

**CITY OF MILPITAS  
FEE CREDIT AGREEMENT  
FOR TASP PUBLIC FACILITIES**

This Fee Credit Agreement for Public Facilities (“**Agreement**”), dated as of March \_\_\_\_, 2013, is by and between the City of Milpitas, a municipal corporation (“**City**”), and D.R. Horton Bay, Inc., a Delaware corporation (“**Developer**”).

**WITNESSETH:**

**WHEREAS**, Developer is the owner of that certain real property in the Transit Area Specific Plan area, in the City of Milpitas, State of California, as more commonly referred to as the Harmony Project, located at 1615 McCandless Street in Milpitas, California (“**Project**”).

**WHEREAS**, City has adopted a Transit Area Specific Plan fee (“**TASP Fee**”) to provide funds to finance improvements and facilities in the Transit Area Specific Plan area in the City of Milpitas (the “**Plan Area**”). The improvements and facilities to be constructed with the TASP fees are set forth in the adopted Financing Plan (EPS no. 17107) for the TASP area (the “**Financing Plan**”).

**WHEREAS**, the total TASP Fee for the Harmony project is \$8,007,312.

**WHEREAS**, pursuant to conditions of approval for the Project set forth in the Milpitas City Council Resolution No. 8138, approving Major Tentative Map No. MT11-0001, Site Development Permit No. SD11-0007, and Conditional Use Permit No. UP11-0031, adopted on November 15, 2011, Developer is required to pay the TASP Fee, subject to fee credits against the TASP Fee for the Improvements constructed by Developer. Developer has constructed, or will construct, certain improvements and facilities in the Plan Area identified in Exhibit A attached hereto (the “**Improvements**”) that are included in the Financing Plan and would otherwise be financed by the TASP Fee, and which Improvements will serve more than the Developer’s properties within the Plan Area. The TASP Fee Credit for the Improvements is estimated to be \$4,365,061 based on the Estimated Cost of the Improvements in the Financing Plan and more particularly set forth in Exhibit B attached hereto.

**WHEREAS**, in addition to the Improvements, Developer has also prepaid TASP park fees, and shall be entitled to a Fee Credit against TASP Fees, in the amount of \$2,951,544 (“**Park Fee Credit**”).

**WHEREAS**, The TASP fee credits for the Improvements and the Park Fee Credit are referred to herein as the “**Fee Credits**”. Therefore, the total estimated TASP Fee Credits due to Developer hereunder shall be approximately \$7,316,605.

**WHEREAS**, in addition to the foregoing Fee Credits, Developer is entitled to certain sewer fee credits pursuant to the Acquisition Agreement dated November 20, 2012 between City and Developer in the amount of \$2,961,624. Exhibit C attached hereto depicts the total estimated fee credits for the Project.

**WHEREAS**, City and Developer desire to enter into this Agreement to provide for allowable Fee Credits against the TASP Fees to Developer.

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

## **SECTION 1. Allowable Credits**

### **1.1 Fee Credits**

Subject to the terms of this Agreement, the City shall provide TASP Fee Credits to the Developer for the Improvement Costs (defined in Section 1.2 below) for acquisition and installation of the Improvements described in Exhibit A.

### **1.2 Improvement Costs**

The Improvements, with estimated quantities and prices are shown in Exhibit B attached hereto based on the Financing Plan (the “**Estimated Costs**”). Developer shall be entitled to TASP Fee Credits for all actual costs and expenses incurred for the design, permitting and construction of the Improvements, including, without limitation, any and all design fees and costs, bond costs, land acquisition costs, hard and soft construction costs, consulting fees and costs, engineering fees and costs, inspection costs, and fees and expenses payable to the City or other governmental or public utility that, with respect to each of the above items, are incurred for the permitting, plan check, inspection and construction of the Improvements, (“**Improvement Costs**”) provided however the Improvement Costs shall not exceed the Estimated Costs unless approved in accordance with Section 1.3 below.

### **1.3 Cost Increases**

The Fee Credit amount for the Improvements to be provided hereunder shall not exceed the Estimated Costs unless the City approves such increased costs and such increased costs were resulting from any of the following: (i) based on an update or amendment to the Financing Plan, (ii) any changes to the Improvements mandated by requirements of, or conditions imposed by, any governmental authority or public utility which were not reflected in the approved plans or (iii) unforeseen or changed conditions on the ground pursuant to which Developer executes a change order with its contractor(s) in order to complete the Improvements in accordance with the approved plans and City approves such change order pursuant to Section 5 below. If at any time the Developer anticipates that the Improvement Costs will exceed the Estimated Costs, Developer shall notify the City in writing. City shall not unreasonably withhold, condition or delay its approval of an increase in costs resulting from the foregoing, and if such cost increases are approved, City shall include such additional costs in an update or annual indexing to the TASP fee program (and City shall update the then-current cost estimate of the Improvements).

## **SECTION 2. Issuance of Credits**

### **1.1 Verification of Improvement Costs**

Developer shall provide City with reasonable supporting documentation for the Improvement Costs, including copies of executed contracts and copies of invoices from the general contractors, subcontractors, consultants and suppliers, together with evidence of payment showing that payment has been made in connection with such reimbursement request and partial lien releases for work completed.

## **1.2 Credit Issuance Timing**

Fee Credits shall be issued and available for use against the applicable building permit fees. Developer shall have the right to pre-pay any or all TASP fees, and shall be entitled to Fee Credits against such TASP Fees based on the Estimated Cost of the Improvements. Any prepayment in full for a building permit shall be full and final satisfaction of Developer's obligation to pay TASP fees for such building permit (and Developer shall not be subject to any fee increases for such building permit after such prepayment). Upon the Notice of Completion for the last of the Improvements to be constructed by Developer, City and Developer shall "true-up" the TASP fee payment that was due at the time of such prepayment and the Fee Credit amount due to Developer for the actual cost of the Improvements in accordance with Section 1 above. If Developer owes additional TASP fees, Developer shall make such payment within ten (10) business days of such true-up, or if Developer has overpaid such TASP fees, City shall reimburse Developer within such (10) business day period.

## **SECTION 3. Construction of Improvements**

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. All Improvements shall be completed (determined by filing of a notice of completion) prior to issuance of the 250<sup>th</sup> certificate of occupancy, unless City determines in its sole discretion to waive such condition.

## **SECTION 4. Inspection**

City shall at all times have access to the construction site during construction and the 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.

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 insure that the Improvements are free of defects in materials and workmanship.

## **SECTION 5. Change Orders**

### **5.1 Changes in the Improvements requested by City.**

Developer agrees to make any changes in the construction of the Improvements as reasonably requested by City, provided that City adopts corresponding adjustments to the TASP Fees to be imposed on other benefiting properties to reimburse Developer for the increased costs of such changes. City agrees to provide Fee Credits for any and all changes made to the plans and specifications that are requested and approved in writing by City.

### **5.2 Change Orders.**

Change Orders may be needed where changes in the scope of work, or the increases to the Estimated Costs of the Improvements, are necessary due to unanticipated or unforeseen conditions encountered during construction for reasons beyond Developer's control. All Change Orders causing the actual costs to exceed the Estimated Costs must be approved by Developer and City in writing in accordance with the following: Developer shall notify City immediately after Developer discovers that it will incur additional costs as a result of unforeseen or

unanticipated conditions encountered during construction or any other event outside of Developer's direct control, that will cause the actual cost of the Improvements to exceed the Estimated Costs. Developer shall also include with such written notice, if possible, the revised estimated construction costs, which shall include an estimate of the additional costs resulting from such event, and shall also provide a recommendation on how to decrease the anticipated costs to an amount that is within the Estimated Costs, if possible. Within three (3) business days of receiving said written notice, City shall either (1) direct Developer to continue with the construction of the Improvements, approve of such revised estimated construction costs, amend Exhibit B to include such additional costs, and adopt corresponding adjustments to the TASP Fees to be imposed on other benefiting properties to reimburse Developer for the increased costs of such changes or (2) modify the approved design and construction documents in order to reduce the construction costs to an amount equal to or less than the amount set forth in Exhibit B, in which case, the Improvements shall be modified in order to bring the costs back within the budget approved in Exhibit B. In this latter event, Developer and the City shall meet and confer in an attempt to agree upon the requisite modifications. City shall make such revisions to the design and construction documents and deliver a copy of the revised design and construction documents to the Developer; or (3) require any combination of (1) and (2).

#### **SECTION 6. Limited City Obligation**

The 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 and other capital facilities set forth in the project plans for the TASP fee program. Neither the City of Milpitas general fund nor any other fund of the City, except the TASP Fee program, shall be liable for the payment of any obligations arising from this Agreement. The credit 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 7. Acceptance of Improvements**

At such time as the Developer believes that each Improvement is complete, the Developer shall provide written notice of completion to the City, requesting an inspection. Within ten (10) business days or as mutually agreed following the date of receipt of the Developer's written notice of completion of any Improvement, the City shall conduct a final inspection of the applicable Improvements. If, during the final inspection, the City determines that 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 following the final inspection. If the City delivers such punch list to the Developer within said ten (10) business day period or period as mutually agreed upon, then the Developer shall undertake to repair such punch list items in a diligent manner within sixty (60) 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. If the City determines that the punch list work is complete and no other deficiencies are identified, the Developer will 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 accept the completed Improvements within thirty (30) calendar days thereafter. City shall not unreasonably withhold, delay or condition acceptance of the Improvements.

**SECTION 8. Conveyance of the Improvements**

Once any Improvement is accepted by the City and no liens have been filed with respect to such Improvement 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 Improvement(s) 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 9. Delivery of 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 Improvement(s). Plans shall be submitted in CAD format, GIS format and PDF format as acceptable to the City.

**SECTION 10. 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, 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 credits are requested under this Agreement for the Improvements. The City shall have no obligation to issue any Fee Credits for Improvements until the Developer has cleared any and all liens, claims and monetary encumbrances from the Improvements and provided the required documentation, guarantee and assurance in writing, to the satisfaction of the City.

**SECTION 11. No Third Party Beneficiary**

By entering into this Agreement, City and the Developer are 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 party may do pursuant to the plans and specifications for the Improvements.

**SECTION 12. Warranty and Repair**

The Developer hereby warrants the Improvements as to materials and workmanship and, should any failure of any Improvement occur within a period of one year after initial acceptance of such Improvement by City, the Developer shall promptly cause the needed repairs to be made without cost to City. The provisions contained herein shall not be deemed to limit any rights Developer may have 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. Notwithstanding the foregoing, Developer's warranty excludes remedy for damage or defect caused by ordinary wear and tear under normal usage, abuse, neglect, modifications not performed by Developer or its agents, and improper or insufficient maintenance not performed by Developer or its agents. Nothing herein shall be construed to limit any other warranties City may have from the manufacturer or any materials used in the Improvements, but the

warranty contained in this Section 12 shall be the exclusive warranty of Developer, and all other express or implied warranties of Developer are expressly disclaimed.

**SECTION 13. 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: City Engineer  
Milpitas City Hall  
455 East Calaveras Boulevard  
Milpitas, CA 95035  
Phone: 408-586-3240; Fax: 408-586-3056

Developer: D. R. Horton, America's Builder  
6630 Owens Drive  
Pleasanton, CA 94588  
Attn: Richard P. Ambrosini, Division President and Dean K,  
Mills, Vice President of Forward Planning  
E-mail: [rambosini@drhorton.com](mailto:rambosini@drhorton.com); [dkmills@drhorton.com](mailto:dkmills@drhorton.com)  
Phone: 925-225-7400; Fax: 925-225-7402

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 14. 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 15. Captions**

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

**SECTION 16. 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 17. Successors and Assigns/Reimbursements Personal to Developer**

This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. The Fee Credits granted herein shall run with the land with respect to their application against the TASP Fees otherwise payable upon development of Developer's Properties. City and Developer acknowledge and agree that, whether or not the Developer formally assigns its rights under this

Agreement to a subsequent developer or builder of Developer's Property, or any portion thereof, the foregoing Fee Credits shall continue to be applied to the development within Developer's Project to reduce and/or eliminate the amount of the TASP Fees otherwise payable thereby.

This Agreement shall not apply to any home buyer who purchases a completed dwelling unit from Developer within Developer's property prior to the date of this Agreement first written above and shall automatically terminate on a Lot-by-Lot basis upon the conveyance of that Lot to a member of the home-buying public following completion of construction of a dwelling unit on such Lot.

**SECTION 18. 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 19. 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 20. 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.

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

**City of Milpitas:**

**DEVELOPER:**

By: \_\_\_\_\_  
\_\_\_\_\_  
City Manager, City of Milpitas

**D.R. HORTON BAY, INC.,**  
a Delaware corporation

Dated: \_\_\_\_\_, 2013

By: \_\_\_\_\_  
Dean K. Mills, Vice President of Forward  
Planning

Attest:

Date of Execution: \_\_\_\_\_, 2013

By: \_\_\_\_\_  
\_\_\_\_\_  
City Clerk

Approved as to form:

By: \_\_\_\_\_  
\_\_\_\_\_  
City Attorney

## **EXHIBIT A- Improvements**

*[include detailed scope of work for Improvements from COA/Financing Plan]*

- 1) Trail Improvement
- 2) Open Space/Landscape
- 3) Recycled Water
- 4) Traffic Signal
- 5) McCandless Roadway Work
- 6) Bridge

**DR HORTON TRANSIT AREA SPECIFIC PLAN FEE CREDITS**

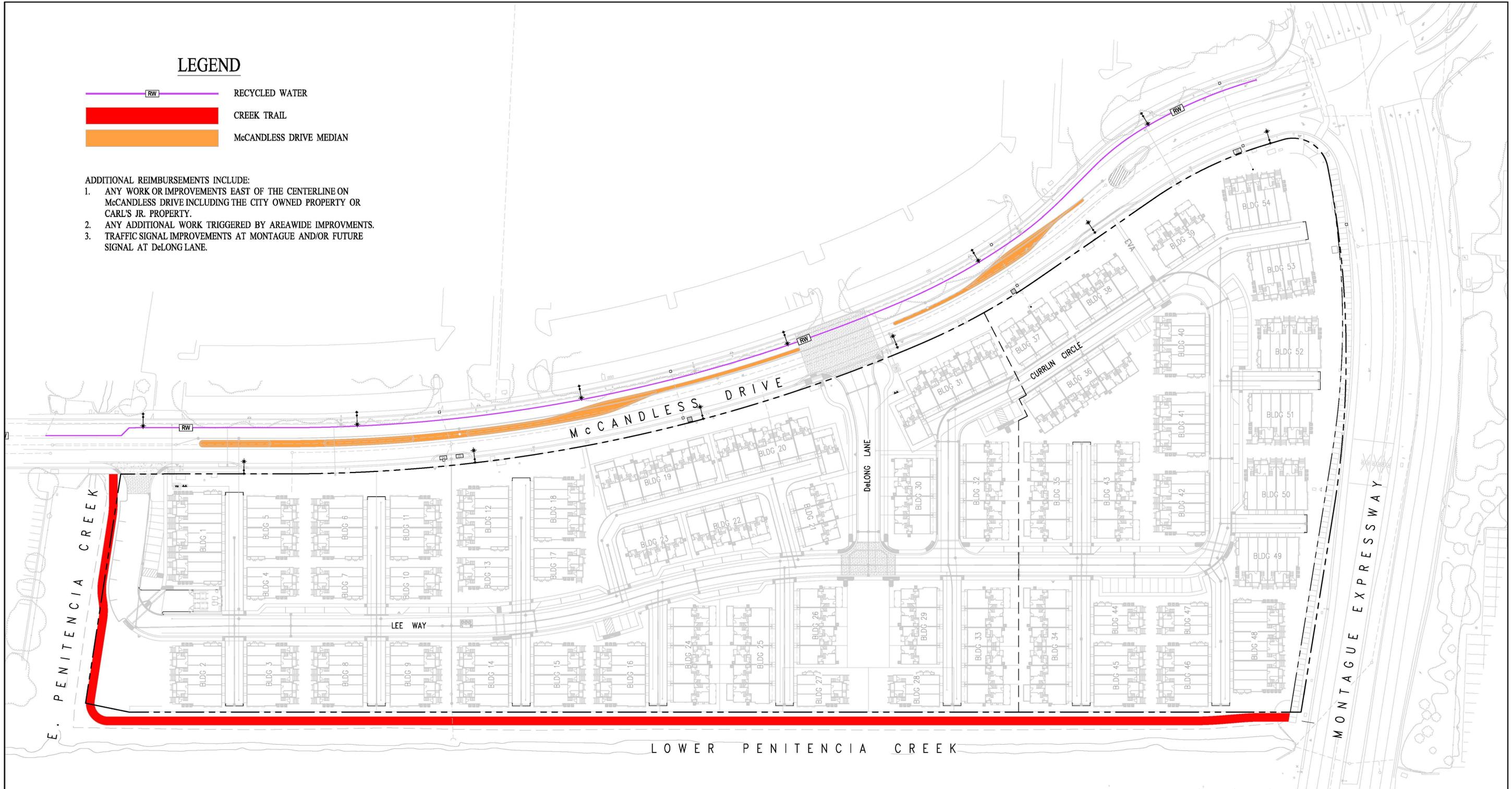
| <b>ITEM</b>   | <b>COST</b>   |
|---|---|
| <b>TRANSIT AREA SPECIFIC PLAN FEE</b><br>TASP Fee includes Park in Lieu Fees<br>(276 units x \$29,012/per unit)<br>Sub Total  | \$8,007,312<br><b>\$8,007,312</b>                         |
| <b>TRANSIT AREA FINANCING PLAN FEE CREDITS</b><br>Trail Improvements<br>Open Space/Landscape<br>Recycled Water<br>Sub Total   | -\$334,732<br>-\$494,125<br><b>-\$828,857</b>             |
| <b>CONDITIONS OF APPROVAL - TASP Reimbursements/Fee Credits</b><br>McCandless Road (Eastside)<br>Traffic Signal Design<br>Bridge Payment Environmental Reimbursement<br>Sub Total | -\$512,580<br>-\$37,000<br>-\$25,000<br><b>-\$574,580</b> |
| <b>SEWER LINE 11A &amp; 11B</b><br>Sewer Line<br>Sewer Line Construction<br>Sub Total   | -\$2,707,506<br>-\$254,118<br><b>-\$2,961,624</b>         |
| <b>CREDITS AND PAYMENTS</b><br>Total Credits<br>Payment (Park Fee Credit)<br>Sub Total  | -\$4,365,061<br>-\$2,951,544<br><b>-\$7,316,605</b>       |
| <b>TOTAL SPECIFIC PLAN PAYMENT</b>  | <b>\$690,707</b>  |

**LEGEND**

-  RECYCLED WATER
-  CREEK TRAIL
-  McCANDLESS DRIVE MEDIAN

ADDITIONAL REIMBURSEMENTS INCLUDE:

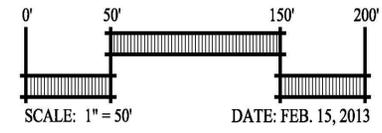
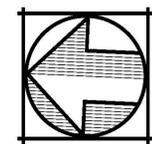
1. ANY WORK OR IMPROVEMENTS EAST OF THE CENTERLINE ON McCANDLESS DRIVE INCLUDING THE CITY OWNED PROPERTY OR CARL'S JR. PROPERTY.
2. ANY ADDITIONAL WORK TRIGGERED BY AREA WIDE IMPROVEMENTS.
3. TRAFFIC SIGNAL IMPROVEMENTS AT MONTAGUE AND/OR FUTURE SIGNAL AT DeLONG LANE.



**FEE CREDIT EXHIBIT 'A'**

**HARMONY**

CITY OF MILPITAS SANTA CLARA COUNTY CALIFORNIA



|   |   |
|---|---|
|  | <b>Carlson, Barbee &amp; Gibson, Inc.</b> |
|   | CIVIL ENGINEERS • SURVEYORS • PLANNERS    |
| 6111 BOLLINGER CANYON ROAD, SUITE 150<br>SAN RAMON, CALIFORNIA 94583                  |   |
| (925) 866-0322<br>FAX (925) 866-8575  |   |



#1

February 17, 2012  
 Job No.: 1933-000

**MT11-0001 - Harmony  
 D.R. Horton America's Builder  
 Park Fee Credits  
 Milpitas, California**

**Linear Parks (Phase I Improvements)**

- Total Linear Park & Trail Improvement in Sub-district McCandless / Centre Point (Item #40) Cost is \$2,022,203
- Total Linear Feet of Linear Park & Trail Improvements in McCandless / Centre Point Sub-district per TASP Figure 3-6
  - 4,500 LF
- Harmony Linear Park & Trail Improvements
  - 1,660 LF
- Cost Allocation:

Revised based on 2012 Fee  
 $25' \times 1,660 = 1ac$  \$334,732

#40

- Total Improvements:  
 $\$2,022,203 / 4,500 \text{ LF} = \$449.37 / \text{LF}$
- Harmony Improvements:  
 $\$449.37 / \text{LF} \times 1,660 \text{ LF} \times 0.80 = \del{\$596,763.36}$

This was a deduction per Fernando based on agreement on the total below.  
 Needs to be deleted  
~~total~~  
 number = ~~\$1,489,954.2~~

**Landscape Buffer (Phase I Improvements)**

- 23,725 SF of Landscape Buffer
  - $23,725 \text{ SF} \times 0.20 = 4,745 \text{ SF}$
- Land
  - $4,745 \text{ SF} \div 43,560 \text{ SF/AC} \times \$2,047,320 / \text{AC} = \$223,015.00$
- Construction Value
  - $4,745 \text{ SF} \times \$12.00 / \text{SF} = \$56,940.00$
- Total Phase I
  - $\$223,015.00 + \$56,940.00 = \$279,955.00$

**Landscape Buffer (Phase II Improvements)**

- 26,275 SF of Landscape Buffer
  - $26,275 \text{ SF} \times 0.20 = 5,255 \text{ SF}$
- Land
  - $5,255 \text{ SF} \div 43,560 \text{ SF/AC} \times \$2,047,320 / \text{AC} = \$246,985.00$
- Construction Value
  - $5,255 \text{ SF} \times \$12.00 / \text{SF} = \$63,060.00$
- Total Phase II
  - $\$246,985.00 + \$63,060.00 = \$310,045.00$

**Total Park Fee Credits = \$1,186,763.36**

*Per Meeting and Agreement with Fernando Bravo, Sheldon AhSing and Dean Mills (DR Horton)*



#2

March 13, 2012  
Job No.: 1933-000

**Harmony  
D.R. Horton America's Builder  
Off-Site Infrastructure  
Milpitas, California**

**Recycled Water**

- Total RW Improvement Item (Item #20) Cost is \$5,870,911
- Total Linear Feet of RW Improvements per TASP Figure 6-3
  - o 14,500 LF *Now 18,000 LF per plan = \$335 per LF*
- Harmony RW Improvements
  - o 1,475 LF
- Cost Allocation:
  - o Total RW Improvements:  
 $\$5,870,911 / 14,500 \text{ LF} = \$404.89 / \text{LF} *$
  - o Harmony RW Improvements:  
 ~~$\$404.89 / \text{LF} \times 1,475 \text{ LF} = \$597,212.75$~~

$1475 \times 335 = \$494,125$



# Carlson, Barbee & Gibson, Inc.

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## ENGINEER'S PRELIMINARY CONSTRUCTION COST ESTIMATE

Job No.: 1933-000

### SUMMARY

April 12, 2012

McCANDLESS DRIVE

Revised May 4, 2012

HARMONY

MILPITAS, CALIFORNIA

**1. TOTAL PUBLIC STREET IMPROVEMENTS CONSTRUCTION COST \$ 702,164**

*(Estimate assumes existing curb, gutter and sidewalk along East Frontage to remain. Excludes all improvements directly associated with the Project as labeled N.I.C.)*

|                                    |    |           |
|------------------------------------|----|-----------|
| CONTINGENCY (15%)                  | \$ | 105,325   |
| DESIGN (10%)                       | \$ | 70,216    |
| CONSTRUCTION STAKING (5%)          | \$ | 35,108    |
| PLAN CHECK & INSPECTION FEES (10%) | \$ | 70,216    |
| CONSTRUCTION MANAGEMENT (5%)       | \$ | 35,108    |
| BONDS (1%)                         | \$ | 7,022     |
| Total                              | \$ | 1,025,159 |

**CITY SHARE OF McCANDLESS DR. BASE IMPROVEMENTS (50%) \$ 512,580**

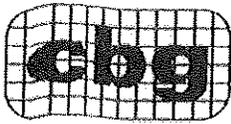
**2. TOTAL EAST SIDE WIDENING ONLY CONSTRUCTION COST \$ 363,325**

*(Estimate for addition construction items associated with the east side widening only (Accel/Decel Lanes))*

|                                    |    |         |
|------------------------------------|----|---------|
| CONTINGENCY (15%)                  | \$ | 54,499  |
| DESIGN (10%)                       | \$ | 36,333  |
| CONSTRUCTION STAKING (5%)          | \$ | 18,166  |
| PLAN CHECK & INSPECTION FEES (10%) | \$ | 36,333  |
| CONSTRUCTION MANAGEMENT (5%)       | \$ | 18,166  |
| BONDS (1%)                         | \$ | 3,633   |
| Total                              | \$ | 530,455 |

**CITY SHARE OF McCANDLESS DR. EAST SIDE WIDENING IMPROVEMENTS (100%) \$ 530,455**

**TOTAL CITY OF MILPITAS COST OF McCANDLESS DRIVE IMPROVEMENTS \$ 1,043,034**



# Carlson, Barbee & Gibson, Inc.

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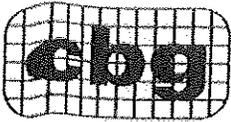
ENGINEER'S PRELIMINARY CONSTRUCTION COST ESTIMATE  
**PUBLIC STREET IMPROVEMENTS**  
**McCANDLESS DRIVE**  
**HARMONY**  
**MILPITAS, CALIFORNIA**

Job No.: 1933-000  
 April 12, 2012  
 Revised May 4, 2012

| Item                                     | Description  | Quantity | Unit | Unit Price   | Amount               |
|--|--|----------|------|--------------|----------------------|
| <b><u>STREET WORK</u></b>                |  |          |      |              |                      |
| 1  | Sawcut (1' Offset from Future Median)                        | 2,000    | LF   | \$ 2.00      | \$ 4,000.00          |
| 2  | Sawcut (1' Offset from existing lip of gutter)               | 1,440    | LF   | \$ 2.00      | N.I.C.               |
| 3  | Remove Existing Curb and Gutter                              | 1,440    | LF   | \$ 5.00      | N.I.C.               |
| 4  | Remove Existing AC / AB                                      | 11,780   | SF   | \$ 5.00      | N.I.C.               |
| 5  | Remove Existing Median (Including Landscape and Irrigation)  | 325      | SF   | \$ 10.00     | \$ 3,250.00          |
| 6  | Remove and Off-Haul Soil (3' Deep for median & sidewalk L/S) | 625      | CY   | \$ 30.00     | \$ 18,750.00         |
| 7  | Fine Grade (sidewalk)  | 11,240   | SF   | \$ 0.35      | N.I.C.               |
| 8  | 8" Median Curb   | 2,000    | LF   | \$ 20.00     | \$ 40,000.00         |
| 9  | 6" Curb and Gutter (includes cushion)                        | 1,320    | LF   | \$ 20.00     | N.I.C.               |
| 10                                       | 6' Concrete Sidewalk (includes cushion)                      | 7,900    | SF   | \$ 5.00      | N.I.C.               |
| 11                                       | Accessible Ramps   | 3        | EA   | \$ 2,500.00  | N.I.C.               |
| 12                                       | Enhanced Concrete Paving (at future intersection)            | 3,250    | SF   | \$ 15.00     | \$ 48,750.00         |
| 13                                       | Replace Existing AC / AB                                     | 3,320    | SF   | \$ 8.00      | \$ 26,560.00         |
| 14                                       | Grind Existing AC  | 74,000   | SF   | \$ 1.00      | \$ 74,000.00         |
| 15                                       | Overlay Fabric   | 74,000   | SF   | \$ 0.50      | \$ 37,000.00         |
| 16                                       | Minimum 2" AC Overlay  | 74,000   | SF   | \$ 3.00      | \$ 222,000.00        |
| 17                                       | Street Conforms ( at McCandless)                             | 2        | EA   | \$ 2,000.00  | \$ 4,000.00          |
| 18                                       | Bus Stop   | 1        | LS   | \$ 5,000.00  | N.I.C.               |
| 19                                       | Fog seal   | 74,000   | SF   | \$ 0.05      | \$ 3,700.00          |
| 20                                       | Traffic Striping and Signing                                 | 1,500    | LF   | \$ 15.00     | \$ 22,500.00         |
| 21                                       | Traffic Control (assume complete roadway closure)            | 1        | LS   | \$ 30,000.00 | \$ 30,000.00         |
| <b>SUBTOTAL STREET WORK</b>              |  |          |      |              | <b>\$ 534,510.00</b> |
| <b><u>LANDSCAPE AND IRRIGATION</u></b>   |  |          |      |              |                      |
| 22                                       | Planting Soil (3' Deep)                                      | 625      | CY   | \$ 30.00     | \$ 18,750.00         |
| 23                                       | Fine Grade (median)  | 4,725    | SF   | \$ 0.35      | \$ 1,653.75          |
| 24                                       | Landscape and Irrigation (median)                            | 4,725    | SF   | \$ 10.00     | \$ 47,250.00         |
| 25                                       | Landscape Median Nose Treatment (hardscape)                  | 900      | SF   | \$ 15.00     | \$ 13,500.00         |
| 26                                       | Irrigation Sleeves   | 600      | LF   | \$ 5.00      | \$ 3,000.00          |
| 27                                       | Irrigation Controller  | 1        | EA   | \$ 20,000.00 | \$ 20,000.00         |
| <b>SUBTOTAL LANDSCAPE AND IRRIGATION</b> |  |          |      |              | <b>\$ 104,153.75</b> |

**Carlson, Barbee & Gibson, Inc.**

| Item  | Description  | Quantity | Unit | Unit Price   | Amount            |
|---|--|----------|------|--------------|-------------------|
| <b>UTILITIES</b>  |  |          |      |              |                   |
| 28  | 2" Irrigation Service (median)   | 1        | EA   | \$ 1,500.00  | \$ 1,500.00       |
| 29  | 2" Irrigation Meter (median)   | 1        | EA   | \$ 1,000.00  | \$ 1,000.00       |
| 30  | Remove Existing Catch Basin and Storm Drain Pipe<br><i>Tree-Box Filter</i> | 1        | EA   | \$ 4,000.00  | N.I.C.            |
| 31  | Storm water Quality Control Features ( <i>Tree-Box filters</i> )           | 5        | EA   | \$ 15,000.00 | N.I.C.            |
| 32  | Catch Basin ( <i>connect to existing 33" storm drain</i> )                 | 1        | EA   | \$ 5,000.00  | N.I.C.            |
| 33  | Adjust Existing Sanitary Sewer Manholes ( <i>in median</i> )               | 5        | EA   | \$ 1,000.00  | \$ 5,000.00       |
| 34  | Adjust Existing Utility Valve Covers and Lids to Grade                     | 1        | LS   | \$ 2,000.00  | \$ 2,000.00       |
| 35  | Fire Hydrants  | 3        | EA   | \$ 4,000.00  | N.I.C.            |
| 36  | Electroliers ( <i>Decorative</i> )   | 8        | EA   | \$ 5,000.00  | \$ 40,000.00      |
| 37  | Remove Existing Electroliers   | 7        | EA   | \$ 2,000.00  | \$ 14,000.00      |
| SUBTOTAL UTILITIES  |  |          |      | \$           | 63,500.00         |
| <b>TOTAL PUBLIC STREET IMPROVEMENTS CONSTRUCTION COST</b> |  |          |      | <b>\$</b>    | <b>702,163.75</b> |



**Carlson, Barbee  
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ENGINEER'S PRELIMINARY CONSTRUCTION COST ESTIMATE  
PUBLIC STREET IMPROVEMENTS  
McCANDLESS DRIVE  
EAST SIDE WIDENING ONLY  
HARMONY  
MILPITAS, CALIFORNIA

Job No.: 1933-000  
April 12, 2012  
Revised May 4, 2012

| Item  | Description   | Quantity | Unit | Unit Price   | Amount        |
|---|---|----------|------|--------------|---------------|
| <b><u>STREET WIDENING WORK ON EAST FRONTAGE</u></b> |   |          |      |              |               |
| 1   | Sawcut (1' Offset from east side lip of gutter)       | 700      | LF   | \$ 2.00      | \$ 1,400.00   |
| 2   | Remove Existing Curb and Gutter                       | 700      | LF   | \$ 5.00      | \$ 3,500.00   |
| 3   | Remove Existing AC/ AB                                | 700      | SF   | \$ 5.00      | \$ 3,500.00   |
| 4   | Remove Existing Sidewalk and Driveway Entries         | 4,150    | SF   | \$ 5.00      | \$ 20,750.00  |
| 5   | Remove Existing Landscape and Irrigation              | 14,000   | SF   | \$ 2.00      | \$ 28,000.00  |
| 6   | Remove Existing Trees and Root Systems                | 33       | EA   | \$ 400.00    | \$ 13,200.00  |
| 7   | Grading   | 2,000    | CY   | \$ 12.00     | \$ 24,000.00  |
| 8   | Fine Grading (street, sidewalk, landscape)            | 17,500   | SF   | \$ 0.35      | \$ 6,125.00   |
| 9   | Aggregate Base (street widening)                      | 7,400    | SF   | \$ 1.00      | \$ 7,400.00   |
| 10  | Asphalt Concrete (street widening)                    | 7,400    | SF   | \$ 3.00      | \$ 22,200.00  |
| 11  | Enhanced Concrete Paving (at intersection)            | 1,000    | SF   | \$ 15.00     | \$ 15,000.00  |
| 12  | 6" Curb and Gutter (includes cushion)                 | 700      | LF   | \$ 20.00     | \$ 14,000.00  |
| 13  | 6' Concrete Sidewalk (includes cushion)               | 4,150    | SF   | \$ 5.00      | \$ 20,750.00  |
| 14  | Conform Entry to Existing Parking Lot                 | 1        | EA   | \$ 20,000.00 | \$ 20,000.00  |
| 15  | Accessible Ramps                                      | 2        | EA   | \$ 2,500.00  | \$ 5,000.00   |
| 16  | Bus Stop  | 1        | LS   | \$ 5,000.00  | \$ 5,000.00   |
| 17  | Striping  | 1        | LS   | \$ 5,000.00  | \$ 5,000.00   |
| 18  | Traffic Control & Temporary Signing                   | 1        | LS   | \$ 10,000.00 | \$ 10,000.00  |
| SUBTOTAL STREET WIDENING WORK ON EAST FRONTAGE      |   |          |      |              | \$ 224,825.00 |
| <b><u>STORM DRAIN WORK</u></b>                      |   |          |      |              |               |
| 19  | Remove Existing Storm Drain Inlets                    | 2        | EA   | \$ 2,000.00  | \$ 4,000.00   |
| 20  | Install Storm Drain Inlets and Extend Pipe            | 2        | EA   | \$ 5,000.00  | \$ 10,000.00  |
| 21  | Storm Water Quality Control Features (budget assumed) | 1        | LS   | \$ 20,000.00 | \$ 20,000.00  |
| SUBTOTAL STORM DRAIN WORK                           |   |          |      |              | \$ 34,000.00  |
| <b><u>DOMESTIC WATER WORK</u></b>                   |   |          |      |              |               |
| 22  | Relocate Existing Water & Irrigation Services         | 5        | EA   | \$ 1,500.00  | \$ 7,500.00   |
| 23  | Relocate Existing Fire Service                        | 1        | EA   | \$ 5,000.00  | \$ 5,000.00   |
| 24  | Relocate Existing Fire Hydrant                        | 2        | EA   | \$ 3,000.00  | \$ 6,000.00   |
| SUBTOTAL DOMESTIC WATER WORK                        |   |          |      |              | \$ 18,500.00  |

**Carlson, Barbee & Gibson, Inc.**

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| Item   | Description   | Quantity | Unit | Unit Price   | Amount               |
|--|---|----------|------|--------------|----------------------|
| <b><u>JOINT TRENCH WORK</u></b>                        |   |          |      |              |                      |
| 25   | Relocate Existing Joint Trench                            | 700      | LF   | \$ 100.00    | \$ 70,000.00         |
| 26   | Relocate Existing Electroliers                            | 2        | EA   | \$ 3,000.00  | \$ 6,000.00          |
| SUBTOTAL JOINT TRENCH WORK                             |   |          |      |              | \$ 76,000.00         |
| <b><u>STREET LIGHT WORK</u></b>                        |   |          |      |              |                      |
| 27   | Install Traffic Signal Conduit ( <i>at intersection</i> ) | 1        | LS   | \$ 10,000.00 | \$ 10,000.00         |
| SUBTOTAL STREET LIGHT WORK                             |   |          |      |              | \$ 10,000.00         |
| <b>TOTAL EAST SIDE WIDENING ONLY CONSTRUCTION COST</b> |   |          |      |              | <b>\$ 363,325.00</b> |



**Carlson, Barbee  
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#4

ENGINEER'S PRELIMINARY CONSTRUCTION COST ESTIMATE

Job No.: 1933-000

FUTURE TRAFFIC SIGNAL

Sept. 27, 2012

McCANDLESS DRIVE

HARMONY

MILPITAS, CALIFORNIA

| Item                              | Description  | Quantity | Unit | Unit Price   | Amount       |
|-----------------------------------|--|----------|------|--------------|--------------|
| <b><u>TRAFFIC SIGNAL WORK</u></b> |  |          |      |              |              |
| 1                                 | Signal Design  | 1        | LS   | \$ 15,000.00 | \$ 15,000.00 |
| 2                                 | Consultant Coordination  | 1        | LS   | \$ 2,000.00  | \$ 2,000.00  |
| 3                                 | Infrastructure for Future Signal <i>(Coordination Plan - Sheet TS-3 of the McCandleless Drive Improvement Plans)</i> | 1        | LF   | \$ 20,000.00 | \$ 20,000.00 |
| SUBTOTAL TRAFFIC SIGNAL WORK      |  |          |      |              | \$ 37,000.00 |
| TOTAL FUTURE TRAFFIC SIGNAL COST  |  |          |      |              | \$ 37,000.00 |

#5

**EXHIBIT B2  
ASSIGNMENT OF REIMBURSEMENT PAYMENTS AND CREDITS TO DEVELOPER AND  
OTHER BENEFITTING LANDOWNERS**

**(IN EVENT THAT TASP FEE IS INCREASED TO REFLECT THE REVISED COST  
ESTIMATE)**

| <b>Other Benefitting Landowners</b> | <b>Sewer Fund Payment</b> | <b>TASP Credit</b> | <b>TASP Construction In Lieu Credit</b> | <b>Assessor Parcel Numbers of Other Benefitting Landowners Receiving TASP Credit Running with Land</b> |
|-------------------------------------|---------------------------|--------------------|---|--|
| DR Horton                           | \$914,405.15              | \$295,572.09       | \$254,117.76                            | 086-41-019, 086-41-020, 086-41-021, 086-41-022   |
| DR Horton (Integral)                |                           | \$702,950.00       |   | 086-41-019, 086-41-020, 086-41-021, 086-41-022   |
| Taylor Morrison                     |                           | \$286,335.00       |   | 086-33-094, 086-33-095, 086-33-098, 086-33-099   |
| Taylor Morrison (Integral)          |                           | \$508,244.00       |   | 086-33-094, 086-33-095, 086-33-098, 086-33-099   |

*Total Credits and Reimbursements Payment: \$2,961,624 (Design Costs, Soft Cost Contingency and Bond/Insurance Costs included as part of the \$2,546,576.15 Credit and Reimbursement Payment)*