Vacation: This project is subject to and contingent upon partial vacation on Tarob Court.
44. Easements on the Final Map: Permittee shall depict all existing easements to remain based upon current preliminary title report and depict new easements on the final map.
45. Public Easement Dedication: Permittee shall dedicate to the City and record a grant of easement with approved plat and legal description conveying title to the following public easements:

- Street and right of way dedication along an alignment acceptable to the City and in compliance with TASP standards for the future Sango Court to Tarob Court street extension; and
 - 10' wide public service utility easement behind the street and right of way dedication along the entire property frontage. Project entry and monument signs, bioretention areas, and walls shall not be located within the public service utility easement.
46. Concurrent Off-site Plan Reviews: Permittee shall submit separate off-site improvement plans for City's review and approval by the Engineering Department.
 47. Street Name Approval: Permittee shall obtain approval from the City Council for all new street names based upon recommendation from the City Council Ad Hoc Naming Subcommittee and City guidelines.
 48. Utility Company Approval: Permittee shall obtain approval letters from utility companies (PG&E, AT&T, Comcast) for abandonment of existing and dedication of new public service utilities easements.
 49. Demolition of Existing Building: Permittee shall demolish existing buildings/facilities that are in conflict with the new property lines.
 50. Covenant, Conditions & Restrictions (CC&Rs): Permittee shall provide CC&Rs for City's review and approval for perpetual maintenance of private roadways, private utilities, stormwater management facilities in accordance with a separately recorded Stormwater Management Facilities Operation and Maintenance Agreement, etc. There shall be provisions in the CC&Rs to retain a recycled water site supervisor with annual re-certification report to the City's Public Works Department.
 51. Subdivision Improvement Agreement and Securities: Permittee shall execute a Subdivision Improvement Agreement and provide improvement securities in accordance with MMC Title XI, Section 17, and submit all other supplemental documents as stipulated in the Improvement Agreement (such as certificate of insurance).
 52. Annexation to the Community Facilities District: Permittee shall submit an executed petition affirmatively consenting to annex the subject property to the Community Facilities District (CFD) 2008-1, and agree to pay the special taxes levied by the CFD 2008-1 for the purpose of maintaining the public services. The CFD annexation process shall be completed prior to final map approval. Permittee shall comply with all rules, regulations, policies and practices established by the State Law and/or by the City with respect to the CFD including, without limitation, requirements for notice and disclosure to future owners and/or residents. This condition of approval is nonseverable from the Permit and invalidation or limitation of this condition invalidates the Permit, condition 14 notwithstanding.

PRIOR TO OFF-SITE PLAN APPROVAL/ENCROACHMENT PERMIT ISSUANCE

*The following conditions shall be addressed as part of the off-site improvement plan review and shall be met **prior to** encroachment permit issuance, unless otherwise approved by the Director of Engineering/City Engineer. (E)*

53. Public Improvement Design Standards: All public improvements shall be designed and constructed in accordance with all applicable public improvement design standards, including but not limited to:
 - a. Milpitas Design Guidelines:
(<http://www.ci.milpitas.ca.gov/milpitas/departments/engineering/design-guidelines/>);
 - b. Standard details and specifications:
(<http://www.ci.milpitas.ca.gov/milpitas/departments/engineering/standard-details-and-specifications/>);
 - c. Transit Area Specific Plan Design Guidelines:
(http://www.ci.milpitas.ca.gov/_pdfs/engDesignGuidelines/en_dg_vi_transitAreaSpecific.pdf);
 - d. Americans with Disabilities Act (ADA) requirements, where applicable.

54. Sanitary Sewer Calculations: Permittee shall submit a completed “Sewer Needs Questionnaire” form and sanitary sewer calculations to justify lateral size design, allocation of discharge for each of the lateral, and impact to the existing main. Permittee shall be responsible to implement any necessary improvements if there is any identified deficiency to the existing main as a result of the project.
55. Storm Drain Design: Permittee shall submit storm drain hydrology and hydraulic calculations based upon a 10-year storm event to justify the size of the storm drain lateral flowing full, without surcharging the main line pipe, and to be reviewed and approved by the Engineering Department.
56. Domestic Water and Fire Service Calculations: Permittee shall submit potable water and fire service calculations to confirm adequacy of lateral size, pressure and flow, to be reviewed and approved by the Engineering Department and Fire Department. Hydraulic modeling analysis by the City and paid by the Permittee may be required as needed. Permittee shall be responsible to implement any necessary improvements if there is any identified deficiency to the existing main as a result of the project.
57. Specific Improvements: In addition to standard public improvements required under Milpitas Municipal Code (MMC) Title XI, Chapter 1, Section 7, Permittee shall install other specific improvements listed below including incidental improvements as required by the City as part of the encroachment permit.
- a) Installation of separate water service tap and meter for each of the following services: residential, fire and irrigation.
 - b) Installation of separate utility service laterals (domestic water, fire service, sanitary sewer) for each residential building at minimum.
 - c) Installation of radio-transmitted water meters with a meter antenna, any repeaters or transmitters as needed with dedicated power supplies at no cost to the City at locations acceptable to the City to ensure accurate and timely reception of meter readings. Permittee shall execute a recorded instrument providing dedicated space, access rights and dedicated power supplies to the City for operation/maintenance/repair/replacement of subject radio antenna.
 - d) Removal and installation of new curb, gutter and sidewalk, signage and striping, and street lights along the complete street of Tarob and Sango Court shall comply with the applicable TASP design standards and details.
 - e) Installation of curb ramps and driveway at the entrance of Street A, Street B, and the future City park connection to South Milpitas Blvd.
 - a. Pending City’s final design of the future park and South Milpitas Boulevard extension, the City may require a revision to the proposed driveway entrance and redesign it to curb returns. This revision may impact the location of the proposed crosswalk and curb ramps.
 - f) Installation of full-depth street sections with asphalt concrete and aggregate base along the project street frontage at Tarob and Sango Court to the City Engineer’s satisfaction.
 - g) Installation of new street tree wells along the project frontage. The locations, spacing of tree wells and tree species shall be in compliance with applicable City standards and details.
 - h) Relocate the existing 12” Water Main along the frontage of both Tarob and Sango Court to avoid conflicts with the new street alignment. The permittee shall connect the new 12” water main to the existing 12” water main in Tarob and Sango Court per City Standards.
 - i) Installation of new 8” Recycled Water Main on Tarob and Sango Court. The permittee shall connect the new 8” Recycled Water main to the existing 8” Recycled Water Main on Tarob and Sango Court per City Standards.

- j) Developer to furnish an additional street light pole and be delivered to the Public Works Corp Yard for storage and future use in the event of a pole getting damaged.
 - k) Flashing beacons shall be installed at the future S. Milpitas Blvd. extension intersection, as referenced in Condition #67.
58. Abandonment of Existing City Utilities: Permittee shall cap, abandon at the main or remove any unused existing public utilities based upon City's Abandonment Notes and to the City's satisfaction.
 59. Relocation and Adjustment of Existing Public Utilities: Permittee shall relocate and/or adjust existing public utilities as needed that are in conflict with the proposed improvements.
 60. Maintenance Agreement: Permittee shall record a Maintenance Agreement for perpetual maintenance of certain public improvements, such as landscaping if mutually agreed between the City and the Permittee.
 61. Water Service Agreement: Permittee shall complete a water service agreement to obtain water service.
 62. Encroachment Permit: Prior to any work in the public right-of-way and/or public easement, obtain an encroachment permit with insurance requirements for all public improvements including a traffic control plan per the latest California Manual on Uniform Traffic Control Devices (MUTCD) standards to be reviewed and approved by the Engineering Department.
 63. Pothole Encroachment Permit: Due to multiple new utility service connections on Tarob and Sango Ct, Permittee shall pothole and verify all potential utility crossing conflict as part of the public improvement plan during the design stage.
 64. Right of Way Dedication: The developer shall furnish all needed documents such as plat and legal and grant deeds for the dedication of right of way on the City parcel located at 1841 Tarob Court. Once City Council has approved the document, developer shall record the document with the County.

PRIOR TO BUILDING PERMIT ISSUANCE

*The following conditions shall be addressed during the building plan check process and shall be met **prior to** any building permit issuance (except demolition permit and rough grade permit), unless otherwise approved by the Director of Engineering/City Engineer). (E)*

65. Final Map Recordation: Permittee shall record the final map.
66. Easements on the Building Permit Plans: Permittee shall depict all existing easements to remain based upon current preliminary title report and depict new easements on applicable building permit plans.
67. Fee Reimbursement Agreement: Permittee shall provide engineer's estimate to construct 50% of the future Sango Court to Tarob Court street extension per TASP residential standards and guidelines on the northern project frontage and the flashing beacons (as referenced in Condition No. 57(k) within the Resolution). This shall include all costs associated with removal and modifications of interim northern project frontage improvements and installation of TASP roadway, sidewalks, decorative concrete paving stalls, street lights, street furniture, landscapes, utilities, etc. The engineer's estimate shall be subjected to the City Engineer's review and approval. Any reimbursement shall be part of the Fee Reimbursement Agreement approved by City Council prior to Building Permit Issuance.
68. Stormwater Facility Operation & Maintenance Plan: Permittee shall incorporate design details into applicable construction plans in accordance with City approved Storm Water Control Plan (SWCP). Permittee shall also submit Stormwater Facility Operation & Maintenance Plan that describes operation and maintenance procedures needed to ensure that treatment Best Management Practices (BMPs) and other storm water control measures continue to work as intended and do not create a nuisance (including vector control).

69. Stormwater Management Facilities O&M Agreement: Permittee shall execute and record a Stormwater Management Facilities Operation and Maintenance (O&M) Agreement associated with the SWCP O&M Plan, including perpetual maintenance of treatment areas/units, as reviewed and accepted by the Engineering Department. The subject O&M Agreement shall be referenced in the CC&Rs, if applicable.
70. Water Supply and Force Majeure: The City reserves the right to suspend the issuance of building permits in case of an emergency declaration of water supply in the case of a major catastrophic event that restricts City's assurance to provide water supply
71. Recycle Water Approval: Permittee shall use recycled water for landscape irrigation purpose, except for the interior courtyard/podium areas within the building footprint where the potable water shall be used for irrigation. Permittee shall comply with California Code of Regulations (CCR), Title 22, Division 4, Chapter 3, titled "*Water Recycling Criteria*", CCR, Title 17, Division 1, Chapter 5, Subchapter 1 titled "*Drinking Water Supply*" and all other recycled water regulations as listed under the publication titled "*California Department of Public Health Regulations Related to Recycled Water June 18, 2014*". Permittee shall obtain approval from the California State Water Resources Control Board/Division of Drinking Water, South Bay Water Recycling and the City for recycled water design, including but not limited to on-site irrigation design, based upon South Bay Water Recycling Guidelines and City of Milpitas Supplemental Guidelines. All landscape plants shall be compatible with recycled water.
72. Water Efficient Landscapes: Permittee shall comply with Milpitas Municipal Code Title VIII, Chapter 5 Water Efficient Landscapes for landscape design, including but not limited to, providing separate water meters for domestic water service and irrigation service and providing applicable landscape documentation package.
73. Solid Waste and Recycling Facility Design: Permittee shall comply with all applicable City design guidelines/details associated with haul route, turning radius, vertical and horizontal clearance, trash enclosure, staging area, storage area, etc.
74. Recycling Report Prior to Demolition Permit Issuance: Permittee shall submit Part I of a Recycling Report on business letterhead to the Building Department, for forwarding to the Engineering Department for review and approval. The report shall describe the following resource recovery activities:
 - a. What materials will be salvaged.
 - b. How materials will be processed during demolition.
 - c. Intended locations or businesses for reuse or recycling.
 - d. Quantity estimates in tons (both recyclable and for landfill disposal). Estimates for recycling and disposal tonnage amounts by material type shall be included as separate items in all reports to the Building Division before demolition begins.

Permittee shall make every effort to salvage materials for reuse and recycling, and shall comply with the City's demolition and construction debris recycling ordinance.

75. Recycling Report Prior to Building Permit Issuance: Permittee shall submit Part II of the Recycling Report to the Building Department, for forwarding to the Engineering Department. Part II of the Recycling Report shall be supported by copies of weight tags and/or receipts of "end dumps." Actual reuse, recycling and disposal tonnage amounts (and estimates for "end dumps") shall be submitted to the Building Department for approval by the Engineering Department prior to inspection by the Building Department.
76. Flood Plain Management: This project is in the Flood Zone "AO" with 1' average flood depth, therefore, Permittee shall comply with all applicable flood protection criterion required by the Federal Emergency Management Agency (FEMA) and MMC Title XI, Chapter 15. Permittee shall also submit a Flood Study for the Project demonstrating, to the satisfaction of the City Engineer, that the proposed development has no adverse impact to the surrounding flood plain within the Special Flood Hazard Area (SFHA) and to the flood carrying

capacity of the area. The study should include cumulative effects of existing and proposed developments demonstrating the combined effects will not increase the water surface elevation of the Base Flood Elevation (BFE) more than one foot at any point. For the AO Flood Zone, the flood study is required to establish the BFE, and set the building elevation accordingly. The flood study shall be consistent with the requirements in accordance with Title 44 of the Code of Federal Regulations by establishing a hydraulic model and HEC-RAS. The study shall clearly identify the lowest floor elevation as being either the bottom of garage, bottom of first floor residential units, bottom of elevator pit, etc. and shall be completely elevated out of the SFHA.

77. Development Fees: Permittee shall pay the following development fees. The information listed in items “a” through “g” are based upon current fee rates; however, those fee rates are subject to change. The exact fee amount shall be determined at the time of building permit fee payment.
- a. Storm water connection fee at \$16,771/acre for residential.
 - b. Water connection fee at \$1,910/unit for residential based upon increased water usage.
 - c. Sewer connection fee at \$1,908/unit for residential based upon increased average wastewater flow.
 - d. 3.8% of applicable fees in accordance with City Resolution No. 8969 as Permitting Automation Fee.
 - e. FEMA Flood Zone Designation Letter fee in the amount of \$100.00 each.
 - f. Public Art Fee or Public Art on site, as set forth in Milpitas Municipal Code Section XI-10-14.
 - g. Transit Area Specific Plan (TASP) fee to be calculated at time of Building Permit Issuance.
78. Mailboxes: The Permittee shall coordinate with US Postal Services regarding placement of required mailboxes. Mailbox location shall not be on public street frontages and shall be approved by City and US Postal Services prior to building permit issuance. Mailbox locations shall be shown on the improvement plans and Permittee shall submit a letter to the City’s Land Development Engineering Section from the Post Master approving the location of the mailbox. Structures to protect mailboxes may require Building, Engineering and Planning Department review.
79. Foundation Design: Building foundations adjacent to public utilities shall be designed to be self-supporting such that the building weight is not required to be supported during shoring and excavation of adjacent utilities. If any project building is located next to a City easement, the City is not responsible for any foundation damage that would occur due to excavating in the event of servicing or repairs in that easement.

DURING CONSTRUCTION

*The following conditions shall be complied with at all times **during** the construction phase of the project, unless otherwise approved by the Director of Engineering/City Engineer. (E)*

80. Dewatering: If dewatering is needed during construction, Permittee shall obtain a Short-Term Industrial Wastewater Permit from the San Jose/Santa Clara Water Pollution Control Plant for discharging the groundwater to a sanitary sewer system.
81. On-site Recycle Water Coordination: If dewatering is needed during construction, Permittee shall obtain a Short-Term Industrial Wastewater Permit from the San Jose/Santa Clara Water Pollution Control Plant for discharging the groundwater to a sanitary sewer system.
82. Prohibition of Potable Water Usage: Permittee’s cross-connection specialist shall coordinate the phasing of the construction; facilitate the cross-connection testing in order to minimize the impact for occupied buildings during cross-connection testing; sign-off before the water meter set; coordinate on-site construction inspection; complete the site inspection; fill out required paperwork/questionnaire; and provide them to the City for forwarding to South Bay Water Recycling. Developer shall notify SBWR 7 days in advance to schedule attendance of SBWR inspector during Cross-connection Test.

83. Construction Staging and Employee Parking: Permittee shall place all construction related materials, equipment, and arrange construction workers parking on-site and not located in the public right-of-way or public easements.
84. Water Shut-down Plan: Permittee shall provide a water shut-down plan at least seven days in advance of the shut-down in coordination with the Engineering Inspector and notify affected property owners/tenants when cut-in tee(s) is/are required.

PRIOR TO FIRST OCCUPANCY

*The following conditions shall be met **prior to** first building occupancy on either lot, unless otherwise approved the Director of Engineering/City Engineer.*

85. Completion of Public Improvements: Permittee shall complete all public improvements, including but not limited to Tarob Court, Sango Court, connection to 355 Sango Court, and frontage improvements, as shown on City approved plans.
86. LOMR-F: Permittee shall submit a FEMA approved LOMR-F for each unit/building associated with the requested occupancy, if the project is located in the SFHA. CLOMR and LOMR shall be provided to the City once FEMA begins accepting new applications. Certificate of Occupancy for each individual unit shall be granted prior to FEMA approval of a LOMR-F upon demonstration by the permittee that flood insurance is in place for the unit to be occupied. Once an approved LOMR-F has been obtained for the individual unit associated with the requested occupancy, the flood insurance requirement will be waived.
87. Elevation and/or Flood Proofing Certificate: Permittee's civil engineer shall submit Elevation and/or Flood Proofing Certificate for the lowest finished floor elevation of each building for City record.
88. Landscape Certificate of Completion: Permittee shall submit a Certificate of Substantial Completion that complies with the Milpitas Municipal Code Water Efficient Landscapes ordinance. **(E/P)**
89. Certificate of Cross-Connection: Permittee shall ensure that the cross-connection specialist complete the required recycled water construction inspection checklist, cross connection test results and any special inspection checklist as required by the South Bay Recycling Program <http://www.sanjoseca.gov/index.aspx?NID=1595> and forward them to the City.
90. Record Drawings: Permittee shall submit record drawings in Full size hard copy, AutoCAD, Tiff, and PDF formats for City records. Record drawings shall include all public improvements. Additionally, if the project uses recycled water, the permittee shall also submit record drawings of on-site irrigation facilities.
91. Private Job (PJ) Balance: Permittee shall pay for any remaining balance from the Private Job deposit.

LEGEND

P = Planning Department
B = Building Department
E = Engineering Department
F = Fire Department
H = Housing Division
CAO = City Attorney's Office
ALL = All Reviewing Departments

NOTICE OF RIGHT TO PROTEST

The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other

exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), began on date of adoption of this resolution. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

AGREEMENT

Permittee/Property Owner

The undersigned agrees to each and every condition of approval and acknowledges the NOTICE OF RIGHT TO PROTEST and hereby agrees to use the Project property on the terms and conditions set forth in this resolution.

Dated: _____

Signature of Permittee

MEMORANDUM

Planning Department



To: Jay Lee, AICP, Planning Director, City of Milpitas
From: Michael Fossati, AICP, Senior Planner, City of Milpitas
Subject: 1905 Tarob Court Project – Streamlining for Infill Project
Date: February 26, 2024

This memorandum supports the finding that the proposed project at 1905 Tarob Court "Project" is exempt from further review pursuant to California Environmental Quality Act (CEQA) Section 15183.3 (Streamlining for Infill Projects). The Project site is located at 1905 Tarob Court (APN 086-36-041) in the City of Milpitas, Santa Clara County. The proposed Project is described in the attached staff report.

CEQA Guidelines Section 15183.3(b) – Eligibility for Streamlining for Infill Project

Article 12 of the California Environmental Quality Act (CEQA Guidelines Section 15180 to Section 15190) includes a list of classes of projects that have been determined to not have a significant effect on the environment and as a result, CEQA will not apply. To be eligible for the streamlining procedures prescribed in this section, the project must:

- (1) Be located in an urban area on a site that either has been previously developed or that adjoins existing qualified urban uses on at least seventy-five percent of the site's perimeter. For the purpose of this subdivision "adjoin" means the infill project is immediately adjacent to qualified urban uses, or is only separated from such uses by an improved public right-of-way; and
- (2) Satisfy the performance standards provided in Appendix M; and
- (3) Be 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, except as provided in subdivisions (b)(3)(A) or (b)(3)(B) below.

- Only where an infill project is proposed within the boundaries of a metropolitan planning organization for which a sustainable communities strategy or an alternative planning strategy will be, but is not yet, in effect, a residential infill project must have a density of at least 20 units per acre, and a retail or commercial infill project must have a floor area ratio of at least 0.75.
- Where an infill project is proposed outside of the boundaries of a metropolitan planning organization, the infill project must meet the definition of a small walkable community project in subdivision (f)(5) below.

The analysis presented in the following section provide substantial evidence that the proposed Project qualifies for an exemption under CEQA Guidelines Section 15183.3 as an urban in-fill development and would not have a significant effect on the environment. Section 15183(a) of the California Environmental Quality Act (CEQA) Guidelines states that *"...projects which are consistent with the development density established by the existing zoning, community plan, or general plan policies for which an Environmental Impact Report (EIR) was certified shall not require additional environmental review, except as may be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site."*

CEQA Guideline Section 15183.3 (B)(1) Criteria

Yes	No	
X		Be located in an urban area on a site that either has been previously developed or that adjoins existing qualified urban uses on at least seventy-five percent of the site's perimeter. For the purpose of this subdivision "adjoin" means the infill project is immediately adjacent to qualified urban uses, or is only separated from such uses by an improved public right-of-way

A "qualified urban use" is defined in PRC Section 21072 as "any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses." The Project site is currently developed with an industrial building that includes manufacturing, warehouse and office space, loading docks, surface parking, and landscaped areas with mature trees. The site is located in an urban area, has been previously developed, and is surrounded by development on all sides.

CEQA Guideline Section 15183.3(B)(2) Criteria

Yes	No	Satisfy the performance standards provided by Appendix M of the
X		CEQA Statute and Guidelines

The Project satisfies the performance standards in Appendix M, as documented on the Infill Checklist N, as discussed below:

1. *Does the non-residential infill project include a renewable energy feature? If so, describe below. If not, explain below why it is not feasible to do so.*

The only use included in the proposed project is residential which, although not required, is encouraged to provide renewable energy features. The buildings would be all-electric and solar-ready.

2. *If the project site is included on any list compiled pursuant to Section 65962.5 of the Government Code, either provide documentation of remediation or describe the recommendations provided in a preliminary endangerment assessment or comparable document that will be implemented as part of the project.*

The project site is not included on any list of facilities or sites compiled pursuant to Section 65962.5 of the Government Code (i.e., the Cortese List).¹ The project site does not have any known contamination.

3. *If the infill project includes residential units located within 500 feet, or such distance that the local agency or local air district has determined is appropriate based on local conditions, of a high volume roadway or other significant source of air pollution, as defined in Appendix M, describe the measures that the project will implement to protect public health. Such measures may include policies and standards identified in the local general plan, specific plans, zoning code or community risk reduction plan, or measures recommended in a health risk assessment, to promote the protection of public health. Identify the policies or standards, or refer to the site-specific analysis, below.*

The project would not include residential units located within 500 feet, or such distance that the local agency or local air district has determined is appropriate based on local conditions, of a high-volume roadway or other significant source of air pollution. High-volume roadways are defined as freeways, highways, or urban roads with traffic volumes of at least 100,000 vehicles per day, or rural roads with 50,000 vehicles per day. There are no major roadways with volumes greater than 100,000 vehicles per day within 500 feet of the project site. The project site is approximately

¹ California Environmental Protection Agency. 2022. Cortese List Data Resources. Website: <https://calepa.ca.gov/sitecleanup/corteselist> (accessed October 27, 2022).

3,800 feet west of Interstate 680 and 4,900 feet east of Interstate 880, which are the closest roadways that would qualify. Additionally, none of the roadways within the vicinity of the project site are designated as rural roadways in the City's General Plan.

4. *For residential projects, the project satisfies which of the following?*

- ☐ *Located within a low vehicle travel area, as defined in Appendix M.*
- ☒ *Located within ½-mile of an existing major transit stop or an existing stop along a high-quality transit corridor.*
- ☐ *Consists of 100 or fewer units that are each affordable to low income households. (Attach evidence of legal commitment to ensure the continued availability and use of the housing units for lower income households, as defined in Section 50079.5 of the Health and Safety Code, for a period of at least 30 years, at monthly housing costs, as determined pursuant to Section 50053 of the Health and Safety Code.)*

Appendix M of the CEQA Guidelines defines a "Major Transit Stop" as a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two of more major bus routes with frequencies of service intervals of 15 minutes or less during the morning and afternoon peak commute periods. The project site is located approximately 0.275 miles south of the Milpitas Bay Area Rapid Transit (BART) station and Valley Transportation Authority (VTA) light rail station. Therefore, the project site is located within one half mile of a major transit stop.

5. *For commercial projects with a single building floor-plate below 50,000 square feet, the project satisfies which of the following?*

- ☐ *Located within a low vehicle travel area, as defined in Appendix M.*
- ☐ *The project is within ½-mile of 1,800 dwelling units.*

This performance standard is not applicable. The proposed project does not include any commercial uses.

6. *For office building projects, the project satisfies which of the following?*

- ☐ *Located within a low vehicle travel area, as defined in Appendix M.*
- ☐ *Located within ¼-mile of an existing major transit stop.*

This performance standard is not applicable. The proposed project does not include any office uses.

7. For school projects, the project does all of the following:

- ☐ The project complies with the requirements in Sections 17213, 17213.1, and 17213.2 of the California Education Code.
- ☐ The project is an elementary school and is within 1 mile of 50 percent of the student population or is a middle school or high school and is within 2 miles of 50 percent of the student population. Alternatively, the school is within ½-mile of an existing major transit stop or an existing stop along a high-quality transit corridor.
- ☐ The project provides parking and storage for bicycles and scooters.

This performance standard is not applicable. The proposed project is not a school project.

8. For small walkable community projects, the project must be a residential project that has a density of at least eight units to the acre or a commercial project with a floor area ratio of at least 0.5, or both.

CEQA Guidelines Section 15183.3(f)(5) defines a "Small Walkable Community Project" as a project that is all of the following: 1) In an incorporated city that is not within the boundary of a metropolitan planning organization; 2) Within an area of approximately one-quarter mile diameter of contiguous land that includes a residential area adjacent to a retail downtown area and that is designated by the city for infill development consisting of residential and commercial uses. A city may designate such an area within its general plan, zoning code, or by any legislative act creating such a designation, and may make such designation concurrently with project approval; and 3) either a residential project that has a density of at least eight units to the acre or a commercial project with a floor area ratio of at least 0.5, or both.

The project site is located within the boundary of the Metropolitan Transportation Commission, which is the metropolitan planning organization for the nine-county Bay Area. Therefore, the proposed project is not a small walkable community project, as defined by CEQA Guidelines Section 15183.3(f)(5), and this performance standard is not applicable.

CEQA Guideline Section 15183.3(B)(3) Criteria

Yes	No	
X		Be 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, except as provided in subdivisions (b)(3)(A) or (b)(3)(B)

The adopted Plan Bay Area (2050) serves as the Sustainable Communities Strategy for the Bay Area, per Senate Bill 375. Plan Bay Area's core strategy is to focus growth within existing communities along the existing transportation network. The project site is located within a Priority Development Area (PDA) in Plan Bay Area, which are areas identified for housing and job growth. As noted above, the proposed project would consist of redevelopment of the project site with residential uses along the existing transportation network. The proposed project is consistent with the 2040 Milpitas General Plan and Transit Area Specific Plan (TASP) as discussed in Section 6.11, Land Use and Planning of this Infill Environmental Checklist.

PROJECT DESCRIPTION

The following describes the proposed 1905 Tarob Court Project (project). The project site is located within the planning area for the Milpitas Transit Area Specific Plan (TASP).² In addition to the description of the proposed project itself, this section includes a summary description of the proposed project's location, existing site characteristics, required approvals, and entitlements.

This attachment is part of the preparation of an Infill Environmental Checklist prepared pursuant to the California Environmental Quality Act (CEQA) to allow development of the proposed project. The City of Milpitas (City) is the CEQA lead agency for the project.

PROJECT SITE

The following section describes the project location, existing conditions, surrounding land uses, and the regulatory setting.

Project Location

The project site is located in the southern portion of the City of Milpitas, just north of the border with the City of San José. The approximately 2.3-acre project site is located at 1905 Tarob Court (Assessor's Parcel Number 086-36-041).

Regional vehicular access to the project site is provided by Interstate 880 (I-880) to the west and Interstate 680 (I-680) to the east of the project site. The Milpitas BART station and VTA light rail station are approximately 0.3 miles north of the project site.

Existing Conditions

The generally level project site is currently developed with a single-story industrial building that includes manufacturing, warehouse and office space, loading docks, surface parking, and landscaped areas with mature trees.

Surrounding Land Uses

The project site is located within a light industrial area of Milpitas that was previously predominantly developed with commercial office parks and other buildings for industrial and commercial uses. The project site is bordered to the north by commercial uses and an existing affordable housing complex, to the west by a future multi-family, townhome condominium development, to the south by Tarob Court and existing multi-family residential, and to the east by a vacant light industrial building. The project site is in close proximity to the Great Mall shopping center in Milpitas, approximately 0.5 miles north of the project site.

² Milpitas, City of. 2008. *Milpitas Transit Area Specific Plan*. June. Amended December 2011.

Regulatory Framework

The City adopted the 2040 Milpitas General Plan on March 9, 2021, which replaced the General Plan adopted in 1994. The 2040 General Plan Land Use Map designates the project site as Milpitas Metro Specific Plan (MMSP), which is intended to create a structure for a walkable, transit-oriented area with a mix of land uses. The project site is zoned Multi-Family High Density Residential (R3) with a Transit Oriented Development (TOD) Overlay. The purpose of the R3-TOD zone is to stabilize and protect the residential characteristics of the District and to promote, insofar as compatible with the intensity of land use, a suitable environment for family life. The R3-TOD zone allows residential uses at a density of 21-40 units per acre. The TOD Overlay District is intended to provide for land uses, land use densities and intensities and development standards that act to enhance and support transit and to locate such uses near rail transit stations.

The project site is also located within the TASP. The TASP is a guide for development and redevelopment of the southern, light industrial corridor of Milpitas that is located in the vicinity of the BART station. The goal of the TASP is to create an attractive and livable neighborhood that is within walking distance to BART and to transform the older, light industrial district to meet high demand for housing, offices and shopping in Milpitas. The TASP was designed to accommodate substantial growth, minimize impacts on local roadways, and reduce urban sprawl at the periphery of the region. The proposed project would be located near the Milpitas BART station and supports the objectives of the TASP. The TASP FEIR was certified in 2008 and evaluates the environmental impacts of 7,100 units of residential development, a population increase of 18,000 new residents, the creation of 4,200 new jobs and development of 1 million square feet of office space, 285,000 square feet of retail space, and 175,000 square feet of hotels.

The TASP planning area is nearing the planned buildout identified in the TASP FEIR. The public review draft of the MMSP was made available for comment in late 2021 and was adopted on February 5, 2023, two days after the pre-application for the 1905 Tarob Court project was submitted. The MMSP would supersede the TASP for all projects located in the area and submitted after February 5, 2023.

PROPOSED PROJECT

The proposed project would include a tentative map to subdivide the entire project site into nine separate lots. The project sponsor, Toll Brothers, proposes to demolish the existing building and improvements on the site and construct eight three-story buildings that would contain 43 townhome units with 13 accessory dwelling units (ADUs), for a total of 56 residential units on the project site. Each building would be a maximum of 39 feet and 10 inches in height to the top of the roof. Associated circulation, parking, landscaping, and infrastructure improvements would also be developed. The buildings would be all-electric and solar-ready.

Table 1 shows the housing units and population assumptions evaluated within the TASP FEIR, the number of approved units and under construction units, and inclusion of the proposed project. As shown, the development associated with the proposed project is within the amount of growth evaluated and cleared within the TASP FEIR.

Table 1: Existing and Proposed Housing Units and Population within the TASP Area

	Evaluated Within the TASP FEIR	Approved and Pending	Proposed Project	Remaining Development Available
Housing Units	7,109 ^a	6,953	56	100
Population	17,915 ^a	17,522 ^b	141 ^b	252 ^b

Source: Riley, Kevin, 2022. Metro Plan (TASP) Manager, Planning Department, City of Milpitas. February 7, 2023.

^a Milpitas, City of, 2008. Final Transit Area Specific Plan EIR. This total does not include the 468 units associated with The Crossings.

^b Estimated population associated with approved units, under construction units, and the proposed project was determined by using the resident per unit evaluated within the TASP FEIR (17,915 residents/7,109 units = 2.52 residents per unit).

Building Program

As noted above, the proposed project consists of six two-bedroom, 11 three-bedroom, and 26 four-bedroom townhome condominium units. All 43 townhome units will have an attached two-car garage. Eight of the four-bedroom units will also have a ground-floor, attached accessory dwelling unit (ADU). All ADUs will be studio units. Six of the townhome condominiums (one two-bedroom, one three-bedroom, and three four-bedroom townhomes) will be reserved for moderate-income households (below 80% Avg. Median Income) to fully comply with the City's Affordable Housing Ordinance. The moderate-income level will be determined by the California Department of Housing and Community Development, specifically based on Santa Clara County median income levels (adjusted for family size). Prior to building permit issuance, an executed agreement imposing appropriate rental restrictions on the affordable units would be required.

Landscaping and Open Space

The proposed project would include a total of 28,180 square feet of common open spaces and 12,849 square feet of private open space. Common open space on the project site would consist of walkways, community dining areas, and seating areas with turf. Private open space would consist of useable decks. Landscaping and bio-retention areas would also be provided around the site's perimeter and throughout the site between buildings. A total of 36 trees would be removed during construction of the proposed project, and up to 107 new trees would be planted.

Access, Circulation and Parking

Vehicular access to the project site would be provided at two entry points, one along Sango Court on the north side of the site, one at Tarob Court at the eastern side of the site. Interior streets would provide vehicular access to each of the residential units. Each of the townhome units would have a two-car garage, for a total of 86 covered parking spaces, all of which would be accessible from the internal roadway. An additional 18 street

parking spaces would be provided throughout the site for a total of 191 parking spaces. The proposed project would also include six short-term bicycle parking spaces throughout the site.

Utilities and Infrastructure

The proposed project would require utility services including water, wastewater, storm drain, gas, electrical, and telecommunications. The proposed project would connect to existing utilities via tie-ins on Tarob and Sango Court, including connections to 10- and 12-inch water lines; 8- and 10-inch wastewater lines; 18- and 24-inch storm drain lines; and a connection to the existing joint utility trench for gas and electrical service.

The project site currently includes a total of 86,586 square feet of impervious surface area (74 percent). Roofs, roads, concrete driveways and other infrastructure would result in a total of 95,248 square feet of impervious surfaces (81 percent of the site). The project site will include eight drainage management areas with six bio-retention areas that will treat, and handle stormwater flows prior to discharge to the City's stormwater drainage system.

Project Construction

Subsurface excavations for the foundations and utilities would likely occur to a depth of eight feet. It is anticipated that a total of 1,000 cubic yards of soil would be cut and 9,000 cubic yards would be used for fill. A total of approximately 2,000 tons of construction debris are anticipated to be removed from the project site during demolition of the existing buildings. The construction period is anticipated to begin in by date and would occur over an approximately 48-month period. Occupancy of the units could occur as early as Spring 2026.

Amendments and Permits

As previously discussed, the proposed project involves an application for a specific development proposal for 1905 Tarob Court. As part of the proposed project evaluated in this Infill Environmental Checklist, the following approvals and permits would be required:

- Site Development Permit
- Conditional Use Permit
- Vesting Tentative Map
- Density Bonus Application
- Tree Removal Permit
- Demolition Permit

- Building Permit
- Site Improvement Permit
- Off-Site Improvement Permit

The project applicant is also requesting use of the density bonus to reduce the amount of parking required. In addition, the project applicant is requesting a waiver of directing their primary building entrances away from the street and into the courtyards.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist in Chapter 6.0.

- | | | |
|--|---|---|
| ☐ Aesthetics | ☐ Agriculture and Forestry Resources | ☐ Air Quality |
| ☐ Biological Resources | ☐ Cultural Resources | ☐ Energy |
| ☐ Geology/Soils | ☐ Greenhouse Gas Emissions | ☐ Hazards & Hazardous Materials |
| ☐ Hydrology/Water Quality | ☐ Land Use/Planning | ☐ Mineral Resources |
| ☐ Noise | ☐ Population/Housing | ☐ Public Services |
| ☐ Recreation | ☐ Transportation | ☐ Tribal Cultural Resources |
| ☐ Utilities/Service Systems | ☐ Wildfire | ☐ Mandatory Findings of Significance |

1.1 DETERMINATION

On the basis of this initial evaluation:

- ☒ I find that the proposed infill project **WOULD NOT** have any significant effects on the environment that either have not already been analyzed in a prior EIR or that are more significant than previously analyzed, or that uniformly applicable development policies would not substantially mitigate. Pursuant to Public Resources Code Section 21094.5, CEQA does not apply to such effects. A Notice of Determination (Section 15094) will be filed.
- ☐ I find that the proposed infill project will have effects that either have not been analyzed in a prior EIR, or are more significant than described in the prior EIR, and that no uniformly applicable development policies would substantially mitigate such effects. With respect to those effects that are subject to CEQA, I find that such effects **WOULD NOT** be significant and a **NEGATIVE DECLARATION**, or if the project is a Transit Priority Project a **SUSTAINABLE COMMUNITIES ENVIRONMENTAL ASSESSMENT**, will be prepared
- ☐ I find that the proposed infill project will have effects that either have not been analyzed in a prior EIR, or are more significant than described in the prior EIR, and that no uniformly applicable development policies would substantially mitigate such effects. I find that although those effects could be significant, there will not be a significant effect in this case because revisions in the infill project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION**, or if the project is a Transit Priority Project a **SUSTAINABLE COMMUNITIES ENVIRONMENTAL ASSESSMENT**, will be prepared.
- ☐ I find that the proposed infill project would have effects that either have not been analyzed in a prior EIR, or are more significant than described in the prior EIR, and that no uniformly applicable development policies would substantially mitigate such effects. I find that those effects **WOULD** be significant, and an infill **ENVIRONMENTAL IMPACT REPORT** is required to analyze those effects that are subject to CEQA.

Signature

Date

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STREAMLINING PER CEQA GUIDELINES SECTION 15183.3

CEQA Guidelines Section 15183.3 allows lead agencies to streamline the environmental review process for eligible infill projects by limiting the topics subject to environmental review at the project level as follows:

1. If an effect was addressed as a significant effect in a prior EIR for a planning level decision (such as the General Plan, Development Code Project, or Housing Element), then, with some exceptions, that effect need not be analyzed again for an individual infill project even when that effect was not reduced to a less than significant level in the prior EIR.
2. An effect need not be analyzed, even if it was not analyzed in a prior EIR or is more significant than previously analyzed, if the lead agency makes a finding that uniformly applicable development policies or standards, adopted by the lead agency or a city or county, apply to the infill project and would substantially mitigate that effect.

The City of Milpitas' 2040 General Plan Final Environmental Impact Report (General Plan EIR),³ which was certified in 2021 and the Final Environmental Impact Report for the Milpitas Transit Area Specific Plan,⁴ which was certified in 2008 both analyzed environmental impacts associated with adoption and implementation of associated buildout projections at a programmatic level. Both documents (which are herein collectively referred to as the "Previous CEQA Documents") are incorporated by reference in their entirety into this Infill Checklist pursuant to Section 15150 of the CEQA Guidelines and available on the City's website at: <https://www.milpitas.gov/milpitas/departments/environmentaldocuments/#1629996709619-7934a6ef-4561>.

The Previous CEQA Documents are "planning level decisions" as defined by CEQA Guidelines Section 15183.3(f)(2), i.e., an "enactment or amendment of a general plan or any general plan element, community plan, specific plan, or zoning code." Accordingly, the General Plan and TASP are the planning level decisions that are the basis for the use of the Infill Exemption under CEQA Guidelines Section 15183.3 with regard to the environmental analysis of the proposed project.

Public Resources Code Section 21094.5 and CEQA Guidelines Section 15183.3 (Streamlining for Infill Projects) allow streamlining for certain qualified infill projects by limiting the topics subject to review at the project level, if the effects of infill

³ Milpitas, City of, 2020. *Draft Environmental Impact Report for the Milpitas General Plan Update*. November 2.

⁴ Milpitas, City of, 2007. *Draft Environmental Impact Report, Milpitas Transit Area Specific Plan*. October.

development have been addressed in a planning level decision, or by uniformly applicable development policies. As described in Section 2.2, Appendix M Checklist Performance Standards, an infill project is eligible if the project: (1) is located in an urban area on a site that either has been previously developed or that adjoins existing qualified urban uses on at least 75 percent of the site's perimeter; (2) satisfies the performance standards provided in CEQA Guidelines Appendix M, as documented on the Infill Project Checklist in Appendix N; and (3) 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.

No additional environmental review is required if the infill project would not cause any new specific effects or more significant effects, or if uniformly applicable development policies or standards would substantially mitigate such effects. Consistent with CEQA Guidelines Section 15183.3, which allows streamlining for qualified infill projects, this Infill Checklist is limited to topics applicable to project-level review only. The analysis in the Previous CEQA Documents, described below, is applicable to the project. Therefore, the proposed project meets the requirements for an infill exemption.

PREVIOUS CEQA DOCUMENTS

The 2040 General Plan identifies goals, policies, a land use diagram and other graphics and maps (e.g., open space systems, a transportation network and public facilities) to guide future development within the city's boundaries through the year 2040. The General Plan EIR is designated a "Program EIR" under CEQA Guidelines Sections 15183 and 15183.3. As such, subsequent activities under the 2040 General Plan are subject to requirements under each of the EIR CEQA Sections, which are described further in Section 6.0 of this document.

The TASP sets the framework for land use, streets, and open space for the redevelopment of an approximately 437-acre area in the southern portion of the city that currently includes a number of industrial uses with 7,109 dwelling units, 993,843 square feet of office space, 340 hotel rooms, and 287,075 square feet of retail space centered around the Milpitas BART station and the VTA Light Rail System. The TASP EIR is designated a "Program EIR" under CEQA Guidelines Sections 15183 and 15183.3. As such, subsequent activities under the TASP are subject to requirements under each of the EIR CEQA Sections, which are described further in Section 6.0 of this document.

The proposed project is within the development assumptions envisioned by the General Plan and TASP (herein referred to collectively as the Previous CEQA Documents'). The proposed project would include eight three-story buildings that would contain 43 townhome units with 13 accessible dwelling units (ADUs), for a total of 56 residential units on the project site. The Infill Environmental Checklist below cites the specific portions of the previous EIRs that contain the programmatic analysis of the project's potential significant effects.

INFILL ENVIRONMENTAL CHECKLIST

This Infill Environmental Checklist is based on the CEQA Guidelines Appendix N Infill Environmental Checklist form. That form and this Infill Environmental Checklist are intended to document a qualifying infill project's eligibility for streamlining pursuant to CEQA Guidelines Section 15183.3 and to assist in making the determinations required by Section 15183.3, including whether the infill project's effects have been addressed in a planning level decision or by uniformly applicable development policies. (See Section I, Introduction, of Appendix M: Performance Standards for Infill Projects Eligible for Streamlined Review, of the CEQA Guidelines).

Aesthetics. The General Plan EIR evaluated impacts to aesthetics in Section 3.1, Aesthetics and Visual Resources. The General Plan EIR determined that there are no officially designated scenic vista points within the city and no officially designated State Scenic Highways in the vicinity of Milpitas. Additionally, Milpitas and the immediate surrounding areas are not visible from the officially designated and eligible State Scenic Highway corridors within Santa Clara County. The General Plan EIR stated that new development consistent with the General Plan would be designed in a way that enhances the visual quality of the community and would primarily be located in and around existing urbanized areas to ensure that new development would not obstruct or interfere with views of visual features surrounding the city. Additionally, the General Plan EIR discussed that future development would be required to be consistent with lighting and design requirements in the Milpitas Municipal Code and General Plan policies which would ensure that new developments would not result in adverse impacts to daytime glare and nighttime lighting.

The TASP EIR evaluated impacts to aesthetics in Section 3.2, Visual Resources. As discussed in the TASP EIR, the only scenic resources located within the TASP Area are street trees located on McCandless Drive, approximately 0.3 mile west of the project site. The TASP EIR concluded that implementation of the TASP would generally enhance the visual character of the Planning Area through design standards that create a unified appearance, consistent setbacks, landscaped buffers, street trees, and parks. Additionally, the City's Tree and Planting Ordinance would ensure that redevelopment associated with the TASP would not result in significant visual impacts due to the removal of existing mature trees.

Potential impacts to visual resources associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The project site is not located within an area considered to be within view of a scenic vista or State Scenic Highway and development of the proposed project would not obscure any views of scenic vistas from surrounding public vantage points. Existing development policies and requirements of the General Plan, TASP, and Milpitas Municipal Code would ensure that the proposed project would not result in significant impacts to visual resources. The Previous CEQA Documents did not identify any mitigation measures

related to aesthetics and no mitigation measures would be required for the proposed project.

Agriculture and Forestry Resources. The General Plan EIR evaluated impacts to agriculture and forestry resources in Section 3.2, Agricultural and Forest Resources. The General Plan EIR stated that there are no lands within the city that are designated for agricultural use on the Milpitas General Plan Land Use Map, no lands that are currently under a Williamson Act contract, and no agricultural lands identified by the California Department of Conservation's Farmland Mapping and Monitoring Program within the city. Additionally, the General Plan EIR stated that there are no forest lands or timber lands located within the city.

The TASP FEIR did not analyze impacts to agricultural resources as the TASP Area is urban without any agricultural or forest land uses in the area or vicinity.

Potential impacts to agriculture and forestry resources associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The Santa Clara County Important Farmland 2012 map designates lands within the TASP Area, including the project site, as "Urban and Built-Up Land." There are no existing agricultural or forest land uses within or adjacent to the project site and the proposed project would have no impacts on agriculture or forestry resources. The Previous CEQA Documents did not identify any mitigation measures related to agriculture and forestry resources and no mitigation measures would be required for the proposed project.

Air Quality. The General Plan EIR evaluated impacts to air quality in Section 3.3, Air Quality. The General Plan includes an extensive list of policies and actions that are specifically aimed at improving air quality to cover the full breadth of air quality issues as recommended in the 2017 Clean Air Plan. These policies and actions promote a compact urban development form, emphasizing infill development, and ensure that land use patterns do not expose sensitive receptors to pollutant concentrations. The Circulation Element of the General Plan also includes a wide range of policies and actions that would reduce vehicle miles traveled (VMT) per service population throughout the Planning Area using complete streets and multi-modal transportation systems. The Land Use, Community Design, and Conservation Elements of the General Plan contain policies and actions that would reduce criteria pollutant emissions, odors, health risks, and other emissions specifically aimed at reducing greenhouse gas emissions/climate change. The General Plan EIR concluded that the General Plan would be consistent with the 2017 Clean Air Plan. Additionally, the General Plan EIR determined that implementation of the General Plan would not cause the disruption, delay, or otherwise hinder the implementation of any air quality plan control, would not result in a cumulatively considerable net increase of criteria pollutants, would not expose sensitive receptors to substantial pollutant concentrations, and would not result in other emissions (such as those leading to odors) adversely affecting a substantial number of people.

The TASP EIR evaluated impacts to air quality in Section 3.6, Air Quality. The TASP EIR determined short-term impacts due to construction and long-term impacts due to increases in population and additional development could affect local particulate concentrations and other criteria pollutant emissions. The TASP and General Plan include an extensive list of policies and actions aimed at improving air quality to reduce this impact. However, the TASP EIR concluded that implementation would add to the regional pollution burden, further contributing to the exceedance of regional air pollutant emissions for State and federal ambient air quality standards, and would conflict with the implementation of the 2005 Bay Area Ozone Strategy, resulting in significant and unavoidable impacts. The TASP EIR determined that implementation of the TASP would be consistent with the Transportation Control Measures in the 2005 Bay Area Ozone Strategy due to the availability of transit options within the Plan Area and the implementation of various policies and actions in the General Plan and TASP. Additionally, air quality impacts associated with construction would be less than significant due to the implementation of the Bay Area Air Quality Management District's (BAAQMD's) basic construction mitigation measures, as required by TASP Policy 5.16. The TASP EIR also determined that implementation of BAAQMD's construction BMP's, along with additional TASP policies would ensure that implementation of the Plan would not expose sensitive receptors to toxic air contaminants.

Potential impacts to air quality associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The proposed project would

develop high-density, transit-oriented residential development and would result in a building density at the project site that is consistent with what was evaluated in the Previous CEQA Documents. The proposed project would be subject to BAAQMD's basic construction mitigation measures and TASP and General Plan policies as discussed above. Therefore, construction of the proposed project would result in similar construction-related, short-term air quality impacts as those impacts identified in the Previous CEQA Documents. The population and housing units included in the proposed project would fall within the total development anticipated by the TASP EIR. Therefore, implementation of the proposed project would not substantially increase population, vehicle trips, or vehicle miles traveled (VMT), and the conclusions regarding compliance with the Clean Air Plan, effects on regional air quality, and localized carbon monoxide impacts in the Previous CEQA Documents remain applicable to the proposed project. The proposed project does not include additional toxic air contaminant (TAC) sources at the project site; therefore, implementation of the proposed project would not expose sensitive receptors to substantial pollutant concentrations. The Previous CEQA Documents did not identify any mitigation measures related to air quality and no mitigation measures would be required for the proposed project.

Biological Resources. The General Plan EIR evaluated impacts to biological resources in Section 3.4, Biological Resources. The General Plan EIR concluded that development under the General Plan could result in the direct and indirect loss of habitat areas associated with special status species and sensitive natural communities. However, the General Plan includes a variety of policies and actions that would protect special status plant and animal species and sensitive natural communities from adverse effects associated with future development and improvement projects. Additionally, development projects would be subject to existing federal and State laws and regulations such as the California Endangered Species Act, Federal Endangered Species Act, Migratory Bird Treaty Act, Clean Water Act, Porter-Cologne Water Quality Control Act, California Oak Woodland Conservation Act, and California Wetlands Conservation Policy. The General Plan EIR concluded that implementation of the General Plan would not result in significant impacts to biological resources due to the implementation of General Plan policies and actions and compliance with existing federal and State regulations.

The TASP EIR evaluated impacts to biological resources in Section 3.8, Biological Resources. The TASP EIR determined that development in the Planning Area would result in the removal of landscaping and disturbance to habitat, which could affect wildlife including burrowing owl, nesting birds, and common wildlife species. However, there is minimal potential for special-status species to occur within the Planning Area due to the history of development in the TASP Area. The TASP EIR concluded that the implementation policies and regulations in the General Plan, TASP, and existing federal and State laws and regulations would ensure that development associated with the TASP would not result in significant impacts to biological resources.

Potential impacts to biological resources associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The project site and neighboring parcels are currently developed, and therefore do not contain any special-status species habitat, federally protected wetlands, or riparian habitat. Many bird species use the existing ornamental trees for cover, nesting, or stop-over locations during migration. Removal of large, mature trees can cause direct mortality to nesting birds and their young and construction disturbance can cause nest abandonment resulting in indirect loss to avian species. The proposed project would implement TASP Policy 5.26 which would require a qualified biologist to conduct a survey that would be considered by the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) as appropriate, to determine whether a project would require avoidance procedures. Implementation of General Plan Policies 4.b-I-4 and 4.b-I-5 and TASP Policy 5.26 would reduce potential impacts to nesting raptors and other birds to less-than-significant levels. The proposed project would result in the removal of up to 21 existing trees on the project site and the planting of approximately 107 new trees. The proposed project would be subject to the Tree and Planting Ordinance of the City of Milpitas which protects significant trees and requires compensation for lost trees. Therefore, the proposed project would not result in impacts related to biological resources that are new or more significant than those analyzed in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to biological resources and no mitigation measures would be required for the proposed project.

Cultural Resources. The General Plan EIR evaluated impacts to cultural resources in Section 3.5, Cultural and Tribal Cultural Resources. The General Plan EIR stated that 33 cultural resources from both the prehistoric and historic periods have been identified within the city and 25 buildings are identified on the Santa Clara County Historic Property Data File Directory, 23 of which are also included on the list of resources on file with the Northwest Information Center (NWIC). The Native American Heritage Commission (NAHC) conducted a records search of the NAHC Sacred Lands File for the area, which yielded negative results, and the City received no responses to SB 18 tribal consultation letters. The General Plan EIR concluded that although the General Plan does not directly propose any adverse changes to any known historic or archaeological resources, future development could affect historical and archaeological resources which have not yet been identified. However, the General Plan includes a variety of policies and actions that would reduce impacts to potential cultural resources to a less than significant level.

The TASP EIR evaluated impacts to cultural resources in Section 3.13, Cultural Resources. The TASP EIR stated that the only historic resource in the TASP Area that is listed in the City's Register of Cultural Resources is the Old Ford Motor Assembly Plant now known as the Great Mall, which is located approximately 0.5 mile north of the project site. Additionally, one Native American archaeological resource, CA-SCL-593, and a prehistoric archaeological site are located adjacent to the TASP

Area. The TASP EIR discussed that the primary impact that could occur to cultural resources within the Plan Area would be the disturbance of cultural resources during grading and/or development of property. The TASP EIR also identified a reasonable possibility of uncovering archaeological deposits and paleontological resources within the Plan Area during construction of new development. However, the TASP EIR concluded that existing national, State, and local laws as well as policies contained in the General Plan and TASP would reduce potential impacts on cultural resources to less than significant levels.

Potential impacts to cultural resources associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The project site is fully developed with two light-industrial buildings, neither of which are considered significant historic resources under the State or federal standards for historic resources. While subsurface cultural resources are not anticipated to be encountered with demolition and grading of the site, there is a chance that construction activities could affect previously-unidentified archaeological resources on the project site. The TASP EIR identifies Policy 5.31 to reduce the impacts to previously unidentified archaeological resources to a less-than-significant level through construction monitoring, and if remains are found, temporary halting of construction until development and implementation of a mitigation plan. Implementation of Policy 5.31 from the TASP would reduce impacts to previously unidentified archaeological resources to a less-than-significant level. Implementing the proposed project would not lead to new or more severe impacts to cultural resources that would occur beyond those already identified in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to cultural resources and no mitigation measures would be required for the proposed project.

Energy. The General Plan EIR evaluated impacts to energy in Section 3.7, Greenhouse Gases, Climate Change, and Energy. The General Plan EIR found that buildout of the General Plan would result in the use of energy resources for the operation of buildings, for on-road vehicle trips, and from off-road construction activities. However, buildout of the General Plan would be completed in compliance with all applicable federal, State, and local regulations governing energy usage including State Title 24 building energy efficiency standards and those intended to improve the energy efficiency of the Statewide passenger and heavy-duty truck vehicle fleet. Additionally, project-specific sustainable features would be implemented in individual development projects and pedestrian and bicycle pathways and public transit access within the city would reduce the need for local motor vehicle traffic. The General Plan EIR determined that the electricity and natural gas providers for the City maintain sufficient capacity to serve the Planning Area and implementation of the General Plan would not result in any significant adverse impacts related to project energy requirements and energy use inefficiencies.

The TASP EIR evaluated impacts to energy in Section 3.12, Greenhouse Gases and Climate Change. The TASP EIR determined that buildout under the TASP would increase the total demand for electrical energy within the Plan Area but energy efficient building standards and energy efficient appliance standards would result in improvements to energy efficiency and reductions in energy consumption. The TASP EIR determined implementation of TASP policies and compliance with existing State requirements would ensure that the additional energy that homes and businesses consume would not impede achievement of the Statewide reduction in emissions mandated by the California Climate Solutions Act of 2006.

Potential impacts to energy associated with the proposed project have been adequately addressed in the Previous CEQA Documents. Construction of the proposed project would require energy for the manufacture and transportation of building materials, preparation of the site for demolition and grading activities, and building construction. In order to increase energy efficiency on the site during project construction, equipment idling times would be restricted to 5 minutes or less and construction workers would be required to shut off idle equipment, as required by the BAAQMD Basic Construction Mitigation Measures. Energy usage on the project site during construction would be temporary in nature and would be relatively small in comparison to the State's available energy sources. Therefore, construction energy impacts would be less than significant, and no mitigation would be required.

The proposed project would result in the development of high-density, transit-oriented residential uses on the site. Therefore, the proposed project would support the ability to use alternative modes of transportation, would promote initiatives to reduce vehicle trips and VMT, and would increase the use of alternate means of transportation, which would allow for a decreased dependence on nonrenewable energy resources. In addition, the proposed project would be required to be constructed to CALGreen

standards, which would help to reduce energy and natural gas consumption. The TASP EIR identifies Policy 5.6 which requires the use of Energy Star appliances and equipment in new residential and commercial development, and Policy 5.7 which requires at least 50 percent of all new residential development to be pre-wired for optional photovoltaic roof energy systems and/or solar water heating. Therefore, the proposed project would not result in the wasteful, inefficient, or unnecessary consumption of fuel or energy or conflict with California's green energy conservation plans and would incorporate renewable energy or energy efficiency measures into building design, equipment use, and transportation. Implementing the proposed project would not lead to new or more severe impacts to energy that would occur beyond those already identified in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to energy and no mitigation measures would be required for the proposed project.

Geology and Soils. The General Plan EIR evaluated impacts to geology and soils in Section 3.6, Geology and Soils. The General Plan EIR stated that there are known active faults within the city and the area could experience considerable ground shaking generated by these faults. The city also contains areas mapped for liquefaction and earthquake induced landslide hazards, primarily along Coyote Creek. Additionally, unstable geologic units and expansive soil could be present within the city. However, the General Plan EIR determined that development projects would be required to comply with provisions of the California Building Standards Code (CBC), which requires the completion of geotechnical investigations and engineered improvements to address potential seismic and ground failure issues. Additionally, development projects would be subject to policies and actions included in the General Plan and Zoning Ordinance that would prevent adverse impacts due to seismic and/or geologic hazards.

The General Plan EIR determined that new development could involve land clearing, grading, and other ground-disturbing activities that could temporarily increase soil erosion rates during and shortly after construction. However, erosion potential is considered low in the city since it is primarily developed with urban uses and development projects would be required to prepare a Storm Water Pollution Prevention Plan (SWPPP) and would be subject to requirements of the CBC, General Plan, and Zoning Ordinance aimed to reduce soil erosion that would reduce erosion impacts to less than significant levels. The General Plan EIR identified the potential for development to result in impacts to undiscovered fossils and other geologic features of potential significance. However, the General Plan includes policies and actions such as the completion of an archaeological survey and halting of ground disturbing activities upon the discovery of any unique paleontological resources that reduce this potential impact to less than significant levels.

The TASP EIR evaluated impacts to geology and soils in Section 3.5, Geology, Soils and Seismic Hazards. The TASP EIR concluded that the Plan Area is not located

within an Earthquake Fault Hazard Zone and, because surface topography is relatively level in the Plan Area, potential slope instability hazards are minimal. The TASP EIR found that ground shaking and associated ground failure (e.g., liquefaction), soil expansion, settlement, and erosion could result in structural damage within the Plan Area. However, potential impacts would be less than significant because development projects would be subject to requirements of the CBC; policies and actions of the General Plan, TASP, and Zoning Ordinance; and the Construction General Permit. Additionally, development projects would be required to implement recommendations included in a site-specific geotechnical investigation and SWPPP. The TASP EIR determined that adverse impacts on paleontological resources could occur during earthwork activities such as mass excavation. The TASP EIR determined that implementation of TASP Policy 5.32, which requires project-specific evaluation, monitoring during construction, temporary suspension of grading, and fossil recovery in the event fossils are discovered, would reduce the potential impact to such resources to less-than-significant levels.

Potential impacts to geology and soils associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The project site is located within the Plan Area of the TASP and is therefore not located within an Earthquake Fault Hazard Zone and potential slope instability hazards are minimal as discussed above. The proposed project would be required to comply with the CBC; policies and actions of the General Plan, TASP, and Zoning Ordinance; and the Construction General Permit, and would be required to implement recommendations included in a geotechnical investigation and SWPPP. Compliance with these existing regulatory requirements would ensure the proposed project would not result in any significant impacts related to ground shaking and associated ground failure, soil expansion, settlement, erosion, and paleontological resources. The proposed project would not result in new impacts related to geologic hazards, erosion, or paleontological resources, or substantially increase the severity of impacts than those analyzed in Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to geology and soils and no mitigation measures would be required for the proposed project.

Greenhouse Gas Emissions. The General Plan EIR evaluated impacts to greenhouse gas emissions in Section 3.7, Greenhouse Gases, Climate Change, and Energy. The General Plan EIR found that development associated with implementation of the General Plan would include activities that emit greenhouse gas emissions over the short and long term. However, construction activities would be subject to State requirements for greenhouse gas (GHG) emissions as required by the Milpitas Climate Action Plan (CAP) and the BAAQMD. The CAP identifies strategies, reduction measures, and implementation strategies the City may use to achieve the State-recommended GHG emission reduction targets in a manner consistent with Assembly Bill 32. The General Plan also includes numerous policies and actions intended to reduce GHG emissions associated with future development

and improvement projects. The General Plan EIR determined that implementation of the General Plan would not generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.

The TASP EIR evaluated impacts to greenhouse gas emissions in Section 3.12, Greenhouse Gases and Climate Change. The TASP EIR determined that the primary sources of GHG emissions related to urban development in the Plan Area are anticipated to be from motor vehicles and electric power generation as well as short-term impacts from construction activity. However, the TASP promotes development patterns that will reduce the vehicle miles traveled per capita and proposes a variety of other actions that can reduce emissions, including tree planting. The TASP EIR determined that implementation of the TASP would not generate greenhouse gas emissions, either directly or indirectly that may have a significant impact on the environment.

Potential impacts to greenhouse gas emissions associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The proposed project would adhere to the building guidelines of the TASP, would be consistent with the Milpitas Climate Action Plan, and would promote reductions in GHG emissions through high-density development in close proximity to transit. To reduce energy usage, the project would incorporate green building measures in compliance with CALGreen standard building measures for residential buildings and Title 24 requirements. Additionally, the proposed project would include a total of 1.2 acres of common open space and landscaped areas, following the City's standards, which would help offset GHG emissions. The proposed project would not result in any new or more severe impacts related to GHG emissions than analyzed in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to GHG emissions and no mitigation measures would be required for the proposed project.

Hazards and Hazardous Materials. The General Plan EIR evaluated impacts to hazards and hazardous materials in Section 3.8, Hazards and Hazardous Materials. The General Plan EIR determined that impacts associated with the routine use, transport, storage, or disposal or accidental release of hazardous materials would be less than significant with the implementation of General Plan policies and compliance with federal and State regulations including the Clean Water Act, Hazardous Materials Transportation Act, California Code of Regulations, and the California Health and Safety Code as monitored by local fire departments, Certified Unified Program Agencies, California Occupational Safety and Health Administration, BAAQMD, Regional Water Quality Control Board, and the California Department of Toxic Substances Control. The General Plan EIR determined that there are no airport facilities located within the Planning Area and the City of Milpitas is not located within one of the Airport Safety Zones for the San Jose International Airport. Additionally, no portions of the Planning Area are categorized as a "Very High" fire hazard severity

zone by CalFire; however, the hilly terrain to the east of the city limits is designated as "high" and "moderate" fire hazard severity zone by CalFire. The General Plan includes requirements for adequate water supply and water flow availability, ensuring adequate emergency access, adequate fire protection services, fire safe design site standards, and ensuring public awareness regarding fire safety.

The TASP EIR evaluated impacts to hazards and hazardous materials in Section 3.4, Safety and Hazardous Materials. The TASP EIR determined that, due to historical land uses and reported hazardous material releases and spills, potential impacts associated with existing soil and groundwater contamination in portions of the Plan Area could occur. Potential impacts include risk of upset during demolition and construction activities and potential risks to human health and the environment. However, future development would be subject to existing hazardous materials regulations for the use, transport, and disposal of hazardous materials as discussed above. The TASP EIR determined that compliance with these existing regulatory requirements as well as the policies in the General Plan and TASP would ensure that no significant impacts involving hazardous materials would occur.

Potential impacts related to hazards and hazardous materials associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The project site is not included on a list of hazardous materials release sites compiled pursuant to Government Code Section 65962.5.⁵ The proposed land use would not involve transport, use, or disposal of significant quantities of hazardous materials. Generally, small quantities of hazardous materials such as paints and cleaning products would be used for routine maintenance. Therefore, a significant hazard to the public or environment through the routine transport, use, or disposal of hazardous materials would not occur.

TASP Policy 5.20 requires parcels with no identified contamination to complete a Phase I Environmental Site Assessment (ESA) to determine the potential for ground water, soil, or other contamination related to previous land uses. If any potential for contamination is determined to exist that could adversely affect human health for residential uses, a Phase II ESA would be required. If appropriate, engineering controls and design measures would be required to be implemented to mitigate the potential risk of post-development vapor intrusion into buildings. The project site does not have any known contamination. Consistent with TASP Policy 5.20, the project sponsor would be required to prepare a Phase 1 ESA, and a Phase II ESA if necessary, prior to the issuance of any demolition or building permits.

Policy 5.21 of the TASP addresses hazardous materials that may be present in existing buildings such as asbestos, polychlorinated biphenyls (PCBs), or lead. The

⁵ California Environmental Protection Agency. 2022. Cortese List Data Resources. Website: <https://calepa.ca.gov/sitecleanup/corteselist/> (accessed November 1, 2022).

project would also be required to comply with Section 19827.5 of the California Health and Safety Code, which requires that local agencies not issue demolition or alteration permits until an applicant has demonstrated compliance with notification requirements under applicable federal regulations regarding hazardous air pollutants, including asbestos. Also required is full compliance with Title 17 and Title 8 of the California Code of Regulations, which includes work practice standards related to the evaluation and abatement of lead.

The project site is not located within the Airport Safety Zones or Airport Influence Area of the San Jose International Airport,⁶ and is not located in the vicinity of a private air strip. Additionally, the project site is not located in a designated high or very high fire hazard severity zone.

Consistent with the findings of the Previous CEQA Documents, continued compliance with applicable local, State, and federal regulations and General Plan/TASP policies would reduce potential exposure of people and the environment to hazardous materials associated with development of a contaminated property and demolition of older structures to a less-than significant level. The proposed project would not result in any new or more severe impacts than those analyzed in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to hazards and hazardous materials and no mitigation measures would be required for the proposed project.

⁶ Santa Clara County Airport Land Use Commission, 2016. *Comprehensive Land Use Plan, Santa Clara County*. Norma Y. Mineta San Jose International Airport. May 25.

Hydrology and Water Quality. The General Plan EIR evaluated impacts to hydrology and water quality in Section 3.9, Hydrology and Water Quality. The General Plan EIR determined that construction activities associated with new development within the city would result in less than significant impacts to water quality because construction activities for any projects that disturb an area one acre or larger would be required to comply with the Construction General Permit (CGP) and prepare a SWPPP which would include project specific best management measures that are designed to control drainage and erosion. After the completion of construction activities, projects would be subject to the Bay Area Municipal Regional Stormwater Permit (MRP) National Pollutant Discharge Elimination System (NPDES) permit, which requires the installation and maintenance of Best Management Practices (BMPs) for site design and stormwater treatment. Additionally, the City's Municipal Code and General Plan provide further regulations and policies intended to protect water quality. The General Plan EIR determined that the City will have adequate water supply to serve the buildout of the General Plan land uses and that future development projects under the General Plan would not significantly affect infiltration due to the highly developed nature of the city. The General Plan EIR identified that portions of the city are located within flood hazard zones and dam inundation zones; however, compliance with existing regulatory requirements would ensure that proposed development would not release pollutants due to project inundation. The General Plan EIR determined that tsunamis and seiches are not a concern within the Planning area.

The TASP EIR evaluated impacts to hydrology and water quality in Section 3.10, Hydrology and Water Quality. The TASP EIR concluded that impacts to stormwater runoff and water quality would be less than significant with implementation of the existing regulatory requirements discussed above and additional policies within the TASP. The TASP determined that groundwater levels and recharge would not be substantially impacted by implementation of the TASP and that existing drainage patterns would generally be maintained. The TASP EIR determined that stormwater runoff would decrease with the buildout of the TASP Area due to the addition of more landscaped areas and parks which would allow more precipitation to infiltrate into the ground compared with the current condition of nearly complete coverage of impervious pavement. Developers are required to fund a Storm Drainage Plan for each subdistrict within the TASP Area that includes measures to reduce runoff pollutants and control pollutant sources to the maximum extent practical. Full compliance with the Santa Clara County NPDES permit guidelines for stormwater discharges and General Plan Policy 4.d.-G-1 would ensure that long-term water quality impacts would not be significant.

Potential impacts related to hydrology and water quality associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The proposed project would disturb greater than one acre of land, and therefore would be subject to the CGP and development and implementation of a SWPPP would be required. Dewatering may be performed during construction activities involving

excavation; however, if performed, construction-related dewatering would be temporary and limited to areas of excavation on the project site and would not substantially contribute to depletion of groundwater supplies. The proposed project would replace over 10,000 square feet of existing impervious surface area, and would therefore be required to comply with the MRP. The proposed project would result in alteration of over 50 percent of the existing impervious surface of the project site, and therefore all new and replaced impervious surfaces would require treatment under the MRP. The low-impact development (LID) stormwater controls for the proposed project would include permeable pavement, bio-retention areas, and self-treating landscape areas. Operation of the proposed project would not involve dewatering or the use of groundwater as potable water, because potable water would be supplied to the project site by the City. Additionally, the proposed project would not substantially interfere with infiltration compared to existing conditions due to the incorporation of the LID stormwater controls discussed above.

The project site is located in an area designated as "Special Flood Hazard Areas Subject to Inundation By the 1 percent Annual Chance Flood" Zone AO on the current Flood Insurance Rate Map (FIRM) published by the Federal Emergency Management Agency (FEMA).⁷ The Zone AO designation indicates areas that are subject to inundation by the 1-percent-annual-chance flood (also known as a 100-year flood) event with an established base flood elevation⁸ or depth, and the flood depth at the project site is indicated to be 1-foot. TASP Policy 6.1 requires projects to minimize damage associated with flooding events and comply with regulations stipulated by FEMA and the National Flood Insurance Program. TASP Policy 6.2 requires new development within a FEMA-designated flood hazard zone to follow the City's construction standards for such areas, as currently laid out in Section XI-15 'Floodplain Management Regulations' of the Milpitas Municipal Code. The project sponsor would be required to apply for a Conditional Letter of Map Revision (CLOMR-F) and Letter of Map Revision (LOMR-F) based on area removal or structure removal from the effective FEMA floodplain and subsequently comply with all City floodplain ordinances.

Consistent with the findings of the Previous CEQA Documents, continued compliance with applicable local, State, and federal regulations and General Plan/TASP policies would reduce potential impacts to hydrology and water quality. The proposed project would not result in any new or more severe impacts than those analyzed in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to hydrology and water quality and no mitigation measures would be required for the proposed project.

⁷ Federal Emergency Management Agency. 2009. Flood Insurance Rate Map (FIRM) #06085C0069H. May 18.

⁸ Base flood elevation is the regulatory requirement for the elevation or flood proofing of structures.

Land Use and Planning. The General Plan EIR evaluated impacts to land use and planning in Section 3.10, Land use and Planning and Population/Housing. The General Plan EIR concluded that the General Plan Land Use Map associated with the General Plan did not include any new areas designated for urbanization or new roadways, infrastructure, or other features that would divide existing communities. Additionally, the General Plan includes policies to ensure that development is compatible with adjacent communities and land uses. The General Plan EIR determined that the General Plan would require modifications to the City's Zoning Ordinance to provide consistency; however, these modifications would not remove or adversely modify portions of the Milpitas Municipal Code.

The TASP EIR evaluated impacts to land use and planning in Section 3.1, Land Use. The TASP EIR determined that implementation of the TASP would not divide an established community and stated there are no habitat conservation plans or natural community conservation plans within the Planning Area. However, the TASP EIR discussed that implementation of the TASP would significantly change the land use designations and pattern of development within the area because new residential uses would be built within an existing industrial area. Therefore, there may be periods of time when incompatible uses are adjacent to each other; however, the TASP includes policies and programs that would reduce this impact to less than significant levels at final buildout.

Potential impacts related to land use and planning associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The proposed project would develop a new residential use on a site within the TASP that currently contains two single-story industrial buildings that include manufacturing, warehouse and office space, loading docks, surface parking, and landscaped areas with mature trees. The proposed project would not inhibit public connectivity, and would not physically divide a community. The proposed project would be consistent with the existing land use and zoning designations of the project site. The development associated with the proposed project is within the amount of growth evaluated within the TASP EIR and is compatible with existing and future residential uses in the vicinity of the project site. Therefore, the density and intensity of the proposed project would not result in any new or more significant impacts regarding conformance with land use plans than those already identified in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to land use and planning and no mitigation measures would be required for the proposed project.

Mineral Resources. The General Plan EIR evaluated impacts to mineral resources in Section 3.11, Mineral Resources. The General Plan EIR states that there are four areas identified by the State Geologist as containing Regionally Significant Construction Aggregate Resources within the Planning Area, which are located in the foothills outside of city limits and are all currently being quarried. The TASP EIR did not analyze impacts to mineral resources as the TASP Area is located in a developed urban area that does not have mineral exploration or extraction occurring in the vicinity. The TASP Area is not designated as containing mineral resource deposits of regional importance.

Potential impacts related to mineral resources associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The project site is located within the TASP Area in a developed urban area with no mineral exploration or extraction occurring in the vicinity of the project site. As such, the proposed project would have no impacts on mineral resources and would not result in impacts to mineral resources that are new or more significant than those analyzed in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to mineral resources and no mitigation measures would be required for the proposed project.

Noise. The General Plan EIR evaluated impacts to noise in Section 3.12, Noise. The General Plan EIR determined that implementation of 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. The General Plan identifies numerous policies and actions that are intended to minimize exposure to excessive noise, including noise associated with traffic such as placing noise-compatible land uses in the vicinity of traffic noise sources, requiring new development projects to be reviewed for consistency with established noise standards, and incorporating noise control treatments as necessary to achieve acceptable noise levels. However, the General Plan EIR determined that traffic noise increases associated with the General Plan would still exceed the applicable noise exposure criteria and a significant and unavoidable impact would occur relative to traffic noise on existing noise-sensitive uses in the city. The General Plan EIR determined that implementation of the General Plan would not result in exposure to excessive railroad noise sources, the generation of excessive stationary noise sources, or an increase in construction noise or vibration sources and includes a variety of policies and actions to reduce these impacts to less than significant levels.

The TASP EIR evaluated impacts to noise in Section 3.7, Noise. The TASP EIR determined that implementation of the TASP would result in temporary and intermittent construction noise impacts as well as long-term operational noise impacts from the increase in roadside noise levels due to the increase in population to the area. Additionally, due to the transit-oriented and mixed-use nature of development proposed under the TASP, receptors could also be exposed to ground borne noise

and vibration from nearby train and BART activity. However, The TASP EIR determined that the implementation of various policies and actions in the General Plan and TASP would reduce all potential impacts related to noise and vibration to less than significant levels.

Potential impacts related to noise associated with the proposed project have been adequately addressed in the Previous CEQA Documents. Construction of the project would be required to adhere to the noise standards and requirements set forth in the City's Municipal Code and General Plan. The proposed project would implement the measures identified in the TASP for addressing noise, including providing disclosures to future residents per Policy 5.17. The City's Noise Abatement Ordinance would restrict construction hours to between 7:00 a.m. and 7:00 p.m. The City's General Plan Policy 6-I-13 would minimize construction noise impacts by restricting the hours of operation, technique, and equipment used. Additionally, TASP Policy 5.15 would require the project sponsor to demonstrate that noise and vibration exposure to sensitive receptors from construction activities has been mitigated to the extent feasible pursuant to the City's Noise Abatement Ordinance.

The proposed project is a residential land use and would not be considered a significant source of noise within the community that could adversely affect other nearby residential land uses. Intermittent audible sounds produced by the proposed residential project would primarily be associated with human voices, vehicles, and mechanical ventilation equipment. Such intermittent sounds would be expected in a residential area. Therefore, the proposed project would not increase stationary source noise impacts above those analyzed in the Previous CEQA Documents. As described previously, the proposed project would be consistent with the TASP and within the development capacity analyzed in the TASP EIR. Therefore, the proposed project would also result in a less-than-significant impact with regard to traffic noise increases in the community.

Consistent with the findings of the Previous CEQA Documents, continued compliance with applicable regulations and General Plan and TASP policies, as described above, would ensure that the proposed project would not result in new impacts or substantially increase the severity of impacts than those analyzed in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to noise and no mitigation measures would be required for the proposed project.

Population and Housing. The General Plan EIR evaluated impacts to population and housing in Section 3.10, Land use and Planning and Population/Housing. The General Plan EIR concluded that implementation of the General Plan would not induce substantial unplanned population growth, either directly or indirectly. The General Plan EIR includes policies and actions intended to guide growth to appropriate areas and provide services necessary to accommodate growth. Additionally, the General Plan EIR concluded that implementation of the General Plan would not displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere. The General Plan Land Use Map was developed to preserve existing neighborhoods and implementation of the General Plan would result in an increase the overall number of dwelling units in the city. The General Plan includes policies that would ensure that a range of housing types are provided in the city and that housing conditions are evaluated as the housing supply ages.

The TASP EIR evaluated impacts to population and housing in Section 5, CEQA Required Conclusions. The TASP EIR evaluated potential environmental impacts associated with approximately 7,100 residential units and 18,000 new residents within the TASP Area. The TASP EIR determined that implementation of the TASP would result in an increase the City's total housing stock by 39 percent and total population by 27 percent. The TASP EIR did not identify any significant impacts to population and housing that would occur from implementation of the TASP.

Potential impacts related to population and housing associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The proposed project would include the development of the project site with high-density residential buildings with up to 56 residential units and approximately 141 new residents.⁹ The population and housing units included in the proposed project would fall within the total development anticipated by the TASP EIR, as previously mentioned. Therefore, the proposed project would not result in new or more significant population growth and/or housing impacts than were analyzed and described in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to population and housing and no mitigation measures would be required for the proposed project.

⁹ This analysis assumes a household population of 2.52 persons per dwelling unit, as determined by using the residents per unit evaluated within the TASP FEIR (17,915 residents/7,109 units = 2.52 residents per unit).

Public Services. The General Plan EIR evaluated impacts to public services in Section 3.13, Public Services and Recreation. The General Plan EIR determined that development under the General Plan would result in additional residents and businesses in the city, including new residential, industrial, office, and commercial uses. New development and growth would result in increased demand for public services, including fire protection, law enforcement, schools, parks, libraries, and other public and governmental services. The General Plan includes a Public Facilities land use designation to accommodate the necessary expansion or development of new public facilities required to maintain acceptable performance standards. Furthermore, the General Plan EIR determined that any future development would be analyzed for potential environmental impacts, consistent with the requirements of CEQA. The General Plan includes a range of policies and actions to ensure that public services adequately accommodate growth, that community services and facilities are maintained, and that new development funds its fair share of services.

The TASP EIR evaluated impacts to public services in Section 3.9, Public Services. The TASP EIR determined that buildout of the TASP would require at least one new elementary school and expansions of existing school facilities, expansion of an existing fire station or construction of a new one, and additional staff and equipment for police services. The TASP determined that enough park space was incorporated into the Specific Plan to meet the expected requirements for the Planning Area given the population at buildout. The TASP includes policies to reduce the potential impacts to school facilities, fire protection services, police services, and parks such as hiring of additional staff and payment of development impact fees. The TASP concluded that the policies within the General Plan and TASP would reduce impacts to fire protections services, police services, and parks to less than significant levels but that implementation of the TASP would result in a significant and unavoidable impact to school facilities.

Potential impacts related to public services associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The project sponsor would be required to construct the proposed project in conformance with current building codes, which require features to reduce potential fire hazards. The Milpitas Police Department would also review project design to ensure that it incorporates appropriate safety features to minimize criminal activity. As previously described, the population and housing units included in the proposed project would fall within the total development anticipated by the TASP EIR. Therefore, the proposed project would not result in the need for new or expanded fire or police facilities beyond those that were already analyzed and described in the TASP EIR.

The proposed project would include 56 residential units within the TASP Area, which would directly increase the demand for school facilities. Policies in the General Plan and TASP would reduce the impact and include coordination with the school districts to update their comprehensive facilities plans, update school fees for developers, and

consider joining use agreements for potential shared facilities. Impacts to schools are significant and unavoidable and the proposed project would not affect this conclusion as the number of proposed residential units and resulting students is within the amount evaluated in the TASP EIR. The proposed project would not result in any new or more significant school impacts beyond those identified in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to public services and no mitigation measures would be required for the proposed project.

Recreation. The General Plan EIR evaluated impacts to recreation in Section 3.13, Public Services and Recreation. The General Plan EIR determined that growth under the General Plan would include a range of uses that could increase the population of the city and attract additional workers and tourists which would result in an increased demand for parks and recreation facilities. The General Plan includes a range of policies and actions to ensure that parks and recreational facilities are adequately funded, and that new development funds its fair share of services needed.

The TASP EIR evaluated impacts to recreation in Section 3.9, Public Services. The TASP EIR determined that the recreation areas proposed as part of the TASP would meet the City's adopted public park land ratio of 2.0 acres per 1,000 residents and would provide an adequate level of park and open space for residents. The TASP also contains numerous policies and standards to ensure that less than significant impacts on parkland and recreational facilities would occur.

Potential impacts related to recreation associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The proposed project would include a total of 27,632 square feet of common open spaces and 12,844 square feet of private open space. Common open space on the project site would consist of walkways, community dining areas, and seating areas with turf. Private open space would consist of useable decks. The project sponsor would also be required to pay an in-lieu parks fee consistent with TASP Policy 3.38. Therefore, the proposed project would not result in any new or more significant impacts to existing neighborhood or regional park facilities beyond those identified in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to recreation and no mitigation measures would be required for the proposed project.

Transportation. The General Plan EIR evaluated impacts to transportation in Section 3.14, Transportation. The General Plan EIR determined that implementation of the General Plan would not conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities. The General Plan includes policies focused on the development of a multimodal transportation network in Milpitas that places an increased emphasis on the enhancement of facilities to improve walking, bicycling and transit use. The General Plan EIR determined that the projected VMT per employee for the city is 31 percent higher than the significance threshold and although the General Plan includes policies

and land use patterns that will reduce VMT, it is not possible to fully mitigate at a citywide level. Therefore, the VMT impacts associated with employment-based uses allowed by the General Plan were considered significant and unavoidable. The General Plan EIR determined that an increase in emergency response times could occur due to increased vehicle delay at intersections and along roadway segments; however, future development would be subject to the requirements of 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 City's entitlement process.

The TASP EIR evaluated impacts to transportation in Section 3.3, Transportation. The TASP EIR determined that implementation of the TASP would result in a significant and unavoidable impact to operations at various intersections, freeway segments, and roadway segments. The TASP includes policies and proposed roadway improvements to reduce potential impacts but impacts would remain significant and unavoidable. The TASP EIR discusses that implementation of the TASP would improve pedestrian and bicycle access within the Plan Area as well as access to transit services.

Potential transportation impacts related to VMT were not evaluated in the TASP EIR as it was not required at the time the TASP EIR was certified. The Governor's Office of Planning and Research (OPR) allows lead agencies to screen out projects with potential VMT impacts by using maps and transit availability. Specifically, OPR suggests that residential and office projects that locate in areas with low VMT, and that incorporate similar features (i.e., density, mix of uses, transit accessibility), will tend to exhibit similarly low VMT.¹⁰

Potential impacts related to transportation associated with the proposed project have been adequately addressed in the Previous CEQA Documents. As previously described, the proposed project would include high-density residential uses on the project site. In addition, the project site is located within the TASP area and located less than half a mile from the Milpitas Transit Center, which includes the Milpitas BART Station and bus stops for up to nine different VTA bus lines. The City, as Lead Agency, has determined that the project site is located within a low residential VMT area.¹¹ Therefore, the proposed project would not result in any new impacts related to VMT.

According to the Valley Transit Authority (who administers the Santa Clara County Congestion Management Plan) Transportation Impact Analysis Technical Guidelines, a project would create an impact on pedestrian and bike circulation if: 1) it would reduce, sever or eliminate existing or planned bike/pedestrian access and circulation

¹⁰ Governor's Office of Planning and Research. 2018. *Technical Advisory on Evaluating Transportation Impacts in CEQA*. December.

¹¹ Milpitas, City of. 2021. *City of Milpitas Transportation Analysis Policy*. Attachment C: City of Milpitas Countywide Residential Average VMT. May.

in the area; 2) it would preclude, modify, or otherwise affect proposed bicycle and pedestrian projects and/or policies identified in the Lead Agency's adopted bicycle/pedestrian plan, or the plans of other agencies such as the Countywide Bicycle Plan or adjacent Cities' bicycle/pedestrian plans; or 3) it would cause a change to existing bike paths such as alignment, width of the trail right of way, or length of the trail.

The proposed project would generate pedestrian trips to/from transit stops, recreation areas, and employment centers. Overall, the volume of pedestrian trips generated by the project is expected to be relatively low and not exceed the carrying capacity of the sidewalks and crosswalks nearby. U.S. Census data indicate that bicycle trips comprise less than one percent of the total commute mode share in the City of Milpitas. For the proposed project, this would equate to approximately one new bike trip during each of the AM and PM peak hours. The low volume of bicycle trips generated by the project would not exceed the bicycle-carrying capacity of streets surrounding the site, and the increase in bicycle trips would not by itself require new off-site bicycle facilities.

Overall, the proposed project would not result in new impacts or substantially increase the severity of impacts than those analyzed in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to transportation and no mitigation measures would be required for the proposed project.

Tribal Cultural Resources. The General Plan EIR evaluated impacts to tribal cultural resources in Section 3.5, Cultural and Tribal Cultural Resources. The General Plan EIR stated that Native American consultations were conducted as required under Senate Bill 18, which requires local governments to consult with Tribes prior to making certain planning decisions and requires consultation and notice for a general and specific plan adoption or amendments in order to preserve, or mitigate impacts to, cultural places that may be affected. No responses were received and no specific resources were identified through consultation. However, it is possible that unknown tribal cultural resources may be present within the city that could be adversely affected by implementation of the General Plan. Development projects would be subject to State and local guidelines which would provide an opportunity to identify, disclose, and avoid or minimize the disturbance of and impacts to a tribal resource and the General Plan includes various actions and policies that would reduce this impact to less than significant levels.

The TASP EIR evaluated impacts to cultural resources in Section 3.13. The TASP EIR determined that impacts to cultural and historic resources would be reduced to less-than-significant levels with implementation of Policy 5.34 which requires construction monitoring, and if remains are found, temporary halting of construction until development of a mitigation plan and its implementation. This finding also applies to tribal cultural resources.

Potential impacts related to tribal cultural resources associated with the proposed project have been adequately addressed in the Previous CEQA Documents. There are no known tribal cultural resources at the project site and implementation of actions and policies within the General Plan and TASP, and compliance with State and local guidelines would ensure that no significant impacts to unknown tribal cultural resources would occur. The proposed project would not result in any new or more severe impacts to tribal cultural resources than were identified in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to tribal cultural resources and no mitigation measures would be required for the proposed project.

Utilities and Service Systems. The General Plan EIR evaluated impacts to utilities and service systems in Section 3.15, Utilities and Service Systems. The General Plan EIR determined that although implementation of the General Plan would result in increased population and employment growth and thereby result in an increased demand for water supplies, the City will have adequate water supply to serve the full buildout of the General Plan. Furthermore, the General Plan includes various policies designed to ensure an adequate water supply is available and to minimize the potential adverse effects that could result from increased water use. The General Plan EIR found that future development projects may be required to implement site specific and limited off-site improvements to the water distribution system to connect new project sites to the existing water infrastructure network; however, the environmental impacts of this would likely be similar to those associated with the new development or redevelopment and would not be significant in and of themselves. The General Plan EIR discussed that although wastewater generation volumes would slightly increase the treatment demand at the districts' treatment plants, the General Plan includes various policies designed to ensure adequate wastewater treatment capacity for development.

The General Plan EIR found that new development may increase areas of impervious surfaces that could impact existing storm water drainage facilities; however, the General Plan includes policies and actions to ensure adequate drainage infrastructure is available to serve development and minimize potential adverse effects of stormwater conveyance. The General Plan EIR determined that the City's projected increase in solid waste generation associated with buildout of the General Plan is well within the permitted capacity of the nearby Newby Island Landfill. Additionally, future projects would be required to comply with applicable state and local requirements including those pertaining to solid waste, construction waste diversion, and recycling.

The TASP EIR evaluated impacts to utilities and service systems in Section 3.11, Utilities and Service Systems. The TASP EIR discussed potential impacts to utilities from population growth within the Plan Area including additional demand for water and sewage treatment capacity and the need for new water, sewer, and recycle water lines. The TASP EIR determined that the City has adequate water supply to support

development associated with the TASP. The TASP discussed that buildout would require water distribution improvements and sewer line improvements; however, The TASP includes policies requiring the installation of pipes within existing roads or existing easements to ensure these improvements would not result in significant environmental effects. The TASP determined that the City's contracted Water Pollution Control Plant has adequate capacity to treat the additional wastewater flows that would occur with buildout of the TASP and that nearby landfills have adequate capacity to accommodate the additional waste that would be generated with buildout of the plan.

Potential impacts related to utilities and service systems associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The proposed project would include connections to existing utility lines via tie-ins on Tarob Court, Journey Street, and Trade Zone Boulevard. The potential impacts associated with utility line improvements for the proposed project would not be greater than or more severe than those identified in the Previous CEQA Documents. The TASP EIR concluded that water demand at buildout would be adequately served by water supplies from current sources in addition to offsets by the supplies available from the Santa Clara Valley Water District (SCVWD), the ability to run emergency wells, and an increased use of recycled water. The TASP includes policies which require the use of recycled water. The TASP EIR concluded that there is sufficient capacity in the existing solid waste disposal facilities serving the TASP Area, including the project site, for at least 30 more years.

Consistent with the findings of the Previous CEQA Documents, continued compliance with applicable local, State, and federal regulations and General Plan/TASP policies would reduce potential impacts associated with utilities and service systems to a less-than significant level. The proposed project would not result in any new or more severe impacts than those analyzed in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to utilities and service systems and no new mitigation measures would be required for the proposed project.

Wildfire. The General Plan EIR evaluated impacts to wildfire in Section 3.16, Wildfire. The General Plan EIR stated that future projects are not anticipated to remove or impede evacuation routes, and the General Plan does not include land uses, policies, or other components that conflict with adopted emergency response or evacuation plans. Additionally, future development would be subject to all applicable City regulations, reviews, and requirements pertaining to emergency response, emergency access, and maintaining emergency evacuation routes. The General Plan EIR states that implementation of the General Plan would not substantially alter the slope, prevailing winds, or other factors that would increase exposure to Milpitas residents, employees or visitors to increased pollutant concentrations from wildfire or result in the uncontrollable spread of a wildfire. Nonetheless, the General Plan includes policies and actions related to minimizing wildfire risk. Furthermore,

development would be required to comply with applicable provisions of the California Building Code and CA Fire Code. The General Plan EIR concluded that all impacts associated with wildfire would be less than significant.

Potential transportation impacts related to wildfire were not evaluated in the TASP EIR as it was not required at the time the TASP EIR was certified. However, Section 3.4, Safety and Hazardous Materials, of the TASP EIR did determine that there were no Very High Fire Hazard Severity Zones within the TASP Area.

Potential impacts related to wildfire associated with the proposed project have been adequately addressed in the Previous CEQA Documents. The project site is not located in a High or Very High Fire Hazard Severity Zone and the project site is not located in or near any State responsibility areas. The proposed project would not result in any new impacts related to wildfire hazards than those analyzed in the Previous CEQA Documents. The Previous CEQA Documents did not identify any mitigation measures related to wildfire and no mitigation measures would be required for the proposed project.

LIST OF PREPARERS

City of Milpitas
455 E. Calaveras Blvd.
Milpitas, CA 95035

Michael Fossati, AICP, Senior Planner





CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve and Authorize the City Manager, or Designee, to Execute the Improvement Agreement with Duke Realty Limited Partnership for a New Industrial Building at 475-525 Sycamore 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:	11/18/2025
Recommendation:	Approve and authorize the City Manager, or designee, to execute the Improvement Agreement between the City of Milpitas and Duke Realty Limited Partnership with a value of \$929,000 for a new industrial building at 475-525 Sycamore Drive to be completed within one (1) year from the date of the Improvement Agreement.

BACKGROUND:

On [February 22, 2023](#), the Planning Commission approved Site Development Permit No. SD22-0002 and SD22-0016, Conditional Use Permit No. UP22-0008, Tree Removal Permit No. TE22-0009, and Environmental Assessment No. EA22-0004 to construct an approximately 293,422 square-foot tilt-up concrete industrial building and associated site and public improvements at 475-525 Sycamore Drive (Project) by Duke Realty Limited Partnership (Developer).

ANALYSIS:

In accordance with City Municipal Code [X-1-10.02 – Agreement](#), the Developer is required to enter into an Improvement Agreement with the City for the construction of Off-Site Public Improvements (Improvements) associated with the Project, which will be completed concurrently with the on-site work. The Improvements will be accepted by the City after completion of construction including concrete improvements such as replacement of curb and gutter and driveway aprons, and installation of a new sidewalk along the entire Project's frontage; pavement improvements including full-street width slurry seal of Sycamore Drive and half-street width asphalt overlay on Barber Lane; traffic striping and signage improvements; new utility improvements such as sewer, storm, and domestic water services; and installation of landscaping and irrigation. The Improvements will be completed within one (1) year from the date of the Improvement Agreement, and the work is guaranteed by bonds or similar securities to be posted by the Developer in the amount of \$929,000.

The City Engineer has reviewed the Public Improvement Plans (2-1463) and is recommending the City Council approve the Improvement Agreement to allow for the construction of improvements associated with the Project after approval.

POLICY ALTERNATIVE(S):

Alternative: Do not approve the Improvement Agreement.

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 Developer from occupying the new industrial building.

Reason for Not Recommending: The Improvements are designed to support the public and the Project. Staff recommends approval of the Improvement Agreement to enable the Project to move forward.

FISCAL IMPACT:

The Developer reimbursed the City for costs associated with plan review, permitting and construction inspection of the Improvements to be constructed by the Developer. The City will have perpetual ownership and maintenance responsibilities of the Improvements following construction and acceptance after the 1-year

warranty period 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):

On January 6, 2023, the Planning Department completed an environmental impact assessment for the project in accordance with the California Environmental Quality Act (CEQA) and based on such assessment, decided to prepare an Initial Study and Mitigated Negative Declaration (IS/MND) for the Project in accordance with CEQA, and State and local guidelines implementing CEQA. The City provided a Notice of Intent (NOI) to adopt a mitigated negative declaration to the public, responsible agencies, trustee agencies, and the County Clerk. On [February 22, 2023](#), the Planning Commission of the City of Milpitas adopted the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.

The present action is an organizational, administrative, or fiscal activity of the City government that will not result in direct or indirect physical changes in the environment and is not a project pursuant to Cal. Code of Regs., tit. 14, § 15378.

ATTACHMENT(S):

- (a) Attachment 1 - Improvement Agreement
- (b) Attachment 2 – Resolution No. 23-003

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

475 SYCAMORE DRIVE

between

CITY OF MILPITAS

a California municipal corporation

and

DUKE REALTY LIMITED PARTNERSHIP

an Indiana limited partnership

**AGREEMENT FOR COMPLETION OF PUBLIC IMPROVEMENTS
DUKE REALTY LIMITED PARTNERSHIP, 475 SYCAMORE DRIVE**

I. PARTIES AND DATE.

This Agreement for the Completion of Public Improvements (“Agreement”) is entered into as of this 18th day of November, 2025 by and between the City of MILPITAS, a California municipal corporation (“City”) and Duke Realty Limited Partnership, an Indiana limited partnership with its principal office located at Pier 1, Bay 1, San Francisco, CA 94111 (“Developer”). City and Developer are sometimes hereinafter individually referred to as “Party” and hereinafter collectively referred to as the “Parties.”

II. RECITALS.

A. On March, 2022, Developer submitted to City an application for approval of a Site Development Permit (P-SD22-0002 & P-SD22-0016) Conditional Use Permit UP22-0008, Tree Removal Permit TE22-0009, and Environmental Assessment EA22-0004 for the development of a new commercial building and associated site improvements for Developer (the “Project”).

B. On February 22, 2023, the MILPITAS PLANNING COMMISSION conditionally approved Developer’s application for a Site Development Permit (SD22-0002 & SD22-0016) Conditional Use Permit UP22-0008, Tree Removal Permit TE22-0009, and Environmental Assessment EA22-0004 for the Project.

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 the following conditions are satisfied: (a) Developer provides City with security of the type and in the amounts required by this Agreement; 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.

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 2-1463 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. 2-1463 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, 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, 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 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 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 liability, 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, or if Developer fails to comply with any other obligation contained herein, 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, 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, including the maintenance of all landscaping in a vigorous and thriving condition, Developer shall provide City a faithful performance bond in the amount of Nine Hundred Twenty Nine Thousand Dollars (\$929,000), 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 on any provision of this Agreement, 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.

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 Nine Hundred Twenty Nine Thousand Dollars (\$929,000), 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 Completed Operations Coverage. For Construction contracts, Developer and its contractors shall maintain insurance as required by this contract 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 Developer and its contractors fail to obtain or maintain completed operations coverage as required by this contract, the City, at its sole discretion, may purchase the coverage required, and the Developer and its contractors shall pay the cost.

18.0 Signs and Advertising. Developer understands and agrees to City's ordinances, regulations, and requirements governing signs and advertising structures. 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

c/o PROLOGIS, INC.
Pier 1, Bay 1
San Francisco, CA 94111
Attn: Blair Rushing
Director, Development
With copy to: legalnotice@prologis.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.

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

CITY OF MILPITAS

By: _____
(signature)
Deanna J. Santana
(print name)
Interim City Manager
City of MILPITAS

APPROVED AS TO FORM:

By: _____
(signature)
Christopher Creech
(print name)
Acting City Attorney
City of MILPITAS

APPROVED AS TO CONTENT:

By: _____
(signature)
Luz Cofresi-Howe
(print name)
Finance Director/ Risk Manager
City of MILPITAS

APPROVED AS TO SUFFICIENCY:

By: _____
(signature)
Christian Di Renzo
(print name)
Public Works Director
City of MILPITAS

**DUKE REALTY LIMITED
PARTNERSHIP, an Indiana limited
partnership**

By: Duke Realty LLC
a Delaware limited liability company
its general partner

By: Prologis, L.P.
a Delaware limited partnership
its sole member

By: Prologis, Inc.
a Maryland corporation
its general partner

By: Matthew Sims
(signature)

Name: MATTHEW SIMS
(print name)

Title: VICE PRESIDENT

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.

All Capacity Acknowledgment

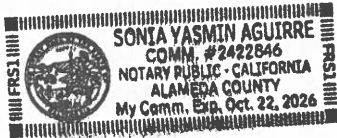
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF ALAMEDA

On October 16, 2025, before me, SONIA YASMIN AGUIRRE, Notary Public, personally appeared MATTHEW SIMS, 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

- ☐ Individual
☐ Corporate Officer

Title(s)
- ☐ Partner ☐ Limited
(s)
☐ General
- ☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document

Number of Pages

Date of Document

Signer(s) Other Than Named Above

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

- ☐ Individual
☐ Corporate Officer

Title(s)
- ☐ Partner ☐ Limited
(s) ☐ General
- ☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document

Number of Pages

Date of Document

Signer(s) Other Than Named Above

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

DUKE REALTY LIMITED PARTNERSHIP, 475 SYCAMORE DRIVE

ALL OF PARCEL 2, AS SHOWN UPON THAT CERTAIN MAP ENTITLED, "PARCEL MAP BEING A RESUBDIVISION OF PARCELS C & D AS SHOWN ON MAP ENTITLED "PARCEL MAP" RECORDED IN BOOK 451 OF MAPS AT PAGES 49, 50 & 51, SANTA CLARA COUNTY RECORDS", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON AUGUST 27, 1981 IN BOOK 489 OF MAPS AT PAGES 23 AND 24.

EXHIBIT “B”

LIST OF PUBLIC IMPROVEMENTS

DUKE REALTY LIMITED PARTNERSHIP, 475 SYCAMORE DRIVE

EXHIBIT "C"

SURETY BONDS AND OTHER SECURITY

PROLOGIS, 475 SYCAMORE 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: \$ 929,000

Surety: Fidelity and Deposit Company of Maryland

Attorney-in-fact: Tanya Chinchilla

Address: 1299 Zurich Way, 5th Floor,

Schaumburg, IL 60196-1056

MATERIAL AND LABOR BOND PRINCIPAL AMOUNT: \$ 929,000

Surety: Fidelity and Deposit Company of Maryland

Attorney-in-fact: Tanya Chinchilla

Address: 1299 Zurich Way, 5th Floor,

Schaumburg, IL 60196-1056

RESOLUTION NO. 23-003

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, ADOPTING AN INITIAL STUDY/MITIGATED NEGATIVE DECLARATION (IS/MND) AND A MITIGATION MONITORING AND REPORTING PROGRAM (MMRP) IN ACCORDANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AND APPROVING SITE DEVELOPMENT PERMIT NO. SD22-0002 (NEW BUILDING), SITE DEVELOPMENT PERMIT NO. SD22-0016 (MASTER SIGN PROGRAM), CONDITIONAL USE PERMIT NO. UP22-008, TREE REMOVAL PERMIT NO. TE22-0009, AND ENVIRONMENTAL ASSESSMENT NO. EA22-0004:, TO ALLOW DEVELOPMENT OF A NEW APPROXIMATELY 293,422-SQUARE FOOT TILT-UP CONCRETE INDUSTRIAL BUILDING AND ASSOCIATED SITE IMPROVEMENTS LOCATED AT 475-524 SYCAMORE DRIVE (APN 083-31-001, AND THE ATTACHED CONDITIONS OF APPROVAL.

WHEREAS, pursuant to the California Environmental Quality Act (Public Resources Code, § 21000 et seq.), the State CEQA Guidelines (California Code of Regulations, title 14, § 15000 et seq.) (collectively, “CEQA”), the City of Milpitas is the lead agency for the proposed project described below; and

WHEREAS, on March 29, 2022, Jason Bernstein, on behalf of Prologis (the “Applicant”), submitted an application to the City of Milpitas for the approvals necessary for Site Development Permit No. SD22-0002 & SD22-0016, Conditional Use Permit No. UP22-008, Tree Removal Permit No. TE22-0009, and Environmental Assessment No EA22-0004. The proposed development (the “Project”) thus consists of and requires:

- *Site Development Permit*: New main building designed for multiple unknown tenants and Master Sign Program to identify areas for tenant building signage.
- *Conditional Use Permit*: For buildings that exceed three stories or 35 feet, up to a maximum of six stories or 75 feet, within the MP districts.
- *Tree Removal Permit*: Removal of 111 trees, including 70 ordinance-protected trees, and replacement of 140 new trees.
- *Environmental Assessment*: Initial Study/Mitigated Negative Declaration and associated Traffic analysis to determine the potential impacts on the environment.

WHEREAS, Milpitas City Staff conducted a full analysis of the Project to ensure compliance with the City’s General Plan, Zoning Ordinance, Engineering Design Requirements and all other applicable laws, regulations and standards, as all further explained in detail in City staff’s report to the Planning Commission; and

WHEREAS, the City of Milpitas is the lead agency and the Milpitas Planning Commission is the decision-making body for the proposed Project; and

WHEREAS, the Planning Department completed an environmental impact assessment for the project in accordance with the California Environmental Quality Act (“CEQA”) and based on which assessment, decided to prepare an Initial Study and Mitigated Negative Declaration (IS/MND) for the Project in accordance with CEQA, and State and local guidelines implementing CEQA. On January 6, 2023, the City provided a Notice of Intent (NOI) to adopt a mitigated negative declaration to the public, responsible agencies, trustee agencies, and the County Clerk. The IS/MND was available for public review from January 6, 2023, through February 6, 2023, and is available for public review and inspection at the City’s website, <https://www.milpitas.gov/milpitas/departments/environmentaldocuments/>; and

WHEREAS, the IS/MND reflects the independent judgment and analysis of the City, as lead agency under CEQA and, based upon the information contained in the IS/MND, pending any comments received thereon, and the whole record before the City, there is not a fair argument nor substantial evidence that the Project, together with Conditions of Approval, including without limitation, mitigation measures identified in the IS/MND and the Mitigation Monitoring and Reporting Program adopted herein, will not have a significant effect on the environment; and

WHEREAS, the Initial Study/Mitigated Declaration concluded that implementation of the Project could result in a number of significant effects on the environment and identified mitigation measures that would reduce the significant effects to a less than significant level; and

WHEREAS, in connection with the approval of a project involving the preparation of an initial study/mitigated negative declaration that identifies one or more significant effects, CEQA requires the decision-making body of the lead agency to incorporate feasible mitigation measures that would reduce those significant environmental effects to less than significant level; and

WHEREAS, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA also requires a lead agency to adopt a Mitigation Monitoring and Reporting Program to ensure compliance with the mitigation measures during the project implementation; and

WHEREAS, the Planning Commission considered the proposed IS/MND and Mitigation Monitoring and Reporting Program, together with any comments received during the public review process for the IS/MND, prior to making any decision on the Project; and

WHEREAS, on February 22, 2023, 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 Project; and

WHEREAS, the Planning Commission has considered all the written and oral testimony presented at the public hearing in making its decision; and

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: Record

The location and custodian of the documents or other material which constitute the record of proceedings upon which this decision is based is within the Planning Department, City of Milpitas, 455 East Calaveras Boulevard, Milpitas, California 95035

SECTION 3. California Environmental Quality Act (CEQA)

The Project is in compliance with CEQA Guidelines Section 15064, 15071, and 15370 that an Initial Study/Mitigated Negative Declaration (IS/MND) conducted an environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA) titled “475 Sycamore Drive Project Draft Initial Study/Mitigated Negative Declaration” (IS/MND). On January 6, 2023, the City provided a notice of intent to adopt a Mitigated Negative Declaration to the public, responsible agencies, trustee agencies, and the County Clerk. The IS/MND was available for public review from January 6, 2023, through February 6, 2023. Also, in conformance with CEQA, the City has prepared a Mitigation Monitoring and Reporting Program for reporting or monitoring on the measures the City hereby has either required or made a condition of approval to the Project to mitigate or avoid significant environmental effects, which is adopted together with the IS/MND, and is attached as Exhibit 2 to this Resolution.

In connection with the adoption of the IS/MND, the record supports findings in accordance with CEQA Guidelines Section 15070, *et seq.* that:

1. The IS/MND reflects the independent judgment and analysis of the City, as lead agency under CEQA; and
2. Based upon the information contained in the IS/MND, any comments received thereon, and the whole record before the City, there is not a fair argument nor substantial evidence that the project will have a significant effect on the environment.
3. City Staff will prepare the Notice of Determination (NOD) and file the necessary forms with the Office of the County Clerk-Recorder of Santa Clara County.

SECTION 3. Site Development Permit (Section XI-10-57-03(F))

The Planning Commission makes the following findings based on the evidence in the public record in approving Site Development Permit No. **SD22-0002**:

1. *The layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development.*

The building massing maximizes the daylight and views from the building through the large, glazed façade. The high-quality architecture sets a new standard for future development in the southeast employment area. The building façade along Sycamore Drive and Barber Lane uses glazing and high-quality finishes that wrap the building corner, with colors that emphasize the public entrances along those same streets. The proposed landscaping plan incorporates water conservation, adaptive reuse of water, new pedestrian sidewalks, and two outdoor amenity seating areas along Barber Ln., which creates a compatible and aesthetically harmonious site with adjacent and surrounding development.

2. *The proposed use is consistent with the Milpitas Zoning Ordinance.*

The project site is zoned Industrial Park (MP), which allows industrial uses by-right. As demonstrated in Table 1, the project complies with the development standards as set forth in the Zoning Ordinance.

Table 1: Summary of Development Standards

	Standards	Proposed	Complies
Lot Area, minimum	Individual sites shall be of such size so that all space requirements in this table are satisfied	611,294 sq. ft.	Yes
Lot Width, minimum	100'	990'	Yes
Front Setback, minimum	35'	104'	Yes
Street Side Setback, minimum	35'	50'	Yes
Interior Side Setback, minimum	10'	69'	Yes
Rear Setback, minimum	20'	136'	Yes
Floor Area Ratio	0.50	0.48	Yes
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	50'	Yes, with conditional use permit
Parking	Office: 1 per 350 sq. ft. Warehouse: 1 per 1,500 sq. ft.	288 stalls	Yes

	222 stalls required		
Landscaping	Required front yard area and required street side and yard area	Landscaping proposed within the required street side and side yard area	Yes

3. *The proposed use is consistent with the Milpitas General Plan.*

The General Plan designation for the project site, 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 enables the integration of research and development, office, small warehouse and light manufacturing uses in one location, and allows existing firms to grow/expand operations onsite. As proposed, the project is consistent with the BPRD designation and complies with the policies in the City's General Plan, as outlined in Table 2.

Table 2: General Plan Consistency

Policy	Consistency Finding
ED 1-5 Make Milpitas a more predictable place for companies to do business by reducing impediments to growth and actively planning to provide adequate space for companies to meet long-term growth needs.	Consistent: The proposed building will allow new tenant companies looking for flexible open-plan space with a large footprint a place to create employment centers and create a predictable permitting process for new tenants.
LU 7-3 Encourage the development of new industrial, manufacturing, and business park areas and the redevelopment of existing older or marginal areas with new similar uses, especially those in locations which facilitate efficient multi-modal commute patterns. Use available public financing to provide necessary infrastructure improvements to encourage economic development and revitalization.	Consistent: The redevelopment of the existing older underutilized site will lead to a new state-of-the-art industrial building in a business park setting. The project will also improve access to existing public transit by providing public sidewalks and improved onsite bike storage for commuters who utilize the VTA bus stop within 0.4 miles and the Milpitas BART Station within 2.0 miles.
CD 1-2 Encourage infill development projects to accommodate contemporary uses and design and planning approaches and requirements in manner that minimizes conflicts with the surrounding existing development.	Consistent: This infill project will accommodate a new warehouse/distribution building to serve the needs of contemporary business. The project site is surrounded by a mix of commercial and light industrial uses, and the proposed project will not create a

Policy	Consistency Finding
	conflict with the surrounding development but add to the diverse building types in the area.

Site Development Permit - Sign Program

To approve the Site Development Permit **SD22-0016**, the following findings must be made pursuant to Milpitas Municipal Code Section XI-10-57.03(F)(2):

- 1. *All elements of the sign, including design, lighting, scale, length and materials, are consistent with the intent of the General Plan, the Sign Ordinance and any applicable Specific Plan.*

As proposed, the sign program is in conformance with the policies in the City’s General Plan, as outlined in Table 2. The flexibility for new tents to design high-quality signs, that will incorporate materials of the proposed development demonstrates how the sign program further complies with Municipal Code Section XI-10-24.03 (B)(1)(a) related to signs development. In addition, this ensure a streamlined review process, for new unknow tenants.

- 2. *The design, scale and materials of the sign harmonize with the architectural design and details of the building or site it serves.*

The design, scale, and materials of the signs harmonize with the architectural design and details of the buildings on the property. The signs will have painted surfaces that will be smooth and free of visible flaws and imperfections, consist of durable rust-inhibiting materials that are appropriate and complimentary to the buildings, and internally illuminated with LED halo lighting.

- 3. *The design and scale of the sign is appropriate to the distance from which the sign is normally viewed.*

The proposed signs provide visibility and legibility and have the appropriate relationship of scale and height to the building. The signs are appropriate and necessary given that the location of the buildings and tenants are dispersed throughout site and are set back from the street. The location of the signs will not have an adverse impact on sight distance or create other traffic hazards.

- 4. *The design and materials of the sign provide a contrast between the background and letters.*

The wall signs have aluminum constructed channel letters with through face and halo illumination to create contrast between the background and letters. The freestanding sign consists of an aluminum sign cabinet that will be painted white on the majority of the visible surfaces. A chrome accent with delineate each tenant logo, and the building address, as depicted in Figure 6 and attachment C. Master Sign Program. Tenant logos will be internally illuminated with LED to create contrast between the background and the letters. The internal

illumination of the signage provides a contrast between the painted aluminum sign cabinets and the letters of the sign.

5. *If a freestanding sign is included in the sign application, the design, scale or location of the building dictates the use of freestanding signs, rather than building-mounted signs.*

The freestanding sign's design is consistent with the style and architecture of the existing buildings on the property. The three signs will be located along the east and south sides of the property, where there is no freestanding signage, to provide wayfinding at this location.

Sign Program additional findings

6. *The provisions of the Sign Program ensure consistency in design and style of all new signs.*

The Sign Program specifies the sign type, letter and logo heights, and designates sign locations to ensure orderly, harmonious, and aesthetic business identification for the light industrial center. The Sign Program includes an individual tenant freestanding sign and two multi-tenant freestanding signs. The proposed tenant identification signs for the building consist of internally illuminated LED lighting, as well as pre-painted aluminum faces and returns.

7. *The provisions of the Sign Program address compatibility of the design and style of any existing signs on the building or site.*

All existing signs on site will be removed and replaced with signs that comply with this master sign program.

8. *All new signs within the Sign Program comply with the design guidelines of this Chapter.*

The project is consistent with Chapter 24 (Signs) of the Milpitas Municipal Code and is within the total allowable sign area. The proposed logo and lettering of the tenant building identification signs are appropriate and proportionate to the scale and massing of the buildings. The sign program establishes sign criteria that provides for design consistency and uniformity for signage. The signs within the designated sign bands on the multi-tenant freestanding sign comply with sign area and height requirements. The logo and lettering on the freestanding signs are appropriate for the size of the freestanding sign structure and provide for attractive, clear, and legible business identification.

Conditional Use Permit

To approve a maximum building height exceeding three stories or 35 feet in height, the following findings must be made pursuant to Milpitas Municipal Code Section XI-10-57.03(F)(2): the Planning Commission makes the following findings based on the evidence in the public record in approving Conditional Use Permit No. UP22-0008 to exceed three stories or 35 feet in height:

1. *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.*

The Zoning Code permits a height above the 35-foot requirement if the Planning Commission determines that the increased height will not be detrimental to the to the light, air, or privacy of any other structure or use existing or anticipated. A shadow study was completed to demonstrate that the height of the building will not block or cast shadows onto the adjacent buildings, public sidewalks, public open spaces throughout the year. In addition, the building is setback further than the minimum interior side yard by 59' and rear yard by 116', further establishing a less the dominant building mass.

2. *The proposed use is consistent with the Milpitas Zoning Ordinance.*

The project site is zoned Industrial Park (MP), which allows industrial uses by-right. As demonstrated in Table 1, the project complies with the development standards as set forth in the Zoning Ordinance.

3. *The proposed use is consistent with the Milpitas General Plan.*

As proposed, the project is in conformance with the policies in the City's General Plan, as outlined in Table 2.

4. *The design, location, size, and bulk of the proposed building is compatible with the existing and allowed future land uses in the vicinity.*

The architectural design of the proposed building accentuates the façade along Sycamore Drive and Barber Lane using glazing and high-quality finishes that wrap the building corner, with colors that emphasize the public entrances along those same streets. The proposed design is compatible with existing development in the vicinity and sets a high design standard for future development in the area, as envisioned by the BPRD General Plan land use designation and its corresponding zoning district.

5. *The building's design provides an appropriate transition in scale to structures in adjacent residential districts.*

There are no residential districts adjacent to the subject site as shown in Map 1: Project Location.

6. *The building's design minimizes shadows on public sidewalks, public open spaces, and solar facilities on adjacent parcels through step-backs at upper levels or other design elements.*

A shadow study was completed to demonstrate that the height of the building will not block or cast shadows onto the adjacent buildings, public sidewalks, public open spaces throughout the year. In addition, the building is setback further than the minimum interior side yard by 59' and rear yard by 116', further establishing a less dominant building mass.

7. *The building will not create a dominating visual prominence that is incongruent with the scale and character of the neighborhood.*

The proposed design, its architectural elements, and the commensurate sizes of other industrial/lodging establishments in the nearby area, including, but not limited to, Element Hotel (five floors) Crown Plaza (12 floors), Larkspur Landing (four floors), Home2 Suites (five floors), and Holiday Inn (four floors), will enable the proposed project to appropriately fit into the industrial neighborhood.

8. *The building meets all other development standards for the site where it is located.*
As demonstrated in Table 3, the project complies with the development standards as set forth in the Zoning Ordinance.

SECTION 4: Planning Commission Approval

The Planning Commission of the City of Milpitas hereby adopts Resolution No 23-003 adopting the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, and approving Site Development Permit No. SD22-0002 & SD22-0016, Conditional Use Permit No. UP22-0008, Tree Removal Permit No. TE22-0009, And Environmental Assessment No EA22-0004, to develop an approximately 293,422-square foot tilt-up concrete industrial building and associated site improvements based on the above Findings and subject to the Conditions of Approval attached hereto as **Exhibit 1**, and the Mitigation Monitoring and Reporting Program attached hereto as **Exhibit 2** incorporated herein.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on February 22, 2023.

DocuSigned by:
Chair Bill Chuan BC 3
1CD00AF9F201461...
Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on February 22, 2023 and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Bill Chuan	✓			
Larry Ciardella	✓			
Mercedes Albana	✓			
Alexander Galang	✓			
Dipak Awasthi			✓	

Resolution No. 23-003

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Zeya Mohsin	✓			
Sonia Medina-Ashby	✓			
Bill Chuan	✓			

EXHIBIT 1

**CONDITIONS OF APPROVAL FOR 475-525 SYCAMORE DRIVE
SITE DEVELOPMENT PERMIT NO. SD22-0002 & SD22-0016, CONDITIONAL USE
PERMIT NO. UP22-008, TREE REMOVAL PERMIT NO. TE22-0009, AND
ENVIRONMENTAL ASSESSMENT NO. EA22-0004 LOCATED AT 475-525
SYCAMORE DRIVE (APN 083-31-001)**

General Conditions

1. General Compliance. The applicant and owner, including all successors in interest (collectively "Permittee") shall comply with each and every condition set forth in this Permit. This Site Development Permit No. SD22-0002 & SD22-0016, Conditional Use Permit No. UP22-008, Tree Removal Permit No. TR22-009 and Environmental Impact Assessment EA22-0004 (collectively "Permit") shall have no force or effect and no building permit shall be issued unless and until all things required by the below-enumerated precedent conditions have been performed or caused to be performed and this Resolution has been recorded by the Permittee with the Santa Clara County's Recorder Office and a copy shall be provided to the Planning Division.
2. The Permittee shall develop the approved project in conformance with the approved plans (dated March 22, 2022), sample color and materials board approved by the Planning Commission, in accordance with these Conditions of Approval. **(P)**
3. Modifications to project. Any deviation from the approved site plan, floor plans, or other approved submittal shall require that, prior to the issuance of building permits, the Permittee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the Permittee shall be required to apply for review and obtain approval of the Planning Commission, in accordance with the Zoning Ordinance. **(P)**
4. Conditions of Approval. As part of the issuance of building permits, the Permittee shall include within the first four pages of the working drawings for a plan check, a list of all conditions of approval imposed by the final approval of the project. **(P)**
5. Written Response to Conditions. The Permittee shall provide a written response to the Conditions of Approval indicating how each condition has been addressed with the building permit application submittal. **(ALL)**
6. Effective Date. Unless there is a timely appeal filed in accordance with the Milpitas Zoning Code, the date of approval of this Permit is the date on which the decision-making body approved this Permit.

7. Acceptance of Permit. Should Permittee fail to file a timely appeal within twelve (12) calendar days of the date of approval of this Permit, inaction by Permittee shall be deemed to constitute each of the following:
 - a. Acceptance of this Permit by Permittee; and
 - b. Agreement by the Permittee to be bound by, comply with, and to do all things required of or by Permittee pursuant to all of the terms, obligations, and conditions of this Permit.
8. Permit Expiration. Pursuant to Section XI-10-64-06 of the Milpitas Zoning Code, this Permit shall become null and void if the activity permitted by this Permit is not commenced within two (2) years from the date of approval, or for a project submitted with a tentative map, within the time limits of the approved tentative map. Pursuant to Section XI-10-64.06(B) of the Milpitas Zoning Code, an activity permitted by this Permit shall be deemed to have commenced when the project:
 - a. Completes a foundation associated with the project; or
 - b. Dedicates any land or easement as required from the zoning action; or
 - c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.
9. Time Extension. Pursuant to Section XI-10-64.07 of the Milpitas Zoning Code, unless otherwise provided by State law, Permittee shall have the right to request a one-time extension of the Permit if the request is made in writing to the Planning Division prior to the expiration date of the approval. **(P)**
10. Project Job Account. If Permittee's project job account is at any time delinquent or below the required deposit amount, City will not continue to review or process the application until Permittee's private job account is paid in full and the required deposit has been made. Additionally, prior to the issuance of any building permit or occupancy permit, as applicable, Permittee shall pay in full the project account balance and establish a remaining balance of at least twenty-five percent (25%) of the required initial deposit. **(P/E)**
11. Notice. Pursuant to California Government Code Section 66020, any protest filed in court relating to the imposition of fees, dedication, reservations, or other exactions to be imposed on the development project shall be filed within ninety (90) days after the date of the adoption of this Resolution. This provision serves as notice from the local agency to the Permittee that the ninety (90) day period in which the applicant may file a protest has begun under California Government Code Section 66020(d)(1).
12. Cost and Approval. Permittee shall fully complete and satisfy each and every condition set forth in this Resolution and any other condition applicable to the project to the sole satisfaction of the City. Additionally, Permittee shall be solely responsible and liable for the cost to satisfy each and every condition. Permittee shall pay all required fees and charges to the City at the rate in effect at time of building permit issuance, or, the rate in effect when the fees and charges

are due and paid in full to the City. There is no vesting of any fees or charges with the adoption of this Resolution. **(ALL)**

13. Conditions. Each and every condition set forth in this Exhibit shall apply to the project and continue to apply to the project so long as the Permittee is operating the project under the permits and approvals in this Resolution. **(ALL)**
14. Compliance with Laws. The construction, use, and all related activity authorized under this Permit shall comply with all applicable local, state, and federal laws, rules, regulations, guidelines, requirements, and policies. **(CA/P)**
15. Previous Approvals. Permittee shall abide and continue to comply with all previous City approvals, permits, or requirements relating to the subject property, unless explicitly superseded or revised by this Permit.
16. Indemnification. To the fullest extent permitted by law, Permittee shall indemnify, defend with counsel of the City's choosing, and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to (i) City's approval of the project, including but not limited to, the approval of the discretionary permits, maps under the Subdivision Map Act, and/or the City's related determinations or actions under the California Environmental Quality Act, and (ii) Permittee's construction, operation, use, or related activity under this Permit. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. Permittee shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. Permittee shall pay to the City upon demand or, as applicable, to counsel of City's choosing, any amount owed pursuant to the indemnification requirements prescribed in this condition.
17. Certificate of Insurance: Permittee shall provide certificate of insurance and name City as an additional insured in its insurance policies for the Project.
18. Revocation, Suspension, Modification. This Permit may be suspended, revoked, or modified in accordance with Section XI-10-63.06 of the Milpitas Zoning Code.
19. Severability. If any term, provision, or condition of this Permit is held to be illegal or unenforceable by the Court, such term, provision, or condition shall be severed and shall be inoperative, and the remainder of this Permit shall remain operative, binding, and fully enforceable.

20. Compliance with Fire Department and California Fire Code. The Project shall comply with the requirements of the Milpitas Fire Department and the California Fire Code as adopted by the City. Changes to the site plan and/or building(s) requires review and approval by the Fire Department. **(F)**
21. Compliance with Building Department. The Project shall comply with the requirements of the Building Safety and Housing Department and the California Code of Regulations Title 24 and the Milpitas Municipal Code as adopted by the City. Building permits shall be submitted to and approved by the Building Safety and Housing Department prior to start of construction. All California Code of Regulations Title 24 and Milpitas Municipal Code requirements applicable at the time of building permit application must be met in advance of any building permit approvals or related construction. Changes to the site plan and/or building plan require review and approval by the Building Safety and Housing Department. **(B)**

PROJECT SPECIFIC CONDITIONS

22. Equipment Screening. All rooftop equipment shall be adequately screened from the parking lot areas and the public street. All ground-mounted equipment shall be adequately screened, if feasible, and subject to the Planning Department review and approval. If the screening is proven infeasible as solely determined by the Planning Director, then all ground-mounted equipment and surrounding bollards (if any) shall be of design and color that will minimize visual impact. **(P)**
23. Public Art Requirement: Permittee shall comply with the City's Public Art Requirements for Private Development, as set forth in Milpitas Municipal Code Section XI-10-14. If Permittee opts to pay a fee in lieu of installing public art on site, the fee shall be no less than one-half of one percent of building development costs and shall be payable at time of building permit issuance, or installation of "Public Art", as defined per MMC Section V-20-310 and XI-10-14.01. **(P)**
12. Affordable Housing Ordinance. Permittee shall comply with the requirements in accordance with Section XII-1-5.02 of the Milpitas Municipal Code, regarding the Non-Residential Affordable Housing Impact Fee, which shall be paid prior to issuance of building permit.
24. Mitigation Monitoring and Reporting Program (MMRP). Permittee shall comply with the requirements of the MMRP (Exhibit 2) pursuant to State law (Public Resources Code Section 21081.6).
25. The applicant agrees to the two recommendations as described in the Supplementary Local Transportation Analysis (LTA) for 475 Sycamore Drive Industrial as exhibit F.

PRIOR TO CONSTRUCTION PLAN SUBMITTALS

*The following conditions shall be met **prior to** any detailed construction plan check submittals (Building or Engineering, except demolition and rough grade plans), unless otherwise approved by the Director of Engineering/City Engineer. City reserves the right to reject any plan check submittal if any of the following conditions are not met. (E)*

1. Modifications: The Site Development Plan dated 3/22/22 is subject to change during the plan check stage based upon City's previous comments and conditions stated herein.
2. Solid Waste and Recycling Handling Plan: Permittee shall submit the final Solid Waste and Recycling Handling Plan based upon City's previous comments for City's review and approval by the Solid Waste Program. The subject Plan shall show calculations of waste generation volumes and how materials will be transferred from the waste generation areas to the trash enclosure/external collection point; demonstrate how recycling, food waste, and yard trimmings shall have a separately maintained process from garbage handling; address other requirements such as waste generation and compactor sizing, chute shut-off and property management responsibility for bin management and litter control; outreach and education to tenants/occupants, and procure sufficient service frequency based upon waste generation calculation volumes.
3. Stormwater Control Plan: Permittee shall submit City approved final Stormwater Control Plan (SWCP) that complies with the latest Municipal Regional Stormwater NPDES Permit, including Low Impact Development (LID) Section C3. c.i.(2)(b) measures for harvesting and reuse, infiltration, or evapo-transpiration, for City's review and approval by the Engineering Department.
4. Photometric Analysis: Permittee shall submit streetlight photometric analysis for City's review and approval by the Engineering Department along Sycamore Drive and Baber Lane that meet the Illuminating Engineering Society of North America (IESNA), RP8, for roadway and sidewalk lighting standards and City standard design guidelines.
5. Recycle Water Cross-Connection Specialist: In order to comply with the California Code of Regulations Title 17 and 22, and for timely plan approval by the California State Water Resources Control Board/Division of Drinking Water as well as by the South Bay Water Recycling, Permittee must hire a certified cross-connection specialist for their consultation as to irrigation water system design and construction phasing. The name and contact information of the certified cross-connection specialist shall be provided on all landscape submittal plans.
6. Submittal Requirements: Permittee to ensure that all plan check submittals are in accordance with City's submittal check list for each permit type, including but not limited to, payment of permit fees and/or fee deposit at the time of the submittal.
7. Project Job Account/Fee Deposit: Permittee shall open a new PJ account as a deposit to cover the costs for Engineering Department's services for review and inspection of the project. The amount shall be determined based on the public improvement cost estimates as prepared by the Permittee's engineer.

PRIOR TO OFF-SITE PLAN APPROVAL/ENCROACHMENT PERMIT ISSUANCE

*The following conditions shall be addressed as part of the off-site improvement plan review and shall be met **prior to** encroachment permit issuance, unless otherwise approved by the Director of Engineering/City Engineer. (E)*

8. Public Improvement Design Standards: All public improvements shall be designed and constructed in accordance with all applicable public improvement design standards, including but not limited to:
 - a. Milpitas Design Guidelines:
(<http://www.ci.milpitas.ca.gov/milpitas/departments/engineering/design-guidelines/>);
 - b. Standard details and specifications:
(<http://www.ci.milpitas.ca.gov/milpitas/departments/engineering/standard-details-and-specifications/>);
 - c. Americans with Disabilities Act (ADA) requirements, where applicable.
9. Sanitary Sewer Calculations: Permittee shall submit a completed “Sewer Needs Questionnaire” form and sanitary sewer calculations to justify lateral size design, allocation of discharge for each of the lateral, and impact to the existing main. Permittee shall be responsible to implement any necessary improvements if there is any identified deficiency to the existing main as a result of the project.
10. Storm Drain Design: Permittee shall submit storm drain hydrology and hydraulic calculations based upon a 10-year storm event to justify the size of the storm drain lateral flowing full, without surcharging the main line pipe, and to be reviewed and approved by the Engineering Department.
11. Domestic Water and Fire Service Calculations: Permittee shall submit potable water and fire service calculations to confirm adequacy of lateral size, pressure and flow, to be reviewed and approved by the Engineering Department and Fire Department. Hydraulic modeling analysis by the City and paid by the Permittee may be required as needed. Permittee shall be responsible to implement any necessary improvements if there is any identified deficiency to the existing main as a result of the project.
12. Specific Improvements: In addition to standard public improvements required under Milpitas Municipal Code (MMC) Title XI, Chapter 1, Section 7, Permittee shall install other specific improvements listed below including incidental improvements as required by the City as part of the encroachment permit.
 - a) Installation of separate water service tap and meter for each of the following services: commercial, irrigation, and fire.
 - b) Installation of separate utility service lines (commercial, fire service, sanitary sewer).
 - c) Installation of radio-transmitted water meters with a meter antenna, any repeaters or transmitters as needed with dedicated power supplies at no cost to the City at locations acceptable to the City to ensure accurate and timely reception of meter readings. Permittee shall execute a recorded instrument providing dedicated space, access rights and dedicated power supplies to the City for operation/maintenance/repair/replacement of subject radio antenna.

- d) Installation of pavement repair and micro-surfacing the full width of the impacted roadway along the project street frontage on Sycamore Drive and Barber Lane to the City Engineer's satisfaction.
 - e) Installation of new sidewalk along property frontage following the back of curb to the satisfaction of the City Engineer.
13. Abandonment of Existing City Utilities: Permittee shall cap, abandon or remove any unused existing public utilities at the main and based upon City's Abandonment Notes and to the City's satisfaction.
 14. Relocation and Adjustment of Existing Public Utilities: Permittee shall relocate and/or adjust existing public utilities as needed that are in conflict with the proposed improvements.
 15. Water Service Agreement: Permittee shall complete a water service agreement to obtain water service.
 16. Encroachment Permit: Prior to any work in the public right-of-way and/or public easement, obtain an encroachment permit with insurance requirements for all public improvements including a traffic control plan per the latest California Manual on Uniform Traffic Control Devices (MUTCD) standards to be reviewed and approved by the Engineering Department.
 17. Pothole Encroachment Permit: Due to multiple new utility service connections on city streets, Permittee shall pothole and verify all potential utility crossing conflict as part of the public improvement plan during the design stage.

PRIOR TO BUILDING PERMIT ISSUANCE

*The following conditions shall be addressed during the building plan check process and shall be met **prior to** any building permit issuance (except demolition permit and rough grade permit), unless otherwise approved by the Director of Engineering/City Engineer. (E)*

18. Easements on the Building Permit Plans: Permittee shall depict all existing easements to remain based upon current preliminary title report and depict new easements on applicable building permit plans.
19. Stormwater Facility Operation & Maintenance Plan: Permittee shall incorporate design details into applicable construction plans in accordance with City approved Storm Water Control Plan (SWCP). Permittee shall also submit Stormwater Facility Operation & Maintenance Plan that describes operation and maintenance procedures needed to ensure that treatment Best Management Practices (BMPs) and other storm water control measures continue to work as intended and do not create a nuisance (including vector control).
20. Stormwater Management Facilities O&M Agreement: Permittee shall execute and record a Stormwater Management Facilities Operation and Maintenance (O&M) Agreement associated with the SWCP O&M Plan, including perpetual maintenance of treatment areas/units, as reviewed and accepted by the Engineering Department.

21. Water Supply and Force Majeure: The City reserves the right to suspend the issuance of building permits in case of an emergency declaration of water supply in the case of a major catastrophic event that restricts City's assurance to provide water supply.
22. Recycle Water Approval: Permittee shall use recycled water for landscape irrigation purpose, except for the interior courtyard/podium areas within the building footprint where the potable water shall be used for irrigation. Permittee shall comply with California Code of Regulations (CCR), Title 22, Division 4, Chapter 3, titled "*Water Recycling Criteria*", CCR, Title 17, Division 1, Chapter 5, Subchapter 1 titled "*Drinking Water Supply*" and all other recycled water regulations as listed under the publication titled "*California Department of Public Health Regulations Related to Recycled Water June 18, 2014*". Permittee shall obtain approval from the California State Water Resources Control Board/Division of Drinking Water, South Bay Water Recycling and the City for recycled water design, including but not limited to on-site irrigation design, based upon South Bay Water Recycling Guidelines and City of Milpitas Supplemental Guidelines. All landscape plants shall be compatible with recycled water.
23. Water Efficient Landscapes: Permittee shall comply with Milpitas Municipal Code Title VIII, Chapter 5 Water Efficient Landscapes for landscape design, including but not limited to, providing separate water meters for domestic water service and irrigation service and providing applicable landscape documentation package.
24. Solid Waste and Recycling Facility Design: Permittee shall comply with all applicable City design guidelines/details associated with haul route, turning radius, vertical and horizontal clearance, trash enclosure, staging area, storage area, etc.
25. Recycling Report Prior to Demolition Permit Issuance: Permittee shall submit Part I of a Recycling Report on business letterhead to the Building Department, for forwarding to the Engineering Department for review and approval. The report shall describe the following resource recovery activities:
 - a) What materials will be salvaged.
 - b) How materials will be processed during demolition.
 - c) Intended locations or businesses for reuse or recycling.
 - d) Quantity estimates in tons (both recyclable and for landfill disposal). Estimates for recycling and disposal tonnage amounts by material type shall be included as separate items in all reports to the Building Division before demolition begins.
 Permittee shall make every effort to salvage materials for reuse and recycling and shall comply with the City's demolition and construction debris recycling ordinance.
26. Recycling Report Prior to Building Permit Issuance: Permittee shall submit Part II of the Recycling Report to the Building Department, for forwarding to the Engineering Department. Part II of the Recycling Report shall be supported by copies of weight tags and/or receipts of "end dumps." Actual reuse, recycling and disposal tonnage amounts (and estimates for "end dumps") shall be submitted to the Building Department for approval by the Engineering Department prior to inspection by the Building Department.

27. Flood Plain Management: Part of this project is in the Flood Zone “AH”, therefore, Permittee shall comply with all applicable flood protection criterion required by the Federal Emergency Management Agency (FEMA) and MMC Title XI, Chapter 15. Permittee shall also submit a Flood Study for the Project demonstrating, to the satisfaction of the City Engineer, that the proposed development has no adverse impact to the surrounding flood plain within the Special Flood Hazard Area (SFHA) and to the flood carrying capacity of the area. The study should include cumulative effects of existing and proposed developments demonstrating the combined effects will not increase the water surface elevation of the Base Flood Elevation (BFE) more than one foot at any point. For the AH Flood Zone, the flood study is required to establish the BFE, and set the building elevation accordingly. The flood study shall be consistent with the requirements in accordance with Title 44 of the Code of Federal Regulations by establishing a hydraulic model and HEC-RAS. The study shall clearly identify the lowest floor elevation as being either the bottom of garage, bottom of first floor residential units, bottom of elevator pit, etc. and shall be completely elevated out of the SFHA.
28. Mailboxes: The Permittee shall obtain information from the US Postal Services regarding placement of required mailboxes. Structures to protect mailboxes may require Building, Engineering and Planning Divisions review.
29. Development Fees: Permittee shall pay the following development fees. The information listed in items “a” through “h” are based upon current fee rates; however, those fee rates are subject to change. The exact fee amount shall be determined at the time of building permit fee payment.
- a) Storm water connection fee at \$21,562/acre for commercial.
 - b) Water connection fee at \$5.97/gpd for commercial, based upon increased water usage.
 - c) Sewer connection fee at \$8.52/gpd for commercial, based upon increased average wastewater flow.
 - d) Wastewater Treatment Plant fee per MMC VIII, Chapter 2, Section 7.04.
 - e) Calaveras Boulevard Widening Traffic Impact fee per Resolution No. 7894.
 - f) 3.8% of applicable fees in accordance with City Resolution No. 7590 as Permitting Automation Fee.
 - g) FEMA Flood Zone Designation Letter fee in the amount of \$100.00 each.

DURING CONSTRUCTION

*The following conditions shall be complied with at all times **during** the construction phase of the project, unless otherwise approved by the Director of Engineering/City Engineer. (E)*

30. Dewatering: If dewatering is needed during construction, Permittee shall obtain a Short-Term Industrial Wastewater Permit from the San Jose/Santa Clara Water Pollution Control Plant for discharging the groundwater to a sanitary sewer system.
31. On-site Recycle Water Coordination: Permittee’s cross-connection specialist shall coordinate the phasing of the construction; facilitate the cross-connection testing in order to minimize the impact for occupied buildings during cross-connection testing; sign-off before the water meter set; coordinate on-site construction inspection; complete the site inspection; fill out required paperwork/questionnaire; and provide them to the City for forwarding to South Bay Water Recycling.

32. Prohibition of Potable Water Usage: Permittee shall use recycled water for construction purposes, including dust control and compaction. Permittee shall comply with MMC VIII-6-5.00 and 6-6.00 where potable water usage is prohibited, unless otherwise approved by the City Council.
33. Construction Staging and Employee Parking: Permittee shall place all construction related materials, equipment, and arrange construction workers parking on-site and not located in the public rights-of-way or public easements.
34. Water Shut-down Plan: Permittee shall provide a water shut-down plan at least seven days in advance of the shut-down in coordination with the Engineering Inspector and notify affected property owners/tenants when cut-in tee(s) is/are required.

PRIOR TO FIRST OCCUPANCY

*The following conditions shall be met **prior to** first building occupancy on either lot, unless otherwise approved the Director of Engineering/City Engineer.*

35. Completion of Public Improvements: Permittee shall complete all public improvements, including but not limited to Sycamore Drive and Barber Lane frontage improvements as shown on City approved plans.
36. LOMR-F: Permittee shall submit the FEMA approved LOMR-F for each unit/building associated with the requested occupancy if project is located in the SFHA.
37. Elevation and/or Flood Proofing Certificate: Permittee's civil engineer shall submit Elevation and/or Flood Proofing Certificate for the lowest finished floor elevation of each building for City record.
38. Landscape Certificate of Completion: Permittee shall submit a Certificate of Completion that complies with the Milpitas Municipal Code Water Efficient Landscapes ordinance.
39. Certificate of Cross-Connection: Permittee shall ensure that the cross-connection specialist complete the required recycled water construction inspection checklist, cross connection test results and any special inspection checklist as required by the South Bay Recycling Program <http://www.sanjoseca.gov/index.aspx?NID=1595> and forward them to the City.
40. Record Drawings: Permittee shall submit record drawings in AutoCAD, Tiff, and PDF formats for City records. Record drawings shall include all public improvements. Additionally, if the project uses recycled water, the permittee shall also submit record drawings of on-site irrigation facilities.
41. Private Job (PJ) Balance: Permittee shall pay for any remaining balance from the Private Job deposit.

42. Assessment District: This project is located within the Landscaping and Lighting and Maintenance Assessment district No. 95-1.98-1, therefore, is subject to special tax.

(P) = Planning

(B) = Building

(E) = Engineering

(F) = Fire Prevention

(PD) = Police Department

(CA) = City Attorney

NOTICE OF RIGHT TO PROTEST

The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), began on date of adoption of this resolution. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

EXHIBIT 2**ENVIRONMENTAL MITIGATION MONITORING & REPORTING PROGRAM
475-525 SYCAMORE DRIVE (APN 083-31-001)**

This Mitigation Monitoring and Reporting Program (MMRP) is formulated based upon the findings of the Initial Study/Mitigated Negative Declaration (IS/MND) available for public review and inspection at the City's website

<https://www.milpitas.gov/milpitas/departments/environmentaldocuments/> prepared for the 475 Sycamore Drive Project (project). The MMRP, which is found in Table 1, lists mitigation measures recommended in the IS/MND prepared for the proposed project and identifies mitigation monitoring requirements. The Final MMRP must be adopted when the City of Milpitas (City) makes a final decision on the project.

This MMRP has been prepared to comply with the requirements of State law (Public Resources Code Section 21081.6). State law requires the Lead Agency to adopt an MMRP when mitigation measures are required to avoid significant impacts. The MMRP is intended to ensure compliance with the mitigation measures identified in the IS/MND during implementation of the project.

The MMRP is organized in a matrix format. The first two columns identify the potential impacts and corresponding mitigation measures. The third column, entitled "Timeframe for Implementation", refers to when monitoring will occur to ensure that the mitigating action is completed. The fourth column, entitled "Responsibility for Implementation", refers to the party responsible for implementing the mitigation measure. The fifth column, entitled, "Oversight of Implementation", refers to the party responsible for oversight or ensuring that the mitigation measure is implemented.

Table 1: Mitigation Monitoring and Reporting Program

Impact	Mitigation Measures	Timeframe for Implementation	Responsibility for Implementation	Oversight of Implementation
4.1 Aesthetics				
The proposed project could create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area.	<u>AES-1:</u> Outdoor lighting shall be designed to minimize glare and spillover to surrounding properties. The project design and building materials shall incorporate non-mirrored glass to minimize daylight glare. All lighting elements shall comply with Sections XI-10-54.17 and XI-10-7.04 of the City's Zoning Ordinance and the proposed lighting plan shall be reviewed and approved by the City's Planning Division prior to issuance of a building permit.	Prior to issuance of a building permit	Project Applicant	City of Milpitas Planning Department
4.3 Air Quality				
The proposed project could violate air quality standards or contribute to an existing or projected air quality violation during construction.	<u>AIR-1:</u> In order to meet the BAAQMD fugitive dust threshold, the following BAAQMD Basic Construction Mitigation Measures shall be implemented: • All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. • All haul trucks transporting soil, sand, or other loose material off-site shall be covered. • All visible mud or dirt tracked-out onto adjacent public roads shall 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 shall be limited to 15 mph. • All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. • Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points. • All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. • A publicly-visible sign shall be posted with the telephone number and person to contact at the City of Milpitas regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.	During all phases of construction	Project Applicant/ Construction Contractor	City of Milpitas Planning Department
The proposed project could expose sensitive receptors to substantial pollutant	<u>AIR-2:</u> During construction of the proposed project, the project contractor shall ensure all off-road diesel-powered construction equipment of 50 horsepower or more used for the project construction at a minimum meets the California Air	During all phases of construction	Project Applicant/ Construction Contractor	City of Milpitas Planning Department

Table 1: Mitigation Monitoring and Reporting Program

Impact	Mitigation Measures	Timeframe for Implementation	Responsibility for Implementation	Oversight of Implementation
concentrations during construction.	Resources Board (CARB) Tier 2 emissions standards with Level 3 or higher diesel particulate control devices, or equivalent.			
4.4 Biological Resources				
The proposed project could have a substantial adverse effect, either directly or through habitat modifications, on native birds protected under the Migratory Bird Treaty Act.	<u>BIO-1:</u> If feasible, all vegetation removal shall be conducted during the non-breeding season (i.e., September 1 to January 31) to avoid direct impacts to nesting birds. If such work is scheduled during the breeding season, a qualified biologist or ornithologist shall conduct a pre-construction survey to determine if any birds are nesting within the project site. The pre-construction survey shall be conducted within 15 days prior to the start of work from March through May (since there is a higher potential for birds to initiate nesting during this period), and within 30 days prior to the start of work from June through July. If active nests are found during the survey, the biologist or ornithologist shall determine an appropriately sized buffer around the nest in which no work will be allowed until the young have successfully fledged. The size of the buffer shall be determined by the biologist or ornithologist in consultation with the California Department of Fish and Wildlife, and would be based on the nesting species, its sensitivity to disturbance, and the expected types of disturbance.	Prior to vegetation removal, vegetation trimming, or ground-disturbing activities	Project Applicant/Construction Contractor	City of Milpitas Planning Department
4.5 Cultural Resources				
The proposed project could cause a substantial adverse change in the significance of a historical archaeological resource if such resources are encountered during construction.	<u>CUL-1:</u> Cultural resources materials may include pre-contact resources such as flaked and ground stone tools and debris, shell, bone, ceramics, and fire-affected rock, as well as historic resources such as glass, metal, wood, brick, or structural remnants. The applicant shall inform its contractor(s) of the sensitivity of the project site for archaeological deposits, and include the following directive on the project grading plans: <i>“The subsurface of the construction site is sensitive for archaeological deposits. If archaeological deposits are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be redirected and a qualified archaeologist shall assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any archaeological materials. Archaeological deposits can include, but are not limited to, shellfish remains; bones, including human remains; flakes of, and tools made from, obsidian, chert, and basalt; mortars and pestles; historical trash deposits containing glass, ceramics, and metal artifacts; and</i>	Prior to any ground disturbing activities During all ground disturbing activities	Project Applicant/Construction Contractor	City of Milpitas Planning Department

Table 1: Mitigation Monitoring and Reporting Program

Impact	Mitigation Measures	Timeframe for Implementation	Responsibility for Implementation	Oversight of Implementation
	<i>structural remains, including foundations and wells."</i> The City shall verify that the language has been included in the grading plans prior to issuance of a grading permit or other permitted project action that includes ground-disturbing activities on the project site. If the deposits are uncovered on the site and found to be significant (i.e., eligible for listing in the California Register of Historical Resources), the applicant shall be responsible for funding and implementing appropriate mitigation measures. Mitigation measures may include recordation of the archaeological deposit, data recovery and analysis, and public outreach regarding the scientific and cultural importance of the discovery. Upon completion of the selected mitigations, a report documenting methods and findings shall be prepared, and the final report shall be submitted to the Northwest Information Center at Sonoma State University. Significant archaeological materials shall be submitted to an appropriate curation facility and used for public interpretive displays, as appropriate and in coordination with a local Native American tribal representative.			
4.7 Geology and Soils				
The proposed project could directly or indirectly destroy a unique paleontological resource or site or unique geologic feature if encountered during construction.	<u>GEO-1:</u> Should paleontological resources be encountered during project subsurface construction activities, all ground-disturbing activities within 25 feet shall be redirected and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. For purposes of this mitigation, a "qualified paleontologist" shall be an individual with the following qualifications: (1) a graduate degree in paleontology or geology and/or a person with a demonstrated publication record in peer-reviewed paleontological journals; (2) at least two years of professional experience related to paleontology; (3) proficiency in recognizing fossils in the field and determining their significance; (4) expertise in local geology, stratigraphy, and biostratigraphy; and (5) experience collecting vertebrate fossils in the field. If the paleontological resources are found to be significant and project activities cannot avoid them, measures shall be implemented to ensure that the project does not cause a substantial adverse change in the significance of the paleontological resource. Measures may include monitoring, recording the fossil locality, data recovery and analysis, a final report, and accessioning the fossil material and technical report to a paleontological repository. Upon completion of the assessment, a report documenting methods, findings, and recommendations shall	During all ground disturbing activities	Project Applicant/ Construction Contractor	City of Milpitas Planning Department

Table 1: Mitigation Monitoring and Reporting Program

Impact	Mitigation Measures	Timeframe for Implementation	Responsibility for Implementation	Oversight of Implementation
	be prepared and submitted to the City for review. If paleontological materials are recovered, this report also shall be submitted to a paleontological repository such as the University of California Museum of Paleontology, along with significant paleontological materials. Public educational outreach may also be appropriate. The project applicant shall inform its contractor(s) of the sensitivity of the project site for paleontological resources and shall verify that the following directive has been included in the appropriate contract documents: <i>“The subsurface of the construction site may be sensitive for fossils. If fossils are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be redirected and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any paleontological materials. Fossils can include plants and animals, and such trace fossil evidence of past life as tracks or plant imprints. Ancient marine sediments may contain invertebrate fossils such as snails, clam and oyster shells, sponges, and protozoa; and vertebrate fossils such as fish, whale, and sea lion bones. Contractor acknowledges and understands that excavation or removal of paleontological material is prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5.”</i>			
4.9 Hazards and Hazardous Materials				
The proposed project could result in the release of hazardous materials into the environment as a result of building demolition activities.	<u>HAZ-1:</u> Prior to the issuance of any demolition permits for existing structures on the project site, a comprehensive Hazardous Building Materials Survey (HBMS) for the project site shall be prepared and signed by a qualified environmental professional, documenting the presence or lack thereof of asbestos-containing materials, lead-based paint, polychlorinated biphenyls-containing materials and electrical equipment and any other hazardous building materials. The HBMS and abatement specifications shall be submitted to and approved by the City prior to the start of abatement activities. The HBMS shall include abatement specifications for the stabilization and/or removal of the identified hazardous building materials in accordance with all applicable laws and regulations. The demolition contractor(s) shall implement the abatement specifications and submit to the City evidence of completion of abatement activities prior to demolition of the existing structures.	Prior to the issuance of a demolition permit	Project Applicant	City of Milpitas Planning Department
4.10 Hydrology and Water Quality				
The proposed project could violate water quality	<u>HYD-1:</u> Prior to construction, the project applicant shall prepare and implement a SWPPP, meeting Construction General Permit requirements (State Water	Prior to the issuance of	Project Applicant	City of Milpitas Engineering

Table 1: Mitigation Monitoring and Reporting Program

Impact	Mitigation Measures	Timeframe for Implementation	Responsibility for Implementation	Oversight of Implementation
standards or waste discharge requirements during construction.	Resources Control Board Order No. 2009-000–DWQ, as amended) designed to reduce potential adverse impacts to surface water quality through the project construction period. The SWPPP shall be submitted to the Planning Manager of the City of Milpitas Planning Department for review and approval prior to the issuance of any permits for ground disturbing activities. The SWPPP shall be prepared by a Qualified SWPPP Developer in accordance with the requirements of the Construction General Permit. These include: BMPs for erosion and sediment control, site management/housekeeping/waste management, management of non-stormwater discharges, run-on and runoff controls, and BMP inspection/maintenance/repair activities. BMP implementation shall be consistent with the BMP requirements in the most recent version of the California Stormwater Quality Association Stormwater Best Management Handbook–Construction. The SWPPP shall include a construction site monitoring program that identifies requirements for dry weather visual observations of pollutants at all discharge locations, and as appropriate (depending on the Risk Level), sampling of the site effluent and receiving waters. A Qualified SWPPP Practitioner shall be responsible for implementing the BMPs at the site and performing all required monitoring and inspection/maintenance/repair activities.	grading permits		Department
The proposed project could violate water quality standards or waste discharge requirements during operation.	<u>HYD-2:</u> The project applicant shall fully comply with the Water Board stormwater permit requirements, including Provision C.3 of the MRP. The project applicant shall prepare and implement a SCP for the project. The SCP shall be submitted to the Planning Manager of the City of Milpitas Planning and Neighborhood Services Department for review and approval prior to the issuance of any permits for ground disturbing activities. The SCP would act as the overall program document designed to provide measures to mitigate potential water quality impacts associated with the operation of the proposed project. At a minimum, the SCP for the project shall include: • An inventory and accounting of existing and proposed impervious areas. • Low Impact Development (LID) design details incorporated into the project. Specific LID design may include, but is not limited to: using pervious pavements and green roofs, dispersing runoff to landscaped areas, and/or routing runoff to rain gardens, cisterns, swales, and other small-scale facilities distributed throughout the site. • Measures to address potential stormwater contaminants. These may include	Prior to the issuance of grading permits	Project Applicant	City of Milpitas Planning Department City of Milpitas Engineering Department

Table 1: Mitigation Monitoring and Reporting Program

Impact	Mitigation Measures	Timeframe for Implementation	Responsibility for Implementation	Oversight of Implementation
	measures to cover or control potential sources of stormwater pollutants at the project site. A Draft Stormwater Facility Operation and Maintenance Plan for the project site, which will include periodic inspection and maintenance of the storm drainage system. Persons responsible for performing and funding the requirements of this plan shall be identified. This plan must be finalized prior to issuance of building permits for the project.			
4.17 Transportation				
The proposed project could result in inadequate sight distances.	TRA-1: Prior to the issuance of a building permit, the placement of any landscaping, monuments, signs, and on-street parking zones within the sight triangles of the site driveways shall be reviewed and approved by Public Works staff to ensure that adequate sight distance is provided at each driveway.	Prior to the issuance of a building permit	Project Applicant	City of Milpitas Planning Department City of Milpitas Engineering Department
The proposed project could result in hazardous conditions for vehicles attempting to turn around.	TRA-2: Prior to the issuance of a building permit, the project sponsor shall revise the project plans to include sufficient turnaround space, as determined by Public Works staff, for the east-west drive aisle on the south side of the proposed building.	Prior to the issuance of a building permit	Project Applicant	City of Milpitas Planning Department City of Milpitas Engineering Department
The proposed project could result in hazardous conditions for pedestrians trying to access the proposed building.	TRA-3: The project sponsor shall revise the project plans to include pedestrian access pathways between the proposed building and the public sidewalks along the project frontages, as well as between on-site parking areas and building entrances. Public Works staff shall review and approve the pedestrian pathways prior to the issuance of a building permit.	Prior to the issuance of a building permit	Project Applicant	City of Milpitas Planning Department City of Milpitas Public Works Department

Certificate Of Completion

Envelope Id: 0BC6B26AF1384D60BFD666C46639D685

Status: Completed

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Signatures: 1

Envelope Originator:

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Record Tracking

Status: Original

Holder: Liz Medina

Location: DocuSign

February 27, 2023 | 13:31

emedina@milpitas.gov

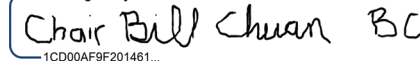
Signer Events

Chair Bill Chuan

bill_chuan@yahoo.com

Security Level: Email, Account Authentication
(None)**Signature**

DocuSigned by:

Chair Bill Chuan BC

1CD00AF9F201461...

Timestamp

Sent: February 27, 2023 | 17:49

Viewed: February 27, 2023 | 19:39

Signed: February 27, 2023 | 19:39

Signature Adoption: Drawn on Device

Using IP Address: 67.188.2.13

Signed using mobile

Electronic Record and Signature Disclosure:

Accepted: February 27, 2023 | 19:39

ID: 23ec936f-c6c2-48d3-80cb-5ee74a08ca88

In Person Signer Events**Signature****Timestamp****Editor Delivery Events****Status****Timestamp****Agent Delivery Events****Status****Timestamp****Intermediary Delivery Events****Status****Timestamp****Certified Delivery Events****Status****Timestamp****Carbon Copy Events****Status****Timestamp**

Avery Stark

astark@milpitas.gov

Security Level: Email, Account Authentication
(None)**COPIED**

Sent: February 27, 2023 | 19:39

Viewed: March 1, 2023 | 06:45

Electronic Record and Signature Disclosure:

Accepted: September 7, 2022 | 11:04

ID: 0f1be86d-7131-481c-bc22-4ab9e5f4e036

Liz Medina

emedina@milpitas.gov

Administrative Assistant

City of Milpitas

Security Level: Email, Account Authentication
(None)**COPIED**

Sent: February 27, 2023 | 19:39

Resent: February 27, 2023 | 19:39

Viewed: February 27, 2023 | 19:51

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Witness Events**Signature****Timestamp**

Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	February 27, 2023 17:49
Certified Delivered	Security Checked	February 27, 2023 19:39
Signing Complete	Security Checked	February 27, 2023 19:39
Completed	Security Checked	February 27, 2023 19:39
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

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You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: mluu@ci.milpitas.ca.gov

To advise Carahsoft OBO City of Milpitas of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at mluu@ci.milpitas.ca.gov and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

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To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to mluu@ci.milpitas.ca.gov and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Carahsoft OBO City of Milpitas

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

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- ii. send us an email to mluu@ci.milpitas.ca.gov and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify Carahsoft OBO City of Milpitas as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by Carahsoft OBO City of Milpitas during the course of your relationship with Carahsoft OBO City of Milpitas.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Authorize the City Manager, or Designee, to Negotiate and Execute an Agreement with Paladin Drones, Inc., for the Purchase of an Additional Drone Docking Station and Renew the Annual Subscription Fee (Staff Contact: Luz Cofresi-Howe, Finance Director, 408-586-3111; and Jared Hernandez, Chief of Police, 408-586-2406)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	11/18/2025
Recommendation:	(1) Authorize the City Manager, or designee, to negotiate and execute a purchase order agreement with Paladin Drones Inc. for the purchase of an additional drone docking station and renew annual subscription fee for a 1-year term for a not-to-exceed amount of \$91,875, subject to the appropriation of funds; and (2) Authorize the City Manager, or designee, to amend the agreement to extend it for up to one (1) additional twelve (12) month term and add additional compensation as required, subject to the appropriation of funds.

BACKGROUND:

In January 2025, the Milpitas Police Department (Department) implemented a Drone as a First Responder (DFR) Program to improve response times and streamline deployment. The DFR program is currently in the testing and evaluation phase. The program has demonstrated strong potential to enhance public safety response and supplement patrol operations. Preliminary data show the DFR drone arrives on scene before a police officer 73% of the time. This rapid deployment has proven valuable in quickly assessing calls for service, providing real-time information to responding officers, and, in some cases, resolving incidents without the need for an officer to respond in person.

The DFR program is demonstrating early success in enhancing public safety response. However, one of the current challenges is the geographic size of the City. With only one drone in operation, response times to the southern part of the city are longer than desired, not allowing staff to fully assess the full benefits of the program. The Department has identified Fire Station 1 as a site to install a second DFR dock, which will significantly expand coverage and reduce response times in that area. With a second drone and an extension of the evaluation period, the Department will be able to fully assess the long-term benefits and operational impacts of integrating DFR technology into routine police operations.

ANALYSIS:

On January 9, 2025, the City issued a Purchase Order (PO) incorporating a vendor agreement to purchase Paladin's Drone System Advanced Package for a not-to-exceed amount of \$53,593.75. This purchase was appropriately authorized as a sole source and standardization by the City Purchasing Agent on December 5, 2024, in accordance with Milpitas Municipal Code (MMC) Sections [I-2-3.06](#) and [I-2-3.14](#). This original agreement reflected spending for Fiscal Year 2024-25 and included the Advanced Package, an all-inclusive base annual subscription covering one (1) drone and docking station.

The recommended purchase order agreement (PO) adds one (1) additional drone and docking station and renews the annual subscription fee for a not-to-exceed amount of \$91,875, and would be effective January 9, 2026, through January 8, 2027. Issuing this additional PO increases the total Paladin Drones, Inc. purchases for combined Fiscal Year 2024-25 and 2025-26 to \$145,468.75. Contracts whose cumulative value including amendments is over \$100,000 require City Council approval. ([MMC I-4-2.01](#).) Consequently, staff is bringing forward the contractual expansion of this pilot program to the City Council for approval.

A summary of the total cost is below:

Fiscal Year	Agreement Effective Date	NEW Equipment & Subscription Combined Cost	RENEWAL Equipment & Subscription Combined Cost	Total Cost	Funding Source
FY24-25	1/9/2025 – 1/8/2026	\$53,593.75	N/A	\$53,593.75	COPS 2023 Grant
• Above reflects the existing (1) drone and (1) dock DFR total program cost					
FY25-26	1/9/2026 – 1/9/2027	\$38,281.25	\$53,593.75	\$91,875.00	COPS 2025 Grant
• Above reflects the additional drone and dock, and the DFR total program cost					

POLICY ALTERNATIVE(S):

Alternative 1: Do not authorize the City Manager, or Designee, to negotiate and execute a purchase order agreement with Paladin Drones, Inc. for the purchase of an additional docking station and renew annual subscription fee for 1-year.

Pros: The COPS 2025 Grant allocation to the Police Department could be utilized for other front-line law enforcement priorities.

Cons: Without the continuation and expansion of the DFR program, the department would not be able to fully assess the long-term benefits and operational impacts of integrating DFR technology into routine police operations

Reason for Not Recommending: The DFR program is an enhancement to public safety service in Milpitas, as it has proven valuable in quickly assessing calls for service, providing real-time information to responding officers, and, in some cases, resolving incidents without the need for an officer to respond in person.

FISCAL IMPACT:

This equipment and service for the time period requested (\$91,875 for January 9, 2026 through January 8, 2027) will be funded by the Police Department's existing 2025 COPS Grant. Funding in future fiscal years will be evaluated and amended as part of the annual budget process and are subject to the annual appropriation of funds.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The action has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment and is not a project pursuant to Pub. Resource Code, § 21065 and Cal. Code Regs., tit. 14, § 15378. Even is a project, the action is exempt from further CEQA review pursuant to Cal. Code Regs., tit. 14, § 15061(b)(3) as it can be seen with certainty that there is no possibility that the activity in question may have significant effect on the environment.

ATTACHMENT(S):

None.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Consider Donation Request from Knights of Columbus St. John Council (Staff Contact: Renée Lorentzen, Recreation and Community Services Director, 408-586-3409)
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	11/18/2025
Recommendation:	Approve a Donation request of \$500 for the Knights of Columbus St. John Council Annual Free Thanksgiving Dinner.

BACKGROUND:

On October 23, 2025, staff received a Donation and Fee Waiver/Reduction Policy request from the Knights of Columbus St. Johns Council 5796. The request is for a \$500 donation for their annual Free Thanksgiving Dinner on November 27, 2025, in Pavalkis Hall in Milpitas.

ANALYSIS:

One Donation and Fee Waiver/Reduction Policy application was received by the Recreation and Community Services Department for a donation to the Knights of Columbus St. Johns Council 5796.

Fee Waiver Request

The Knights of Columbus St. Johns Council 5796 submitted the required application and documentation for their free Thanksgiving Dinner event:

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

The Knights of Columbus St. Johns Council 5796 is requesting that City Council donate \$500 for the costs to produce the event.

Milpitas City Council adopted an updated "City Council Donation and Fee Waiver/Reduction Policy" on [June 21, 2022](#). Per the policy, eligible organizations can request City fees to be waived up to \$1,500 or a donation amount up to \$500 to be granted upon request. Eligible organizations are defined as "a non-profit organization as described by the Internal Revenue Section such as 501(c)(3) or an intergovernmental agency; Non-discriminatory, and non-political in nature." Fee Waiver or Donation requests for events must provide a community benefit within the City of Milpitas proper. Applying organizations must provide proof of non-profit status from the federal Internal Revenue Service or the state Franchise Tax Board.

As required, the Knights of Columbus St. Johns Council 5796 provided a copy of their Entity Status letter and Form 990-N from the Internal Revenue Service showing they are a tax-exempt organization. The applicant meets the requirements as outlined in the Council adopted Donation and Fee Waiver/Reduction Policy.

POLICY ALTERNATIVE(S):

Alternative: Do not approve any one or combination of received fee waivers and donation applications as requested.

Pros: The City's General Fund will not incur the costs of the fees waived.

Con: Denial of the request may not allow the non-profit organization to hold their events.

Reason not recommended: This request is consistent with the Council approved Policy.

FISCAL IMPACT:

\$25,000 was approved and included in the FY 2025-2026 City budget for City Council's Unallocated Community Promotions with a current balance of \$22,544. If this request is approved by the City Council, then \$22,044 would remain in that line item of the current year's budget.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The action has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment and is not a project pursuant to Pub. Resources Code, § 21065 and Cal. Code Regs., tit. 14, § 15378. Even if a project, the action is exempt from further CEQA review pursuant to Cal. Code Regs., tit. 14, § 15061(b)(3) as it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The action is at most a fiscal or administrative activity of the City government that does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment and is not a project pursuant to Cal. Code of Regs., tit. 14, § 15378.

ATTACHMENT(S):

- (a) Knights of Columbus St. Johns Council 5796 Application
- (b) Knights of Columbus St. Johns Council 5796 Entity Status letter

City of Milpitas City Council Non-Profit Donation/Fee Waiver Requ... #46

Success!

Entry #46 has been updated.

Name of Organization	Knights of Columbus of ST. John council 5796
Is there a Milpitas Branch or Affiliation?	☒ Yes
Organization Address (as listed on your 501 (c) 3)	
Organization Web Site	https://kocmilpitas.org
Organization Contact Name	Ray Maglalang
Organization Contact Phone	
Organization Contact Email	
Request Type	☒ Donation (up to \$500)
Requested Amount (request types cannot be combined or exceed maximum listed amounts)	\$1,000
Description of Use of Funds/Fees to be Waived	Free Thanksgiving dinner on Thanksgiving day
Event Name	KofC Free Thanksgiving Dinner
Event Date(s)	Nov 27, 2025
Event Location (Facility Name and Address)	Pavalkis Hall, 279 S. Main St. Milpitas
Is your Event Open to the Public	Yes
What is you anticipated Event attendance?	600+

What is the purpose of the Event?

Feeding the Seniors, Low income, the Homeless and the needy.
ALL ARE WELCOME AND OPEN

Is your event a Fundraiser

No

What percentage of your event fundraising proceeds will benefit the Milpitas Community?

60% or more

How will the Milpitas Community Benefit from this Event?

This is our 47th year event and every Thanksgiving Day we feed the community, all Residence of our city including Seniors who don't have a place to celebrate their thanksgiving event are all welcome. Please see our flyer

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

It's advertised at around the city, senior centers and senior housing in the city of Milpitas.
Posters are being distributed around the city. Plus at the event- Pavalkis Hall, 279 So. Main St. Milpitas throughout the event

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

KOC St, Johns Entity Status Letter 2025.pdf

Within 60 days after completion of the event for which a donation was received or a fee waiver was granted by the City of Milpitas, your organization will provide a report to the Director of Recreation and Community Services to include at minimum: number of participants, copies of all publicity of the event, any benefit to the community, amount of funds raised and an accounting of how the proceeds of the event will be dispersed. Failure to abide by the rules and procedures set forth in the City Council Donation/Fee Waiver Policy will result in the organization being denied for funding and/or fee waiver in the future. Draw your signature into the box below.

Ray Maglalarang

Entry Info**Date Created**

23 Oct 2025 - 01:06:54 PM

Date Updated

5 Nov 2025 - 02:17:22 PM [view activity log \(1\)](#)

IP Address

10.42.5.3



Entity Status Letter

Date: 11/5/2025

ESL ID: 3737704579

Why You Received This Letter

According to our records, the following entity information is true and accurate as of the date of this letter.

Entity ID: 9773945

Entity Name: 5796 ST JOHN'S COUNCIL KNIGHTS OF COLUMBUS

- ☒ 1. The entity is in good standing with the Franchise Tax Board.
- ☐ 2. The entity is **not** in good standing with the Franchise Tax Board.
- ☒ 3. The entity is currently exempt from tax under Revenue and Taxation Code (R&TC) Section 23701 I.
- ☐ 4. We do not have current information about the entity.
- ☐ 5. The entity was administratively dissolved/cancelled on _____ through the Franchise Tax Board Administrative Dissolution process.

Important Information

- This information does not necessarily reflect the entity's current legal or administrative status with any other agency of the state of California or other governmental agency or body.
- If the entity's powers, rights, and privileges were suspended or forfeited at any time in the past, or if the entity did business in California at a time when it was not qualified or not registered to do business in California, this information does not reflect the status or voidability of contracts made by the entity in California during the period the entity was suspended or forfeited (R&TC Sections 23304.1, 23304.5, 23305a, 23305.1).
- The entity certificate of revivor may have a time limitation or may limit the functions the revived entity can perform, or both (R&TC Section 23305b).

Connect With Us

Web: **ftb.ca.gov**
Phone: 800-852-5711 from 7 a.m. to 5 p.m. weekdays, except state holidays
916-845-6500 from outside the United States

California

Relay Service: 711 or 800-735-2929 (For persons with hearing or speech impairments)



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve Milpitas Arts and Culture Grant Request for a Cultural Menorah Lighting Event (Staff Contact: Renée Lorentzen, Recreation and Community Services Director, 408-586-3409)
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	11/18/2025
Recommendation:	Approve a Milpitas Arts and Culture in-kind grant request from Dina and Marvin Serber for a Cultural Menorah Lighting Event on December 21, 2025.

BACKGROUND:

The Milpitas Arts and Culture Grant (MACG), formerly the Cultural Arts Support Program, started in 2001 as a way for the City of Milpitas to support enriching and free or low-cost cultural arts programming for the community. The program provides in-kind grants to cultural arts groups (i.e., nonprofit organizations, schools, clubs) and individuals in the form of free use of City of Milpitas indoor or outdoor space, wanting to offer programming or an event for the general public. Grant requests are limited to programs or event date(s) of no more than two (2) consecutive days and can include rehearsal time for a performing arts event. Grantees are also provided basic marketing support from the Recreation and Community Services Department to complement their respective outreach plans. The cumulative total of grant program or event hours, including set up and break down, is limited to 40 hours per organization/individual per year, or an in-kind grant value of \$10,000; whichever comes first.

The Arts Commission reviews and recommends MACG applications to City Council for final approval.

The Arts Commission has received and reviewed one (1) request for the MACG Fall/Winter 2025 season. Milpitas residents Marvin and Dina Serber submitted a MACG application for review and approval for a Milpitas Menorah Lighting Event on December 21, 2025, on the northeast plaza of City Hall. This would be the family's third year producing this cultural gathering around the lighting of the Menorah in the Civic Center Plaza.

ANALYSIS:

On [September 22, 2025](#), the Arts Commission reviewed and unanimously recommended approval of the MACG In-Kind Grant Application from Dina and Marvin Serber (applicant), requesting to use the northeast plaza of City Hall in the Civic Center Plaza, for their third Menorah Lighting Cultural event in December 2025 from 5-8 p.m.

If approved this will be the applicant's first Milpitas Arts and Culture In-Kind Grant. The event is planned to include the lighting of the Menorah (electric), traditional cultural games, music, light refreshment, and chance drawing prizes provided by local businesses. The applicant estimates they will attract 75+ guests at the event.

The grant application requests the following allowable in-kind services and/or resources:

- 1) City plaza/open space for event (identified as northeast plaza of City Hall)
- 2) Inclusion of the event in City Marketing channels (City website MACG Landing Page, Recreation and Community Services social media pages, and e-blast to the Recreation customer list)

All applicable liability insurance, and/or permits from the City of Milpitas or outside agencies, i.e., County of Santa Clara Public Health, for the proposed grant application program/activity are the sole responsibility of the Applicant and not covered by this grant. The award of a MACG in-kind grant is not a guarantee that City and/or

outside agency permits will be granted. Should a grant applicant not be able to secure all the required permits, their program/event would need to be either scaled back, postponed, or cancelled.

POLICY ALTERNATIVE(S):

Alternative 1: Do not approve Dina and Marvin Serber's grant request to use Milpitas Civic Center for the Menorah Lighting.

Pros: The City's General Fund will not incur the in-kind costs of the application.

Con: Denial of the request may not allow the Applicant to hold their events.

Reason not recommended: This request is consistent with the Council approved MACG Program.

PROJECT SCHEDULE/KEY MILESTONES

Applicants are responsible for all tasks and milestones to produce their event/program. Recreation and Community Services Department marketing support will begin one month prior to event/program. Installation of the City-owned menorah is scheduled for the week of December 8, 2025.

FISCAL IMPACT:

The in-kind grant value of the Menorah Lighting event request is \$680, which includes the value of staff support and the space rental.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The action has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment and is not a project pursuant to Pub. Resources Code, § 21065 and Cal. Code Regs., tit. 14, § 15378. Even if a project, the action is exempt from further CEQA review pursuant to Cal. Code Regs., tit. 14, § 15061(b)(3) as it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The action is at most a fiscal or administrative activity of the City government that does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment and is not a project pursuant to Cal. Code of Regs., tit. 14, § 15378.

ATTACHMENT(S):

(a) Dina and Marvin Serber Grant Application

Milpitas Arts & Culture Grant Application 25-26 Season #1

Applicant Information

Please tell us about the organization, business, group or individual seeking to host an event.

Applicant Name Milpitas Menorah Lighting

Applicant Type - Individual

Contact Person Name/Title Dina and Marvin Serber

Applicant's Email [REDACTED]

Applicant's Phone [REDACTED]

Contact Person's Email, if different from Applicant's [REDACTED]

Applicant's Address [REDACTED]

Applicant's Website

<https://www.facebook.com/milpitas.menorah.lighting>

Applicant's Mission or Business/Group/Artist Description

The Milpitas Menorah Lighting began when Marvin Serber, then aged 13, requested to be allowed to share his culture with the city of Milpitas by organizing the city's very first Menorah Lighting. Marvin spoke at city council about the importance of cultural heritage and sharing knowledge with everyone. He then spoke at the Milpitas City Council budget meeting and the city agreed to purchase its very first Menorah last year, which was used in the second Milpitas Menorah lighting. In the first year over 40 people attended the free Menorah lighting including the Mayor and city council members. The 2nd year drew an even larger crowd and included State Assembly member Alex Lee, the mayor, and over 70 people. People learned about The Menorah Lighting, and how to play traditional Hannukah games, and enjoyed free drinks and beverages. Local businesses contributed food, and raffle prizes for the event. It was a wonderful community event where cultural knowledge and customs were shared. The Milpitas Menorah Lighting aims to bring the community together. Marvin believes that the more people know about each other's cultures, the better the community can be.

Additional Required Information

Nonprofit organization's EIN; or business's licensing entity and license number; or group's location, number of members and, if applicable, parent organization; or individual's primary profession.

The Nadler-Serber Family organizes this community event

Event Information

Please tell us about your event.

Event Title City Of Milpitas Menorah Lighting

What type of event(s) are you planning? - Cultural Event

What type of space do you need? - Menorah, which is located at the back of City Hall next to the Christmas Tree

First choice date, or start date if requesting range Dec 21, 2025

Second choice date, or end date if requesting range Dec 18, 2025

Third choice date Dec 17, 2025

Start Time 05:00 PM

End Time 08:00 PM

Description of Proposed Event

The free community Event will begin with the lighting of the Hannukah Menorah . The significance of the Menorah will be explained, in addition to how the Menorah is lit. There will be traditional food offered to all attendees. There will be craft tables set up for the children. We will have raffle prizes donated from local communities.

Community members can decorate their own dreidels, and learn how to play dreidel as well. We hope to have performances by a local

dance group.

What is your total event budget? \$500

If you have event partners or sponsors secured, please list their names.

Dina's Delish Cooking is an event sponsor, and we hope to get more sponsors as we did for the past 2 years.

How many active participants do you expect total? Do not count audience members. 10

Participant details

There will be at least 10 volunteers ages 15 and older helping to run the food tables, the craft tables, and the activity tables. We will add more volunteers if necessary.

Is your event open to the public? Yes

How many general public audience members do you expect to attend? Do not count people related to your artists, performers, or group members. 75

Are reservations or tickets required? No, day-of walk-in is okay

Is your event free or low-cost? Free

Ticket Prices

Please list ticket type, price, comparable price for similar events.

The Entire event including all food and activities are free to the public

How will people sign up or buy tickets? People can just come, no need for advance tickets

Describe your event marketing plan detailing applications, websites, publications, and frequency of advertisements.

We plan on making flyers to put up in the library and in local businesses. Web will also post about the event on Facebook, Instagram, and other social media platforms.

What is your experience in hosting similar arts and/or cultural events? List any prior events you have hosted, including location and attendance.

We have hosted this event for the past 2 years. Everyone who has attended has really enjoyed themselves. We are excited to make this event at official Milpitas Cultural event so that it can be advertised by the city of Milpitas as well.

Upload videos, images or PDFs representing your cultural art event and/or similar events you have produced in the past.

image type unknown



[Menorahlighting.jpg](#)

image type unknown



[Menorahlighting2024.jpg](#)

Community Benefit

Please tell us how the community will benefit from your event.

How will your event benefit Milpitas residents? Check all that apply.

- Opportunity for Milpitas artists to perform or display work
- Opportunity for Milpitas audiences to be exposed to unfamiliar art form, culture, artist
- Opportunity for attending public to actively participate in the art or cultural activity
- Opportunity to foster cross-cultural understanding

How will your event advance art and culture in Milpitas?

This Event will allow community members to learn about another culture that they would not have known about otherwise. There has never been a Milpitas Menorah lighting before this event was started. It is completely free, and accessible to the whole community. And local businesses and the community have really come together in the last 2 years to support it. Marvin would love to address the

committee if they have any questions on why it's important for him to share his culture with the whole community.



CITY OF MILPITAS
AGENDA REPORT
(AR)

Item Title:	Adopt a Resolution Accepting Metropolitan Transportation Commission Transit-Oriented Communities Planning and Implementation Projects Grants (Staff Contact: Jay Lee, Planning Director, 408-586-3077)
Category:	Consent Calendar-Community Development
Meeting Date:	11/18/2025
Recommendation:	Adopt a resolution accepting Metropolitan Transportation Commission Transit-Oriented Communities Planning and Implementation Projects Grant funding totaling to \$400,000 to support development of a parking and transportation demand management policy and increased allowable floor area ratio for commercial development in Transit-Oriented Communities areas.

BACKGROUND:

On September 30, 2024, the Metropolitan Transportation Commission (MTC) invited Bay Area public agencies to submit projects for local planning and policy development to advance the MTC Transit-Oriented Communities Policy. In November 2024, City staff submitted three (3) applications for grant funding: (1) prepare a Transit-Oriented Communities overlay to increase allowable floor area ratio, (2) develop housing policy amendments, and (3) develop a parking and transportation demand management policy for the City's Transit-Oriented Communities areas.

On February 14, 2025, the MTC Planning Committee awarded the City two (2) Transit-Oriented Communities Planning grants totaling \$400,000: (1) \$100,000 to prepare a Transit-Oriented Communities overlay to increase allowable floor area ratio for commercial and office development near the Milpitas BART Station, and (2) \$300,000 to develop a parking and transportation demand management policy for the City Transit-Oriented Communities areas. To accept this funding, the City Council must adopt a resolution supporting acceptance of the grants.

On [June 3, 2025](#), staff presented a resolution to City Council for adoption. The City Council expressed concerns regarding the overall MTC Transit-Oriented Communities Policy and directed staff to amend the resolution language to remove statements regarding the City's overall commitment to the MTC Transit-Oriented Communities Policy and clarify the limited purposed of the respective two grants. The City Council also directed staff to obtain written confirmation from MTC regarding the limitations of the proposed resolution.

Following the meeting, staff coordinated revised resolution language with MTC that addressed the City Council concerns. Staff received written confirmation from MTC on June 11, 2025, which clarified the scope and intent of the resolution as follows:

"The resolution is the City Council's affirmation of their intent to adopt Transit-Oriented Communities compliant parking and transportation demand management policy for the three stations and a Transit-Oriented Communities overlay district for the BART Station Area as proposed in the grant application. Not the full suite of policies necessary to be Transit-Oriented Communities compliant.

As a demonstration of that commitment, we require the work developed by the consultant under city staff direction go before the council for consideration. The council retains local control and can choose not to adopt the policies developed. Because there are implications to the city not being Transit-Oriented Communities compliant, it is expected that staff and the council are motivated to work with their consultant to develop policies that work for the city."

Metropolitan Transportation Commission Email, June 11, 2025)

On [June 17, 2025](#), staff presented the revised resolution to City Council. The City Council discussed various concerns regarding the MTC Transit-Oriented Communities Policy, specifically regarding potentially relinquishing local control over land use decisions. The City Council voted to table the item for further discussion and information gathering.

The MTC Transit-Oriented Communities Policy (Policy) aims to promote higher-density, mixed-use development near major transit stations to support regional goals for housing, equity, and sustainability. The Policy encourages jurisdictions to increase housing production, enhance access to jobs and transit, reduce reliance on cars, and adopt policies protecting vulnerable communities from displacement. Alignment with the Policy is tied to eligibility for MTC transportation funding programs, particularly the One Bay Area Grant program.

The Policy applies to areas within one-half mile of existing and planned stations serviced by BART, Caltrain, light rail, bus rapid transit, commuter rail, and ferry terminals. Geographic areas are categorized by tier according to transit service level:

- Tier 1: Rail stations serving regional centers
- Tier 2: Stop/station served by two or more BART lines or BART and Caltrain
- Tier 3: Stop/station served by one BART line, Caltrain, light rail, or bus rapid transit
- Tier 4: Commuter rail stations, Caltrain stations south of Tamien, or ferry terminals

The City has three Transit-Oriented Communities station areas: Milpitas BART Station (Tier 2), Great Mall Light Rail Station (Tier 3), and Alder Light Rail Station (Tier 3).

MTC has released a draft evaluation framework assessing jurisdictional performance across four Policy components: density, housing, parking, and station access. Each component is worth 25 points, totaling 100 points. Based on overall scores, jurisdictions are assigned to compliance levels:

- Level 1 (85-100 points): Fully Compliant
- Level 2 (40-84 points): Partially Compliant
- Level 3 (0-39 points): Not Compliant

Based on staff assessment using the draft evaluation framework and the City's existing policies, the City currently scores 39 points. Implementing the grant-funded projects would allow the City to score additional points and move into the "Partially Compliant" level, making the City more competitive for future MTC discretionary grant funding, including the One Bay Area Grant program that supports many of the City's transportation infrastructure projects.

As of the writing of this Agenda Report, MTC has received **38** resolutions accepting grant funds from the 40 jurisdictions awarded Transit-Oriented Communities grants (see listing below). The City of Orinda is scheduled to submit their resolution to its governing body for approval on [November 18, 2025](#). Milpitas is currently the only other jurisdiction in the group that has not yet submitted a resolution.

Metropolitan Transportation Commission Transit-Oriented Communities Grant Awards by Jurisdiction

Jurisdiction	Have they signed resolution?
Alameda County Community Development Agency	Yes
Antioch	Yes
Belmont	Yes
Berkeley	Yes
Castro Valley	Yes
Colma	Yes

Concord	Yes
Contra Costa County	Yes
Daly City	Yes
El Cerrito	Yes
Emeryville	Yes
Hayward	Yes
Healdsburg	Yes
Lafayette	Yes
Larkspur	Yes
Marin County	Yes
Menlo Park	Yes
Millbrae	Yes
Milpitas	No (scheduled for 11/18 consideration)
Morgan Hill	Yes
Novato	Yes
Oakland	Yes
Orinda	No (scheduled for 11/18 consideration)
Petaluma	Yes
Pittsburg	Yes
Pleasant Hill	Yes
Pleasanton	Yes
Redwood City	Yes
San Bruno	Yes
San José	Yes
San Leandro	Yes
San Mateo City	Yes
San Mateo County	Yes
San Rafael	Yes
Santa Clara City	Yes
Santa Rosa	Yes
Sausalito	Yes
Sonoma County	Yes
South San Francisco	Yes
Windsor	Yes

It is important to note that adopting the respective resolution does not commit the City to the full MTC Transit-Oriented Communities Policy. The resolution commits the City only to considering the policies developed through the grant-funded consultant work. The City Council retains complete authority to accept, modify, or reject any recommendations resulting from this process.

ANALYSIS:

Following a multi-year planning process, the City adopted the Milpitas Metro Specific Plan on [February 7, 2023](#). The Metro Plan updated the Transit Area Specific Plan, originally adopted in 2008, and built upon the vision for transforming older industrial areas around the Milpitas Transit Center into high-density, mixed-use neighborhoods with direct access to transit. A key strategy is establishing an employment-focused Innovation District to accommodate approximately three (3) million square feet of new office, research and development, and advanced manufacturing development.

Staff analyzed the City's existing density standards, affordable housing policies, parking management policies, and transportation access policies compared to the MTC Transit-Oriented Communities Policy requirements. Since the Metro Plan was recently updated, the Milpitas BART Station area is partially aligned with MTC Transit-Oriented Communities Policy for residential and office densities. The currently allowed residential density near the Milpitas BART Station through the Metro Specific Plan already aligns with the MTC Transit-Oriented Communities Policy requirements.

Floor Area Ratio Overlay Project (\$100,000)

Staff proposed modifying the Metro Plan to incorporate a Transit-Oriented Communities overlay permitting greater commercial and office floor area ratio in alignment with the MTC Transit-Oriented Communities Policy. Staff subsequently submitted an application and successfully received a \$100,000 Metropolitan Transportation Commission Transit-Oriented Communities grant for this initiative.

The scope of work does not propose changes to allowed land uses, does not increase residential density in the Milpitas BART Station Transit-Oriented Communities area, and does not propose implementing a Transit-Oriented Communities overlay for the areas around the Great Mall Light Rail Station or Alder Light Rail Station. This project focuses solely on increasing the allowed floor area ratio for commercial and office uses around the Milpitas BART Station.

Having this overlay in place will improve development feasibility and likelihood of commercial redevelopment, bring more jobs to Milpitas, and have a positive fiscal impact on the City by expanding the commercial tax base in the Innovation District.

Parking and Transportation Demand Management Policy Project (\$300,000)

Staff also applied for technical assistance to review the City's existing parking policies and conditions to determine an approach for achieving parking standards aligned with Transit-Oriented Communities Policy requirements within the three Transit-Oriented Communities areas. The purpose of MTC Transit-Oriented Communities Policy parking management requirements is to reduce automobile trips and prioritize limited land area near transit for shared transportation modes and active transportation.

The proposed work coordinates with the City's Comprehensive Zoning Ordinance update, which was adopted by the City Council on [September 2, 2025](#), and the Gateway-Main Street Specific Plan which was adopted on [October 28, 2025](#). While both long-range efforts will include parking reductions, they do not fully comply with the Transit-Oriented Communities policy requirements. This project will develop Transit-Oriented Communities area-specific parking standards. In lieu of reducing parking requirements, the City can implement transportation demand management strategies to reduce parking demand and impacts from future developments within the three Transit-Oriented Communities station areas.

Strategic Benefits and Considerations of Accepting the MTC Grant Funding

Accepting the MTC grant funding provides several strategic benefits to the City. The floor area ratio overlay will enhance development feasibility in the Innovation District, supporting the City's economic development strategy and expanding the commercial tax base. Moving from "Not Compliant" (39 points) to "Partially Compliant" status improves the City's competitive position for future MTC discretionary funding, particularly One Bay Area Grant program funding that supports local transportation infrastructure projects. The projects are fully grant-funded with no required City match, and both projects align with and support existing City planning efforts.

The City Council retains complete authority to accept, modify, or reject any policies developed through this process. The recommended resolution commits only to considering the consultant recommendations, not to adopting them. The project schedule anticipates final consideration of the Transit-Oriented Communities overlay and parking management policies in Summer/Fall 2027, allowing sufficient time to integrate findings from concurrent planning processes and ensure consistency across all policy documents.

POLICY ALTERNATIVE(S):

Alternative 1: Decline the grant funding and do not pursue Transit-Oriented Communities Policy alignment projects.

Pros: Avoids any perceived commitment to regional policy alignment and maintains complete independence from Metropolitan Transportation Commission policy frameworks.

Cons: Forgoes \$400,000 in grant funding for projects supporting existing City priorities; maintains "Not Compliant" status that may disadvantage the City in future Metropolitan Transportation Commission discretionary grant competitions; creates potential perception issues as the only Santa Clara County jurisdiction declining participation; delays Innovation District implementation support.

Reason for Not Recommending: The grant-funded projects support existing City planning priorities (Metro Plan Innovation District, comprehensive zoning ordinance update, Gateway-Main Street Specific Plan update) and provide \$400,000 in funding at no additional cost to the City. The recommended resolution language clearly preserves City Council authority over final policy adoption. Declining the grants would forego these benefits without meaningful preservation of local control, as the City Council retains full decision-making authority even with grant acceptance.

PROJECT SCHEDULE/KEY MILESTONES

- December 2025: Kick-off meeting with Metropolitan Transportation Commission staff
- January 2026: Kick-off meeting with Metropolitan Transportation Commission-selected consultant
- Summer/Fall 2027: City Council consideration of parking management policy and commercial floor area ratio zoning overlay for potential adoption

FISCAL IMPACT:

The awarded grant funding from Metropolitan Transportation Commission through the Transit-Oriented Communities Policy Grant Program will fully cover the cost to prepare the Transit-Oriented Communities overlay and parking and transportation demand management policy. One grant provides \$100,000 for the floor area ratio overlay project while the other grant provides \$300,000 for the parking and transportation demand management policy project, totaling \$400,000. No City match or additional City funding is required.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

Neither the submission of a grant application nor receiving a grant award constitutes a project, in accordance with Section 15378 of the California Environmental Quality Act Guidelines, as such actions are fiscal activities of City government that do not involve any commitment to a specific project that may result in a potentially significant physical impact on the environment.

ATTACHMENT(S):

- (a) Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS
COMMITTING TO ACCEPT FUNDING FROM THE METROPOLITAN
TRANSPORTATION COMMISSION (MTC) TO PREPARE A TRANSIT
ORIENTED COMMUNITIES (TOC) OVERLAY TO INCREASE ALLOWABLE
FAR AND A PARKING AND TRANSPORTATION DEMAND MANAGEMENT
POLICY FOR THE CITY'S TOC AREAS**

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, the Metropolitan Transportation Commission (MTC) is the designated recipient for state and federal funding from the Federal Transit Administration (FTA) and Federal Highway Administration (FHWA) for transit operations, active transportation, climate initiatives, and other transportation priorities for the nine-county San Francisco Bay Area region; and

WHEREAS, on May 18, 2021 the Mayor and City Council for the City of Milpitas adopted a Legislative Advocacy Policy to establish clear guidelines for advancing City goals and positions through legislative review and advocacy at the regional, state and federal levels of government; and

WHEREAS, the City’s adopted Legislative Advocacy Policy contains nine (9) Legislative Guiding Principles; and

WHEREAS, the City’s Legislative Guiding Principle Number 1 reads as follows: **Protect Local Control:** The City values its ability and authority to exercise local control, enable excellent public services and protect and enhance the quality of life for Milpitas residents and businesses. The City supports efforts to streamline regulations that benefit the administration of the City and opposes efforts that erode the City’s authority to control its own affairs; and

WHEREAS, the MTC adopted [Resolution 4530](#), the [TOC Policy](#); and

WHEREAS, in 2023 MTC identified the Milpitas Bart Station as Tier 2 TOC, Great Mall Light Rail Station and Alder Light Rail Station as Tier 3 TOC in the City of Milpitas; and

WHEREAS, MTC conditions the allocation of regional discretionary funding for fixed-guideway transit extension projects on compliance with the TOC Policy; and

WHEREAS, MTC anticipates that future regional funding, such as the One Bay Area Grant (OBAG) program, will consider compliance with the TOC Policy as part of the prioritization and project selection process starting with OBAG 4, expected in 2026; and

WHEREAS, the TOC Policy establishes different compliance expectations for existing and planned station areas based on the level of transit service; and

WHEREAS, the TOC Policy identifies four TOC Policy areas (density, housing affordability, parking, and access/circulation); and

WHEREAS, the City of Milpitas' Metro Plan, Housing Element, and zoning ordinance and map already identify where new housing development is allowed; and

WHEREAS, the City of Milpitas' zoning ordinance and map already establish zoning districts with allowed land uses for Milpitas' TOC areas, which include sites zoned only for nonresidential development; and

WHEREAS, on September 30, 2024 the MTC announced a Call for Projects for Transit Oriented Communities (TOC) Planning and Implementation Grants, and informed local jurisdictions of a November 22, 2024 deadline for submittals of Applications, as well as grant application guidance and requirements including compliance with the Transit Oriented Communities Policy; and

WHEREAS, the City of Milpitas submitted grant applications to MTC for \$100,000 to prepare a TOC-Overlay in the BART Station area; and \$300,000 for parking and transportation demand management policy development in the BART Station area, Great Mall Light Rail Station area, and Alder Light Rail Station area; in response to the MTC's Call for TOC Planning and Implementation Projects; and

WHEREAS, the City of Milpitas accepts a grant award from MTC for \$100,000 to prepare a TOC-Overlay in the BART Station area; and \$300,000 for parking and transportation demand management policy development in the BART Station area, Great Mall Light Rail Station area, and Alder Light Rail Station area; in response to the MTC's Call for TOC Planning and Implementation Projects; and

WHEREAS, the TOC-Overlay would only apply to the BART Station area and not the Great Mall Light Rail Station area and Alder Light Rail Station area, and such, the scope of work does not include any increases in commercial or residential densities in the Great Mall Light Rail Station area and Alder Light Rail Station area; and

WHEREAS, the City of Milpitas commits to completing the work to develop the associated TOC-Overlay in the BART Station area and parking and transportation demand management policy development in the BART Station area, Great Mall Light Rail Station area, and Alder Light Rail Station area work scopes following MTC's grant awards by applying for these funds; and

WHEREAS, the City of Milpitas intends to bring forward for the City Council's consideration for adoption the relevant plans, policies or zoning updates emerging from the work completed through the TOC-Overlay in the BART Station Area grant to comply with the TOC Policy's density requirements; and

WHEREAS, the City of Milpitas intends to bring forward for the City Council's consideration for adoption the relevant plans, policies or zoning updates emerging from the work completed through the parking and transportation demand management policy development grant to comply with the TOC Policy's parking requirements; and

WHEREAS, the agreement with MTC to accept the current \$400,000 grant does not require the City to adopt the policies nor does the agreement require the City to adopt any statements of compliance or support for the overall MTC TOC Policy; and

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

SECTION 1. RECITALS

The City Council has duly considered the full record before it, which may include but is not limited to such things as 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. CITY COUNCIL APPROVAL

The City Council hereby expresses its support for the City's commitment to preparing a TOC-Overlay to increase allowable FAR and a parking and transportation demand management policy for the City's TOC areas. These proposals will be brought forward for the City Council for review.

PASSED AND ADOPTED this _____ day of _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Christopher Creech, Acting City Attorney



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Receive Presentation on Considering an Increase to the Milpitas Assistance Program Water Utilities Bill Subsidy Amount (Staff Contact: Renée Lorentzen, Director of Recreation and Community Services, 408-586-3409)
Category:	Community Services and Sustainable Infrastructure
Meeting Date:	11/18/2025
Recommendation:	Receive presentation on Increasing the Milpitas Assistance MAP Water Utilities Bill Subsidy and provide feedback to staff.

BACKGROUND:

On [August 20, 2019](#), Milpitas City Council adopted a resolution establishing the Milpitas Assistance Program (MAP), replacing and enhancing a previous assistance program Recreation Assistance Program. MAP is a City-run assistance program designed to provide eligible Milpitas residents with discounts and fee waivers for certain municipal services. Services covered include:

- Discounts on water/sewer utility bills for residences served by the City.
- Discounts on recreation and community services programs run by the City.
- Income qualification for the Residential Building Incentive Program (waiver or reduction of residential permit fees for things like water heater, furnace, air conditioning (A/C) replacement), or electrical panel change-outs.

To qualify for MAP, applicants must:

- Currently reside in Milpitas and provide two (2) proofs of residency
- Provide documentation identifying household income and/or participation in qualifying assistance programs (i.e. PGE Cares, WIC, LIHEAP, CalFresh)

MAP uses income tiers (Tier 1 = Very Low Income, Tier 2 = Low Income, Tier 3 = Temporary Hardship) based on U.S. Department of Housing and Urban Development (HUD) Guidelines, to determine the level of subsidy on eligible services. Milpitas residents are qualified and assigned subsidy tiers, as follows:

- Milpitas residents who participate in qualifying assistance programs or youth in the Foster Care or Juvenile Dependency System qualify for MAP Tier 1 (Very Low Income).
- Milpitas residents who are at or below the latest HUD Income Limits for Santa Clara County, fall into MAP Tier 1 (Very Low Income) or Tier 2 (Low Income)
- Milpitas residents who are experiencing temporary financial hardship due to job loss, loss of a primary wage earner, serious illness or a government shutdown, with an income that has been reduced to Tier 2 level or lower, qualify for MAP Tier 3 (Temporary).

Milpitas Assistance Program (MAP) Benefits by Tier are:

Benefit Category	Tier 1 (Very Low Income)	Tier 2 (Low Income)	Tier 3 (Temporary Hardship)
Water Utility Bills	\$22.52 flat-rate discount per bi-monthly bill	\$22.52 flat-rate discount per bi-monthly bill	No discount (payment plan available)
Recreation Programs	75% discount (max \$1,000 per household)	50% discount (max \$750 per household)	75% discount (max \$750 per household)
Recreation Payment Plan	No	Available	Available
Residential Permit Fees*	100% waiver	75% discount (90% for seniors 50+)	75% discount
Water Utility Payment Plan	No	No	Available
Late Fee Waiver	No	No	Yes, during eligibility period
Eligibility Period	One year from approval	One year from approval	Six months from approval
Renewal Frequency	Annual reapplication required	Annual reapplication required	Up to twice per year

*Permit fees apply to water heater, furnace, or air conditioner replacements or electrical panel change-outs.

MAP discounts will automatically cease if the customer does not reapply.

During the Fiscal Year 2025-2026 budget process, the City Council requested that staff prepare information on options for increasing the water utility bill subsidy amount.

ANALYSIS:

On average, approximately 400 households in Milpitas are continuously enrolled in MAP and receiving subsidies on city services. Based on a three-year enrollment average, 205 households receive MAP Utility Bill Subsidies annually. There are currently 236 households receiving water utility bill subsidies.

MAP Water Utility Bills

Current MAP participants receive a flat rate of \$22.52 subsidy on their bi-monthly bills. The below table provides a summary of the average bill for MAP participants before and after the subsidy.

	Bi-Monthly	Yearly
Bill Amount (average before subsidy)	\$288.27	\$1,729.62
Current Subsidy	\$22.52	\$135.12
Bill Amount (average after subsidy)	\$265.77	\$1,594.62

The current average bill of participating MAP customers is reduced by 7.8% with the subsidy.

MAP Water Utility Bill Customer Demographics

The table below shows the average Tier allocation for MAP Water Bill customers in fiscal year 2024–25. Point-in-time data collected in May 2025 indicates that 200 residents were receiving water utility subsidies.

Household Age Category	% of overall MAP Water Accounts	# of total Households	# of Tier 1 Households	# of Tier 2 Households	# of Tier 3 Households
Under 65	42.5%	85	74	11	NA
65 – 74	27.5%	55	52	3	NA
75+	30.0%	60	54	6	NA

Fifty-seven percent of MAP households include at least one resident aged 65 or older. 92% of those households are designated as Tier 1 - Very Low-Income Households.

MAP Water Utility Bill Subsidy Funding

MAP water utility bill subsidies are funded through collected water utility bill late fees (Fund 109). The Fund 109 balance at the close of FY 2024-25 was \$909,751. Based on past data, \$321,500 is projected to be collected in this and future fiscal years.

Current expenditures to Fund 109 are the MAP water utility subsidy and a Mobile Home Park Sewer Rate Subsidy, which was scheduled to sunset in FY 2026-27. The full subsidy amount for the Mobile Home Park Sewer Rate Subsidy program was provided in FY 2024-25 and there is no planned distribution for FY 2026-27. It is estimated that Fund 109 will only subsidize water utility bills for MAP in the amount of \$31,888.

At this time, staff is assuming that the mobile home subsidy will not continue and mobile homeowners will be under the same program as the rest of the City, enabling the funds earmarked for this subsidy to be used for need-based water utility bill based subsidy funding, and the administrative costs to support the program.

Options for MAP Subsidy Increases

An increase to the MAP water utilities subsidy limit could be considered to enhance support to low-income households in Milpitas. To illustrate the budgetary impacts of subsidy increases, the below tables represent increases to both the subsidy rate, as well as participation in the program. Calculations are based on the 3-year average participation of 205 households. Subsidy increase levels highlighted represent subsidy levels approaching 50% of the average MAP participant bill amount.

Table 1 demonstrates increases to the current subsidy rate of \$22.52 per bill with no increase to annual household participation.

Table 2 demonstrates increases to the current subsidy rate and a 10% increase to the annual household participation.

Table 3 demonstrates increases to the current subsidy rate to the current annual household participation (236 households).

	Subsidy Increase %	Bi monthly Subsidy	# Households Served	Annual Cost (Bimonthly Billing)	Subsidy Increase vs. Current Avg.	22.52
Table 1						
Avg. Participation	0% (Current)	22.52	205	\$ 27,699.60	-	
	100%	45.04	205	\$ 55,399.20	\$ 27,699.60	
	200%	67.56	205	\$ 83,098.80	\$ 55,399.20	
	300%	90.08	205	\$ 110,798.40	\$ 83,098.40	
	400%	112.60	205	\$ 138,498.00	\$ 110,798.40	
	500%	135.12	205	\$ 166,197.60	\$ 138,498.00	

Table 2						
10% Participation Increase	0% (Current)	22.52	225	\$ 30,402.00	\$ 2,702.40	
	100%	45.04	225	\$ 60,804.00	\$ 33,104.40	
	200%	67.56	225	\$ 91,206.00	\$ 63,506.40	
	300%	90.08	225	\$ 121,608.00	\$ 93,908.40	
	400%	112.60	225	\$ 152,010.00	\$ 124,310.40	
	500%	135.12	225	\$ 182,412.00	\$ 154,712.40	

Table 3						
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FY 2025-26 Participation	0% (Current)	22.52	236	\$ 31,888.32	\$ 4,188.72
	100%	45.04	236	\$ 63,776.64	\$ 36,077.04
	200%	67.56	236	\$ 95,664.96	\$ 67,965.36
	300%	90.08	236	\$ 127,553.28	\$ 99,853.68
	400%	112.60	236	\$ 159,441.60	\$ 131,742.00
	500%	135.12	236	\$ 191,329.92	\$ 163,630.32

The proposed subsidy increases are within Fund 109's projected annual revenues, although participation levels remain difficult to predict. A tiered approach to subsidy increases will protect the Fund's long-term sustainability while allowing the City flexibility to address changing priorities and support the City's Fiscal Strategy. The total cost of the water utility bill subsidy includes the administrative expenses required to operate the program, which are currently supported by the General Fund. Under the City's Fiscal Strategy, staff time associated with administering the program will be allocated to Fund 109. Structuring the program so that the total subsidy cost remains within the estimated annual revenue of \$321,500 will enable Fund 109 to also offset water utility administrative and staffing costs currently charged to the General Fund and to provide capacity for future capital improvements or other water utility initiatives.

The subsidy structure may also be revised from the existing flat-rate model to a tiered or incremental model, aligning the level of assistance with the household's MAP income-tier designation. Under a policy scenario in which the maximum water utility bill subsidy is increased to \$90 per billing cycle, the following structure could be implemented:

- Tier 1 – Very Low Income: Eligible for up to 75% of the bill amount, not to exceed \$90 per billing cycle (\$540 annually)
- Tier 2 – Low Income: Eligible for up to 50% of the bill amount, not to exceed \$67 per billing cycle (\$402 annually)
- Tier 3 – Temporary Hardship: Eligible for up to 25% of the bill amount, not to exceed \$45 per billing cycle (\$270 annually)

This approach would provide more effective subsidies for those households with greater need, while maintaining fiscal responsibility within the program. If the City Council would like to pursue this option, staff should receive direction to bring back a revised subsidy structure for the MAP water utilities subsidy, staff will be able to more accurately cost the program to resident needs and participation levels.

At the City Council meeting, staff will seek feedback on the various alternatives and return to the City Council at a later date for formal implementation of a potentially revised program. The City Council will be asked to provide feedback on the following:

- Would the City Council like staff to return with a formal update to the Milpitas Assistance Program to increase the Water Utility Bill subsidy amount for final Council approval? If so, what subsidy amount(s) would the City council like to consider?
- Which subsidy type would City Council like staff to include in the program update:
 - 1) Flat Rate Subsidy
 - 2) Tier Level (sliding scale) Subsidy
- Would the City Council like for staff to return at to a future City Council meeting to discuss a new mobile home park sewer rate subsidy?
- Would the City Council like for staff to propose a balanced approach to subsidy increases that allows for a portion of this fund to be used for increased subsidies and a portion to be used for other purposes such as supporting administrative costs?

POLICY CONSIDERATIONS(S):

Alternative 1 – Maintain the Existing Flat Rate Subsidy amount

Pros: No additional fiscal impact; maintains fund balance flexibility.

Cons: Does not enhance financial assistance for current program participants.

Reason not recommended: Does not enhance financial assistance for residents.

Alternative 2 – Implement a Moderate Increase to the Flat Rate Subsidy amount

Pros: Provides greater relief to participants; maintains general fund sustainability.

Cons: Reduces available capacity for other future program uses if participation increases significantly.

Alternative 3 – Implement a Moderate Increase through a Tiered or Incremental Subsidy amount, similar to other MAP service subsidies

Pros: Promotes equity; allows controlled fiscal impact.

Cons: Requires administrative updates to program guidelines and additional monitoring.

FISCAL IMPACT:

There is no fiscal impact as part of this report. The annual fiscal impact of increasing the MAP water bill subsidy will depend on the level of the increase and any additional program participation due to the increase as part of a future Council action item.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The action has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment and is not a project pursuant to Pub. Resources Code, § 21065 and Cal. Code Regs., tit. 14, § 15378. Even if a project, the action is exempt from further CEQA review pursuant to Cal. Code Regs., tit. 14, § 15061(b)(3) as it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The action is at most a fiscal or administrative activity of the City government or an action to create a City government funding mechanism that does not involve any commitment to any specific project which may result directly or indirectly in a potentially significant physical impact on the environment and is not a project pursuant to Cal. Code of Regs., tit. 14, § 15378.

ATTACHMENT(S):

None