

RESOLUTION NO. 15-036

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS RECOMMENDING TO THE CITY COUNCIL APPROVAL OF MAJOR VESTING TENTATIVE MAP NO. MT15-0004, CONDITIONAL USE PERMIT NO. UP15-0013, AND SITE DEVELOPMENT PERMIT NO. SD15-0005 FOR THE CONSTRUCTION OF 73 TOWNHOME UNITS AND ASSOCIATED SITE IMPROVEMENTS ON 2.92 ACRES LOCATED AT 600 AMALFI LOOP (AMALFI II – SIENA)

WHEREAS, on June 15, 2015, an application was submitted by Jim Sullivan of SCS Development Company, a California corporation, 404 Saratoga Avenue, Suite 100, Santa Clara, CA 95050, to construct 73 residential units and associated site improvements on 2.92 acres located at 600 Amalfi Loop (the "Project"). The property is located within the Multiple Family Residential/Transit Oriented Development (R3/TOD) Zoning District (APN: 086-32-051); and

WHEREAS, on June 3, 2008, the City Council of the City of Milpitas approved the Transit Area Specific Plan to guide development in the Transit Area of the City near the future Milpitas BART Station; and

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

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project is covered under the program of activities identified in the Transit Area Specific Plan EIR, SCH#2006032091, certified by the City Council on June 3, 2008 based on the CEQA finding included in this Resolution; and

WHEREAS, on November 18, 2015, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff; the applicant, and other interested parties.

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

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

Section 2: The Planning Division conducted an environmental assessment of the Project in accordance with the California Environmental Quality Act of 1970 (CEQA), as amended, and state and local guidelines implementing CEQA. This Project is included within the area evaluated as part of the Transit Area Specific Plan Environmental Impact Report (EIR), SCH#2006032091, which was certified by the City Council June 3, 2008. The Project is covered under the scope of activities approved with that EIR. A finding is made below that this Project is within the program of the EIR and no further environmental review is required.

CEQA Finding

The proposed Project is covered under the scope of activities approved under the Transit Area Specific Plan (EIR), SCH#2006032091, which was certified by the Milpitas City Council on June 3, 2008. The EIR included a program of activities including construction of up to 7,109 residential units within the Transit Area Specific Plan (TASP) area. The proposed 73 residential units fall within this scope of development activity since the TASP area has not reached its full build out. The TASP area has been approved with approximately one-quarter of the amount of development assumed in the EIR development threshold. Further, the Project applicant has submitted an air quality assessment, greenhouse gas emissions analysis, a Phase I and II Environmental Site Assessment, a noise and vibration assessment and a traffic operations analysis to further show consistency with the TASP. Copies of these documents are on file with the Planning Division and fully incorporated herein by reference. These aforementioned studies do not indicate any Project impacts other than those already analyzed in the EIR. Project design features required of projects covered under the EIR are included as Conditions of Approval. Based on the foregoing, the Planning Commission recommends the City Council finds that the proposed Project will not have additional environmental impacts beyond those identified in the EIR, no additional environmental review is required, and no new or additional mitigation measures are required.

Section 3: Major Tentative Map (Section XI-1-20.01) - The Planning Commission makes the following findings based on the evidence in the administrative record in support of Major Vesting Tentative Map No. MT15-0004:

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

The project site has a General Plan land use designation of Multi-Family High Density. The intent of this designation is to provide high-density housing within the Piper/Montague Subdistrict at a minimum density range of 21 units per acre, and a maximum density of 40 units per acre.

The Project is consistent with this finding because the proposed Project meets the intent of the designation by providing a residential project within the district with 25 dwelling units per acre. Furthermore, the project is consistent with the following General Plan Guiding Principle and Implementing Policies:

- *2.a 1-31 Develop the Transit area, as shown on the Transit Area Plan, as attractive, high density, urban neighborhoods with a mix of land uses around the light rail stations and the future BART station. Create pedestrian connections so*

that residents, visitors, and workers will walk, bike, and take transit. Design streets and public spaces to create a lively and attractive street character, and a distinctive identity for each sub-district.

The proposed Project is consistent with this policy because it includes attractive three-story buildings with 73 residential units in proximity to the future Milpitas BART Station. The Project also includes significant streetscape improvements enabling and encouraging pedestrian and bicycle movement throughout the Piper/Montague Subdistrict with connections to the BART and Light Rail transportation hubs. The project is also designed to provide an active interface with public spaces by facing townhome units toward the public park.

- *2.a 1-32 Require development in the Transit area to conform to the adopted design guidelines/requirements contained in the Transit Area Plan.*

The proposed Project is consistent with this policy because it has been designed per the adopted design guidelines/requirements contained in the Transit Area Plan. The project meets all guidelines and requirements of the Transit Area Plan including building setbacks and height, floor area ratio and density, parking, open space and landscaping. It also meets the requirements for access and circulation.

Section 4: Site Development Permit (Section XI-10-57-03(F)(1)) - The Planning Commission makes the following findings based on the evidence in the public record in support of Site Development Permit No. SD15-0005:

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 Project is consistent with this finding because the site is designed as nine separate three-story buildings, consistent with other projects within the Subdistrict. The design of the buildings, including the mass, scale and height of the structures, is typical of transit-oriented development and includes additional landscaping along the streets. The buildings complement other approved and pending projects in the areas, which all contribute to a vibrant urban transit district consistent with the vision of the Transit Area Specific Plan.

2. *The project is consistent with the Milpitas Zoning Ordinance.*

The Project site is zoned R-3 (Multiple Family High Density) with a Transit Oriented Development (TOD) Overlay. The proposed residential uses are permitted in the zoning district. The Project conforms to the zoning district and meets the intent for this type of project envisioned in this area.

The Project also conforms to the TOD Overlay by providing density of 25 units per acre, which is within the 21-40 units/acre range envisioned by the TOD Overlay when combined with the R-3 Zoning District. The three-story height of the buildings is also within the standards of the TOD Overlay, where a height up to 75 feet is allowed.

The project conforms to the development standards required in the R-3 and TOD Overlay Districts. The table below demonstrates how the Project is consistent with these development standards.

Table 1:
Summary of Development Standards

R-3-TOD	Standard	Proposed	Complies?
<u>Setbacks (Minimum)</u>			
Front	8'-15'	9' average	Yes
Street Side	8'-15'	11' to 40' (varies)	Yes
<u>Density (Units/Acre)</u>	21-40 du/ac	25 du/ac	Yes
<u>Building Height (Maximum)</u>	75'	41'±	Yes

The Project requires a total of 139 parking spaces based on the table below:

Table 2:
Summary of Parking Standards

Use	Parking Ratio	Amount Required
Three Bedroom Units	73 units x 1.6 spaces/unit	116 spaces
Guest Parking	20% of Total	23 spaces
Total Required		139
Total Provided		164

3. *The project is consistent with the Milpitas General Plan* in that the project, as proposed and conditioned, conforms to the street layout, street section, density and land use envisioned by the Plan.

4. *The project is consistent with the Transit Area Specific Plan* in that the project, as proposed and conditioned, conforms to the street layout, street section, density and land use envisioned by the Piper-Montague subdistrict of the Plan.

Section 5: With respect to the Conditional Use Permit, 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 in that the applicable standards for development of tandem parking spaces will be followed, and the use of tandem parking allows the development of this project type in accordance with General Plan and Specific Plan density ranges.

Section 6: The Planning Commission of the City of Milpitas hereby adopts Resolution No. 15-036 recommending to the City Council approval of Major Vesting

Tentative Map No. MT15-0004, Site Development Permit No. SD15-0005 and Conditional Use Permit No. UP15-0013, based on the above Findings and subject to the Conditions of Approval attached hereto as Exhibit 1 and incorporated herein.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on _____.

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 _____ and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Sudhir Mandal, Chair				
Rajeev Madnawat				
Lawrence Ciardella				
Gurdev Sandhu				
Hon Lien				
Ray Maglalang				
Demetress Morris				
Zeya Mohsin (alternate)				

EXHIBIT 1

CONDITIONS OF APPROVAL

**Major Vesting Tentative Tract Map No. MT15-0004, Site Development Permit
No. SD15-0005, Conditional Use Permit No. UP15-0013
Amalfi II – Siena Project, 600 Amalfi Loop (APN: 86-32-051)**

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. Major Vesting Tentative Map No. MT15-0004, Conditional Use Permit No. UP15-0013, and Site Development Permit No. SD15-0005 (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 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.

5. 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)**
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.
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.
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 Permittee is operating the Project under the permits and approvals in this Resolution.
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. **(CA/P)**
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, 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. MT15-0004, and the balance of the Permit shall be unaffected by Government Code Section 66474.9.

12. Permittee shall provide certificate of insurance and name City as an additional insured in its insurance policies.
13. Revocation, Suspension, Modification. This Permit may be suspended, revoked or modified in accordance with Section XI-10-63.06 of the Milpitas Zoning 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. 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 approval by the Fire Department. **(F)**
16. Permittee shall develop the approved Project in conformance with the approved 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)**

Site Development Permit Conditions

17. 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. **(P)**
18. Landscape. No gasoline fueled leaf blowers, string trimmers or hedge trimmers are permitted to be used for maintenance of landscaping. Gasoline lawn mowers are discouraged for use for maintenance of any natural turf areas. **(P)**

19. Landscape. Prior to issuance of any building permit, Permittee shall demonstrate complete consistency with the Transit Area Specific Plan with respect to landscaping features and streetscape furniture elements, including lighting, benches, trash receptacles and bike racks. **(P)**
20. Landscape. Prior to issuance of any building permit, a detailed landscape plan shall be submitted and approved by the Planning Director or designee that includes the following:
 - a. Locations and screening of all transformers, fire service connections and utility devices including backflow preventers.
 - b. Location and type of trees, shrubs and ground cover, including sizes and quantities. The legend shall also show tree canopy diameter at planting, at five years and at 10 years.
 - c. Plan details for all fence and wall structures. These shall be compatible in style and material with the proposed buildings.
 - d. Details of all exterior Project lighting with details of fixture types and design. A photometric plan shall also be included. Illumination of the site shall not exceed IESNA standards for the type of use proposed. **(P)**
21. Bicycle Racks. A minimum of seven (7) short-term bicycle parking spaces consistent with the TASP Streetscape Elements shall be installed within the Project. **(P)**
21. Ground Equipment and Device Screening. Prior to issuance of any building permit, Permittee shall demonstrate that all backflow preventers, meter boxes, pedestals, and similar equipment and improvements are screened appropriately to the satisfaction of the Planning Division. Backflow preventers are to be painted black. **(P)**
22. Architecture. Prior to issuance of any building permit, Permittee shall demonstrate that the design of the residential units are distinct and include a change of material and color, which should include materials, such as wood, stone and decorative tile, and architectural details appropriate to the style. **(P)**
23. Garages. Prior to issuance of any building permit, Permittee shall demonstrate that the required minimum interior dimensions have been achieved; such minimum area shall be used for the parking of automobiles only. The required bicycle parking area, HVAC and water-heating equipment, solid waste containers, and accessory storage shall be accommodated outside of the required minimum garage area. **(P)**
24. Trees. In conformance with the Milpitas Municipal Code, all trees removed from the site that measure 37 inches or greater in circumference (12 inches in diameter) at 48 inches above the ground surface will be replaced at a 3:1 ratio within the Project site. The species and size of the replacement trees shall be determined by City staff. **(P)**

25. Street Lights. Street lighting shall be provided along all street frontages consistent with current Transit Area Specific Plan standards subject to the review and approval of the Planning Division. Pedestrian scale lights shall be installed along all public and private street frontages. The Permittee shall submit a photometric plan to determine appropriate light levels with submittal of on-site improvement plans.

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)**

Noise (TASP Policy 5.10)

27. Noise. Prior to issuance of any building permit, Permittee shall ensure that the Project will meet the required 45 dBA maximum interior noise standard. All noise insulation treatments identified during review of the final site plans shall be incorporated into the proposed Project to the extent required by California Building Code. **(B/P)**
28. Noise. Prior to issuance of any building permit, Permittee shall demonstrate that all residential units will require mechanical ventilation to allow the windows to remain closed at the residents' option as the interior noise standards would not be met with open windows. Typically, such a system must meet the following airflow provisions:
- i. If interior noise levels are met by requiring that windows remain unable to open or closed, the design for the structure must also specify a ventilation system to provide a habitable interior environment. The ventilation system must not compromise the dwelling unit noise reduction.

Air Quality (TASP Policy 5.16)

29. Dust Control Emissions – During the construction of the Project, Permittee shall comply with all of the following:
- i. All exposed surfaces (e.g. parking areas, staging areas, soil piles, graded areas and unpaved roads) shall be watered two times per day.
 - ii. All haul trucks transporting soil, sand or other loose material off the site shall be covered.

- iii. 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.
 - iv. All vehicle speeds on unpaved roads shall be limited to 15 MPH.
 - v. 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.
 - vi. 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.
 - vii. 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.
 - viii. 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. **(P)**
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, using paint that contains 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)**

Cultural Resources (TASP Policies 5.34 and 5.35)

31. Any future ground disturbing activities, including grading, in the Transit Area shall be monitored by a qualified archaeologist to ensure that the accidental discovery of significant archaeological materials and/or human remains is handled according to CEQA Guidelines §15064.5 regarding discovery of archeological sites and burial sites, and Guidelines §15126.4(b) identifying mitigation measures for impacts on historic and cultural resources (Reference CEQA §§21083.2, 2.1084.1.). In the event that buried cultural remains are encountered, construction will be temporarily halted until a mitigation plan can be developed. In the event that human remains are encountered, the developer shall halt work in the immediate area and contact the Santa Clara County coroner and the City of Milpitas. The coroner will then contact the Native American Heritage Commission (NAHC), which will in turn contact the appropriate Most Likely Descendent (MLD). The MLD will then have the opportunity to make a recommendation for the respectful treatment of the Native American remains and related burial goods. **(P)**

32. All grading plans for development projects involving ground displacement shall include a requirement for monitoring by a qualified paleontologist to review underground materials recovered. In the event fossils are encountered, construction shall be temporarily halted. The City's Planning Division shall be notified immediately, a qualified paleontologist shall evaluate the fossils, and steps needed to photo-document or to recover the fossils shall be taken. If fossils are found during construction activities, grading in the vicinity shall be temporarily suspended while the fossils are evaluated for scientific significance and fossil recovery, if warranted. (P)

Major Vesting Tentative Tract Map Conditions

33. Flood Study – Prior to final map approval, Permittee shall 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 SFHA (Special Flood Hazard Area) and to flood carrying capacity of the area. The study should include cumulative effects of existing and proposed development (Integral, Lyon District 1, Lyon District, Montague Residential Project, DR Horton at McCandless, Montague/Piper TASP subdistrict, and the BART Project) demonstrating the combined effects will not increase the water surface elevation of the Base Flood (BFE) more than one-tenth of a foot at any point. Additionally, for the AO Flood Zone, the flood study is required in order to establish the BFE and development requirements. 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. (E)
34. Drainage Study – Prior to final map approval, Permittee shall submit a final grading plan and hydrologic/hydraulic study prepared by a registered Civil Engineer. The drainage study shall analyze the existing and ultimate conditions and facilities. The study shall be reviewed and approved by the City Engineer and Permittee shall satisfy the conclusions and recommendations of the approved drainage study. (E)
35. Construction Storm Water Quality – Permittee shall comply with the requirements of the National Pollution Elimination Discharge System (NPDES) permit as administered by the California State Water Resources Control Board (State Board) and the San Francisco Bay Regional Water Quality Control Board (Regional Board). Prior to the issuance of any building, demolition, or grading permit, Permittee shall submit an Erosion and Sediment Control Plan (Erosion Control Plan) as a part of the improvement plan submittal. The erosion control plan shall show all construction best management practices (BMPs) and shall comply with the requirements of the NPDES, the Municipal Regional Permit Order R2-2009-0074 (MRP), and the City's stormwater and urban runoff pollution control standards and guidelines (City's Clean Water Program). Permittee shall ensure that all contractors and subcontractors install and regularly maintain all construction BMPs as required by the approved erosion control plan, the Milpitas Municipal Code (MMC), and the City's Clean Water Program. (E)

36. Construction General Permit Compliance – Permittee shall comply with the requirements of the Construction General Permit as administered by the State and Regional Boards. Permittee shall obtain a Construction Activities Storm Water General Permit (State Permit) from the State Board. Prior to any construction activities and prior to the issuance of any building, demolition, or grading permit, Permittee shall submit:
- a. a complete Storm Water Pollution Prevention Plan (SWPPP) with the project Waste Discharge Identification Number (WDID) displayed on the cover,
 - b. a copy of the approved Notice of Intent (NOI) from the State Board, and
 - c. an erosion control plan and a site monitoring plan meeting the satisfaction of the City Engineer.

Permittee shall ensure that all contractors and sub-contractors install and regularly maintain all storm water quality control measures as required by the approved SWPPP, the approved erosion control plan, the MMC, and the City's Clean Water Program.

Prior to final occupancy, Permittee shall submit an approved Notice of Termination (NOT). For phased occupancy, Permittee shall submit a Change of Information (COI) or an NOT approved by the State Board that removes each phase of occupancy from the boundaries of the State Permit prior to the issuance of occupancy for that phase. Contact the State and Regional Boards for questions regarding your specific project. For general information, contact the City of Milpitas Engineering Division at (408) 586-3325. (E)

37. Post-Construction Storm Water Quality – Permittee shall comply with the requirements of the MRP for post-construction storm water treatment (provision C.3 regarding new development and redevelopment requirements for regulated projects) and the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharge Associated with Construction and Land Disturbance Activities Order No. 2009-0009 NPDES No. CAS000002 or as required by the Regional Board at the time Permittee submits the NOI for the project for pre-construction storm water treatment requirements. Permittee shall also comply with the City's Clean Water Program. Permittee shall submit a final, certified storm water quality control plan (SWCP), a SWCP sheet, and a post-construction BMP operations and maintenance plan (O&M) in accordance with the City's Clean Water Program and meeting the satisfaction of the City Engineer. (E)
38. Final Storm Water Quality Control Plan (SWCP) – Prior to final map approval, Permittee shall submit a final SWCP that incorporates post-construction BMPs for the treatment of storm water runoff from all parcels. The Storm Water Control Plan shall incorporate source control, site design and stormwater treatment requirements consistent with MRP requirements with BMPs such as the use of bio-treatment areas into the landscape design elements and the use of permeable BMPs compliant with the current California Stormwater Quality Association (CASQA) BMP handbooks. The site plan shall be consistent with the final Storm Water Control plan to the satisfaction of the City Engineer. The SWCP shall be prepared by a licensed Civil Engineer qualified and trained in the Storm water treatment process and shall certify that measures specified in the report meet the MRP requirements.

- a. The final SWCP shall comply with all "Model Conditions of Approval for Stormwater Quality" as shown in the Stormwater Section of the Engineering Plans and Map Procedures and Guidelines, dated July 15, 2010, and are hereby incorporated as conditions of project approval.
 - b. Prior to issuance of a certificate of occupancy, Permittee shall submit an Operation and Maintenance (O&M) Plan, acceptable to the City Engineer, describing the operation and maintenance procedures needed to insure that storm water treatment measures continue to work as intended and do not create a nuisance (including vector control). The plan shall include all BMP details, a location map, a maintenance schedule, and inspection and reporting templates. The treatment measures shall be maintained for the life of the project. The storm water control operation and maintenance plan shall include the Permittee's signed statement accepting responsibility for maintenance until the responsibility is legally transferred.
 - c. Prior to final occupancy, Permittee shall execute and record an O&M Agreement with the City for the operation, maintenance, and annual inspection of the C.3 treatment facilities. Permittee shall submit documentation of inspection and maintenance to the City's Utility Section annually for reporting to the Regional Board.
 - d. Permittee shall include language in the approved covenants, conditions and restrictions (CC&Rs) providing the City with an annual inspection report in conformance with the approved O&M plan and agreement. If the City does not receive the report, the City will conduct the field inspection and report for the site and the Permittee and its successor shall be responsible to pay all associated costs.
 - e. All permit applications shall be consistent with the Permittee's final Storm Water Control Plan and approved special conditions, and shall include drawings and specifications necessary to implement all measures described in the approved Plan. Onsite improvement plans shall show the details and methods of construction for site design features, pervious pavements, self-retaining areas, treatment BMPs, permanent source control BMPs, and other features that control storm water flow and potential storm water pollutants. Site design shall limit directly connected impervious areas. Any changes to the final Storm Water Control Plan shall require Site & Architectural ("S" Zone) Amendment application review.
 - f. The Project does not meet the requirements for Special Project credits and will therefore have to use only bioretention to treat stormwater. (E)
39. Utility Capacity – The issuance of building permits to implement this land use development will be suspended if necessary to stay within (1) available water supplies, or (2) the safe or allocated capacity at the San Jose/Santa Clara Water Pollution Control Plant, and will remain suspended until water and sewage capacity are available. No vested right to the issuance of a Building Permit is acquired by the approval of this land development. The foregoing provisions are a material (demand/supply) condition to this approval. (E)

40. Utility Studies – Prior to final map approval, Permittee shall obtain approval from the City Engineer of the water, sewer and storm drainage studies for this development. These studies shall identify the project's effect on the City's present Master Plans and the impact of this project on the trunk lines. If the results of the study indicate that this project contributes to the over-capacity of any trunk line, the Permittee shall be required to mitigate the overflow or shortage by construction of a parallel line or pay a mitigation charge, if acceptable, to the satisfaction of the City Engineer. (E)
41. Water Study – The multi-story buildings proposed require water supply pressures above that which the City can normally supply. Additional evaluations by the Permittee are required to assure proper water supply (potable or fire services). Permittee shall submit an engineering report detailing how adequate water supply pressures will be maintained. (E)
42. Solid Waste – The Permittee is proposing single-family style solid waste services. The following requirements must be met to be eligible for single-family style service: provide minimum clearances as shown in Standard Drawing No. 450, provide a map identifying dedicated set-out locations for all units, demonstrate minimum truck turning access is provided, and identify a service route that does not require the collection vehicles to back up. The Home Owners Association (HOA) shall be responsible for procuring and paying for the solid waste service. If these requirements cannot be met, the project must be redesigned to accommodate a multi-family style service as described elsewhere. (E)
43. Multi-family-style service – In the event Permittee cannot satisfy the requirements of condition 42 above, and the project must therefore be redesigned to accommodate a multi-family-style solid waste service, then this condition 43 shall apply. The trash enclosure shall be sized to accommodate the solid waste handling equipment. The proposed enclosure shall be designed per the Development Guidelines for Solid Waste Services and enclosure drains must discharge to sanitary sewer line. Storm drain inlets must be located at least 25 feet away from enclosures to prevent accidental spills from entering storm drains. Enclosures are not permitted within public utility easements. The enclosure will be subject to the City's review/approval prior to construction of the enclosure. (E)
44. Solid Waste Handling Plan – Prior to final map approval or any building permit issuance, Permittee shall obtain City Engineer's approval of the final Solid Waste Handling Plan. Permittee shall be responsible for solid waste management and provide sufficient facilities for on-site storage and collection of solid waste and recyclables. Permittee shall provide a Solid Waste Handling Plan showing how materials will be transferred from the waste generation areas to the trash enclosure/external collection point. Permittee shall demonstrate how recycling shall have a separately maintained process from garbage handling. The Solid Waste Handling Plan shall also address other requirements, such as calculating waste generation volumes, compliance with AB1826 (2014) regarding organic waste, and property management responsibility for bin management and litter control. Permittee shall procure sufficient service frequency. All solid waste collection facilities shall comply with City guidelines. The Permittee shall comply with access dimensions such as turning radius. The collection vehicle is not allowed to block sidewalks, parking

garages, and driveway access. The collection vehicle is not allowed to back up on streets, drive aisles, or alleys. The Conditions, Covenants, and Restrictions (CC&R) shall clearly indicate the HOA responsibilities including but not limited to: cart storage areas, monitoring cart set-outs, parking issues, collecting trash and recyclables from the residences, responding and resolving complaints involving litter, dumping, and scavenging, improper carts storage, and mediation between property owners regarding carts. (E)

45. Solid Waste Management – Per Chapter 200, Title V, Solid Waste Management, V-200-3.10, *General Requirement*, Permittee and its successors shall not keep or accumulate, or permit to be kept or accumulated, any solid waste of any kind and is responsible for proper keeping, accumulating and delivery of solid waste. In addition, according to V-200-3.20 *Owner Responsible for Solid Waste, Recyclables, and Yard Trimmings Collection Services*, Permittee shall subscribe to and pay for solid waste services rendered. Prior to issuance of any building permit issuance, Permittee shall incorporate the following solid waste service requirements to the satisfaction of the City Engineer:

- a. Proposed solid waste enclosure shall be designed per the Development Guidelines for Solid Waste Services to house all necessary equipment. The access to the location and size of the enclosure shall be designed to the City Engineer's satisfaction and shown on the plans prior to building permit issuance. The enclosure drains must discharge to the sanitary sewer line. Storm drain inlets must be located at least 25 feet away from enclosures to prevent accidental spills from entering storm drains. Enclosures are not permitted within public utility easements.
- b. The Permittee shall be responsible for solid waste management, including transfer of material to the compactors. Prior to final map approval, Permittee shall submit to the City (for review and approval) a written Solid Waste Handling Plan, including detailed step-by-step instructions to manage solid waste from generation to disposal. The Plan shall state how the residential waste will be conveyed to the collection area for disposal. Show the path of travel for refuse. Demonstrate how recycling shall have a separately-maintained process from garbage handling.
- c. Prior to certificate of occupancy issuance, the Permittee shall provide evidence to the City that a sufficient level of trash and recycling service has been secured using a Service Agreement with Republic Services (formerly BFI). After the Permittee has full occupancy, the Permittee shall contact the Republic Services commercial representative to review the adequacy of the solid waste level of services. If services are determined to be inadequate, the Permittee shall increase the service to the level determined by the evaluation. (E)

46. Community Facilities District (CFD) Annexation – Prior to final map approval, the Permittee shall submit an executed consent to annex the subject property into CFD 2008-1 and shall agree to pay the special taxes levied by CFD 2008-1 for the purpose of maintaining the public services. Permittee shall comply with all rules, regulations, policies, and practices established by State Law and by the City with respect to the CFD including, without limitation, the requirements for notice and disclosure to future owners and residents. This condition of approval is nonseverable from the Permit and any invalidation or limitation of this condition invalidates the Permit. (E)

47. Final Map – Prior to issuance of any building permit, the final map shall be recorded. The final map submittal shall meet the following requirements:
- A. Provide a current title report with your final map submittal, not more than 90 days old.
 - B. All final maps shall designate all common lots and easements as lettered lots or lettered easements.
 - C. All final maps shall be tied to the North America Datum of 1983 (NAD 83), California Coordinate of 1983, zone 3.
 - D. Permittee shall dedicate all necessary easements for public utilities, emergency vehicle access, solid waste collection and public access on the final map for acceptance by the City in compliance with the City's Engineering Guidelines and the approved Tentative Map.
 - E. All FEMA flood information on the improvements plans shall be prepared shown using Vertical Datum of 1988 (NAVD 88) and Vertical Datum of 1929 (NGVD 29). The specific city benchmark used for the project shall be indicated on the cover sheet of each improvement plan set. All grading sheets shall show a table indicating the BFE per the final flood study in NAVD 88, and any conversion to NGVD 29 elevations. (E)
48. Home Owners Association (HOA) – Prior to final map approval, Permittee shall establish an HOA. Membership of the HOA shall include all owners of the residential units. The HOA shall be responsible for the maintenance of the landscaping, walls, buildings, private street lights, common area and private streets and shall have assessment power. The HOA shall manage the onsite water, recycled water, irrigation, storm, water quality treatment, and sewer systems and implement the Solid Waste Handling Plan. This information shall be clearly included in the (CC&Rs) and recorded documents. Prior to final map approval, the CC&Rs shall be approved by the City Engineer. (E)
49. Improvement Plans – Prior to final map approval, Permittee shall obtain design approval and bond for all improvements that City deems necessary. The Permittee shall execute a secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor and materials. The public facilities, such as water meters, RP backflow preventers, sewer cleanouts, et cetera, shall be placed so access is maintained and kept clear of traffic. All improvements shall be in accordance with the City of Milpitas Transit Area Specific Plan Requirements. All improvements shall be constructed to the City Engineer's satisfaction and shall be accepted by the City prior to issuance of any certificate of occupancy for the project. Required off-site improvement shall include but not limited to the construction of a traffic signal on S. Milpitas Boulevard and Garden Street. This traffic signal shall be interconnected to the adjacent UPRR railroad crossing signal on S. Milpitas Blvd as required by UPRR and CPUC for railroad preemption operation.(E)

50. Utility Fees – The following are current estimates of certain required utility fees to be paid at the time of building permit issuance:

- A. Storm water connection fee of \$48,971.32 (2.92ac x \$16,771/ac) Payable in full as a lump sum prior to issuance of the first building permit..
- B. Water connection fee of \$1,164 per unit payable prior to building permit issuance.
- C. Sewer connection fee of \$1,406 per unit payable prior to building permit issuance.
- D. Water Service Agreement(s) for water meter(s) and detector check(s).
- E. Sewer Needs Questionnaire and/or Industrial Waste Questionnaire.

As shown on the vesting tentative map:

Building 1	6 units	sewer: \$8,436	water: \$6,984
Building 2	8 units	sewer: \$11,248	water: \$9,312
Building 3	8 units	sewer: \$11,248	water: \$9,312
Building 4	8 units	sewer: \$11,248	water: \$9,312
Building 5	8 units	sewer: \$11,248	water: \$9,312
Building 6	8 units	sewer: \$11,248	water: \$9,312
Building 7	10 units	sewer: \$14,060	water: \$11,640
Building 8	10 units	sewer: \$14,060	water: \$11,640
Building 9	7 units	sewer: \$9,842	water: \$8,148

The fee amounts to be paid shall be the amount shown in the most current City Council ordinance or resolution at the time payment is made for building permit issuance. (E)

51. Transit Area Specific Plan (TASP) Fees. Prior to any building permit issuance, Permittee shall pay the applicable Transit Area Specific Plan Development Impact fee as determined by the City Council at the time of project approval.

52. Building Permit Automation Fee – Prior to any building permit issuance, Permittee shall a 2.5% building permit automation fee as approved by City Council Resolution. No. 7590.

53. Construction Schedule – Prior to start of any construction, Permittee shall submit a construction schedule and monitoring plan for City Engineer review and approval. The construction schedule and monitoring plan shall include, but not be limited to, construction staging area, parking area for the construction workers, personnel parking, temporary construction fencing and construction information signage, and establish a neighborhood hotline to record and respond to neighborhood construction related concerns. Permittee shall coordinate their construction activities with other construction activities in the vicinity of this project. Permittee's contractor is also required to submit updated monthly construction schedules to the City Engineer for the purpose of monitoring construction activities and work progress. (E)

54. Utility Protection – All existing public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structure is permitted within City

easements and no trees or deep-rooted shrubs are permitted within City utility easements, where the easement is located within landscape areas. (E)

55. Permittee is notified that references to State regulations, City ordinances, and any other documents or requirements shall mean the rules in effect at the time of building permit issuance. (E)
56. Landscaping Ordinance 238 – In accordance with the provisions of Chapter 5, Title VIII of the Milpitas Municipal Code, for new or rehabilitated landscaping areas equaling 500 square feet or greater, the Permittee shall:
- A. Provide separate water meters for domestic water service & irrigation service.
 - B. Provide separate domestic meters for each unit.
 - C. Comply with all the requirements of Chapter 5, Title VIII of the Milpitas Municipal Code.
 - D. Submit two sets of landscape and irrigation improvement plans to the Building Division with the building permit plan check package. Prior to any building permit issuance, approval from the Land Development Section of the Engineering Division is required prior to any building permit issuance, and submittal of the Certificate of Substantial Completion is required prior to final occupancy inspection.
 - E. New landscape shall comply with the requirements of Chapter 5, Title VIII of the Milpitas Municipal Code that are in effect at the time of building permit issuance.

Contact the Land Development Section of the Engineering Division at (408) 586-3325 for information on the submittal requirements and approval process. (E)

57. Water Supply and Force Majeure – The City currently has adequate water supply and sewerage treatment plan capacity allocation for this land development project. The City reserves the right to suspend the issuance of building permits to implement this land use development, if necessary to stay within (1) available water supplies, or (2) the safe or allocated capacity at the San Jose/Santa Clara Water Pollution Control Plant, and will remain suspended until water and sewage capacity are available. Although a vesting tentative map has been approved within the Site Development Permit which provides vested rights as defined in Government Code Section 66498.1, no vested right to the issuance of a building permit is acquired by the approval of this land development in the event of the City's inability to deliver water and sewer treatment is affected by force majeure pursuant to the criteria set forth above. This condition of approval applies in case of an emergency declaration of water supply assurance in the case of a major catastrophic event that restricts City's assurance to provide water supply, or allocated treatment plant capacity. Pursuant to Government Code Section 66452.6, in the event the issuance of building permits is suspended due to lack of water supplies, the period of time set forth as the term for the vesting tentative map in Government Code Section 66452.6(a)(1) shall be tolled for up to five years until said suspension is terminated.
58. Recycled Water for Irrigation – In accordance with MMC Chapter 6, Title VIII (Ord. No. 240), the landscape irrigation system shall be designed to meet the City's recycled water

guidelines and connect to recycled water system. In order to comply with the recycled water guidelines, the Permittee shall:

- A. Design the landscape irrigation for recycled water use. Use of recycled water applies to all existing, rehabilitated, and new landscaping. All landscape shall be compatible with recycled water use.
 - B. Design the irrigation system in conformance to the South Bay Water Recycling (SBWR) Guidelines and COM Supplemental Guidelines. Prior to any building permit issuance, the City will submit the plans to SBWR and the State Water Resources Control Board Division of Drinking Water (DDW) for approval; this approval requires additional processing time. Permittee is responsible for all costs for designing and installing site improvements, connecting to the recycled water main, and processing of City, SBWR, and DDW approvals. Contact the Land Development Section of the Engineering Division at (408) 586-3325 to obtain copies of design guidelines and standards.
 - C. Protect outdoor eating areas from overspray or wind drift of irrigation water to minimize public contact with recycled water. Recycled water shall not be used for washing eating areas, walkways, pavements, and any other uncontrolled access areas.
 - D. Landscape planting shall be deferred until the on-site recycled water system is approved, constructed and tested. The recycled water irrigation systems shall be split into several parallel systems to match the construction phasing in order to allow recycled water use at the final occupancy for each phase. (E)
59. Landscaping Maintenance – HOA shall own and be responsible for maintenance of all landscaping and irrigation. The recycled water irrigation system shall be under the control of the HOA. (E)
60. Tree Removal Permit – In accordance with MMC Chapter 2, Title X (Ord. 201), Permittee may be required to obtain a permit for removal of any existing tree(s). Contact the Public Works Department at (408) 586-2600, to obtain the requirements and forms. (E)
61. Underground Service Alert (USA) – Permittee shall call Underground Service Alert (U.S.A.) at (800) 642-2444, 48 hours prior to construction for location of utilities. (E)
62. Mailboxes – Permittee shall obtain information from the US Postal Services regarding required mailboxes. Structures to protect mailboxes may be required as a result of the Building, Engineering and Planning Divisions review. (P)
63. Developer shall comply with all obligations as defined in the approved and recorded “COST SHARING AND REIMBURSEMENT AGREEMENT-Milpitas Transit Area Specific Plan-Piper/Montague Subdistrict-Milpitas, California,” Document 20427520, O.R., recorded 9/10/2009 in the County of Santa Clara Recorder’s Office, State of California. The shared infrastructure improvements shall be subject to the City Engineer approval. (E)

64. Prior to building permit issuance, developer will be required to contribute toward the upsizing of the sewer line on Curtis Avenue, known as sewer project 11E in the City of Milpitas Sewer Master Plan. (E)
65. All utility stubs not utilized shall be capped at the main. (E)
66. Clarify use of 10” waterlines extensions on Drive Aisle C &D. (E)
67. The City Council has declared a water supply emergency and enacted a Water Shortage Contingency Plan. The project is required to use recycled water for construction purposes such as dust control and compaction. Landscape planting shall be deferred for any areas designated to use potable water, such as internal podium areas as described below. Water features such as pools and fountains, may not be filled until the drought is over. (E)
68. Permittee is proposing to serve the project from an adjacent on-site domestic water system. This is allowed only if the both projects are members of the same Home Owners Association (HOA). The on-site water system shall be privately owned and maintained by the HOA. If this project is not part of the adjacent HOA, then relocate the on-site water system points of connection to connect to the public water system. (E)
69. All connections to the public water system shall be metered and protected with backflow devices in accordance with City standards. Separate on-site water systems owned and maintained by the property owners shall serve the project downstream of the master meters. The project is recommended to have two points of connection for each service to provide redundancy. Master meters shall be located in City right-of-way or public service utility easements. Water services shall have a straight alignment between the public distribution system pipe and the water meter (no bends). A combined domestic and fire protection water pipeline is allowed. (E)
70. Locate fire hydrants on the public water system to the maximum extent possible. All hydrants shall be located on a dedicated service lateral. (E)
71. The Permittee shall design public and private utilities in accordance with State and City requirements. If the minimum clearances described in the State Water Works Standards cannot be met, the Permittee shall prepare and submit a waiver request to the City. If acceptable, the City will submit the waiver request to the Division of Drinking Water. (E)
72. The Permittee is proposing to connect to the adjacent on-site sewer system. This is allowed only if both projects are members of the same Home Owners Association (HOA). If this project is not part of the adjacent HOA, then relocate the point of connection to the public sewer system. The on-site sewer system shall be privately owned and maintained by the HOA. The sewer system shall be designed for sufficient capacity and ease of maintenance to minimize sewer blockages and spills. (E)

73. The Permittee shall dedicate on the final map necessary public service utility easements, street easements, public access easement (over private streets and walkways) and easements for water, recycled water, storm sewer, and sanitary sewer purposes. (E)
74. Coordinate plans showing landscape, utility, and hardscape to insure no conflicts exist. (E)
75. 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. (E)
76. Permittee shall provide phasing plans demonstrating management of construction traffic, non-construction traffic, landscape installation, and solid waste management. (E)
77. Submit a Joint Use Agreement for any facilities or services shared with another project. (E)
78. The City shall restore surface conditions to City standards (standard pavement, sidewalk, non-paved surfaces, etc) upon completion of infrastructure repair and/or replacement in City easements. The CC&R shall include the requirement that the HOA is required to restore HOA-owned infrastructure upon completion of City's repair/replacement. (E)
79. Permittee and its contractors shall make every effort to salvage materials for reuse and recycling and shall comply with all applicable City ordinances on construction and demolition debris. (E)
80. All public improvements and public infrastructure shall be constructed and completed prior to the issuance of the first building permit. Improvements include, but are not limited to, curb, gutter, sidewalk, medians, third party utilities, street lights, street trees, utilities, pavement, and related water-quality facilities. To implement this condition, Permittee shall perform a GPS survey of all water valves, manholes, underground bends, and record such data on record drawings. (E)

Conditional Use Permit Conditions

81. Tandem Parking Spaces: Permittee shall insure that all future residents are aware that space in garages must be maintained to as to allow the parking of two (2) vehicles at all times. This may be accomplished by including this provision within the CC&R's.

(P) = Planning

(B) = Building

(E) = Engineering

(F) = Fire Prevention

(CA) = City Attorney

(MM) = Mitigation Measure

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.

Pursuant to Condition No. 51 contained herein, prior to any building permit issuance, Permittee shall pay the applicable Transit Area Specific Plan Development Impact Fee as determined by the City Council at the time of project approval.

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

Printed Name of Permittee/Property Owner: _____