JOINT MEETING OF THE MILPITAS HOUSING AUTHORITY AND MILPITAS CITY COUNCIL
AGENDA
TUESDAY, JUNE 18, 2013

455 EAST CALAVERAS BLVD, MILPITAS, CA
6:00 P.M. (CLOSED SESSION) ● 7:00 P.M. (PUBLIC BUSINESS)

SUMMARY OF CONTENTS

I. CALL TO ORDER JOINT MEETING/ROLL CALL by the Mayor (6:00 p.m.)

II. ADJOURN TO CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL
Existing Litigation, Per Government Code Section 54956.9
City of Milpitas v. City of San Jose, Santa Clara County Superior Court case no. 112CV233069

2. CONFERENCE WITH LEGAL COUNSEL
Existing Litigation, Per Government Code Section 54956.9
County of Santa Clara, et al., v. Milpitas Economic Development Corporation, et al., Sacramento County Superior Court case no. 34-2013-80001436, and
Successor Agency to the Milpitas Redevelopment Agency, et al. v. John Chiang, et al., Sacramento County Superior Court case no. 34-2013-80001508

3. CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING
Pursuant to California Government Code Section 54957.6. City Negotiator: Carmen Valdez
Employee Groups: Milpitas Employees Association (MEA), Milpitas Police Officers Association (MPOA), International Association of Fire Fighters (IAFF), and Milpitas Association of Battalion Chiefs. Under Negotiation: Wages, Hours, Benefits, and Working Conditions

III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote or abstention of each member present

IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)

V. INVOCATION (Councilmember Giordano)

VI. APPROVAL OF COUNCIL MEETING MINUTES – May 14, 2013 and June 4, 2013

VII. SCHEDULE OF MEETINGS – COUNCIL CALENDARS – June and July 2013

VIII. PRESENTATIONS

- Proclaim *Parks and Recreation Month* for July 2013
- Present *Recreation Services 2012-13 Community Champion Awards*
- Recognize Milpitas Winners in the *2013 Santa Clara Valley Science and Engineering Fair*

IX. PUBLIC FORUM

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

X. ANNOUNCEMENTS

XI. ANNOUNCEMENT OF CONFLICT OF INTEREST

XII. APPROVAL OF AGENDA

XIII. CONSENT CALENDAR (Items with asterisks*)

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

XIV. REPORTS OF OFFICERS AND COMMISSIONS

*** 1. Consider Mayor's Recommendations for Appointments and Re-Appointments to Four Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**

*** 2. Consider Mayor's Recommendation having an Entry to Fremont's 4TH of July Parade and Approve $200 Allocation from Council Unallocated Community Promotion Budget to City of Fremont's 4TH of July Parade Committee (Contact: Mayor Esteves, 408-586-3029)**

3. Consider Request of Councilmember Montano to Adopt a Resolution Supporting the Santa Clara County Library District Community Facilities District Special Tax Ballot Measure (Contact: Councilmember Montano, 408-586-3023)

4. Consider Recommendation from the Community Advisory Commission to Amend Work Plan 2013-14 to Include Tree-Planting Program in Spring 2014 (Staff Contact: Felix Reliford, 408-586-3071)

*** 5. Approve Amendment to Bylaws for Sister Cities Commission's Meeting Time from 7:00 P.M. to 6:00 P.M. (Staff Contact: Leslie Stobbe, 408-586-3352)**

XV. NEW BUSINESS

6. Receive a Presentation from a Representative of the Santa Clara Valley Water District on Projects in Milpitas (Staff Contact: Jeff Moneda, 408-586-3345)

*** 7. Accept Pacific Gas & Electric Incentive and Association of Bay Area Governments PLAN Risk Management Grant for the Purchase of New Swimming Pool Covers and Assign the PG&E Incentive Payment to Knorr Systems (Staff Contacts: Jaime Chew, 408-586-3234 and Chris Schroeder, 408-586-3161)**

XVI. ORDINANCE

*** 8. Waive the Second Readings and Adopt Nitrogen Gas Ordinances No. 220.2, No. 222.1, and No. 223.2, and Amendments for Air Products and Praxair Franchise License Agreements (Staff Contact: Keyvan Irannejad, 586-3244)**

XVII. RESOLUTIONS

*** 9. Adopt a Resolution Authorizing the City Manager to Negotiate and Execute a Tax Sharing Agreement with SGI (Staff Contact: Tom Williams, 408-586-3050)**

*** 10. Adopt a Resolution Authorizing the City Manager to Award and Execute a Construction Contract with O'Grady Paving, Inc. for Street Resurfacing Project 2014, Street Cape and Slurry Seal, Projects No. 3412, No. 4254 and No. 4268 and Authorize Staff to Execute Contract Change Orders (Staff Contact: Steve Chan, 408-586-3324)**

*** 11. Adopt a Resolution and Approve a Memorandum of Agreement Creating the Santa Clara County Recycling and Waste Reduction Advisory Committee (Staff Contact: Jeff Moneda, 408-586-3345)**

*** 12. Approve and Authorize Execution of a Subdivision Improvement Agreement, On-Site Private Utilities Covenant Agreement, Right-of-Way Encroachment Permit Agreement, Final Maps, Public Improvement Plans, Penitencia Creek Trail Improvement Plans, and Temporary Closure of McCandless Drive; and Adopt a Resolution Authorizing Annexing Certain Real Property into Community Facilities District No. 2008-1 for "District 2" by Taylor-Morrison, Private Job No. 2825 (Staff Contact: Keyvan Irannejad, 408-586-3244)**

XVIII. BID AND CONTRACTS

*** 13. Approve Plans and Specifications and Authorize Advertisement for Bid Proposals for Cathodic Protection Improvements, Projects No. 7115, No. 6115 and No. 3706 (Staff Contact: Steve Erickson, 408-586-3301)**

*** 14. Approve Amendment No. 2 to Agreement with ACCO Engineered Systems and Authorize the City Manager to Execute the Amendment Extending Term from June 30, 2013 to February 17, 2014 for the Not-To-Exceed Amount of $21,144 for City Hall HVAC Maintenance and Repair (Staff Contact: Chris Schroeder, 408- 586-3161)**

*** 15. Approve and Authorize the City Manager to Execute an Agreement with Quality Assurance Engineering, Inc. for Various Capital Improvement Program Projects (Staff Contact: Steve Erickson, 408-586-3301)**

*** 16. Approve Renewal of Excess Workers' Compensation Insurance Contracted via Brown & Brown of California (Staff Contact: Carmen Valdez, 408-586-3086)**

*** 17. Approve Contracts with Eight Vendors for FY 2013-14 Recreation Service Programs (Staff Contact: Dale Flunoy, 408-586-3228)**

*** 18. Authorize Extension of Employment of Temporary Building Inspector Position for One Additional Month Ending July 31, 2013 (Staff Contact: Keyvan Irannejad, 408-586-3244)**

*** 19. Approve and Authorize the City Manager to Execute Amendment No. 2 to the Agreement with HF&H Consultants for Technical Support Services for Solid Waste Rate Review by Increasing Compensation by $28,446 (Staff Contact: Jeff Moneda,408-586-3345)**

*** 20. Authorize the City Manager to Execute a One Year Extension to Agreement with HMH Engineers to June 30, 2014 for the Dixon Landing Road/I-880 Interchange Right of Way Project (Staff Contact: Chris Schroeder, 408-586-3161)**

*** 21. Authorize the City Manager to Execute an Agreement with BAE Urban Economics to Prepare City of Milpitas State-Mandated General Plan Housing Element Update (Staff Contact: Felix Reliford, 408-586-3071)**

*** 22. Authorize the City Manager to Execute Amendment No. 2 to the Agreement with Tiburon, Inc. extending for one year Software Support and Maintenance for Police Records Management System for the Annual Not-To-Exceed Amount of $52,828 (Staff Contact: Chris Schroeder, 408-586-3161)**

XIX. ADJOURNMENT

NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, AUGUST 6, 2013 AT 7:00 P.M.

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035
e-mail: mogaz@ci.milpitas.ca.gov / Fax: 408-586-3056 / Phone: 408-586-3040

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

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3rd floor 455 E. Calaveras Blvd., Milpitas and on the City website.

All City Council agendas and related materials can be viewed online here:
www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp (select meeting date)

APPLY TO BECOME A CITY COMMISSIONER!
Current vacancies exist on the:

Public Art Committee (Alliance for the Arts member and General member)
Community Advisory Commission (alternate)
Emergency Preparedness Commission (alternate)

Commission application forms are available online at www.ci.milpitas.ca.gov or at Milpitas City Hall.
Contact the City Clerk's office (408-586-3003) for more information.

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, call the City Clerk at (408) 586-3001 or send an e-mail to mlavelle@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the Council Chambers for all meetings.

AGENDA REPORTS

XIV. REPORTS OF OFFICERS AND COMMISSIONS

*** 1. Consider Mayor's Recommendations for Appointments and Re-Appointments to Four Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**

Background: Mayor Esteves recommends the following residents be appointed or reappointed to Milpitas Commissions as follows:

Bicycle Pedestrian Advisory Commission
Re-appoint Kristal Caidoy as Alternate No. 2 to a term that will expire in August 2015.

Emergency Preparedness Commission
Re-appoint Betty Reutter as Alternate No. 1 to a term that will expire in June 2015.

Library Advisory Commission
Re-appoint Marie Pham as a regular member to a term that will expire in June 2015.
Re-appoint Nonie McDonald as Alternate No. 2 to a term that will expire in June 2005.

Parks, Recreation, and Cultural Resources Commission:
Appoint Gerome Guerrero (Alternate No. 1) as a regular member to a term that will expire in June 2014.
Appoint Bill Singh (Alternate No. 2) as Alternate No. 1 to a term that will expire in June 2014.
Re-appoint Stephanie Fong as a regular member to a term that will expire in June 2016.
Newly appoint Satish Bansal as Alternate No. 2 to a term that will expire in June 2015.

Recommendation: Receive Mayor's recommendations and move to approve appointments and re-appointments to four Milpitas Commissions.

*** 2. Consider Mayor's Recommendation having an Entry to Fremont's 4TH of July Parade and Approve $200 Allocation from Council Unallocated Community Promotion Budget to City of Fremont's 4TH of July Parade Committee (Contact: Mayor Esteves, 408-586-3029)**

Background: Mayor received an inquiry from Fremont's 4TH of July Parade Committee representative if City of Milpitas would like to participate in the parade. Each parade participant requires an entrance fee, but is not being required for participating cities; however cities participating in the parade are encouraged to make a donation.

Fiscal Impact: Donations could be made from the City Council's Unallocated Community Promotions Budget. The current balance for FY 2012-13 is $5,862.84. If the $200 donation request is authorized by City Council, the remaining balance would be $5,662.84.

Recommendation: Move to approve the Mayor's request to participate in Fremont's 4TH of July parade and donate $200 to Fremont's 4TH of July Parade Committee.

3. Consider Request of Councilmember Montano to Adopt a Resolution Supporting the Santa Clara County Library District Community Facilities District Special Tax Ballot Measure (Contact: Councilmember Montano, 408-586-3023)

Background: On August 27, 2013, a Santa Clara County Library District Community Facilities District Special Tax Measure will appear on a mail ballot in the community. This ballot measure continues the same tax rates currently levied by Santa Clara County Library District Joint Powers Authority Communities Facilities District Number 2005-1. The tax provides up-to-date book collections/research materials; children's reading programs; bookmobile services for seniors and the disabled; library hours; qualified librarians and other general library services and materials.

This special tax will have an annual appropriations limit of $6,200,000, with all money from each community used for its local library and no money appropriated to the state.

A voter-approved taxpayer funding for the Milpitas local library has been in place for the past twenty years and is due to expire. Continuing this funding at existing rates does not increase taxes. It will help the Milpitas Library maintain essential library services that students, seniors and other members of this community rely on, including story times for children and families, summer reading programs, homework help and school curriculum support, literacy assistance, income tax assistance and computer skills tutoring for adults, as well as bookmobile service, up-to-date book collections and research materials, and maintenance of library hours.

Without this funding, the Milpitas Library will be faced with implementing significant cuts to programs and services, including purchasing fewer books, reducing its ability to maintain up-to-date book collections and research materials, reducing or eliminating library programs for children, teens and seniors, and reducing its operating hours.

Fiscal Impact: None.

Recommendation: Per recommendation of Councilmember Montano, move to adopt a resolution supporting the Santa Clara County Library District Community Facilities District Special Tax Measure A on the August 27, 2013 ballot.

4. Consider Recommendation from the Community Advisory Commission to Amend Work Plan 2013-14 to Include Tree-Planting Program in Spring 2014 (Staff Contact: Felix Reliford, 408-586-3071)

Background: At its meeting on May 5, 2013, the Community Advisory Commission established a Tree-Planting Subcommittee to consider a work program to plant approximately 500 trees yearly throughout the city. On June 5, 2013, the Subcommittee reported back to the entire CAC with a presentation of the Tree-Planting Program which includes:

- Environmental and educational benefits of the program
- Identifying areas in the City where trees would be planted
- Use of volunteers to assist in tree planting throughout the City
- Aesthetics impacts of the Tree-Planting Program
- Seeking combination of City funding and donations to fund the program
- Planting 500 trees (approximately $50/per tree) over the next year starting in the spring of 2014
- Requesting a budget of $40,000 for the Tree-Planting Program.

At the CAC meeting, Commissioners reviewed the Subcommittee presentation and made the following recommendations to the Council regarding its amendment to its Work Plan 2013:

- Request to Council to consider amending the Work Plan 2013-14 to include the Tree-Planting Program with the objective of planting between 100-500 trees yearly.
- Request funding from City Council for Tree-Planting Program.

Included in the Council's agenda packet is a copy of the Subcommittee presentation and background information. A presentation on the proposed Tree-Planting Program will be provided at the meeting.

Fiscal Impact: Unknown at this time, based on the Council's consideration to fund the program and any ongoing costs for future tree maintenance.

Recommendation: Consider amending the Community Advisory Commission's Work Plan 2013-14 to include Tree-Planting Program, funding allocation, and direct staff accordingly.

* **5. Approve Amendment to Bylaws for Sister Cities Commission's Meeting Time from 7:00 P.M. to 6:00 P.M. (Staff Contact: Leslie Stobbe, 408-586-3352)**

Background: At its May 23, 2013 meeting, the Sister Cities Commission unanimously voted to recommend a change to its regular meeting time. In order to facilitate productive meetings and accommodate schedules, the Commission requests a 6:00 p.m., rather than a 7:00 p.m., start time for its monthly meetings. The Commission would continue to meet on the fourth Thursday of each month.

Fiscal Impact: None.

Recommendation: Approve a change in Section 6 of the Sister Cities Commission's By-laws to state, "The Sister Cities Commission shall hold regular meetings on the fourth Thursday of each month at 6:00 p.m."

XV. NEW BUSINESS

6. Receive a Presentation from a Representative of the Santa Clara Valley Water District on Projects in Milpitas (Staff Contact: Jeff Moneda, 408-586-3345)

Background: On March 25, 2013, the Santa Clara Valley Water District met with Mayor Esteves and City staff to provide information on key Water District projects. Mayor Esteves requested that the Water District provide a more in-depth presentation on the projects underway, planned in and around Milpitas.

Recommendation: Receive a presentation from a representative of the Santa Clara Valley Water District on projects in Milpitas.

* **7. Accept Pacific Gas & Electric Incentive and Association of Bay Area Governments PLAN Risk Management Grant for the Purchase of New Swimming Pool Covers and Assign the PG&E Incentive Payment to Knorr Systems (Staff Contacts: Jaime Chew, 408-586-3234 and Chris Schroeder, 408-586-3161)**

Background: The City of Milpitas' Recreation Services applied for an incentive from the Pacific Gas and Electric ("PG&E") Customized Calculated Retrofit Program to pay for swimming pool covers at the Milpitas Sports Center. Pool covers are the most effective way to conserve energy used to heat the pools. As a result of the energy savings that would be realized, PG&E approved the Milpitas Sports Center Pool Cover Project for the maximum incentive of 50% of the total project cost—an incentive amount of $16,068.73. This is an estimated amount and final savings are subject to an inspection and review of the final installed product. The City assigned the PG&E incentive amount to Knorr Systems, the City's current provider whose swimming pool covers are deemed to be superior products. The project must be completed by June 30, 2013 or the City would lose the incentive funds.

Recreation Services also applied for a grant from the Association of Bay Area Governments (ABAG) PLAN Risk Management Program to cover the remaining cost of the swimming pool covers. Recreation Services was awarded an ABAG grant in the amount of $16,068.72. This grant would cover the City's 50% portion of the Milpitas Sports Center Pool Cover Project.

Fiscal Impact: None. The incentive payment and grant will pay for the purchase.

Recommendations:

1. Accept PG&E incentive and ABAG grant for the purchase of new swimming pool covers at the Milpitas Sports Center.
2. Assign the PG&E incentive to Knorr Systems in the amount of $16,068.73.
3. Appropriate the ABAG PLAN Risk Management Program grant in the amount of $16,068.72 to the Milpitas Recreation Services Division budget.

XVI. ORDINANCE

*** 8. Waive the Second Readings and Adopt Nitrogen Gas Ordinances No. 220.2, No. 222.1, and No. 223.2, and Amendments for Air Products and Praxair Franchise License Agreements (Staff Contact: Keyvan Irannejad, 586-3244)**

Background: City Council adopted a Resolution of Intent to amend Ordinances No. 220, No. 222 and No. 223 to reflect new terms of the agreements with Air Products and Praxair for nitrogen gas facilities at its May 7, 2013 meeting. On June 4, the Council held a public hearing regarding this matter and introduced the ordinances. New terms include: a 7% increase in the fee calculation and an annual 7% increase for each year after that, with a 15 year initial term and future renewable 15 year terms as authorized by agreement of the parties. At this meeting, Council is requested to take the final step of adopting the ordinances and approving the agreements with Praxair and Air Products. The new terms were negotiated with the nitrogen gas providers and are consistent with charges imposed by neighboring cities.

Fiscal Impact: Increased revenue due to increase in franchise fees.

Recommendations:
1. Move to waive the second readings of Ordinances No. 220.2, No. 222.1 and No. 223.2.
2. Adopt the three Ordinances No. 220.2, No. 222.1 and No. 223.2 for amendments and to authorize execution of the agreements with Air Products and Praxair on the effective date of ordinances.
3. Authorize the City Manager to execute the Franchise License Agreements with Air Products and Praxair on the effective date of the ordinances.

XVII. RESOLUTIONS

*** 9. Adopt a Resolution Authorizing the City Manager to Negotiate and Execute a Tax Sharing Agreement with SGI (Staff Contact: Tom Williams, 408-586-3050)**

Background: SGI (formerly known as Silicon Graphics Computer Systems) approached the City of Milpitas for a tax sharing agreement in consideration of relocation of its corporate headquarters from Fremont to Milpitas. As part of economic development and Use Tax outreach program, the City of Milpitas has negotiated tax sharing agreements with other companies previously. The site has been vacant for a number of years. Staff believes that SGI's relocation may act as a catalyst to attract other high-tech companies to the neighboring vacant sites.

Proposed terms of the agreement will include the following:
1. Contract term of 5 years.
2. Up to 50% sharing of taxes generated by SGI in Milpitas and allocated to the City of Milpitas:
   a. Property tax that includes real properties and personal properties
   b. Use tax from the purchase of equipment
   c. Transient Occupancy Tax on hotel rooms booked for SGI's employees and guests
3. The actual amount of tax sharing will be based on true up of above revenues and documentation provided by SGI.

Staff requests that the City Council authorize the City Manager to negotiate and execute a Tax Sharing Agreement based on the terms listed above.

Fiscal Impact: 50% of potential tax revenues generated by SGI for the first 5 years and 100% thereafter.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute a Tax Sharing Agreement with SGI, subject to approval as to form by the City Attorney, for the sharing of up to 50% of Property, Use and Transient Occupancy Taxes generated by SGI in Milpitas and allocated to the City of Milpitas for a period of five years.

*** 10. Adopt a Resolution Authorizing the City Manager to Award and Execute a Construction Contract with O'Grady Paving, Inc. for Street Resurfacing Project 2014, Street Cape and Slurry Seal, Projects No. 3412, No. 4254 and No. 4268 and Authorize Staff to Execute Contract Change Orders (Staff Contact: Steve Chan, 408-586-3324)**

Background: On May 7, 2013, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals for Street Resurfacing Project 2014, Street Cape and Slurry Seal, Projects No. 3412, No. 4254 and No. 4268. The project consists of placing asphalt rubber cape seal, slurry seal, remove and replace asphalt and new roadway marking treatments on City streets. The Engineer's Estimate for the base bid project work was $2,000,000.

The project was advertised and two sealed bid proposals were received on June 3, 2013. Bid proposals were for $1,649,128 and $1,658,654, and the lowest responsible base bid was submitted by O'Grady Paving, Inc. in the amount of $1,649,128. Sufficient funds to award this project will be available on July 1, 2013. Staff recommends that the City Council authorize the City Manager to award and execute a construction contract to the lowest responsible bidder for the project during the month of July when the Council is in recess.

As was approved for the successful completion of recent projects with tight completion schedules, staff requests approval of the use of contingencies in the amount of $250,000 (15% of the contract award) to apply towards any additional scope of work identified by the City Engineer during construction due to unforeseen circumstances. Unforeseen circumstances are particularly attributed to the City's poor soil conditions and high groundwater table. Unforeseen circumstances include but are not limited to the following: additional repairs beyond the scope of work identified, additional quantities due to unforeseen conditions encountered during construction, and other miscellaneous items. This allows for the timely completion of this project by addressing the additional scope of work immediately and avoiding remobilization costs by the contractor. This work is necessary in order to minimize potential claims or risk to the City and provide the best final work product. The construction contingency established for this project is $250,000, and change order authority would not exceed this amount, and would not require additional appropriation.

Fiscal Impact: None. Sufficient funds will be available in the FY 2013-14 project budgets on July 1, 2013.

Recommendations:

1. Adopt a resolution authorizing the City Manager to award and execute a construction contract with O'Grady Paving, Inc. for Street Resurfacing Project 2014, Street Cape and Slurry Seal, Project No. 3412, No. 4254 and No. 4268, in the amount of $1,649,128.
2. Authorize staff to execute change orders for the projects provided that the change orders do not exceed the established construction contingency amount of $250,000 for the project.

*** 11. Adopt a Resolution and Approve a Memorandum of Agreement Creating the Santa Clara County Recycling and Waste Reduction Advisory Committee (Staff Contact: Jeff Moneda, 408-586-3345)**

Background: Countywide coordination of mandated and discretionary recycling and solid waste planning is provided by the Santa Clara County Recycling and Waste Reduction Commission (RWRC). The RWRC, chartered by the Board of Supervisors, is made up of elected officials representing cities or groups of cities, and the County and the Santa Clara Valley Water District. A Technical Advisory Committee (TAC) advises this Commission. The TAC is made up of staff

from the 15 cities and the County, plus representatives of the solid waste industry, recyclers, San Jose State University and environmental organizations.

Staff support for the RWRC and the TAC is provided by the County Integrated Waste Management Division (IWM), part of the County's Department of Agriculture and Environmental Management. Funding for this work comes from a Solid Waste Planning Fee charged by Santa Clara County on all disposed waste originating in the county.

A study issue arose from a desire to update the decades-old structure governing the TAC and its support from IWM staff. The roles of TAC and the IWM staff broadened as the jurisdictions implemented many new state requirements, including those of the California Integrated Waste Management Act (AB 939).

Throughout 2011, the ad-hoc TAC subcommittee had several meetings. With the assistance of IWM staff, members defined the scope of work and outlined a Memorandum of Agreement (MOA) document that addressed governance and representation issues. On July 16, 2012, an ad-hoc RWRC committee comprised of three Commissioners (past Chair Jamie McLeod, current Chair Jim Griffith and Commissioner Mike Wasserman) reviewed the outline, gave direction on key issues, and selected from among alternatives presented by the TAC subcommittee and IWM staff. With that direction, the subcommittee and IWM staff developed an MOA structure that addressed the issues and was generally acceptable to the participants.

The IWM Division then hired a consultant to expand the structure into the form of an MOA suitable for adoption. The RWRC reviewed and commented on a preliminary draft in December 2012. At its February 2013 meeting, it approved the final document and directed IWM staff to distribute the MOA and a sample resolution to all 16 jurisdictions with a request that they be reviewed by jurisdictional counsel and ultimately moved forward for approval by all 15 cities in the county and the County.

The City of Milpitas regularly attends TAC meetings and participates on the Household Hazardous Wastes and Public Education Subcommittees. City staff is appointed to TAC by the Public Works Director/City Engineer based upon scope of job duties and current assignments. Adoption of this resolution and approval of the MOA will not change the City's participation, voting rights nor benefits received from services provided by the Solid Waste Planning Fee.

Fiscal Impact: None. There is no fiscal impact as a result of adoption of this resolution and approval of the MOA.

Recommendations: In conjunction with all 15 cities in the county, Council is requested to take two actions that will define roles of Countywide coordination for solid waste planning:

1. Adopt a resolution creating the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee, and;
2. Approve the Memorandum of Agreement creating the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee.

*** 12. Approve and Authorize Execution of a Subdivision Improvement Agreement, On-Site Private Utilities Covenant Agreement, Right-of-Way Encroachment Permit Agreement, Final Maps, Public Improvement Plans, Penitencia Creek Trail Improvement Plans, and Temporary Closure of McCandless Drive; and Adopt a Resolution Authorizing Annexing Certain Real Property into Community Facilities District No. 2008-1 for "District 2" by Taylor-Morrison, Private Job No. 2825 (Staff Contact: Keyvan Irannejad, 408-586-3244)**

Background: On March 20, 2012, the City Council approved a Vesting Tentative Map, Conditional Use Permit and Site Development Permit for the District 2 residential development project. This project will construct 200 townhomes and is located on McCandless Drive just north of Penitencia Creek.

The developer submitted four final tract maps with required supporting documents and also submitted public and private improvement plans, and creek trail improvement plans for City review. Staff completed reviewing the plans and tract maps and determined those satisfy City requirements for this project.

Public improvements consist of new curb/gutter, asphalt concrete overlay, sidewalk, landscaped raised median, street lights and landscaping and irrigation, and up-sizing existing sewer main along the project frontage, new utility connections, and signal modification at McCandless Drive and Great Mall Parkway. In order to complete the public improvements with the least impact to the public safety, Taylor Morrison and other developers (Integral and DR Horton) working on McCandless Drive are requesting for its temporary closure between July and November 2013. All the surrounding businesses and the Great Mall were notified and a traffic analysis report was prepared by TJKM in support of the closure. Milpitas Police and Fire departments' staff will have emergency access at all times during the temporary closure of McCandless Drive.

The project will also have on-site private streets and utilities, and improvements to the Penitencia Creek trail. The public improvement plans, Penitencia Creek trail improvement plans, final maps, on-site private utilities covenant agreement and right-of-way encroachment agreement are available for review in the Land Development Office.

The developer petitioned the City to annex the project into Community Facilities District 2008-1 (CFD 2008-1). State law and City Resolution No. 7816 (adopted by the City Council on January 6, 2009) authorize the City to complete such annexation upon the property owner's written consent without further public hearing or formal election. Annexation into CFD 2008-1 will subject future property owners to an annual assessment to fund certain City services. The written petition and other required documents are attached to the resolution (included in the Council agenda packet).

Fiscal Impact: None.

Recommendations:
1. Approve and authorize execution of a Subdivision Improvement Agreement, on-site private utilities covenant agreement, and right-of-way encroachment permit agreement.
2. Approve the four Final Maps (Tracts 10141, 10145, 10148, and 10149) with the recommended street names.
3. Approve Public Improvement Plans 2-1165 and Penitencia Creek Trail Improvement Plans.
4. Approve the temporary closure of McCandless Drive.
5. Adopt a resolution annexing properties known as "District 2" project by Taylor-Morrison, LLC into Community Facility District 2008-1.

Attachments:
Attachment 1: Subdivision Improvement Agreement
Attachment 2: On-site Private Utilities Covenant Agreement- Cover Page
Attachment 3: Right-of-way Encroachment Permit Agreement- Cover Page
Attachment 4: Final Maps (Tracts 10141, 10145, 10148, and 10149)- Cover Page
Attachment 5: Public Improvement Plans NO. 2-1165- Cover Page
Attachment 6: Traffic Analysis Report for Temporary Closure of McCandless Drive
Attachment 7: Penitencia Creek Trail Improvement Plans- Cover Page
Attachment 8: Resolution Annexing Community Facility District 2008-1 (Annexation No. 3)

XVIII. BID AND CONTRACTS

*** 13. Approve Plans and Specifications and Authorize Advertisement for Bid Proposals for Cathodic Protection Improvements, Projects No. 7115, No. 6115 and No. 3706 (Staff Contact: Steve Erickson, 408-586-3301)**

Background: City of Milpitas Engineering staff completed plans and specifications for Cathodic Protection Improvements, Projects No. 7115, No. 6115, and No. 3706. The project provides for upgrades, repairs and replacements of the City's existing cathodic protection systems which are installed on buried metal pipelines to help protect the pipelines from corrosion and extend its useful life.

The Engineer's Estimate for the project is $475,000. A copy of the title sheet of the project plans is included in the Council's agenda packet, while the complete set of plans and specifications are available for review in the office of the City Engineer.

Fiscal Impact: None. Sufficient funds are available in the project budgets for these services.

Recommendation: Approve the plans and specifications for Projects No. 7115, No. 6115 and No. 3706, and authorize advertisement for bid proposals.

*** 14. Approve Amendment No. 2 to Agreement with ACCO Engineered Systems and Authorize the City Manager to Execute the Amendment Extending Term from June 30, 2013 to February 17, 2014 for the Not-To-Exceed Amount of $21,144 for City Hall HVAC Maintenance and Repair (Staff Contact: Chris Schroeder, 408- 586-3161)**

Background: ACCO Engineered Systems was the lowest responsible bidder for the original installation of the HVAC system when City Hall was built. Due to the customized and proprietary nature of the software used in the Hall Heating, Ventilation, and Air Conditioning (HVAC) control system, on February 17, 2009, Council adopted Resolution No.7838 approving ACCO Engineered Systems maintenance and repair services as a Sole Source purchase pursuant to Municipal Code section I-2-3.09 "Sole Source Procurement" for a period of five years. The current ACCO contract will expire on June 30, 2013, and the Sole Source designation will expire on February 17, 2014. Staff proposes to extend the contact term to February 17, 2014 to coincide with the end of the Sole Source designation and increase the contract amount by $21,144.

Fiscal Impact: None: This is a programmed expense in the FY 2013-14 budget for Facilities Maintenance.

Recommendation: Authorize Amendment No. 2 to the agreement with ACCO Engineered Systems and authorize the City Manager to execute the amendment from June 30, 2013 to February 17, 2014 for the not-to-exceed amount of $21,144, for a total contract value of $204,854 for City Hall Heating, Ventilation, and Air Conditioning maintenance and repair.

*** 15. Approve and Authorize the City Manager to Execute an Agreement with Quality Assurance Engineering, Inc. for Various Capital Improvement Program Projects (Staff Contact: Steve Erickson, 408-586-3301)**

Background: Engineering staff issued a Request for Proposals (RFP) for Construction Materials Testing Services for the City's Capital Improvement Program (CIP) in July 2009 and the firm of Quality Assurance Engineering, Inc. dba Consolidated Engineering Laboratories (CEL) was selected to meet the CIP construction workload for construction materials testing and inspection services. CEL successfully completed the authorized work requested and staff recommends entering into a new two-year agreement with CEL for the Construction Materials Testing Services. CEL is a recognized specialist in materials testing with qualifications and experience required for this type of service. Testing of construction materials such as paving asphalt, concrete and steel welding provides quality control and assurance that contractors meet the required specifications.

Materials testing services would be provided on a time and material basis for a not to exceed amount of $500,000, which is considered reasonable for the project workload expected for the next two years. The current respective project budgets and cost plans are sufficient to fund the services to be provided.

Fiscal Impact: None. Sufficient funds are available in the project budgets for these services.

Recommendation: Approve and authorize the City Manager to execute an agreement with Quality Assurance Engineering, Inc. (dba CEL) in the amount of $500,000, for various capital improvement program Projects, subject to approval as to form by the City Attorney.

*** 16. Approve Renewal of Excess Workers' Compensation Insurance Contracted via Brown & Brown of California (Staff Contact: Carmen Valdez, 408-586-3086)**

Background: The City carries excess workers' compensation insurance in accordance with state law. Insurance Broker, Brown & Brown of California was able to retain coverage through Safety National Casualty Corporation for fiscal year 2013-14. For fiscal year 2012-13, the cost of the excess workers' compensation was $113,631. The City's self-insured retention is $1,000,000 for Safety employees and $750,000 for Miscellaneous employees. The renewal premium for fiscal year 2013-14 will be the same as last year at $113,631. This premium quote is based on the City's payroll.

Fiscal Impact: None. There are sufficient funds allocated in the Human Resources Departmental 2013-14 budget.

Recommendation: Authorize renewal of contract with, and authorize the City Manager to pay Brown & Brown of California the premium rate of $113,631; and, approve acceptance of Safety National Casualty Corporation to provide for the City's excess workers' compensation insurance for FY 2013-14.

*** 17. Approve Contracts with Eight Vendors for FY 2013-14 Recreation Service Programs (Staff Contact: Dale Flunoy, 408-586-3228)**

Background: Recreation Services staff recommends City Council approve eight individual vendor contracts between the City of Milpitas and Barry Poole, Noteworthy Music, Jensen Performing Arts, Irene Saxes and Music Together, Communication Academy, Mad Science of Bay Area, South Bay Scholars, and Tatsiana Lahunovich. These are the preferred providers for classes and camps offered by Recreation Services. The vendor companies and individual contractors provide personnel, instruction, and supplies for each of their programs and camps.

City Council is requested to approve and authorize a contract for each vendor as follows:

1) Mad Science of Bay Area – not to exceed $22,500.00
2) Barry Poole (tennis instruction) – not to exceed $40,000.00
3) Irene Saxe and Music Together – not to exceed $28,000.00
4) Noteworthy Music – not to exceed $35,000.00
5) South Bay Scholars Basketball Camps – not to exceed $30,000.00
6) Jensen Performing Arts – not to exceed $25,000.00
7) Communication Academy – not to exceed $27,500.00
8) Tatsiana Lahunovich (fitness) – not to exceed $25,000.00

Funds were approved by the City Council during the FY 2013-14 budget hearing and are available in the Recreation Services operating budget for the purchase of theses services.

Fiscal Impact: None.

Recommendation: Approve contracts between the City of Milpitas Recreation Services and the eight vendors for annual classes and camps not to exceed their appropriate dollar amounts for Fiscal Year 2013-14.

*** 18. Authorize Extension of Employment of Temporary Building Inspector Position for One Additional Month Ending July 31, 2013 (Staff Contact: Keyvan Irannejad, 408-586-3244)**

Background: Developer Lyon Communities requested to extend the employment of a dedicated full time building inspector for one more month for the Lyon Milpitas Apartments project to provide continuous and uninterrupted inspection service for the remaining duration of construction. This service was provided to the developer since December 1, 2011 by the City of Milpitas and proved to be beneficial to both sides. It allows the City to continue to provide a high level of customer service by considerably reducing the number of re-inspections, streamlining and maintaining construction schedule and minimizing the number of construction revisions. Existing workload does not allow staff to provide a dedicated building inspector from current Building staff to the project and necessitating the extension of employment of a temporary inspector for the month of July 2013 for $11,720. Previously, the developer paid the full cost of inspection services, which included salary for the dedicated building inspector and an administrative fee.

Fiscal Impact: None

Recommendations:
1. Approve the developer Lyon Communities' request to continue with employment of one dedicated building inspector for an additional month ending July 31, 2013.
2. Approve budget appropriation of $11,720, less the administrative fee, into the Building and Safety Department's budget.

*** 19. Approve and Authorize the City Manager to Execute Amendment No. 2 to the Agreement with HF&H Consultants for Technical Support Services for Solid Waste Rate Review by Increasing Compensation by $28,446 (Staff Contact: Jeff Moneda,408-586-3345)**

Background: On August 4, 2009, the City entered into an agreement with HF&H Consultants for technical support services for assistance with the financial, regulatory, and technical management of current solid waste services and for long-term planning of future solid waste services. On March 16, 2010, the City entered into Amendment No. 1 for 2010-2011 solid waste services contract negotiations with Republic Services and assistance in developing the City's Solid Waste Master Plan. Staff recommends increasing the agreement in the amount of $28,446 for continued support anticipated for the duration of the agreement. This will bring the total value of the agreement to $236,696. Amendment No. 2 is included in the Council agenda packet.

Fiscal Impact: None. Sufficient funds are available in the FY 2013-14 Engineering budget.

Recommendation: Authorize the City Manager to execute Amendment No. 2 to the consultant services agreement with HF&H Consultants for technical support services for solid waste rate review by increasing compensation in the amount of $28,446, for a total not-to-exceed amount of $236,696.

*** 20. Authorize the City Manager to Execute a One Year Extension to Agreement with HMH Engineers to June 30, 2014 for the Dixon Landing Road/I-880 Interchange Right of Way Project (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: The City entered into a consulting services agreement with HMH Engineers on April 7, 2009 for professional engineering services for Capital Improvement Project No. 4047 Dixon Landing Road/I-880 Interchange Right of Way close out. The contract was extended twice, most recently to June 30, 2013. Staff requests extension of the contract for one additional year to June 30, 2014 to allow more time to coordinate with Caltrans to transfer the land title to the State of California. Extension of the contract will not increase the contract amount.

Fiscal Impact: None.

Recommendation: Authorize the City Manager to approve Amendment No. 3 to the agreement with HMH Engineers for one year extension from June 30, 2013 to June 30, 2014 for the Dixon Landing Road/I-880 Interchange Right of Way project with no change in contract amount.

*** 21. Authorize the City Manager to Execute an Agreement with BAE Urban Economics to Prepare City of Milpitas State-Mandated General Plan Housing Element Update (Staff Contact: Felix Reliford, 408-586-3071)**

Background: Pursuant to California Government Code §65580-§65589, each city and county is required to prepare and implement a General Plan Housing Element every eight years toward obtaining the state and regional housing goals. The Housing Element contains the following major subject areas:

- The evaluation of local housing needs and analysis of constraints affecting the ability of the marketplace to meet these needs.
- Identification of community housing goals, objectives and polices.
- An evaluation of the community's performance in achieving the goals established for the past five-year period.
- The description of a new eight-year housing program to meet the identified housing needs and goals.

Milpitas' previous Housing Element was adopted by City Council in June 2010 and was found by State of California, Department of Housing and Community Development (HCD) to be in conformance with the state housing element law. As required by housing element law, a series of community meetings will be held to obtain public input and comments during the preparation process. The proposed Housing Element will be due by December 31, 2014.

Since the adoption of the previous housing element in 2010, several new state laws were adopted, including the following:

- Housing Elements are no longer on five-year cycles to be reviewed and updated. As required by Department of Housing and Community Development (HCD), the new law has established **housing elements on 8 year cycles**. Housing Elements for Bay Area Cities and Counties will be from 2014-2022.

- **Housing Elements are required to address AB 32 (Greenhouse Gases and Emissions).** However, if cities and counties adopt Climate Action Plans which follow guidelines established by the state Attorney General's office, policies adopted in a Climate Action Plan would address AB 32 regarding potential impacts from future development. At its meeting on May 7, 2013, City Council adopted the Milpitas Climate Action Plan, consistent with state law.

- **Housing Elements and Zoning Ordinances must be amended to address emergency shelters, transitional, supportive housing and single room occupancy units (SROs) without any discretionary approval and must be permitted "by right."** Local governments no longer have the discretion to require a conditional use permit for these types of uses. Such uses can be regulated by development standards but the uses cannot be denied. This state law was enacted to address NIMBYism in opposition to such uses. HCD stated that Housing Elements which are non-compliant will not be certified. City of Milpitas staff and the Housing Element consultant will prepare appropriate Housing Element and Zoning Ordinance amendments to comply with state law.

- **Housing Elements are required to address SB 812 to adopt policies, ordinances and procedures established to allow reasonable accommodations for persons with disabilities**. Currently, the City's State adopted Uniform Building Code (UBC) addresses these issues, but the previous housing element does not. City of Milpitas staff

and the Housing Element consultant will prepare appropriate Housing Element and Zoning Ordinance amendments to comply with state law.

- **Housing Elements are required to address AB 162 amend to the Seismic and Safety Element to update current flooding information**. City of Milpitas staff and the Housing Element consultant will prepare appropriate Seismic and Safety Element and Zoning Ordinance amendments to comply with state law.

- **Streamlining Review Process.** If the previously updated Housing Element 2009-2014 meets certain criteria and the amendments above are adopted prior to submitting to HCD, the new Housing Element could be considered for the streamlining review process for certification. The previous Housing Element already meets several requirements, so City staff along with the Housing Element consultant believe, upon adoption of the amendments above, the Milpitas Housing Element 2014-2022 would meet these requirements for a streamlining review process.

Upon the selection of the Housing Element consultant, staff and consultant will address these amendments and will bring them forward to the Planning Commission and City Council for review and approval.

During the selection process, staff sent ten Requests for Proposals, received five responses and interviewed four planning consulting firms. Staff recommends the consultant firm of BAE Urban Economics to prepare and update the Milpitas General Plan Housing Element for 2014-2022. BAE has over 25 years of local government planning experience and has prepared numerous housing elements throughout the State and Bay Area. BAE prepared Milpitas' previous Housing Element in 2004-2009, for which the state HCD presented the City with its Local Government Leadership Award. The cost of the General Plan Housing Element is $113,719. There are sufficient funds in the Milpitas Housing Authority to fund the preparation of the state-mandated housing element. A budget appropriation is part of the request and recommendation. Included in the Council agenda packet is the agreement.

Fiscal Impact: $113,719. A budget appropriation from the Milpitas Housing Authority will be required to allocate funding for this project.

Recommendations:
1. Approve the budget appropriation request of $113,719 from the Milpitas Housing Authority to fund the General Plan Housing Element Update.
2. Authorize the City Manager to execute a consulting services agreement with BAE Urban Economics to prepare the General Plan Housing Element in an amount not to exceed $113,719.

*** 22. Authorize the City Manager to Execute Amendment No. 2 to the Agreement with Tiburon, Inc. extending for one year Software Support and Maintenance for Police Records Management System for the Annual Not-To-Exceed Amount of $52,828 (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: In December 1996, the City entered into an agreement with Tiburon, Inc. to provide a Police Records Management System (PRMS). Tiburon Inc. is the developer of the software, and there is no other source for support and maintenance of this application. Conversion to another Records Management System is not financially feasible at this time. Renewal of the maintenance agreement is therefore necessary to keep the PRMS operating. On January 4, 2011, Council approved the staff recommendation that Tiburon, Inc. be designated a sole source pursuant to Municipal Code Section I-2-3.09 Sole Source Procurement for a five year period. The contract with Tiburon renews annually at an increased rate of 5%, unless terminated.

Fiscal Impact: None. The cost of the maintenance agreement in the current fiscal year is $52,828 which is part of the Information Services Department FY 2013-14 operating budget.

Recommendation: Approve Amendment No. 2 to the agreement with Tiburon Inc. for a one year extension of services for software support and maintenance for the Police Records Management System for the period July 1, 2013 to July 1, 2014, for the annual not-to-exceed amount of $52,828.

XIX. ADJOURNMENT

NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, AUGUST 6, 2013 AT 7:00 P.M.

Draft MEETING MINUTES
CITY OF MILPITAS

Minutes of:	**Special Joint Meeting of Milpitas City Council and Redevelopment Agency**
Date:	**Tuesday, May 14, 2013**
Time:	**6:00 PM**
Location:	**Council Chambers, Milpitas City Hall, 455 East Calaveras Blvd.**

ROLL CALL Mayor Esteves called the meeting to order at 6:03 PM.

PRESENT: Mayor Esteves, Vice Mayor Polanski, Councilmembers Giordano, Gomez and Montano

ABSENTL: None

PLEDGE OF ALLEGIANCE Mayor Esteves led all present in the Pledge of Allegiance to the flag.

PUBLIC FORUM None.

ANNOUNCEMENT OF CONFLICT OF INTEREST None.

APPROVAL OF AGENDA Motion: to approve the meeting agenda, as submitted

Vice Mayor Polanski asked the Mayor to open the Public Hearing first, in order to hear from children (on theatre program), then have discussion and other speakers later on.

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

PUBLIC HEARING

Mayor Esteves opened the public hearing, to hear from young speakers in the audience.

Logan, a young girl, participated in and sought support for the Rainbow Theatre program, seeking funding returned to that program. She quoted from text of past ballot Measures H and I.

Michaela Parish, Milpitas resident and a girl participating in the theatre, also read from the text of past ballot measures, adopted with 74% yes vote.

Jackie Romero, 30 year resident of Milpitas, asked for City Council to stand by the vote of the people on the funding measures. She had researched how funds were spent and were supposed to be allocated. Her view was the Transient Occupancy Tax funds were to have been spent on Rainbow Theater.

Lisa Baker, Milpitas resident and mother, distributed a proposed budget for the theatre program to the Council. She talked about Measures H and I, on the ballot in the year 2000.

Mayor Esteves said after the budget presentation from staff, he would welcome more speakers for the continued public hearing part of this meeting.

Councilmember Giordano asked City Attorney Ogaz about the ballot measure and where the funds were to go once the Transient Occupancy Tax increase was approved. The City Attorney explained the measure was an advisory one only, with multiple areas of City government where the increased revenue was to be spent, including on the Milpitas Public Library, the arts, and other areas of municipal government.

Proposed Fiscal Year 2013-14 Financial Plan and Budget

City Manager and Finance Director Overview
City Manager Tom Williams reviewed recent history of the City's financial status, stating that would be followed by department head presentations, the Capital Improvement Program, with time for Council discussion and a vote to adopt the budget. He identified several major accomplishments over the past FY 2012-13.

Vice Mayor Polanski commented on the City Manager's bullet points, especially one emphasizing the reduction in the General Fund budget deficit, going from $12 million to $1.5 million for the next year. The City was still spending more than it was taking in over the last decade. Elimination of the Redevelopment Agency had a great impact, and she commended her colleagues and city staff for steps taken to date to deal with the significant loss.

Mr. Williams explained the difference between the initial $2.4 million expected deficit reduced to newer amount of $1.5 million, due to removing one Fire apparatus out of service very recently. He reviewed objectives in balancing the annual budget and follow-up topics from the Council's Budget Study Session the previous month. For the City's Crossing Guards, research revealed they were paid $5-$6 per hour less than most crossing guards in the County. To bring their salary to the average would require 50% increase in their hourly rate, at a cost of $117,300 to the General Fund. For the Police Department's former DARE/Character Counts programs: DARE for 12 weeks with two police officer instructors would cost $451,000. For Character Counts, preferred by the City Manager, it would require one police officer at a total cost of $227,000 for that program. For the former Rainbow Theatre program: $108,000 was provided as in-kind service to the program with no-cost use of the Community Center rooms and costs paid for the play licensing fees.

For a potential future Tutoring Center: much more due diligence was needed, and it could range from $50,000 to $300,000 without a building to host such a new program. The City Manager offered consideration of adding a tutoring course as a class through Recreation Services, by contract at an existing City facility. Councilmember Gomez inquired further about $50,000 cost and scope of services. Councilmember Montano said maybe it was something that federal Community Development Block Grant funds could go towards. She felt it was not a priority now, and perhaps she could seek private funds or talk to the school district about a future tutoring center.

Mayor Esteves reported that recently the Community Advisory Commission was looking into a trees program. He wanted to know the status and what department would handle that. City Manager Williams replied the Public Works would take care of any trees or tree planting. Mr. Williams then introduced the City's newly hired City Engineer/ Public Works Director Jeff Moneda.

Vice Mayor Polanski said the only one on the list from the City Manager that she wanted to deal with was the inequity of crossing guards' pay.

Mr. Williams next introduced City Finance Director Emma Karlen, who gave a budget summary for FY 2013-14. $114,400,000 was the total City budget proposed for next year, covering the General Fund, Water and Sewer Funds, the Capital Improvement Program and other revenues. $8.1 million of fund balances would be used toward costs for next year's CIP. There was a $9.3 million or 8.8% increase over the current fiscal year budget. She explained why some categories would increase next year with vehicle replacements, benefit cost increases, and some new hiring (fully cost recovered). $1.5 million was anticipated as the General Fund shortfall next year. Staff proposed to use a portion of the tax income from the Redevelopment Agency-area tax distribution to take care of that shortfall. Ms. Karlen displayed a General Fund Five Year Projection, yielding a $2.5 million deficit in FY 2014-15 going down to $0.7 million deficit by FY 2018-19.

Councilmember Giordano asked about how projected revenues were determined, and the Finance Director explained.

Department Budgets:
City Manager Tom Williams presented the City Council and City Manager's office budget. City Clerk Mary Lavelle reviewed the City Clerk division's budget. City Attorney Mike Ogaz next presented his unit's budget. During the past year, he operated with a 2/3 staff level and then introduced Johnny Phan, new Assistant City Attorney. Chief Building Official Keyvan Irannejad explained the Building and Safety office's budget. Acting Information Services Director Mike Luu displayed the Information Services budget. Human Resources Director Carmen Valdez presented Human Resources and Recreation Services budgets. Finance Director Emma Karlen discussed the Finance Department budget. For City Engineering and Public Works, the City Manager presented both departments' budgets for the next year. Planning and Neighborhood Services Director Steve McHarris went over the budget for that department. Police Chief Steve Pangelinan gave a summary of Police Department budget, followed by Fire Chief Brian Sturdivant for the Fire Department.

Mayor Esteves inquired about the City's collection of use tax, paid by companies. He wanted to make sure that revenue was a goal, to be sure to obtain that revenue in economic development efforts of the City.

Councilmember Montano asked for an explanation of Association of Bay Area Governments PLAN, the self insurance pool that the City was a part of. She noticed liability cases where the City was represented by ABAG, rather than the City Attorney. Mr. Ogaz explained the insurance pool in which Milpitas participated with other cities.

Mayor Esteves commented to the Building staff, on the report on customer service, via a survey by Google. The Mayor suggested to the City Manager that it could be used by all departments city-wide.

Next, Mayor Esteves asked the City Manager about street trees. Mr. Williams replied, there was a hiatus on tree planting around the City, but meantime many more trees were planted with many new developments going in the Transit Area. Resources were needed to put back into the urban tree program in the older neighborhoods. The Mayor asked about the possible Community Advisory Commission program, seeking to match the costs of installing new trees. He urged attention to planting more trees and to consider cost-sharing with residents, for the future, as was done nearby in San Jose and Palo Alto.

Vice Mayor Polanski noted that in some neighborhoods, where trees were required in earlier decades. Residents who moved here more recently had no city trees, while some did not want a tree even if the City was to offer it. She felt a need to emphasize street landscaping and in the medians throughout the city.

Councilmember Gomez commented on the Community Advisory Commission, which was only going to form a subcommittee to study a trees program and get back to the City Council on a possible recommendation.

Mayor Esteves suggested a review of all City operations for possible cost savings to Information Services. Mr. Mike Luu responded that staff was always looking at alternatives, and he gave example of past purchase of "off the shelf" products, while current I.S. staff sought to use open-source technology available. One example was online time card data entry, where staff created a new program in-house rather than purchase an expensive copyrighted product. Mr. Luu responded to the Mayor also about a new application his office was working on, to allow residents to report by an electronic device issues like potholes or others needing quick attention from City staff.

Human Resources & Recreation Director Carmen Valdez responded to questions from Councilmember Montano about any overlap of class offerings with any offered by the School District. Ms. Valdez also responded to Council member Gomez about satisfaction of internal customers by conducting a survey of employees. Mayor Esteves received information from Ms. Valdez on salary and benefits, and current second-tier benefits.

Chief Pangelinan reported figures on police staffing, with 105 employees in the department, where 83 were sworn officers. Mr. Gomez asked why the crime rate was not one of his performance measurements. He asked for detailed numbers on staffing, which the Chief could provide later. The Police Chief remarked that 83 officers were adequate to patrol the city and keep residents safe. In the future, with anticipated population growth in the City, his office would likely need to add more officers.

Councilmember Montano suggested video cameras placed in strategic places around the city to help the Police catch criminals. Vice Mayor Polanski thanked the Chief for press releases, and the tips that go out to residents.

Mayor Esteves asked about the burglary rate and the goal to reduce it. He suggested more Neighborhood Alert groups to assist with reducing crime. Mayor wondered about revenue from traffic violations and if it generated much for the City. Both the City Manager and the Finance Director explained why the answer was no.

Next, Mayor Esteves inquired whose duty it was to provide crossing guards. City Attorney Ogaz commented there was no actual requirement in the law. The City and School District could provide those, via the City for traffic safety purposes. Councilmember Gomez thought there was inequity which should be fixed. Vice Mayor Polanski agreed with Mr. Gomez and felt the School District should assist paying for an increase in the crossing guards' hourly pay.

Councilmember Montano agreed with the Vice Mayor about the school district which could pay 20% of the increase. She made a motion to have a pay raise for crossing guards, and the motion was seconded by Vice Mayor Polanski. Councilmember Gomez sought to get them to the average hourly rate of pay. Mayor Esteves suggested a 25% increase now and seek the rest later. Councilmember Gomez repeated his goal to have crossing guards at the average pay now, and if that was a motion, Councilmember Giordano seconded that. Staff explained that a budget adjustment later, once adopted, could be brought to the Council to accomplish the increase in crossing guards' pay.

Mayor Esteves wanted to know if a reduced cost "Character Counts" program could be added. The Police Chief said $227,000 would be the cost if it was brought back.

Fire Chief Sturdivant reported there were 53 sworn firefighter positions and 7 support staff in the Fire Department.

Councilmember Giordano suggested to move to the Capital Improvement Program, having already discussed it at the last Council meeting and to get to the voting at this time.

Mayor Esteves wanted to know if the staff included a doubling in donations, under the new fee waiver/donation program in the City Council budget. Ms. Karlen replied that staff included $20,000 as the Unallocated Community Promotions Donation total amount.

Vice Mayor Polanski reminded her colleagues that they previously said Council wanted a priority where funds available would go to future projects. City Manager Williams agreed that any excess revenue not allocated elsewhere would be moved to the CIP for streets, as the highest priority.

Mayor Esteves asked if the CIP was funded in an amount for streets work to maintain the goal of a Pavement Condition Index (PCI) rating of 70. CIP Manager Steve Erickson replied that street improvements were fully funded for FY 2013-14, but not fully funded for the following years 2 – 5 in the five-year CIP.

Capital Improvement Program budget
CIP Manager Erickson skipped the detailed review of the five year CIP for Fiscal Years 2013-2018, with the consensus of the City Council, per suggestion by Councilmember Giordano.

Councilmember Montano asked questions about streets work in her neighborhood, and specifically asked for staff to take a look at specific streets, where condition of the roadways needed improvement.

Next, Mayor Esteves re-opened the public hearing at 10:35 PM, while no speakers came forward.

COUNCIL ACTIONS

(1) Motion: move to close the Public Hearing

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

Motion carried unanimously by a vote of: AYES: 5
NOES: 0

(2) Motion: to adopt the Joint Resolution No. 8258 /HA 9 of the City of Milpitas and the Housing Authority Commission of the City of Milpitas approving the final FY 2013-14 City Budget ($114,428,775 total)

Motion/Second: Councilmember Giordano/Councilmember Gomez

Motion carried unanimously by a vote of: AYES: 5
NOES: 0

City Attorney Ogaz recommended a separate motion about the specific pay increase desired for Crossing Guards.

(3) Motion: to provide a 50% increase in compensation for Milpitas Crossing Guards, to be brought back in a future amendment to the adopted Final Budget

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

Motion carried unanimously by a vote of: AYES: 5
NOES: 0

(4) Motion: to adopt Resolution No. 8259 amending the Classification Plan (for various department changes)

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

Motion carried unanimously by a vote of: AYES: 5
NOES: 0

(5) Motion: to adopt Resolution No. 8260 approving the Amended Budget Guidelines and Fiscal Policies (as proposed by staff and attached as Exhibit to the Resolution)

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

Motion carried unanimously by a vote of: AYES: 5
NOES: 0

ADJOURNMENT
Mayor Esteves adjourned the meeting at 10:40 PM.

Meeting minutes respectfully submitted by
Mary Lavelle, City Clerk

Draft MEETING MINUTES
CITY OF MILPITAS

Minutes of:	**Regular Meeting of Milpitas City Council**
Date:	**Tuesday, June 4, 2013**
Time (scheduled):	**6:00 PM**
Location:	**Council Chambers, Milpitas City Hall, 455 East Calaveras Blvd., Milpitas**

ROLL CALL

Mayor Esteves called the meeting to order at 6:30 PM. The City Clerk noted the roll.

PRESENT: Mayor Esteves, Vice Mayor Polanski, and Councilmember Montano

ABSENT: Councilmember Giordano. Councilmember Gomez was absent at 6:30 PM and arrived at 6:34 PM.

CLOSED SESSION

City Council convened in Closed Session to discuss labor negotiations and one litigation matter.

City Council then convened in Open Session at 7:03 PM.

ANNOUNCEMENT

No announcement out of Closed Session.

PLEDGE

Boy Scouts Troop No. 92 presented the flags and led the pledge of allegiance.

INVOCATION

Mayor Esteves invited resident Rev. Edna Andres of United Methodist Church in San Jose and a Milpitas resident to provide the opening prayer.

MINUTES

Motion: to approve meeting minutes of May 21, 2013 City Council meeting, as submitted

Motion/Second: Vice Mayor Polanski/Councilmember Gomez

Motion carried by a vote of:
AYES: 4
NOES: 0
ABSENT: 1 (Giordano)

SCHEDULE OF MEETINGS

Motion: to approve Council Calendars/Schedule of Meetings for June 2013, as amended

Motion/Second: Vice Mayor Polanski/Councilmember Gomez

Motion carried by a vote of:
AYES: 4
NOES: 0
ABSENT: 1 (Giordano)

PRESENTATION

Mayor Esteves presented the Youth Advisory Commission scholarship award to Cindy Wu, the first recipient of a $500 scholarship to a graduating high school senior. Also at the podium with the Mayor were the Chair, Vice Chair and one member of the Youth Advisory Commission.

PUBLIC FORUM

Two Fremont men, Steve Cho and Mr. Singh, representing July 4th parade committee came to extend invitation to the Mayor, Councilmembers and Milpitas residents to attend the parade in their community (not sponsored by the City of Fremont) themed "United We Stand" starting at 10:00 AM, for one mile with more information available at www.fremont4th.org.

Rob Means, 1421 Yellowstone, talked about global warming, and displayed comments from several websites.

Robert Marini, Milpitas resident, displayed a notice of sewer rate adjustments and complained of having no any written response to his April 30th letter to the City requesting information for the basis of fee calculations.

Carol Kassab, CEO of Milpitas Chamber of Commerce, congratulated the Mayor on his successful "State of the City" speech given last Thursday evening May 30 at the Community Center.

ANNOUNCEMENTS

Vice Mayor Polanski thanked the Mayor, staff and all who attended the well-done Memorial Day ceremony held on May 27 to remember those who were lost serving the country. The Children's Theatre Alliance held its first successful fun run-walk event last weekend, and their next play will be presented at the Community Center in July.

Mayor Esteves announced that the Fil-Am Fiesta would be held on Saturday, June 8 at 2:00 PM at the Milpitas Community Center.

ANNOUNCEMENT OF CONFLICT OF INTEREST

None.

APPROVAL OF AGENDA

Motion: to approve the agenda, as submitted

Motion/Second: Vice Mayor Polanski/Councilmember Montano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Giordano)

City Attorney Mike Ogaz asked the Mayor and City Councilmembers if they had received any campaign contributions from any vendor or contractor on the consent calendar, and all replied no.

CONSENT CALENDAR

Motion: to approve the Consent Calendar (items noted with *asterisk), as amended

City Manager Williams requested that staff wished to remove Item No. 10 (financial status report) from consent for an oral presentation.

Motion/Second: Councilmember Gomez/Councilmember Montano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Giordano)

* 6. May odor report	Received the May 2013 odor report.
* 7. Accept Donation for Park	Approved donation to Parks and Recreation of trees and a park bench at Murphy Park in honor of Ms. Kanwarjit Kang.
* 8. Approve Grant Funds for Police Department software	Approved an appropriation in the amount of $101,600 into the Police Department's operating budget for the purchase of Computer Aided Dispatch (CAD) software, the entire cost of which will be reimbursed through Urban Area Security Initiative Grant.
* 9. Approve Fee Waiver	Approved a fee waiver in the amount of $1,500 to the Intergroup Central Office of Santa Clara County for its Alcoholics Anonymous Unity Day event on August 18, 2013.
*11. Adopt Resolution	Adopted Resolution No. 8270 transferring a total of $254.28 unclaimed checks, per the list of checks generated by the City's Finance Department, to the General Fund.
*12. Adopt Resolution	Adopted Resolution No. 8271 adopting the appropriations limit for Fiscal Year 2013-14.
*13. Adopt-a-Spot Agreement with Lions Club	Authorized the City Manager to execute the Adopt-a-Spot Agreement with the Milpitas Executive Lions Club to adopt the Alviso Adobe Park for one year from June 1, 2013 to May 31, 2014.

*14. Amendment No. 1 to Agreement with RMC Water	Authorized the City Manager to execute Amendment No. 1 to the consultant services agreement with RMC Water and Environment, Inc. for Utility Engineering support by increasing the compensation in the amount of $88,000 for a total contract not-to-exceed amount of $176,000.
*15. Amendment No. 3 to Agreement - Premier Recycle	Authorized the City Manager to execute Amendment No. 3 to the Non-Exclusive Collection, Transportation, and Recycling of Debris Agreement with Premier Recycle.
*16. Amendment No. 1 to Agreement with West Yost	Authorized the City Manager to execute Amendment No. 1 to the consultant services agreement with West Yost & Associates for technical support services for the Santa Clara Valley Transportation Authority-Bay Area Rapid Transit construction project by increasing compensation in the amount of $20,000, for a total contract not-to-exceed amount of $38,000 for Projects No. 4265 and No. 7100.
*17. Award Bid for printing to Fricke-Parks Press	Awarded the bid for printing of the Recreation's Activity Guide publication to Fricke-Parks Press for one year with an annual option to renew for four more years for the annual not-to-exceed amount of $7,595. Total contract value is $37,975, if options are exercised. Authorized the City Manager to execute the contract and exercise annual renewal options with up to 5% price increases, per contract terms, without further City Council approval, subject to appropriation of funds in the option years.
*18. Approve purchase of Badger Water Meters	Approved the purchase of assorted Badger automatic reporting water meters and equipment from National Meter and Automation for the not-to-exceed amount of $27,953.32.

PUBLIC HEARINGS

1. Traverse Residential project at 569 – 625 Trade Zone Blvd.

City Attorney Ogaz asked if Council had received any contribution from the developer of this project and all replied no. Councilmember Gomez recommended that this question be asked only once per agenda, and Mr. Ogaz said he could do that for future meetings.

Assistant City Planner Cindy Hom presented the proposal for a new 206-unit residential development on a 12.5 acre site, termed "Traverse" by Warmington Homes in the Transit Area Specific Plan section of Milpitas. The Planning Commission recommended the project for approval by Council, following its public hearing held on May 8.

Two exceptions to the Transit Area Specific Plan requirements were requested, for additional parking on Momentum Drive and for an 8 feet sidewalk, rather than 10 feet in front of buildings. The developer offered to provide public art at a public park, as a public benefit, worth $100,000 for those two exceptions.

Councilmember Montano repeated a comment she made at a previous Council meeting, to ask staff to look into public art requirement by ordinance, as done by some other cities.

Mayor Esteves asked the planner how the staff was able to balance the exceptions desired along with the public benefit offered. Staff had done so, meeting the requirement of the Planning Commission for most density possible in the project, which the developers met while offering a very desirable new amenity (art).

Councilmember Gomez asked staff about the new community park at the site, for a multi-use park. Staff replied that details were not confirmed yet, and would need to go to the Parks, Recreation and Cultural Resources Commission for input on how to develop the park. Mr. Gomez thanked Warmington Homes for the vast improvement in its plan, vs. the first rendition, and for its investment in the community at this specific site.

Councilmember Montano asked how residents of the new development would get to the new BART station. Staff explained the walking path across Trade Zone Boulevard. Ms. Montano also sought assurance about the required clean-up and no contamination from oil

due to the former auto wrecking yard at that property, the long-standing business use at this location.

Mr. Greg Mix of Warmington Homes noted that disclosures to home purchasers would be necessary about the long-time auto use on site.

The Mayor asked staff to explain the density transfer, as it was the first time it was done in Milpitas and to explain what the guidelines were. He asked about 33 protected trees, and acknowledged that more will be planted. Staff noted 483 new trees would be planted. He asked about mitigation for an environmental plan that covered south part of County.

Next, Mayor Esteves asked the project applicant to the podium.

Greg Mix of Warmington Homes in San Ramon looked forward to building this beautiful new project in Milpitas, and then he responded to several questions from the Council.

The Mayor asked details about roofs on the units to be built and the architect explained flat roofs, collection of rainwater, and re-use of that water via a white membrane roof.

Then Mayor Esteves opened the public hearing for comments.

Robert Marini, Milpitas resident, opposed the project due to the resulting population increase, the number of parcels, and the loss of the right to vote on increased taxes which gets marginalized in his view.

Rob Means, 1421 Yellowstone resident, sought as the Mayor did, to be clear of the balance of the project for public benefit. He wanted to know about pollution clean-up and costs. He was disappointed about the density compromise, where more units should be built at the maximum allowed next to new transit.

(1) Motion: to close the public hearing

Motion/Second: Vice Mayor Polanski/Councilmember Gomez

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Giordano)

Vice Mayor Polanski asked the City Manager to explain the Community Facilities District and purpose to pay for recurring City operational costs, and Mr. Williams explained the new CFD to be established for homeowners.

Mayor Esteves inquired further about these issues: the park, portion of the park paid by developer, the amenities, density averaging, numbers required in TASP, the goal of 7,000 new housing units and response to the City Manager's comments on federal (FTA) funding agreement based on expected BART ridership.

(2) Motion: to adopt Resolution No. 8267 approving the Traverse residential development project by Warmington Homes for 206 new residential units on a 12.5 acre site in the Transit Area Specific Plan's Trade Zone/Montague Sub-District location

Motion/Second: Councilmember Gomez/Vice Mayor Polanski

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Giordano)

At 9:04 PM, Council took an announced break and returned at 9:16 PM.

2. Nitrogen Gas Franchises

Chief Building Official Keyvan Irannejad introduced the request for updates to two franchise agreements with two companies for provision of nitrogen gas to commercial customers in Milpitas. These were for existing pipelines already installed underground in the City. Nitrogen gas was currently provided to 21 businesses within the City.

Mayor Esteves asked about liability and risk, if any, to the City with a concern for safety. Staff replied that all requirements were met by the franchised providers.

The Mayor next opened the public hearing for comments and none were heard.

(1) Motion: to close the public hearing

Motion/Second: Vice Mayor Polanski/Councilmember Gomez

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Giordano)

The Mayor asked the City Clerk if any written protests or comments were received, and she answered no.

City Attorney Ogaz read aloud the titles, as follows:
Ordinance No. 220.2 "An Ordinance of the City Council of the City of Milpitas Amending Chapter 19 of Title III of the Milpitas Municipal Code Regarding Non-Exclusive Franchise for Nitrogen Gas Facilities."

Ordinance No. 221.1 "An Ordinance of the City Council of the City of Milpitas Amending Chapter 17 of Title III of the Milpitas Municipal Code Regarding Nitrogen Gas Franchise (Air Products)"

Ordinance No. 223.2 "An Ordinance of the City Council of the City of Milpitas Amending Chapter 18 of Title III of the Milpitas Municipal Code Regarding Nitrogen Gas Franchise (Praxair, Inc.)"

(2) Motion: to waive the first readings beyond the titles of Ordinances No. 220.2, No. 221.1 and No. 223.2

Motion/Second: Vice Mayor Polanski/Councilmember Gomez

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Giordano)

(3) Motion: to introduce Ordinances No. 220.2, No. 221.1 and No. 223.2

Motion/Second: Vice Mayor Polanski/Councilmember Gomez

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Giordano)

(4) Motion: to establish June 18, 2013 as the Council meeting date to adopt 3 ordinances and for approval of the 2 Franchise License Agreements with Air Products and Praxair

Motion/Second: Vice Mayor Polanski/Councilmember Gomez

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Giordano)

3. Levy Assessments for LLMD No. 98-1 Sinclair Horizon

CIP Manager Steve Erickson introduced the Landscaping and Lighting Maintenance Assessment District No. 98-1 at Sinclair Horizon subdivision. Each year, a public hearing was required to review assessments charged to property owners for various public improvements. Photos were displayed to show some of the landscape and maintenance in that neighborhood. $36,591 was the total amount to be assessed in the coming fiscal year.

Mayor Esteves opened the public hearing.

Rob Means, 1421 Yellowstone resident, said he rode his bicycle on that path in Sinclair Horizon, and this was an example where a public-private partnership worked well.

(1) Motion: to close the public hearing

Motion/Second: Vice Mayor Polanski/Councilmember Gomez

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Giordano)

(2) Motion: to adopt Resolution No. 8268 approving the annual Engineer's Report, confirm diagram and assessment, and order levy of assessments for FY 2013-14 for Landscaping and Lighting Maintenance Assessment District No. 98-1

Motion/Second: Vice Mayor Polanski/Councilmember Gomez

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Giordano)

4. Levy Assessments for LLMD No. 95-1 McCarthy Ranch

CIP Manager Steve Erickson introduced the Landscaping and Lighting Maintenance Assessment District No. 95-1 at McCarthy Ranch. Each year, a public hearing was required to review assessments charged to property owners for various public improvements. Photos were displayed to show some of the maintenance, installation and repair work in that area. $276,676 was the total amount to be assessed in the coming fiscal year.

Mayor Esteves opened the public hearing for comments.

Robert Marini, Milpitas resident, commented that the basis for calculating fees was displayed for this district (per slide displayed) so he asked why not for water/sewer costs.

Rob Means, 1421 Yellowstone resident, queried why Capital Improvement Program costs were part of the budget for the LLMAD. Mr. Erickson said it was to improve, replace, and maintain infrastructure at the site, not for the specified CIP projects.

(1) Motion: to close the public hearing

Motion/Second: Vice Mayor Polanski/Councilmember Gomez

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Giordano)

(2) Motion: to adopt Resolution No. 8269 approving the annual Engineer's Report, confirm diagram and assessment, and order levy of assessments for FY 2013-14 for Landscaping and Lighting Maintenance Assessment District No. 95-1

Motion/Second: Vice Mayor Polanski/Councilmember Gomez

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Giordano)

UNFINISHED BUSINESS

5. Strategic Planning Process

City Manager Tom Williams introduced Dr. Shawn Spano, a PhD. from San Jose State University and head of consulting company Public Dialogue Consortium which had been conducting processes with local governments for strategic planning. He walked through the strategic plan design concept and an overview including four Phases, seeking input from the Mayor and City Council.

Councilmember Montano asked if he planned to meet with individual Councilmembers. Dr. Spano would love to meet with members, and it was on his list as a possibility.

Councilmember Gomez asked City Manager the cost of this process. Mr. Williams responded that $19,000 was the initial phase cost and he would bring back the next scope to the City Council for approval. For all of the Phases described, if implemented, the total cost for the strategic planning process would be approximately $150,000.

Vice Mayor Polanski wanted to know how long would the process take start to finish. Dr. Spano replied, it depends. When engaging the community, it would take a little longer but generally completed within one year. Council and Dr. Spano engaged in dialogue about how to engage the very diverse population of the City of Milpitas.

Mayor Esteves asked about the $150,000 "price tag" and what the community would get for that.

City Manager Williams told the City Council that one on one meetings can be scheduled with Shawn Spano to get started, as he had recently done with all department heads, members of the Senior Management team. Use of cable television, webstreaming and use of the website would be utilized for more outreach to community.

The Mayor invited speakers from the audience.

Robert Marini, Milpitas resident, said this seemed to be an overlap with the work of City Commissions.

REPORT of COMMISSION

One item was approved on consent calendar.

NEW BUSINESS

Two items were approved on consent calendar.

10. Financial Status Report

Finance Director Emma Karlen provided an oral report of the current financial status of the City for the past nine months, through March 31. One category of revenue that was higher than budgeted, for example, was sales tax at $20.51 million, for FY 1012-13.

Mayor Esteves asked about car sales and sales tax, use tax, grocery stores and into what business segment those funds fell. Councilmember Gomez also asked for sales tax revenue information that, in addition to car sales tax, the Finance Director explained that was confidential information.

The Mayor thanked Ms. Karlen for her oral report on the city's status.

RESOLUTIONS

Two Resolutions were adopted on consent calendar.

BID & CONTRACTS

Five items were approved on consent calendar.

DEMAND One item was approved on consent calendar.

ADJOURNMENT Mayor Esteves adjourned the meeting at 10:28 PM.

Meeting minutes respectfully submitted by
Mary Lavelle, City Clerk

May 2013						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

July 2013						
S	M	T	W	T	F	S
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7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

Council Calendar

June 2013

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3 **7:00 PM**-Parks, Recreation & Cultural Resources Commission (AP)	4 **6:30 PM**-Closed Session **7:00 PM**-City Council	5 **7:30 AM**-VTA Northeast Group (JE) **5:30 PM**-Veterans Commission (DG) **7:00 PM**-Community Advisory Comm. (AG)	6 **1:30 PM**-SCC Library JPA Board (CM) **5:30 PM**-VTA Board of Directors (JE)	7	8 **9:00 AM** PRCRC Tour
9	10 **6:00 PM**-Economic Development Commission (CM)	11	12 **7:00 PM**-Planning Commission	13 **4:00 PM**-VTA Policy Advisory Committee (AG) **4:30 PM**-Treatment Plant Advisory Committee (JE) (San Jose) **7:00 PM**-Cities Assoc of SCC (JE)	14	15
16	17 **7:00 PM**-Telecommunications Commission (AP) **7:00 PM**-Public Art Committee Special Meeting (DG)	18 **6:00 PM**-Closed Session **7:00 PM**-City Council	19	20 **12:30 PM**-VTA Admin & Finance Committee (JE) **4:00 PM**-SVRT Program Working Committee (JE)	21	22
23	24	25 **1:30 PM**-Senior Advisory Commission (JE)	26 **7:00 PM**-Planning Commission	27 **7:00 AM**-Milpitas Chamber of Commerce Board (DG) **12:00 PM**-Terrace Gardens Board of Directors (DG) **7:00 PM**-Sister Cities Commission (CM)	28 **9:00 AM**-VTA Board of Directors (JE)	29
30						

Updated 06/12/2013

June 2013						
S	M	T	W	T	F	S
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2	3	4	5	6	7	8
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30						

August 2013						
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18	19	20	21	22	23	24
25	26	27	28	29	30	31

Council Calendar

July 2013

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3 **5:30 PM**-Veterans Commission (DG)	4 *"Waving the Red, White & Blue" Pool Party 1:00 - 4:00pm* *"Red, White & Boom" Concert & Fireworks Show 7:00 - 10:00pm*	5	6
7	8 **6:00 PM**-Economic Development Commission (CM)	9	10 **7:00 PM**-Community Advisory Comm. (AG) **7:00 PM**-Planning Commission	11 **4:00 PM**-VTA Policy Advisory Committee (AG) **4:30 PM**-Treatment Plant Advisory Committee (JE) (San Jose) **7:00 PM**-Youth Advisory Comm. (DG) **7:00 PM**-Bicycle Pedestrian Advisory Commission	12	13
14	15 **7:00 PM**-Telecommunications Commission (AP) **7:00 PM**-Library Advisory Commission (CM)	16	17	18 **7:00 PM**-Bay Area Water Supply Consv. Agency (AG) (Foster City) **7:00 PM**-Emergency Prep. Commission (AP)	19	20
21	22 **6:00 PM**-Arts Commission (DG) **7:00 PM**-Public Art Cmmittee (DG)	23 **6:00 PM**-Recycling & Source Reduction Adv. Comm. (CM)	24 **7:00 PM**-Planning Commission	25 **7:00 AM**-Milpitas Chamber of Commerce Board (DG) **12:00 PM**-Terrace Gardens Board of Directors (DG) **7:00 PM**-Sister Cities Commission (CM)	26	27
28	29	30	31			

Updated 06/12/2013

CITY OF MILPITAS
COMMISSION/COMMITTEE APPLICATION

*1

Parks, Recreation & cultural Resources
COMMISSION APPLYING FOR

City Clerk's Office
MAY 31 2013
RECEIVED

PROVIDE COMPLETE INFORMATION (in black ink)

☒ Mr.

☐ Mrs./Ms./Miss

Name: SATISH (First) K (Middle) BANSAL (Last)

[redacted]

Address: Number / Street (apt. # if needed) / City & Zip Code

(408)946-1458 (Home) (408)627-5029 (cell) — Satish_Bansal@yahoo.com

Telephone Number(s) / e-mail address

Crocus Technology Inc — (408)380-8310

Present Employer / Business Telephone

2380 Walsh Ave Santa Clara CA 95051 — Sr. Manager Engineering

Business Address / Occupation

Education: If **Youth Advisory Commission** applicant, indicate your grade/school: _____

College, Professional, Vocational, or other schools attended	Major Subject	Date	Degree
Thapar College of Engineering	Electrical Eng.	1979-83	B.S. Eng.
Northwest Polytechnical University	"	1991-99	M.S. Eng.

List community organizations to which you belong or have belonged (additional information may be attached). If application is for ***Veterans Commission***, indicate branch and service in any U.S. military organization (retired or active duty).

Date	Name of Organization or Branch of Military	Officer / Member
until 2010	Telecommunication Commission Milpitas	Member
2003-still	Milpitas youth soccer club/league	officer
1998-2003	Milpitas PAL	officer

Briefly describe the personal qualifications you possess which you believe would be an asset (additional information may be attached):

I am very passionate for my city. I worked on telecommunication commission and active participant for task force & plans. I am resident of Milpitas from 1994 my kids grew up in Milpitas, scholarly in public schools. I represent on various soccer organisation City wide. My professional management experience will help.

I have sufficient time to devote to this responsibility and will attend the required meetings if I am appointed to fill a future vacancy. I hereby certify that all statements contained in this application are true.

Bansal — Signature

5/27/13 — Date

Appointments to Commissions or Committees are made by the Mayor with the concurrence of the City Council. **Applications not acted upon will expire after one year from the date submitted unless renewed by the applicant.**

NOTE: *ALL COMMISSION APPLICATIONS ARE PUBLIC RECORD*

Fax (586-3030), e-mail (mlavelle@ci.milpitas.ca.gov), mail or drop off your completed application to:
City Clerk, 455 E. Calaveras Blvd., Milpitas, CA 95035

CITY OF MILPITAS
COMMISSION/COMMITTEE APPLICATION

City Clerk's Office
OCT - 1 2012
RECEIVED

P.R.C.R.
COMMISSION APPLYING FOR ↑

PROVIDE COMPLETE INFORMATION (in black ink)

☑ Mr.
☐ Mrs./Ms.

Name: RICHARD (First) REYES (Middle) VILLALOBOS (Last)

[redacted]

Address: Number Street (apt. # if needed), Milpitas CA 95035

408-941-1020 CEL 408-608-7689 roadglide05@gmail
Telephone Number(s) e-mail address

COMPUCOM
Present Employer Business Telephone

101 CALIFORNIA STREET Computer TECHNICIAN
Address Occupation

Education: If **Youth Advisory Commission** applicant, indicate your grade/school: _____

College, Professional, Vocational, or other schools attended	Major Subject	Date	Degree
C.T.A.	LAN TECH	1999	YES
MILPITAS HIGH SCHOOL		83	YES

List community organizations to which you belong or have belonged (additional information may be attached). If application is for Veterans Commission, indicate branch and service in any U.S. military organization (retired or active duty).

Date	Name of Organization or Branch of Military	Officer / Member

Briefly describe the personal qualifications you possess which you believe would be an asset (additional information may be attached):
LIVED IN MILPITAS SINCE 1969. HAVE GROWN UP PLAYING YOUTH SPORTS IN MANY OF OUR PARKS HAVE USED & ENTERTAINED IN OUR PARKS FOR MANY YEARS I BELIEVE THIS GIVE ME AN INSIGHT TO THE PA SYSTEM.

I have sufficient time to devote to this responsibility and will attend the required meetings if I am appointed to fill a future vacancy. I hereby certify that all statements contained in this application are true.

R. Villalobos
Signature

10/1/2012
Date

Appointments to Commissions or Committees are made by the Mayor with the concurrence of the City Council. **Applications not acted upon will expire after one year from the date submitted unless renewed by the applicant.**

NOTE: *ALL COMMISSION APPLICATIONS ARE PUBLIC RECORD*
Mail, fax (586-3030), e-mail (mlavelle@ci.milpitas.ca.gov) or drop off your completed application to City Clerk, 455 E. Calaveras Blvd., Milpitas, CA 95035

City of Milpitas
Donation or Fee Waiver/Reduction Request Application Form
for Non-Profit Organizations

***2**

Complete this form and return it to Milpitas City Clerk

Please provide a copy of the IRS tax-exempt letter with the application.

Name of Organization: City of Milpitas

Is there a Milpitas branch or affiliation? N/A

Mailing Address: 455 E. Calaveras Blvd.
Milpitas CA 95035

Contact Person: Jose Esteves Telephone No. 408 586 3029

Email Address: jesteves j@aol.com

What is your request? Donation Amount Requested $200.- OR

Fee Requested to be waived (type and $ amount)

Event date(s): July 4, 2013

What is the purpose of the event? July 4th Parade → promote Milpitas with our neighbor cities (Fremont, Newark, N.C.); support July 4th celebration via parade.

How will the Milpitas community benefit from this event? – a good public relations for Milpitas through patriotic parade; promote Milpitas as "Gateway to Silicon Valley"

What % of the fund raising proceeds will benefit Milpitas community? 100%

How will the City's contribution (if granted) be recognized in any publicity? The $200 donation will be recognized as Donation from the City of Milpitas; City of Milpitas will be recognized as Donor by the Parade Organizers.

Within 60 days after completion of the event for which a donation was received or a fee waiver/ reduction was granted by the City of Milpitas, your organization will provide a written report to the City Clerk to include at minimum: number of participants, copies of all publicity of the event, any benefit to the community, amount of funds raised and an accounting of how the proceeds of the event will be dispersed.

Signature of Officer: Jose Esteves Date: 6/12/13

Print Name & Title: Jose Esteves

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS IN SUPPORT OF THE SANTA CLARA COUNTY LIBRARY DISTRICT SPECIAL TAX MEASURE

WHEREAS, a Santa Clara County Library District Community Facilities District Special Tax Measure will appear on an August 27, 2013 mail ballot in our community; and

WHEREAS, voter-approved taxpayer funding for our local library has been in place for the past twenty years and is due to expire; and

WHEREAS, continuing this funding at existing rates does not increase taxes and will help the Milpitas Library maintain essential library services that students, seniors and other members of our community rely on, including story times for children and families, summer reading programs, homework help and school curriculum support, literacy assistance, income tax assistance and computer skills tutoring for adults, as well as bookmobile service, up-to-date book collections and research materials, and maintenance of library hours; and

WHEREAS, every dollar from these voter-approved revenues raised within Milpitas will go directly for the benefit and operation of our local library; and

WHEREAS, voter-approved tax revenues can provide a stable, predictable source of local funding and allow local voters to make investments in their community libraries and the education of our children; and

WHEREAS, as school libraries may face reduced operating hours, maintaining access for students to public libraries is essential for continuing quality education in our community; and

WHEREAS, many seniors on fixed incomes rely on public libraries as buying books is simply too expensive, while this funding helps maintain our library services upon which the senior citizens rely; and

WHEREAS, without this funding, the Milpitas Library will be faced with implementing significant cuts to programs and services, including purchasing fewer books, reducing its ability to maintain up-to-date book collections and research materials, reducing or eliminating library programs for children, teens and seniors, and reducing its operating hours.

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

1. the City Council supports the Santa Clara County Library District Community Facilities District Special Tax Measure on the August 27, 2013 mail ballot.

2. the City Council encourages all citizens concerned with lack of adequate financial resources for libraries to vote yes on the Measure.

3. the City Council authorizes the use of its name in support of the Measure.

PASSED AND ADOPTED this _____ day of _____ 2013, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

_____
Mary Lavelle, City Clerk

APPROVED:

_____
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

_____
Michael J. Ogaz, City Attorney

Milpitas Community Advisory Commission
2013 WORK PLAN
Annual Recurring Tasks

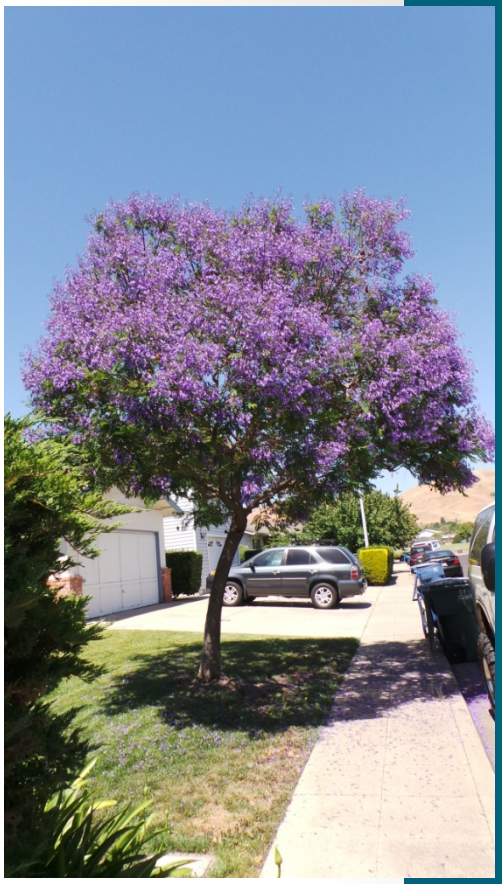
Task		Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
1.	Heritage tree nominations	X				X					X		
2.	CDBG public hearing process / workshop for new commissioners		X	E									
3.	Make a Difference Day									X	E		
4.	Neighborhood Beautification Awards		X				X	X		R	E	C	
5.	National Night Out		X				X		E	R			
6.	Annual Work Plan												X
7.	CAC Budget/Donations Strategy							X					
8.	Adopt-A-Neighborhood/Graffiti				X				X				
9.	Spring Cleaning Day	X	X		X	E							
10.	Town Hall Meeting												X

Legend: X= Discussion & Planning; E = Event; C = Ceremony; R = Results Review

Short-term Goals/Projects (prioritized)

1. Tree Planting – Promote tree planting through outreach and tree protection awareness
2. Outreach Program – Conduct an outreach program to the citizens of Milpitas to obtain feedback on community issues
3. Volunteerism Program – Conduct a program to encourage Milpitas citizens to volunteer
4. Cleanup of Areas – Determine areas in Milpitas and encourage their redevelopment or conduct a program similar to the "Adopt A Highway" program
5. Expand the Neighborhood Watch Program – Work with City staff to expand the Neighborhood Watch Program
6. Milpitas Cable TV/Magazine Community Outreach

The Green Tree Sub-Committee



Presented by: Ray Maglalang, Vanlan Truong, Jackie Holland

6.5.2013

Introduction

The Green Tree Committee (GTC) is a passionate sub-committee from the Community Advisory Commission. The three commissioners, Jacqueline Holland, Ray Maglalang, and Vanlan Truong have come together as a think tank with the purpose of planting, preserving, and protecting the Milpitas city environment through education, citizen participation, and advocacy.

Emissions Sources

- **Transportation** – vehicle miles traveled
- **Energy** – electricity and natural gas used in the built environment
- **Stationary Sources** – direct emissions from the Newby Island Resource Recovery Park; stationary sources permitted by the BAAQMD
- **Solid Waste** – methane emissions from community waste sent to landfills
- **Off-road Equipment** – emissions from construction and from lawn and garden equipment/vehicles
- **Water and Wastewater** – energy required to extract, filter, move, and treat water consumed and/or treated
- **Light Rail** – electricity used by the Santa Clara Valley Transit Authority for commuters utilizingMilpitas light rail stops
- **Direct Wastewater** – Milpitas's share of fugitive emissions from the San Jose/Santa Clara Water Pollution Control Plant

Source: Climate Action Plan, 2013

Milpitas' Climate Action Plan

- Adopted May 7th, 2013
- The Green Tree sub-committee can partner with the City of Milpitas' Climate Action Plan to unify like interests

City Climate Action Plan

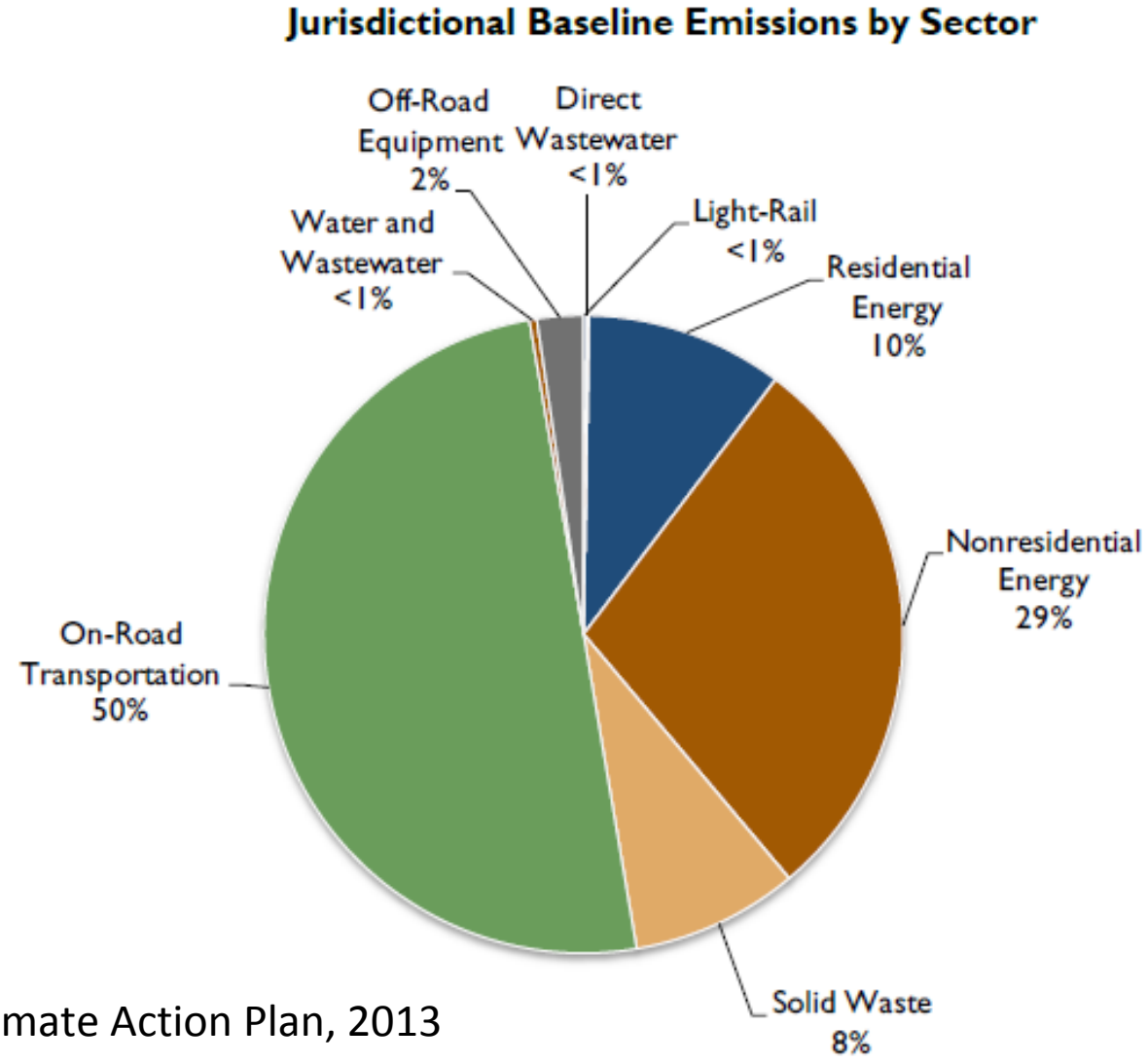
"This Climate Action Plan (CAP) is designed to streamline environmental review of future development projects in the City of Milpitas consistent with the California Environmental Quality Act (CEQA) Guidelines Section 15183.5(b) and the Bay Area Air Quality Management District (BAAQMD) CEQA Air Quality Guidelines.

The CAP identifies a strategy, reduction measures, and implementation strategies the City will use to achieve the State-recommended greenhouse gas (GHG) emissions reduction target of 15% below 2005 emissions levels by 2020."

Source: Climate Action Plan, 2013

- Adopted May 7th, 2013

Based on 2005 reports



Source: Climate Action Plan, 2013

Our Mission

To plant, preserve and protect the greening of the City of Milpitas through education, citizen participation, volunteering and advocacy.

Our Vision

The City of Milpitas beautified and distinguished by it’s trees and healthy environmental quality

Main Objective

- Plant 500 trees efficiently and effectively with the intention of beautifying the city.

Goals

- Making a statement
  - We want a city that aesthetically makes an impact when a person enters. This tree project can give Milpitas a clearer identity, much like Palo Alto is known for their narrow streets and lush trees.
- Environmental Impact
  - The GTC plan to: cool the city, beautify the city, help wildlife and plants, save energy
- City Impact
  - The GTC plan to aid in: increasing property value, promote social and educational value, increase good health, increase economic stability, promote business and create an distinguished image of Milpitas as “The Greenest City in the Bay Area”
  - Competition between greenest cities are: San Francisco, Austin TX, and many more.

Target Audience

- Who is this cause targeted to?
  - City of Milpitas residents , service organizations, Milpitas associations, religious institutions, social service agnecy, MUSD, small business owners, S-corp. and C-corp businesses, hotels and medical offices
- What does the community need to know?
  - We need the community to provide: Time, Talent and Resources
- What will hold their interest?
  - Wanting to be a part of the Green Tree project
  - Volunteering hours
  - Food and Beverages provided
  - “Memory Trees”
  - Youth to Adults can participate with community service

Benefits

- Beautify the city
- Provide more habitats for wildlife and plants
- Improves Air Quality
- Positive increase in social and educational values
- Save energy (a cooler city means less electricity use)
- Improves Public Health
- Supports the Local Economy
- Lucrative: A healthy, beautiful and clean city attracts residents and businesses
- Create a distinguished image of Milpitas
  - Palo Alto, Los Gatos, Saratoga are all aesthically beautiful cities for their landscaping and foliage.
- Tree planting unifies city residents and brings people together
- Provide settings for picnics, games, etc.
  - Can decrease obesity rates if a higher frequency of people go outside

Risk Assessment

After a thorough risk assessment, the GTC has concluded that there are some needs and problems to be addressed:

- **Budget**: The estimated budget to plant 500 trees in the city of Milpitas is roughly $40,000.00.
- **Location**: Where are trees allowed to be planted?
- **Approval:** Do we have city approval and the city planner's approval to plan 500 trees?
- **Timing**: When will trees be planted and how many will be planted per week? Per month? Per year? To reach the goal of 500
- **City Impact**: Extra water will need to be irrigated if there is no water supply to keep a tree alive; also if the trees are deciduous and the leaves fall to the ground, what efforts will be made to clean up the foliage?
- **Tree type:** What types of trees need to be planted? Who is the expert to plant such trees?

Minimizing Risk: Strategies

The Green Emissions Committee have planned contingency options in the case that problems, needs, or issues arise.

- **BUDGET**: With a growing list of companies, individuals, and organizations, the GTC will systematically call, email, and meet in-person with business owners for donations.
- **LOCATION**: The GTC is resigned to begin outward and then move inward towards the city with planting trees. With careful consideration of the Milpitas City Planner, property laws, and irrigation, the GTC is already researching where trees can be planted.
- **APPROVAL**: The GTC are in active communication with the Staff Liaison, Felix Reliford, to see where trees are appropriate to plant.
- **TIMING**: The GTC has completed a timeline with action steps to plant 10 trees a week over the course of 8 months.
- **CITY IMPACT:** The GTC will speak with an arborist and the city planner and determine the best solution towards irrigation and tree species.
- **TREE TYPE:** As mentioned above, the GTC will speak with an arborist to determine tree species.

Procedures/Scope of Work

- **Funding:** Serious and committed efforts in asking for donations to fund the project.
- **Training:** Volunteers will need to be trained on digging hole size, tree planting methods, trained on safety on the day of the event
- **Location:** The GTC will have the efforts of locating exactly where ~500 trees will need to be planted with the intent of knowing how to fund digging holes, water irrigation, and City laws.
- **Pre-Dug areas:** Areas have been proposed to be pre-dug during Monday – Friday with the aid of construction companies or hardware companies donating their tools, staff or/and time
- **Actual workload:** Volunteers will arrive on Saturday and plant 10 trees around Milpitas as a unified effort.

Location of Tree Initiative

- Milpitas
  - Tree locations will be determined with CAC and City Staff
    - All city parks with staff assistance
    - Residences without trees using stewardship agreement w/document
    - All city properties with city staff supervision
      - Fire/police stations
    - Map of Milpitas Boundaries

Date of Event

- Proposed Start Date: Spring 2014
  - Initiated once the yearly budget is met
  - Focus on Spring, Fall and Winter of 2014
    - Optimum time to plant trees
    - Strategically chosen for 500 tree goal
    - Strategically chosen for planting chosen tree species

Time Table

	Description of Work	Start and End Dates
Phase One	Research & Proposals	**March 2013-June 2013**
Phase Two	Begin Marketing, Donations, Communications with the city planners, and begin with acquiring permits, get list of volunteers, create data analysis charts	**July 2013-December 2013**
Phase Three	Plant ~500 trees in scheduled timeline	**January 2014-December 2014**

Budget

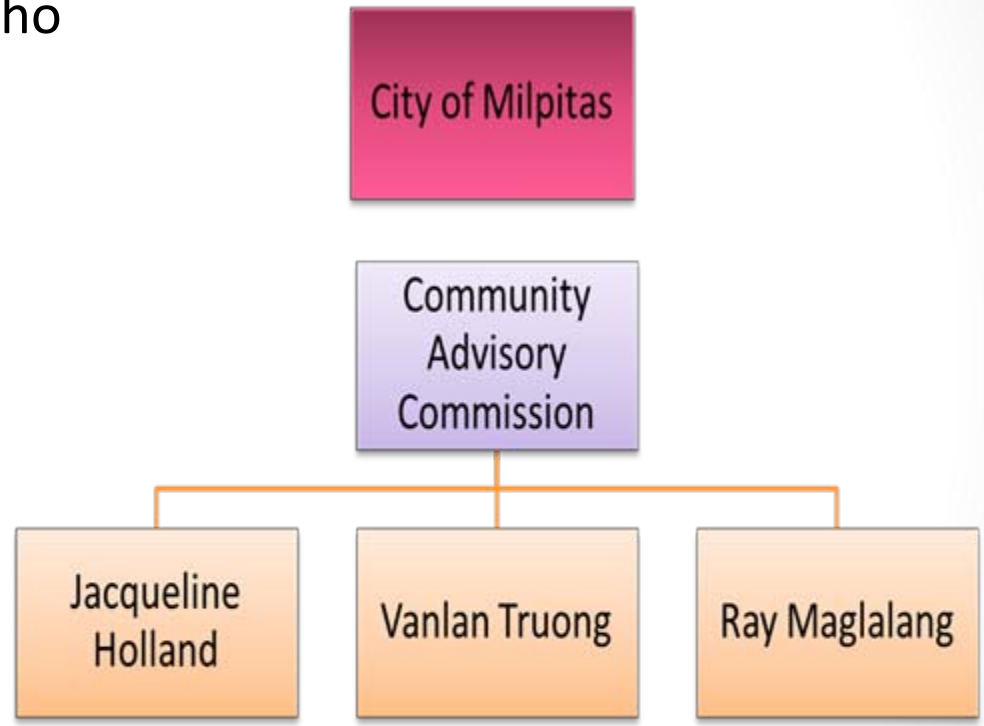
- Main obstacle
  - Where and how will we get funding for this project?
- Possible Endorsements
  - Our City Forest Association
    - In the year 2000, City of Milpitas staff paid 40-45 dollars per tree
  - Grants
    - PG&S, Santa Clara Water District
    - State and federal
    - Association of arborists
  - Business sponsorship
    - Cisco, Johnson/Johnson, Tesla, Google, Apple,
    - Hotels, Service organizations, grocery stores, real estate developers
    - We plan to use a Letter of Solicitation and Tax ID for donation write-offs
  - Community Donations
    - Religious Organizations
    - Milpitas Associations

Abbreviated Analysis

	Description of Work	Anticipated Costs
Phase One	Only cost is time	**0.00**
Phase Two	• Online PR and Marketing: $0.00 • Donation letters: $50 • Donation Mail: $23.00 • Donation Email: $0.00 • Other: $ 2,827 • Permits: Unknown • Data and Analysis Charts	**~3,000.00**
Phase Three	• Purchase wholesale trees with delivery and planting costs: $37,000 • Donations for food & beverage for volunteers: $100	**~37,100.00**
	Total	**$40,100.00**

Assisting Team

- To complete the goal, who will be in our network?
  - City Planner
  - Permit office
  - Arborists
  - Public works
  - Parks and Recreation
  - Community Advisory Commission
  - City Council
  - Community residents
  - Volunteers



Marketing: How do we communicate our message?

- Yelp Events
  - A place where yelpers in the community can interact and attend events and then yelp them afterwards
  - I will speak with the South Bay executive that is in charge of yelp and see if we can have a hosted yelp event or sponsorship for a green initiative
- Event Brite
  - An online ticket service that tracks who has RSVP'ed and can search for events in specific areas, including free events
- Web Page
  - Jackie Holland will create a webpage for the Green Tree endeavors and add links and helpful tips
- Logo
  - Jackie Holland will create a special logo for The Green Tree sub-committee

Marketing: How do we send out our message (cont.)

- Milpitas Post
  - The Green Tree Sub-Committee write an article for the post
- Free blogs and other print and media services (to be researched)
- Speak in front of Milpitas High Schools/Junior High
  - With aid of the Youth Advisory Commission
  - Incentive: Volunteering credit
- Starbucks bulletin boards
- Create a Facebook page
- Have someone responsible for tweeting the events (per our target audience)

Marketing: Evaluation

- How will we evaluate our efforts?
  - Track how many volunteers we have by just having them give us their email and phone number and we send them an event brite ticket
    - Exclusivity sells because if we make this seem like it is a limited event, people will be more apt to participating
    - Event Brite will give you exactly the amount of people who have confirmed and canceled the date
- Feedback emails post-event
  - Receive feedback and seek volunteers for next year
  - Maybe have them be elite musketeer members?
  - Survey Monkey
- Excel
  - Track trees, budget, dates, and times

Marketing: How do we make this attractive to residents?

- Use of media
- Sponsorships
- Advertising
- Exclusivity?
- Having a bigger goal/effort for being green
- Sentimentality: We can have “Memory Trees” planted and if they want a plaque or something that hangs from the tree, they can pay for a minimal price (if that is allowed, I am unsure if we are allowed to take money?)
- Donations: Water/Food/Gardening Materials/Money
- Post professional pictures on Facebook
- Have professional photographers come out pro bono and take photos (if feasible)

Marketing Responsibility

- Marketing Lead: Jackie
- Marketing consult: Ray Maglalang
- Marketing consult: Vanlan Truong
- Marketing consult: CAC committee

Evaluation Criteria

- Did we achieve what we set out to do?
- Did it come in on budget?
- What were the intended/unintended outcomes?
- How will we measure effectiveness?
  - Online resources, excel, media
- What tools do we use to measure our success?
  - Excel, Event Brite, Survey Monkey

Endorsements

- Our City Forest Association
  - In the year 2000, City of Milpitas staff paid 40-45 dollars per tree
- Grants
  - PG&S, Santa Clara Water District
  - State and federal
  - Association of arborists
- Business sponsorship
  - Cisco, Johnson/Johnson, Tesla, Google, Apple,
  - Hotels, Service organizations, grocery stores, real estate developers
  - We plan to use a Letter of Solicitation and Tax ID for donation write-offs
- Community Donations
  - Religious Organizations
  - Milpitas Associations

Future Ideas/Goals

- Planting a community garden
  - Helps feed the needy for free, is green, allows better air quality, and can help people who are hungry.
- Solar Panels
  - Driving a city-wide effort for Solar Panels
- Recycling Day
  - Sponsor a day where uncommon items are recycled and picked up from residences
    - Electronics, Batteries, Toner, etc
- Community Flower Garden/Flower Walk
  - A beautiful trail or garden of flowers
    - Much like San Jose Japanese Gardens
- Every resident who purchases a home without a tree must either pay the city or plant a tree in their yard

Appendix

- America's Greenest Cities:
  - **Portland, Oregon**
  - **Austin, Texas**
  - **Minneapolis, Minnesota**
  - **Boulder, Colorado**
  - **Burlington, Vermont**
  - **Madison, Wisconsin**
  - **New York, New York**
  - **San Francisco, California**
  - **Santa Monica, California**
  - **Chicago, Illinois**

Community Advisory Commission
06/05/2013

Proposal for

The Green Tree Project

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I. Summary

Commissioners Jacqueline Holland, Ray Maglalang, and Vanlan Truong have united in the common goal of beautifying the city, promoting education about the environment and bring Milpitas residents together by volunteering. The proposed name for this sub-Committee is the Green Tree Committee (GTC). The purpose of this sub-Committee is planting, preserving, and protecting the Milpitas city environment through education, citizen participation, and advocacy.

The proposed cost for this annual project is approximately $40,000.00. The GTC anticipates asking for donations via campaigns and in-person to acquire the necessary donations for the cause of planting ~500 trees. The trees the GTC are interested in planting are 15 gallon trees that average $50.00 each. With the goal of 500 trees, the total average cost for solely trees for this project is $25,000.00. This cost includes taxes and freight. The included use of a staking system per tree is average $25.00 per tree which totals $12,500. For the marketing portion of flyers, news, and media announcements, the total cost comes out to be $3000.00. In Table A below is a representation of the total cost.

Estimated Cost of Planting 500 trees per year	
Average cost of tree $50 x 500	= $25,000.00
Staking System per tree $25 each	= $12,500.00
Flyers, News, Media Announcements	= $3,000.00
Total	= $40,500

Table A: Represents the anticipated budget of the project

With a systematic marketing plan, committed individuals asking for donations and widespread knowledge of the GTC's efforts, it is quite possible to plant 500 trees.

Together, the GTC plans to beautify Milpitas and make an impact with leading the green movement in our ever changing climate.

II. Introduction

The Green Emissions Committee (GTC) is a passionate sub-committee of the Community Advisory Commission. The three commissioners, Jacqueline Holland, Ray Maglalang, and Vanlan Truong have come together as a think tank with the purpose of planting, preserving, and protecting the Milpitas city environment through education, citizen participation, and advocacy.

The GTC sub-committee was founded in March 2013 with the united effort of launching an annual environmental goal with the backing of volunteers and Milpitas Residents. For 2013/2014, the GTC's goals are to plant 500 trees. Past efforts, materials and help has been passed down from the dedicated individuals from the city of Milpitas who used to lead "Arbor Day". The activities of the sub-committee include: uniting the community with the combined effort of making Milpitas cleaner, more beautiful and educated about their environment. The sub-committee also will be marketing and acquiring donations from corporate sponsorships, local Milpitas businesses, and individual donations.

The target population of the GTC's efforts is the citizens of Milpitas, Milpitas youth, and Milpitas visitors.

The Community Advisory Commission and related sub-committees actively help the City of Milpitas with the foundation of integrity, community effort, and accountability. The Community Advisory Commission has advanced Milpitas and helped the community since it was founded in July 20th, 1954.

III. Risk Assessment

After a thorough risk assessment, the GTC has concluded that there are some needs and problems to be addressed.

- Budget: The estimated budget to plant 500 trees in the city of Milpitas is roughly $50,000.00.
- Location: Where are trees allowed to be planted?
- Approval: Do we have city approval and the city planner's approval to plan 500 trees?
- Timing: When will trees be planted and how many will be planted per week? Per month? Per year? To reach the goal of 500
- Impact to the city: Extra water will need to be irrigated if there is no water supply to keep a tree alive; also if the trees are deciduous and the leaves fall to the ground, what efforts will be made to clean up the foliage?
- Tree type: What types of trees need to be planted? Who is the expert to plant such trees?

IV. Minimizing Risk: Strategies

The Green Emissions Committee have planned contingency options in the case that problems, needs, or issues arise.

- With a growing list of companies, individuals, and organizations, the GTC will systematically call, email, and meet in-person with business owners for donations.

- In regards to location, the GTC is resigned to begin outward and then move inward towards the city with planting trees. With careful consideration of the Milpitas City Planner, property laws, and irrigation, the GTC is already moving forward to understand where trees can be planted and developing an action plan.

- The GTC are in active communication with the Staff Liaison, Felix Reliford, to see where trees are deemed appropriate to plant.

- Timing: The GTC has completed a timeline with action steps to plant 10 trees a week over the course of 8 months.

- The GTC will speak with an arborist and the city planner and determine the best solution towards irrigation and tree species.

- As mentioned above, the GTC will speak with an arborist to determine tree species.

V. Goals/Objectives

The GTC have a wide array of goals encompassing this project. They include:

- Making a statement
    - We want a city that aesthetically makes an impact when entering. This tree project can give Milpitas a clearer identity, much like Palo Alto is known for their narrow streets and lush trees.
- Environmental Impact
    - The GTC plan to: cool the city, beautify the city, help wildlife and plants, save energy
- City Impact
    - The GTC plan to aid in: increasing property value, promote social and educational value, increase good health, increase economic stability, promote business and create an distinguished image of Milpitas as “The Greenest city in the Bay Area”
    - Competition between greenest cities are: San Francisco, Austin TX, and many more.

VI. Procedures/Scope of Work

Funding: Funding a project of this magnitude requires serious and committed efforts in asking for donations to fund the project. This means an email campaign, calling campaign, a door-to-door campaign, and asking for Corporate Sponsorships.

Training: Volunteers will need to be trained on digging hole size, tree planting methods, trained on safety on the day of the event and the CAC members and sub-Committee GTC will need to be trained on tree type, areas where we can plant trees, the law of how and what we can say when asking for donations and processes planting trees.

Locating: The GTC will have the efforts of locating exactly where ~500 trees will need to be planted with the intent of knowing how to fund digging holes, water irrigation, and City laws.

Pre-Dug areas: Areas have been proposed to be pre-dug during Monday – Friday with the aid of construction companies or hardware companies donating their tools, staff or/and time

Actual workload: Volunteers will arrive on Saturday and plant 10 trees around Milpitas as a unified effort.

VII. Timetable

Detailed information on the expected timetable for the project.

	Description of Work	Start and End Dates
Phase One	Research & Proposals	March 2013-June 2013
Phase Two	Begin Marketing, Donations, Communications with the city planners, and begin with acquiring permits, get list of volunteers, create data analysis charts	July 2013-December 2013
Phase Three	Plant ~500 trees in scheduled timeline	January 2014-December 2014

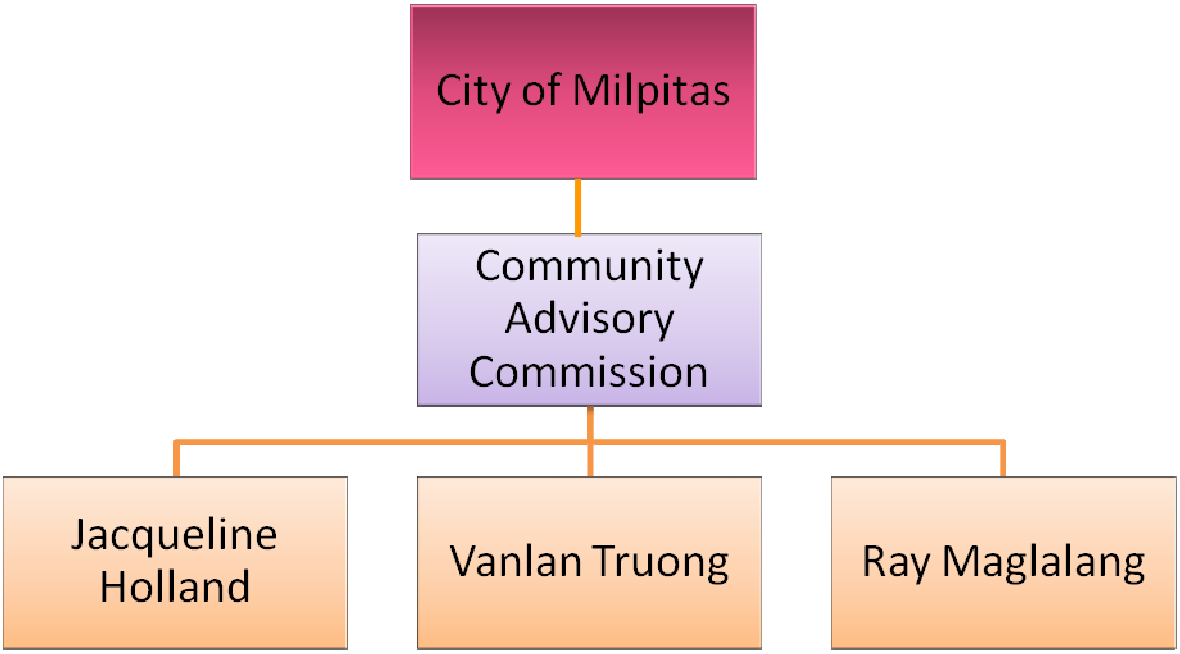
VIII. Budget

The proposed costs and budget of the project.

	Description of Work	Anticipated Costs
Phase One	Only cost is time	0.00
Phase Two	• Online PR and Marketing: $0.00 • Donation letters: $50 • Donation Mail: $23.00 • Donation Email: $0.00 • Other: $ 2,827 • Permits: Unknown • Data and Analysis Charts	3,000.00
Phase Three	• Purchase wholesale trees with delivery and planting costs: $37,000 • Donations for food & beverage for volunteers: $100	37,100.00
	Total	$40,100.00

IX. Key Personnel

The key personnel who will be responsible for completion of the project, as well as other personnel involved in the project.



X. Evaluation

- How will we evaluate our efforts?
    - Track how many volunteers we have by having them give us their email and phone number and we send them an eventbrite ticket. www.Eventbrite.com
        - Exclusivity is marketable because if we make this seem like it is a limited personnel event, people may be more apt to participating
        - Event Brite will give you exactly the amount of people who have confirmed and canceled the date
- Feedback emails post-event
    - Receive feedback and seek volunteers for next year
    - Maybe have them be “elite” members for next year?
    - Survey Monkey
- Excel
    - Track trees, budget, dates, and times

XI. Endorsements

Provide the names and addresses of individuals and companies who the GTC plans to support and endorse the project.

- Grants
- PG&E, Santa Clara water district, State and Federal
- Association of arborists

- Corporate sponsorship
    - Cisco, Johnson/Johnson, Hotels, Tesla, Google, Apple, Service organizations, Churches, Association of Milpitas, Shappell, Lowes, Home Depot, Orchard Supply
    - Letter of solicitation and tax ID

XII. Next Steps

- The next step is the City of Milpitas Council approval to allow a Green Emissions Sub-Committee as a part of the Community Advisory Commission.

XIII. Future Ideas/Proposals

- Planting a community garden
    - Helps feed the needy for free, is green, allows better air quality, and can help people who are hungry.
- Solar Panels
    - Driving a city-wide effort for Solar Panels
- Recycling Day
    - Sponsor a day where uncommon items are recycled and picked up from residences
        - Electronics, Batteries, Toner, etc
- Community Flower Garden/Flower Walk
    - A beautiful trail or garden of flowers
        - Much like San Jose Japanese Gardens

XIV. Appendix

http://www.nber.org/papers/w14238.pdf?new_window=1

Table 2:

Annual Standardized Household CO_2 Emissions

MSA	Emissions from Driving (Lbs of CO2)	Emissions from Public Transportation (Lbs of CO2)	Emissions from Home Heating (Lbs of CO2)	Electricity (Megawatt Hrs)	NERC Power Plant Emissions Factor (Lbs of CO2 per Megawatt Hrs)	Carbon Dioxide Emissions Cost ($ per Year)	Standard Error ($ per Year)
San Diego, CA	24,774	689	5,994	7.18	1,007	1,148	14.87
San Francisco, CA	23,970	1,675	6,784	7.03	1,007	1,152	17.17
San Jose, CA	23,649	2,058	7,030	7.75	1,007	1,175	16.03
Providence, RI	22,562	1,273	12,965	7.35	1,185	1,177	13.24
Los Angeles, CA	23,553	1,062	6,439	8.43	1,007	1,188	17.91

America's Greenest Cities:

Portland, Oregon

Affordable and accessible, this city straddling the banks of the Willamette River has long made sustainable living a priority. More than 30 years ago, with other cities in a freeway-building frenzy, Portland broke ranks and tore down a six-lane expressway to make room for a waterfront park. Since then the city has set an urban growth boundary to protect 25 million acres of forest and farmland, started a solid-waste program that recycles more than half of the city's trash and erected more than 50 public buildings that meet tough standards set by the United States Green Building Council. One of the most bike-friendly cities in the U.S., Portland's public transportation, Portland's public transportation systems boasts a high rate of ridership. Add in one of the nation's largest city parks – the aptly named Forest Park has 74 miles of running, biking and hiking trails – and Portland's rep as the nation's greenest city makes sense.

Austin, Texas

Home to the first Whole Foods Market and more than 300 days of sunshine a year (and you thought this city was all about the music) Austin spreads out among 205 parks, 14 nature preserves, and 25 greenbelts. Talk about green. The city plans to meet 20 percent of its energy needs with renewable energy and energy efficiency by 2020. Factor in county laws protecting the region's natural watershed from development, a recycling center that dates back to 1970, a dozen outdoor farmer's markets, city buses that offer free rides on "high ozone" days and an innovative "pay-as-you-throw" trash collection program that rewards residents for being less wasteful and Austin easily earns a spot on the Green List.

Minneapolis, Minnesota

Named one of the top business districts in the nation for by the Environmental Protection Agency, Minneapolis is a commuter's paradise where more than 60 percent of downtown workers use public or alternative transportation to get to the office. Free parking for registered van and car pools, an extensive bike

path and bike lane system and employer-sponsored showers and locker rooms not only add endorphins but make a significant dent into auto-based air pollution. On the way to work, commuters thread their way among scores of lakes and parks and ponds and greenbelts and more than 200,000 trees. With great drinking water, active community organizations and the Minnesota State Department of Commerce nudging businesses and residents to hook solar systems up to the city's grid, it doesn't take Mary Tyler Moore tossing her beret into the air to let you know this is a great place to live.

Boulder, Colorado

Being green has been a way of life in this small Rocky Mountain city ever since prescient city planners started preserving parkland in 1898. Today, with more than 42,000 acres of pristine land cushioning the city from urban sprawl, Boulder is a place where hiking trails, rock-climbing areas, picnic spots and fishing holes are within reach of every resident. But there's more to this city than just a pretty face. It's a place where more than 90 percent of residents recycle, where new water meters are not allowed above certain elevation, thus protecting ridgelines and peaks, and where, when recent federal tax cuts gutted city budgets, residents voted themselves a third sales-tax hike to raise $51 million to buy and protect even more open land.

Burlington, Vermont

In this small city on Lake Champlain, community pride and responsibility drive the urge to be green. More than one-third of all energy used in the city comes from renewable resources, an impressive statistic in chilly New England. Burlington laws don't allow the use of pesticides on public parks, land or waterways. Challenged by their local leaders to come up with environmental priorities and solutions to existing problems, residents formed an extensive network of citizen-based groups that take on everything from environmental programs to clean up toxic sites to watchdog groups to monitor pollution in Lake Champlain. With local agriculture a mainstay of the region, schools are switching to locally- and organically-grown foods. The idea of sustainability is becoming part of the school curriculum so, as Burlington's children grow and take their places in the community – any community – they can take a greener way of thinking along with them.

Madison, Wisconsin

The first city in the U.S. to offer curbside recycling (and one of the few with a university course on ice cream making) Madison's 15,000 acres of lakes and 6,000 acres of parkland give it great appeal. Drawn by the natural beauty, residents seem determined to help preserve it. The recycling program gets a whopping 97 percent participation, with 265 tons of material – everything from broken washers to empty beer cans to grass clippings – collected each week. A year-round farmer's market (held indoors in the frigid winter months) draws vendors and buyers from throughout the fertile region. As a result, organic and local-grown foods are a priority. This bike-friendly city with over 100 miles of bike paths ranks high in air quality, no surprise in a place where there are three bikes for every car.

New York, New York

Surprise! Thanks to its storied (and widely used) public transportation, energy-efficient housing and good water quality, New York rates a place among the nation's green cities. Central Park makes it even greener. Considered a folly of epic proportions when its 843 swampy, muddy acres were set aside in the 1850s, Central Park is a wilderness within the urban core. More than 80 percent of NYC residents use public transportation, something that earns the city bragging rights. In fact, New Yorkers burn gasoline at the rate the U.S. did in the 1920s. The key to the city's low use of fossil fuels, pesticides and other energy sources is population density. Calculated by square foot, New York uses as much energy and produces as much solid waste as any city. Calculate by population, however, and the numbers shift. Per capita, New Yorkers use fewer resources and put less pressure on their surroundings than any other city of its size. So welcome to the Big Green Apple.

San Francisco, California
To the superlatives the City by the Bay has acquired over the decades – steepest, foggiest, most expensive – add greenest. With bus, subway and ferry services that reach throughout the Bay area, avid bikers and devoted car poolers, San Francisco has a good track record for getting people out of their cars. In fact, more than half the city's residents use public or alternative transportation to get to work. With Golden Gate Park, the newly-decommissioned Presidio, beaches, extensive bike paths and access to the Pacific and the Bay, the city has an abundance of recreational options. Prevailing winds from the water help keep pollution at bay. The city is also a leader in green building, with more than 20 building projects registered for official green certification. And city residents are willing to tax themselves. Voters said yes to allowing the city to sell $100 million in revenue bonds to support renewable energy.

Santa Monica, California
Just 12 years ago, the environmental future of this seaside city looked unimpressive. Thanks to an active city council, which wrote and enacted the Sustainable City Plan, Santa Monica has turned green. Three of every four of the city's public works vehicles run on alternative fuel, making it among the largest such fleets in the country. All public buildings use renewable energy. In the last 15 years, the city has cut greenhouse gas emissions by nearly 10 percent, a feat in car-crazy Southern California. City officials and residents have made the ongoing cleanup of the Santa Monica Bay a priority – an urban runoff facility catches 3.5 million gallons of water each week that would otherwise flow into the bay. Add in the miles of beaches, extensive curbside recycling, farmer's markets, community gardens, the city's nimble bus system and Santa Monica is clearly more than just another bathing beauty.

What's to like about Chicago? Open space, good transportation and a commitment to renewable and sustainable energy.

Chicago, Illinois
With open space, public transportation and a commitment to renewable and sustainable energy, Chicago has earned a spot on numerous 'greenest city' lists. The city has 42 green-certified building projects, with more to come. All of the city's nine museums and the Art Institute of Chicago have been converted to run partially on solar power. Close to one-third of all residents use public transportation to get to work. Among the city's energy goals, likely to be met, is buying 20 percent of its electricity from renewable energy sources this year. City officials have voted to give tax incentives to homeowners who invest in Chicago's many historic homes and retrofit them with energy efficient heating and cooling systems, as well as water-saving plumbing. Water quality on the city's lakefront is rated as excellent by the Natural Resources Defense Council, a happy detail for all the swimmers, boaters and sun bathers along the shore in the summer. And you thought it was all about Oprah.

http://www.realtor.com/home-finance/real-estate/general/top-greenest-cities-in-us.aspx?source=web

City of Milpitas, California

*7

BUDGET CHANGE FORM

Type of Change	From		To	
	Account	Amount	Account	Amount
Check one:				
☒ Budget Appropriation	100-3586	$ 16,069	100-171-4221	$ 16,069
☐ Budget Transfer				

Explain the reason for the budget change:

Background:

The Milpitas Recreation Services Division applied for a grant through the PG & E Incentive Program. Pool covers are the most effective way to conserve energy used to heat the pools. As a result of the energy savings that would be realized, PG & E approved the Milpitas Sports Center Pool Cover Project for the maximum incentive of 50% of the total project cost—an awarded grant amount of $16,068.73. The City has assigned the PG & E incentive amount to Knorr Systems so that the City of Milpitas would only be financially responsible for half the project amount. Should the City of Milpitas not assign the PG & E Incentive to Knorr Systems, the City would be financially responsible for the full project amount and would need to wait for reimbursement from PG & E.

Recreation Services also applied for a grant through the City Risk Management Program Grant by ABAG PLAN to cover the remaining cost of the pool covers for the pools at the Milpitas Sports Center. Recreation Services was awarded with an ABAG grant in the amount of $16,068.72. This grant would cover the City's financial portion of the Milpitas Sports Center Pool Cover Project.

Fiscal Impact: None. The PG & E Incentive Program and ABAG PLAN grant will cover the proposed project cost.

Recommendation: Assign the PG & E Incentive to Knorr Systems and accept the City Risk Management Program Grant by ABAG PLAN grant in the amount of $16,068.72 to be incorporated into the Milpitas Recreation Division budget for the Milpitas Sports Center Pool Cover Project.

☒ **Check if City Council Approval required.** **Meeting Date**: June 18, 2013

Requested by:	**Jaime Chew, Recreation Services**	**Date:** June 3, 2013
Reviewed by:	**Finance Director:** Mc Kal	**Date:** 6/4/13
Approved by:	**City Manager:**	**Date:**
Date approved by City Council, if required:		**Confirmed by:**

FI/24786/V

Form 30-222 (Rev. 1/92)

REGULAR

***8**

NUMBER: **220.2**

TITLE: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING CHAPTER 19 OF TITLE III OF THE MILPITAS MUNICIPAL CODE REGARDING NON-EXCLUSIVE FRANCHISE FOR NITROGEN GAS FACILITIES**

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of June 4, 2013, upon motion by Vice Mayor Polanski, and was adopted (second reading) by the City Council at its meeting of _____, upon motion by _____. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

_____
Mary Lavelle, City Clerk

APPROVED:

_____
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

_____
Michael J. Ogaz, City Attorney

RECITALS AND FINDINGS:

*8

WHEREAS, revisions and updates to the City's ordinance for the non-exclusive franchise for nitrogen gas facilities are needed; and

WHEREAS, the franchise license agreements with the franchise companies have expired; and

WHEREAS, the franchise companies have desired to amend the franchise license agreements.

NOW, THEREFORE, the City Council of the City of Milpitas does ordain as follows:

SECTION 1. RECORD AND BASIS FOR ACTION

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

SECTION 2. AMENDMENT OF CHAPTER 19 OF TITLE III OF THE MILPITAS MUNICIPAL CODE

Chapter 19 of Title III of the Milpitas Municipal Code is hereby amended as follows:

III-19-4.00 is amended in its entirety to read as follows:

"III-19-4.00 - Term:

A franchise license shall be for fifteen (15) years and for future renewable terms of fifteen (15) years as agreed in writing by officials of both parties, or until the franchise license is voluntarily surrendered or abandoned by Grantee, or until the State or a municipal or public corporation, including City, duly authorized by law shall purchase by voluntary agreement or shall condemn and take under the power of eminent domain, all property actually used and useful in the exercise of said franchise license and situated in the territorial limits of the municipal or public corporation purchasing or condemning such property, or until said franchise license shall be forfeited for noncompliance with its terms by Grantee. Also, see Section 17 of this Chapter."

III-19-5.00 is amended in entirety to read as follows:

"III-19-5.00 - Fees:

Grantees shall, during the term of said franchise license, pay to City as follows:

(a) An annual fee equal to four thousand thirty nine dollars ($4,039) per mile for the calendar year 2013 (rounded up to the nearest mile) of the total gas-carrying pipe installed within the streets of City.

(b) An additional annual fee per customer location within City having a connection to the franchise license system equal to the product of seven hundred seventy seven dollars ($777) for the calendar year 2013 and nominal inside diameter of the pipe, expressed in inches and fraction thereof at the property line of each customer location connected to each gas-carrying pipe. In calculating the annual fee per customer location connection, Grantee shall include any customer who has a connection for service during any part of the calendar year or portion thereof for which the fee is payable. Each separate location receiving nitrogen gas shall occasion payment of the above annual fee.

(c) In no event shall a Grantee pay City pursuant to this Section 5 an amount less than two thousand dollars ($2,000) per calendar year, or portion thereof, for the term of the franchise license.

(d) The fees stated above in (a) and (b) of this section will be increased annually at a rate of seven percent (7%) per annum over the fee amount of the preceding calendar year throughout the term of the franchise license or any extension thereto."

*8

III-19-6.00 is amended in its entirety to read as follows:

"III-19-6.00 - Payment and Filing:

For each calendar year or portion thereof during the term of a franchise license, Grantee shall file with the City Clerk of City a verified statement showing in detail the lineal feet of gas pipes installed within the streets of City and the customer locations within City having a connection to its franchise license system. Said statement shall be filed for each calendar year on or before January 30th of the calendar year following the calendar year to which the statement applies or within 30 days after the termination of its franchise license, whichever is sooner. The initial filing shall be the first January 30 after the execution of the agreement for the franchise license. Grantee shall pay City the amount of the license fees described in III-19-5 (a), (b) or (c), including an annual increase described in III-19-5 (d), for each calendar year or portion thereof at the time the statement for such calendar year is filed pursuant to this Section 6."

III-19-9.00 is amended in its entirety to read as follows:

"III-19-9.00 - Verified Statement by City:

City may audit the fiscal records of Grantee. Grantee shall permit such examination of its records by City as is necessary and material to the determination of the performance of Grantee's franchise license obligation. Grantee shall permit such examination of its records by City as is necessary and material to the determination of the performance of Grantee's franchise license obligation."

III-19-10.00 is amended in its entirety to read as follows:

"III-19-10.00 - Grantee Faithful Performance Bond:

Within five days of the grant of a franchise, Grantee shall submit a corporate surety bond in favor of City and approved by City Council in a penal sum of One Hundred Thousand Dollars ($100,000), conditioned that the Grantee shall well and truly observe, fulfill and perform each term and condition of the franchise, and that in case of any breach of condition of the bond, the amount of the penal sum shall be recoverable."

III-19-12.00 is amended in its entirety to read as follows:

"III-19-12.00 - Insurance Protection Required:

Grantee shall, upon the execution of a written agreement for its franchise license, furnish to City, and at all times during the existence of any license hereunder, maintain in full force and effect, at its own cost and expense, a comprehensive general liability insurance policy, or at Grantee's option, an Owner's Protective Liability Policy, in protection of City of Milpitas, its officers, its agents, employees and volunteers, with a company approved by the City Council and in a form satisfactory to the City Attorney, protecting City and all persons against liability for loss or damage for personal injury, death and property damage, occasioned by the operations of Grantee under such license with a combined single limit for bodily injury and property damage of two million dollars ($2,000,000) per occurrence.

The policy mentioned in the foregoing paragraph shall name City of Milpitas, its officers, its agents, employees and volunteers, as additional insured and shall contain a provision that a written notice of cancellation or reduction in coverage of said policy shall be delivered to City thirty (30) days in advance of the effective date thereof. If such insurance is provided by a policy which also covers Grantee or any other entity or person other than those above-named, then such policy shall contain a standard cross-liability endorsement."

III-19-13.00 is amended in its entirety to read as follows:

*8

"III-19-13.00 - Installation Procedure:

(a) Grantee shall not install, maintain, use or cause, allow or permit to be installed, maintained, or used within the streets, or other public property of City, any pipes or appurtenances unless and until Grantee shall have filed with the City Engineer a map showing the area or portion of the City within which service shall be made available to customers by Grantee, together with plans and specifications for installation of such pipes and appurtenances and received approval for the installation.

(b) The City shall have the right to disapprove of vertical and horizontal locations of the pipes to be installed under, along, across the streets of City. All plans and specifications shall be approved by the Fire Department of the City, as to compliance with Health and Safety standards. The City Engineer shall be responsible for review of plans and specifications, permit issuance, and inspection of the installation of all pipes and appurtenances in the streets of City.

(c) Grantee shall pay to City a fee for review of Grantee's plans and specifications, for inspecting the installation of all pipes and appurtenances, and other required services. The fee for review and inspection shall be in accordance with City requirements at the time the project is instituted.

(d) Before any work is commenced on or in any street of City, Grantee shall comply with the provisions of the Milpitas Municipal Code as presently provided or as hereafter amended, and the imposition of any reasonable requirements and any permits issued pursuant thereto. Without limitation to the provisions hereof, and except as to the location of pipes and appurtenances in the streets, nothing contained in any license agreement exempts Grantee from obtaining environmental clearance, use or zoning permits and/or encroachment permits prior to the installation, maintenance or use of any pipes or appurtenances. Grantee shall be required to obtain and pay for the annual Milpitas Business License.

(e) All crossings of a street by a pipeline shall be bored and jacked, open cut, directional drill or any other method as approved by the City. All installations must meet City of Milpitas standard specifications and requirements. Restoration shall be performed to the satisfaction of the City.

(f) Grantee shall file with the City Engineer on the completion of a new project a current as-built map or set of maps of the project, drawn to scale or a summary written listing of locations (street name, cross streets, length, diameter of pipe, approximate location to curb and depth of cover, customer name and site address, lateral diameter, dates of operation) showing all pipes or appurtenances installed and in place in the streets of City. Upon request from the City, Grantee shall provide maps of any pipelines in the City and upon request mark said facilities.

(g) Grantee must become a member, if not already a member, of underground service alert (USA) and remain an active member for perpetuity of the license agreement. As a participant, Grantee is responsible for field marking its subsurface facilities as part of USA notification in accordance with the requirements of Section 4216 of the State of California Government Code, as it now reads or may hereinafter be amended."

SECTION 3. SEVERABILITY

The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

SECTION 4. EFFECTIVE DATE AND POSTING

In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.

REGULAR

***8**

NUMBER: **222.1**

TITLE: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING CHAPTER 17 OF TITLE III OF THE MILPITAS MUNICIPAL CODE REGARDING NITROGEN GAS FRANCHISE (AIR PRODUCTS)**

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of June 4, 2013, upon motion by Vice Mayor Polanski and was adopted (second reading) by the City Council at its meeting of _____, upon motion by _____. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

_____
Mary Lavelle, City Clerk

APPROVED:

_____
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

_____
Michael J. Ogaz, City Attorney

RECITALS AND FINDINGS:

*8

WHEREAS, revisions and updates to the City's ordinance for the Nitrogen Gas Franchise (Air Products) are needed; and

WHEREAS, the agreement with the franchise company, Air Products and Chemicals, Inc., has expired; and

WHEREAS, the franchise company has desired to enter into a new agreement; and

NOW, THEREFORE, the City Council of the City of Milpitas does ordain as follows:

SECTION 1. RECORD AND BASIS FOR ACTION

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

SECTION 2. AMENDMENT OF CHAPTER 17 OF TITLE III OF THE MILPITAS MUNICIPAL CODE

Chapter 17 of Title III of the Milpitas Municipal Code is hereby amended to read as follows:

Section III-17-1.00 is amended to read as follows:

III-17-1.00 - Authority

Under and pursuant to the provisions of Chapter 19, Title III of the Milpitas Municipal Code, the City Council of the City of Milpitas is empowered to grant a non-exclusive franchise for the transmission and distribution of nitrogen gas. Application for a 15 year franchise in accordance with the provisions of Chapter 19, Title III has been made by Air Products and Chemicals Inc., a Delaware Corporation. The City Council has heretofore adopted a Resolution of Intention to grant a franchise and has published notice thereto and of the holding of a public hearing thereon on the 4th day of June, 2013, at 7:00 p.m. before the City Council of the City of Milpitas for the purpose of hearing any objections thereon. No written protest stating objections against the granting of the franchise were delivered to the Clerk of the City Council prior to the hour set for the hearing of said objections. At the time set for hearing objections, the City Council determined that no protests were made, and that the granting of a 15 year non-exclusive franchise to the applicant was in the interest of the City of Milpitas and that an ordinance granting said franchise should be adopted. Said hearing was thereupon closed.

Section III-17-2.00 is amended to read as follows:

III-17-2.00 - Granting of Franchise

The City Council of the City of Milpitas does hereby grant as of July 18, 2013, the effective date of this amendment, a non-exclusive franchise for a term of 15 years to Air Products and Chemicals Inc., a Delaware Corporation, which franchise shall commence upon the acceptance of said franchise by said Air Products and Chemicals Inc. to install, construct, maintain and use under, along, across or upon the public streets, easements, ways, and places within the City all pipes and appurtenances for transmitting and distributing nitrogen gas for any and all purposes, provided, however, that such rights shall not include the right to occupy any park, playground or other municipal property (exclusive of public thoroughfares) unless a special permit therefor shall be granted by the City Council, and provided further that such rights shall apply to federal, State,

county and City streets now or hereafter established within the City and freeways hereafter established within the City, only to the extent that City is empowered to grant such rights with respect thereto, subject to laws relating to the location and maintenance of such pipes and appurtenances thereto. Said franchise is granted under and pursuant to the provisions of Chapter 19, Title III of the Milpitas Municipal Code and pursuant to the authority granted in Section 6201 et seq. of the Public Utilities Code of the State of California, being the Franchise Act of 1937. Said franchise is granted upon the express condition precedent (and applicant shall expressly agree in writing in its acceptance of said franchise), that applicant shall comply with each and every term, condition and provision of Chapter 19, Title III of the Milpitas Municipal Code and of the provisions of this Chapter. Said franchise is further granted pursuant to the terms and provisions of the franchise License Agreement approved concurrently herewith and the franchise shall be renewable in the future for 15 year terms as agreed in writing by officials of both parties.

*8

SECTION 3. SEVERABILITY

The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

SECTION 4. EFFECTIVE DATE AND POSTING

In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.

REGULAR

***8**

NUMBER: **223.2**

TITLE: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING CHAPTER 18 OF TITLE III OF THE MILPITAS MUNICIPAL CODE REGARDING NITROGEN GAS FRANCHISE (PRAXAIR, INC.)**

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of June 4, 2013, 2013, upon motion by Vice Mayor Polanski, and was adopted (second reading) by the City Council at its meeting of _____, upon motion by _____. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

_____
Mary Lavelle, City Clerk

APPROVED:

_____
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

_____
Michael J. Ogaz, City Attorney

RECITALS AND FINDINGS:

*8

WHEREAS, revisions and updates to the City's ordinance for the Nitrogen Gas Franchise (Praxair, Inc.) are needed; and

WHEREAS, the agreement with the franchise company, Praxair, Inc., has expired; and

WHEREAS, the franchise company has desired to enter into a new agreement; and

NOW, THEREFORE, the City Council of the City of Milpitas does ordain as follows:

SECTION 1. RECORD AND BASIS FOR ACTION

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

SECTION 2. AMENDMENT OF CHAPTER 18 OF TITLE III OF THE MILPITAS MUNICIPAL CODE

Chapter 18 of Title III of the Milpitas Municipal Code is hereby amended as follows:

Section III-18-1.00 is amended to read as follows:

III-18-1.00 – Authority

Under and pursuant to the provisions of Chapter 19, Title III of the Milpitas Municipal Code, the City Council of the City of Milpitas is empowered to grant a non-exclusive franchise for the transmission and distribution of nitrogen gas. Application for a 15 year franchise in accordance with the provisions of Chapter 19, Title III has been made by Praxair, Inc. The City Council has heretofore adopted a Resolution of Intention to grant a franchise and has published notice thereto and of the holding of a public hearing thereon on the 4th day of June, 2013, at 7:00 p.m. before the City Council of the City of Milpitas for the purpose of hearing any objections thereon. No written protest stating objections against the granting of the franchise were delivered to the Clerk of the City Council prior to the hour set for the hearing of said objections. At the time set for hearing objections, the City Council determined that no protests were made, and that the granting of a 15 year non-exclusive franchise to the applicant was in the interest of the City of Milpitas and that an ordinance granting said franchise should be adopted. Said hearing was thereupon closed.

Section III-18-2.00 is amended to read as follows:

III-18-2.00 - Granting of Franchise

The City Council of the City of Milpitas does hereby grant as of July 18, 2013, the effective date of this amendment, a non-exclusive franchise for a term of 15 years to Praxair, Inc., which franchise shall commence upon the acceptance of said franchise by said Praxair Inc., to install, construct, maintain and use under, along, across or upon the public streets, easements, ways, and places within the City all pipes and appurtenances for transmitting and distributing nitrogen gas for any and all purposes, provided, however, that such rights shall not include the right to occupy any park, playground or other municipal property (exclusive of public thoroughfares) unless a special permit therefor shall be granted by the City Council, and provided further that such rights shall apply to federal, state, county and City streets now or hereafter established within the City and freeways hereafter established within the City, only to the extent that City is empowered to grant such rights with respect thereto, subject to laws relating to the location and maintenance of such pipes and appurtenances thereto. Said franchise is granted under and pursuant to the provisions of Chapter 19, Title III of the Milpitas Municipal Code and pursuant to the authority granted in Section 6201 et seq. of the Public Utilities Code of the State of California, being the Franchise Act of 1937.

Said franchise is granted upon the express condition precedent (and applicant shall expressly agree in writing in its acceptance of said franchise), that applicant shall comply with each and every term, condition and provision of Chapter 19, Title III of the Milpitas Municipal Code and of the provisions of this Chapter. Said franchise is further granted pursuant to the terms and provisions of the franchise License Agreement approved concurrently herewith and the franchise shall be renewable in the future for 15 year terms as agreed in writing by officials of both parties.

*8

Section III-18-3.00 is deleted in its entirety.

Section III-18-4.00 is deleted in its entirety.

SECTION 3. SEVERABILITY

The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

SECTION 4. EFFECTIVE DATE AND POSTING

In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.

MASTER LICENSE AGREEMENT BETWEEN CITY OF MILPITAS AND PRAXAIR, INC. *8

This License Agreement is made by and between the City of Milpitas, a general law city of the State of California (hereafter referred to as "City") and Praxair, Inc., a Delaware Corporation (hereafter referred to as "Praxair") at Milpitas, California on _____, 2013.

In consideration of the mutual covenants herein contained, the parties do hereby agree as follows:

Section 1. Definitions. Whenever in this agreement, the words or phrases hereinafter in this section defined are used, they shall have the respective meanings assigned to them in the following definitions:

(a) The word "Praxair" shall mean Praxair, Inc., and its lawful subsidiaries, a Delaware corporation, successors or assigns.

(b) The word "Praxair" shall mean Praxair, Inc., a Delaware corporation qualified and engaged in the business of producing and distributing industrial gases in the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form

(c) The word "City" shall mean the City of Milpitas, a municipal corporation of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.

(d) The word "streets" shall mean the public streets, alleys, public service easements and other public property, subject to the other provisions of this License Agreement, as the same now or may hereafter exist within City, excluding State highways and freeways, now or hereafter established within City. Also, see Section 2.

(e) The word "gas" shall mean nitrogen gas.

(f) The phase "pipes and appurtenances" shall mean pipes, pipelines, mains, services, traps, vents, vaults, manholes, meters, gauges, regulators, valves, conduits, appliances, attachments, appurtenances and, without limitation to the foregoing, any other property located or to be located in, along, across or under the streets of City, and used or useful in transmitting and/or distributing gas.

(g) The phrase "install, maintain and use" shall mean to lay, construct, erect, install, operate, maintain, use, repair or replace.

(h) The phrase "annual fee" shall mean a fee for each calendar year, or fractional calendar year, for the term of the License. *8

Section 2. License. A nonexclusive License to install, maintain and use in the streets of City all pipes and appurtenances for transmitting and distributing gas only, for any and all purposes is hereby granted to Praxair., provided, however, that such License shall not include the right to occupy any park, playground, or other municipal property (not used as a street), unless a special permit therefor shall be granted by the City, and provided further that such rights shall apply to city streets now or hereafter established within City, only to the extent that City is empowered to grant such rights with respect thereto, subject to laws relating to the location and maintenance of such pipes and appurtenances therein.

Section 3. Term. Said License shall be for the renewable terms of fifteen years as agreed in writing by officials of both parties, or until the License is voluntarily surrendered or abandoned by Praxair, or until the State or some municipal or public corporation, including City, duly authorized by law shall purchase by voluntary agreement or shall condemn and take under the power of eminent domain, all property actually used and useful in the exercise of said License and situated in the territorial limits of the municipal or public corporation purchasing or condemning such property, or until said License shall be forfeited for noncompliance with its terms by Praxair. Also, see Section 17.

Section 4. Fees. Praxair shall, during the term of said License, pay to City as follows:

Fees consisting of items (a), (b) and (c)

(a) An annual fee equal to four thousand thirty nine dollars ($4039) per mile for the calendar year 2013 (rounded up to the nearest mile) of the total gas-carrying pipe installed within the streets of City.

(b) An additional annual fee per customer location within City having a connection to this License system equal to the product of Seven hundred seventy seven dollars ($777.00) for the calendar year 2013 and nominal inside diameter of the pipe, expressed in inches and fraction thereof at the property line of each customer location connected to each gas-carrying pipe. In calculating the annual fee per customer location connection, Praxair shall include in calculating the fee, any customer who has a connection for service during any part of the calendar year or portion thereof for which the fee is payable. Each separate location receiving nitrogen gas shall occasion payment of the above annual fee.

(c) In no event shall Praxair pay City pursuant to this Section 4, an amount less than two thousand dollars ($2,000) per calendar year, or portion thereof, for the term of the License.

(d) The fees stated in (a) and (b) above in this section shall be increased annually at a rate of the larger of seven percent (7%) per annum over the fee for the preceding calendar year throughout the term of the license or any extension thereto.

Section 5. Filing. For each calendar year or portion thereof during the term of this License, Praxair shall file with the City Clerk of City a verified statement showing in detail the lineal feet of gas pipes installed within the streets of City and the customer locations within City having a connection to this License system. Said statement shall be filed for each calendar year on or before January 30th of the calendar year following the calendar year to which the statement applies or within 30 days after the termination of this License, whichever is sooner. The initial filing shall be the first January 30 after the execution of the agreement for the License. Praxair shall pay City the license fees described in Subsections 4(a), (b) and (c) ("Annual License Fees") including an annual increase in Subsection 4 (d) for each calendar year or portion thereof at the time the statement for such calendar year is filed pursuant to this Section 5.

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Section 6. Set-Off. Praxair shall be allowed to offset all costs incurred by Praxair in relocating pipes at the request, demand, or other requirement of City against the Annual License Fees; provided, however, that in any calendar year period in which the costs were incurred, Praxair may not offset costs greater than ten percent (10%) of the Annual License Fees payable for such calendar year or portion thereof, and no offset shall be made against any Section 4 (c) or (d) payment. Any costs not so offset in one calendar year period shall be accumulated and carried over to the next calendar year to be offset on the same basis until fully exhausted or until the expiration of the License including any extension or renewal thereof, whichever occurs sooner. The offset provided by this Section 7 shall not apply to any pipe removal or relocation installed, used, or maintained under the License when required by any lawful change of grade, alignment, or width of any public street, way, alley, or place, including the construction for or by City of any subway, viaduct, street, structure, pipeline or any other lawful public work of governmental character.

Section 7. Installation Procedure.

(a) Praxair shall not install, maintain, use or cause, allow or permit to be installed, maintained, or used within the streets, or other public property of City, any pipes or appurtenances unless and until Praxair shall have filed with the City Engineer a map showing the area or portion of the City within which service shall be made available to customers by Praxair, together with plans and specifications for installation of such pipes and appurtenances and received approval for the installation.

(b) The City shall have the right to disapprove of vertical and horizontal locations of the pipes to be installed under, along, across the streets of City. All plans and specifications shall be approved by the Fire Department of the City, as to compliance with Health and Safety standards. The City Engineer shall be responsible for review of plans and specifications, permit issuance, and inspection of the installation of all pipes and appurtenances in the streets of City.

(c) Praxair shall pay to City a fee for review of Praxair's plans and specifications, for inspecting the installation of all pipes and appurtenances, and other required services. The fee for review and

inspection shall be in accordance with City requirements at the time the project is instituted. *8

(d) Before any work is commenced on or in any street of City, Praxair shall comply with the provisions of the Milpitas Municipal Code as presently provided or as hereafter amended, and the imposition of any reasonable requirements and any permits issued pursuant thereto. Without limitation to the provisions hereof, and except as to the location of pipes and appurtenances in the streets, nothing contained in this License Agreement exempts Praxair from obtaining environmental clearance, use or zoning permits and/or encroachment permits prior to the installation, maintenance or use of any pipes or appurtenances. Praxair shall be required to obtain and pay for the annual Milpitas Business License.

(e) All crossings of a street by a pipeline shall be bored and jacked, open cut, directional drill or any other method as approved by the City. All installations must meet City of Milpitas standard specifications and requirements. Restoration shall be performed to the satisfaction of the City.

(f) Praxair shall file with the City Engineer on the completion of new project a current as-built map or set of maps of the project, drawn to scale or a summary written listing of locations (street name, cross streets, length, diameter of pipe, approximate location to curb and depth of cover, customer name and site address, lateral diameter, dates of operation) showing all pipes or appurtenances installed and in place in the streets of City. Upon request from the City, Praxair shall provide maps of any pipelines in the City and upon request mark said facilities.

(g) Praxair must become a member (if you are not already) of underground service alert (USA) and remain an active member for perpetuity of the license agreement. As a participant, you are responsible for field marking your subsurface facilities as part of USA notification in accordance with the requirements of Section 4216 of the State of California Government Code, as it now reads or may hereinafter be amended.

Section 8. Construction Guarantee. Praxair shall provide a faithful performance bond and labor and materials bond satisfactory to City each in the amount equal to the full cost of all construction undertaken pursuant to this License conditioned upon the faithful performance of such construction and the payment for all labor and materials in connection therewith. Also, see Section 11 for additional bonding requirement of the license.

Section 9. Praxair Abandonment of Pipelines. If Praxair abandons use of the pipelines installed under or pursuant to the License, the title to said pipelines shall vest in the City upon notification of abandonment and City's consent to and acceptance of title.

Section 10. Praxair's Duties Upon Customer Service Discontinuance. The line of any customer whose service is disconnected shall be suitably capped-off by Praxair to City's satisfaction.

*8

Section 11. License Faithful Performance Bond. Praxair shall submit to City, upon acceptance of License, an appropriate corporate surety or other bond, approved by City as to form, in the amount of one hundred thousand dollars ($100,000) guaranteeing the performance by Praxair of its obligations under this License. Such bond shall be maintained in full force and effect for the License term.

Section 12. Indemnity. As a material portion of the consideration for granting of said License and by accepting said License, Praxair agrees to hold the City of Milpitas, its officers , its agents, employees and volunteers free and harmless for and on account of any and all claims, demands, liability, obligation, account, action, cause of action, whether the same be known or unknown, expected or unexpected, already appeared or developed or now latent, or may in the future appear or develop, arising out of or in any way connected with the exercise of said License by Praxair, including but not limited to damages or injuries or death to persons or damage or injuries to property.

Section 13. Insurance Protection Required. Praxair shall, upon the execution of this License, furnish to City, and at all times during the existence of any license hereunder, maintain in full force and effect, at its own cost and expense, a comprehensive general liability insurance policy, or at Praxair's option, an Owner's Protective Liability Policy, in protection of City of Milpitas, its officers, its agents, employees and volunteers, in a company approved by the City Council and in a form satisfactory to the City Attorney, protecting City and all persons against liability for loss or damage for personal injury, death and property damage, occasioned by the operations of Praxair under such License with a combined single limit for bodily injury and property damage of two million dollars ($2,000,000) per occurrence.

The policy mentioned in the foregoing paragraph shall name City of Milpitas, its officers, its agents, employees and volunteers, as additional insured as respects Praxair's obligations under this Agreement and shall contain a provision that a written notice of cancellation or reduction in coverage of said policy shall be delivered to City thirty (30) days in advance of the effective date thereof. If such insurance is provided by a policy which also covers Praxair or any other entity or person other than those above-named, then such policy shall contain a standard cross-liability endorsement.

Section 14. City Audit of Fiscal Records. Praxair shall permit such examination of its records by City as are necessary and material to the determination of the performance of Praxair's License obligation.

Section 15. Condemnation by City. There is hereby reserved to the City of Milpitas the right to acquire the property of Praxair utilized in the performance of this License through the exercise of the right of eminent domain.

Section 16. Acceptance of License Terms and Conditions. By accepting this License, Praxair covenants and agrees to perform and be bound by each and all of the terms and conditions imposed by Federal or state statutes and local ordinances and standard specifications of City (whichever are more stringent).

Said License is granted and is hereby accepted by Praxair upon the express condition that the streets of City shall be used and that gas is furnished by Praxair in strict

compliance with the terms of this License and applicable provisions of the Milpitas Municipal Code, as presently written or as amended during the term of this License. *8

Section 17. Termination of License. This License may be terminated by any of the following methods:

(a) by either party at any time upon five (5) years prior written notice to the other, said termination to be effective upon the first December 31st to follow the expiration of the five (5) year notice period;

(b) by City upon written notice to Praxair ("Termination Notice') in the event that Praxair has violated any other provisions of this License and has failed to correct the same within sixty (60) days after written notice from City to Praxair of said violation ("Violation Notice"); said termination shall be effective upon dispatch of the Termination Notice by City; the City Manager may in its discretion extend for good cause the period of time for correction of said violation;

(c) as to any provision hereof, by final determination of a court of competent jurisdiction that said provision hereof is ulta vires.

Section 18. Suspension. In the event of any condition involving the subject matter of this License which endangers the health or safety of any person or property within City, City may immediately suspend this License and said suspension shall remain in full force during said condition. The City Manager shall make a written report of said suspension and the reasons therefor to the City Council at the first meeting following said suspension. It shall not be a condition of the invoking of said suspension that Praxair has violated any of the provisions of this License nor shall said suspension extend the term of this License (unless the City Council otherwise determines). Notice of said suspension may be oral or in writing to Praxair and shall be effective immediately.

Section 19. Notice. All notices hereunder to City shall be addressed to the City Manager, City Hall, 455 East Calaveras Boulevard, Milpitas, California 95035. All notices to Praxair shall be given to Praxair, Inc., Real Estate Dept, 39 Old Ridgebury Rd, Danbury, CT 06810-5113

Provided, however, that either party may change the place of notice by giving the other party a written statement thereof sent registered mail, return receipt requested, at the above address to be effective upon receipt.

Section 20. Agent for Service of Process. The name and address of Praxair's agent for service of process in California are as follows: Corporate Services Company, 2711 Centerville Road, Suite #400, Wilmington, DE 19808 Praxair shall notify City of any changes in the name or address of Praxair's agent for service of process in California.

Section 21. City of Milpitas Business License. Praxair shall pay the annual City of Milpitas business license similar to any company doing business in the City of Milpitas.

Section 22. Sale, Transfer, Assignment or Sublease of License. No franchise granted hereunder shall be sold, assigned, transferred, leased or sublet, in whole or in part, voluntarily or by operation of law, without written consent of the City of Milpitas. The consent would be based on the new licensee having an acceptable industry standard safety record. In addition, consent is granted based on Praxair filing and paying the necessary processing costs, including but not limited to, the business license, bonding, insurance certificates, contact information, etc. *8

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

PRAXAIR, INC., a Delaware corporation

By _____
Edward R. Durkin
Director, Corporate Real Estate

CITY OF MILPITAS

By _____
Thomas C. Williams, City Manager

NOTE: The execution of this Agreement by Praxair, Inc. must be acknowledged before a notary public.

*8

MASTER LICENSE AGREEMENT BETWEEN CITY OF MILPITAS AND AIR PRODUCTS AND CHEMICALS, INC.

This License Agreement is made by and between the City of Milpitas, a general law city of the State of California (hereafter referred to as "City") and Air Products and Chemicals, Inc., a Delaware Corporation (hereafter referred to as "Air Products") at Milpitas, California on 17 APRIL, 2013.

In consideration of the mutual covenants herein contained, the parties do hereby agree as follows:

Section 1. Definitions. Whenever in this agreement, the words or phrases hereinafter in this section defined are used, they shall have the respective meanings assigned to them in the following definitions:

(a) The word "Air Products" shall mean Air Products and Chemicals, Inc., and its lawful subsidiaries including Air Products Manufacturing Corporation, a Delaware corporation, successors or assigns.

(b) The word "Air Products ." shall mean Air Products and Chemicals, Inc., a Delaware corporation and Air Products Manufacturing Corporation, a Delaware corporation qualified and engaged in the business of producing and distributing nitrogen gas in the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form

(c) The word "City" shall mean the City of Milpitas, a municipal corporation of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.

(d) The word "streets" shall mean the public streets, alleys, public service easements and other public property, subject to the other provisions of this License Agreement, as the same now or may hereafter exist within City, excluding State highways and freeways, now or hereafter established within City. Also, see Section 2.

(e) The word "gas" shall mean nitrogen gas.

(f) The phase "pipes and appurtenances" shall mean pipes, pipelines, mains, services, traps, vents, vaults, manholes, meters, gauges, regulators, valves, conduits, appliances, attachments, appurtenances and, without limitation to the foregoing, any other property located or to be located in, along, across or under the streets of City, and used or useful in transmitting and/or distributing gas.

(g) The phrase "install, maintain and use" shall mean to lay, construct, erect, install, operate, maintain, use, repair or replace.

(h) The phrase "annual fee" shall mean a fee for each calendar year, or fractional calendar year, for the term of the License.

Section 2. License. A nonexclusive License to install, maintain and use in the streets of City all pipes and appurtenances for transmitting and distributing gas only, for any and all purposes is hereby granted to Air Products., provided, however, that such License shall not include the right to occupy any park, playground, or other municipal property (not used as a street), unless a special permit therefor shall be granted by the City, and provided further that such rights shall apply to city streets now or hereafter established within City, only to the extent that City is empowered to grant such rights with respect thereto, subject to laws relating to the location and maintenance of such pipes and appurtenances therein.

Section 3. Term. Said License shall be for fifteen years and for future renewable terms of fifteen years as agreed in writing by officials of both parties, or until the License is voluntarily surrendered or abandoned by Air Products, or until the State or some municipal or public corporation, including City, duly authorized by law shall purchase by voluntary agreement or shall condemn and take under the power of eminent domain, all property actually used and useful in the exercise of said License and situated in the territorial limits of the municipal or public corporation purchasing or condemning such property, or until said License shall be forfeited for noncompliance with its terms by Air Products. Also, see Section 17.

Section 4. Fees. Air Products shall, during the term of said License, pay to City as follows:

Fees consisting of items (a), (b) and (c)

(a) An annual fee equal to four thousand thirty nine dollars ($4,039) per mile for the calendar year 2013 (rounded up to the nearest mile) of the total gas-carrying pipe installed within the streets of City.

(b) An additional annual fee per customer location within City having a connection to this License system equal to the product of Seven hundred seventy seven dollars ($777.00) for the calendar year 2013 and nominal inside diameter of the pipe, expressed in inches and fraction thereof at the property line of each customer location connected to each gas-carrying pipe. In calculating the annual fee per customer location connection, Air Products shall include in calculating the fee, any customer who has a connection for service during any part of the calendar year or portion thereof for which the fee is payable. Each separate location receiving nitrogen gas shall occasion payment of the above annual fee.

(c) In no event shall Air Products pay City pursuant to this Section 4, an amount less than two thousand dollars ($2,000) per calendar year, or portion thereof, for the term of the License.

*8

(d) The fees stated in (a) and (b) above in this section will be increased annually at a rate of seven percent (7%) per annum over the fee for the preceding calendar year throughout the term of the license or any extension thereto.

Section 5. Filing. For each calendar year or portion thereof during the term of this License, Air Products shall file with the City Clerk of City a verified statement showing in detail the lineal feet of gas pipes installed within the streets of City and the customer locations within City having a connection to this License system. Said statement shall be filed for each calendar year on or before January 30th of the calendar year following the calendar year to which the statement applies or within 30 days after the termination of this License, whichever is sooner. The initial filing shall be the first January 30 after the execution of the agreement for the License. Air Products shall pay City the amount of the license fees described in Subsections 4(a) and 4 (b) or 4 (c) ("Annual License Fees") including an annual increase in Subsection 4 (d) for each calendar year or portion thereof at the time the statement for such calendar year is filed pursuant to this Section 5.

Section 6. Set-Off. Air Products shall be allowed to offset all costs incurred by Air Products in relocating pipes at the request, demand, or other requirement of City against the Annual License Fees; provided, however, that in any calendar year period in which the costs were incurred, Air Products may not offset costs greater than ten percent (10%) of the Annual License Fees payable for such calendar year or portion thereof, and no offset shall be made against any Section 4 (c) or (d) payment. Any costs not so offset in one calendar year period shall be accumulated and carried over to the next calendar year to be offset on the same basis until fully exhausted or until the expiration of the License including any extension or renewal thereof, whichever occurs sooner. The offset provided by this Section 7 shall not apply to any pipe removal or relocation installed, used, or maintained under the License when required by any lawful change of grade, alignment, or width of any public street, way, alley, or place, including the construction for or by City of any subway, viaduct, street, structure, pipeline or any other lawful public work of governmental character.

Section 7. Installation Procedure.

(a) Air Products shall not install, maintain, use or cause, allow or permit to be installed, maintained, or used within the streets, or other public property of City, any pipes or appurtenances unless and until Air Products shall have filed with the City Engineer a map showing the area or portion of the City within which service shall be made available to customers by Air Products, together with plans and specifications for installation of such pipes and appurtenances and received approval for the installation.

(b) The City shall have the right to disapprove of vertical and horizontal locations of the pipes to be installed under, along, across the streets of City. All plans and specifications shall be approved by the Fire Department of the City, as to compliance with Health and Safety standards. The City Engineer shall be responsible for review of plans and specifications, permit issuance, and inspection of the installation of all pipes and appurtenances in the streets of City.

(c) Air Products shall pay to City a fee for review of Air Product's plans and specifications, for inspecting the installation of all pipes and appurtenances, and other required services. The fee for review and inspection shall be in accordance with City requirements at the time the project is instituted.

(d) Before any work is commenced on or in any street of City, Air Products shall comply with the provisions of the Milpitas Municipal Code as presently provided or as hereafter amended, and the imposition of any reasonable requirements and any permits issued pursuant thereto. Without limitation to the provisions hereof, and except as to the location of pipes and appurtenances in the streets, nothing contained in this License Agreement exempts Air Products from obtaining environmental clearance, use or zoning permits and/or encroachment permits prior to the installation, maintenance or use of any pipes or appurtenances. Air Products shall be required to obtain and pay for the annual Milpitas Business License.

(e) All crossings of a street by a pipeline shall be bored and jacked, open cut, directional drill or any other method as approved by the City. All installations must meet City of Milpitas standard specifications and requirements. Restoration shall be performed to the satisfaction of the City.

(f) Air Products shall file with the City Engineer on the completion of new project a current as-built map or set of maps of the project, drawn to scale or a summary written listing of locations (street name, cross streets, length, diameter of pipe, approximate location to curb and depth of cover, customer name and site address, lateral diameter, dates of operation) showing all pipes or appurtenances installed and in place in the streets of City. Upon request from the City, Air Products shall provide maps of any pipelines in the City and upon request mark said facilities.

(g) Air Products must become a member (if you are not already) of underground service alert (USA) and remain an active member for perpetuity of the license agreement. As a participant, you are responsible for field marking your subsurface facilities as part of USA notification in accordance with the requirements of Section 4216 of the State of California Government Code, as it now reads or may hereinafter be amended.

Section 8. Construction Guarantee. Air Products shall provide a faithful performance bond and labor and materials bond satisfactory to City each in the amount equal to the full cost of all construction undertaken pursuant to this License conditioned upon the faithful performance of such construction and the payment for all labor and materials in connection therewith. Also, see Section 11 for additional bonding requirement of the license.

*8

Section 9. Air Products Abandonment of Pipelines. If Air Products abandons use of the pipelines installed under or pursuant to the License, the title to said pipelines shall vest in the City upon notification of abandonment and City's consent to and acceptance of title.

Section 10. Air Product's Duties Upon Customer Service Discontinuance. The line of any customer whose service is disconnected shall be suitably capped-off by Air Products to City's satisfaction.

Section 11. License Faithful Performance Bond. Air Products shall submit to City, upon acceptance of License, an appropriate corporate surety or other bond, approved by City as to form, in the amount of one hundred thousand dollars ($100,000) guaranteeing the performance by Air Products of its obligations under this License. Such bond shall be maintained in full force and effect for the License term.

Section 12. Indemnity. As a material portion of the consideration for granting of said License and by accepting said License, Air Products agrees to hold the City of Milpitas, its officers , its agents, employees and volunteers free and harmless for and on account of any and all claims, demands, liability, obligation, account, action, cause of action, whether the same be known or unknown, expected or unexpected, already appeared or developed or now latent, or may in the future appear or develop, arising out of or in any way connected with the exercise of said License by Air Products, including but not limited to damages or injuries or death to persons or damage or injuries to property.

Section 13. Insurance Protection Required. Air Products shall, upon the execution of this License, furnish to City, and at all times during the existence of any license hereunder, maintain in full force and effect, at its own cost and expense, a comprehensive general liability insurance policy, or at Air Product's option, an Owner's Protective Liability Policy, in protection of City of Milpitas, its officers, its agents, employees and volunteers, in a company approved by the City Council and in a form satisfactory to the City Attorney, protecting City and all persons against liability for loss or damage for personal injury, death and property damage, occasioned by the operations of Air Products under such License with a combined single limit for bodily injury and property damage of two million dollars ($2,000,000) per occurrence.

The policy mentioned in the foregoing paragraph shall name City of Milpitas, its officers, its agents, employees and volunteers, as additional insured and shall contain a provision that a written notice of cancellation or reduction in coverage of said policy shall be delivered to City thirty (30) days in advance of the effective date thereof. If such insurance is provided by a policy which also covers Air Products or any other entity or person other than those above-named, then such policy shall contain a standard cross-liability endorsement.

Section 14. City Audit of Fiscal Records. Air Products shall permit such examination of its records by City as are necessary and material to the determination of the performance of Air Product's License obligation.

Section 15. Condemnation by City. There is hereby reserved to the City of Milpitas the right to acquire the property of Air Products utilized in the performance of this License through the exercise of the right of eminent domain.

*8

Section 16. Acceptance of License Terms and Conditions. By accepting this License, Air Products covenants and agrees to perform and be bound by each and all of the terms and conditions imposed by Federal or state statutes and local ordinances and standard specifications of City (whichever are more stringent).

Said License is granted and is hereby accepted by Air Products upon the express condition that the streets of City shall be used and that gas is furnished by Air Products in strict compliance with the terms of this License and applicable provisions of the Milpitas Municipal Code, as presently written or as amended during the term of this License.

Section 17. Termination of License. This License may be terminated by any of the following methods:

(a) by either party at any time upon five (5) years prior written notice to the other, said termination to be effective upon the first December 31st to follow the expiration of the five (5) year notice period;

(b) by City upon written notice to Air Products ("Termination Notice') in the event that Air Products has violated any other provisions of this License and has failed to correct the same within sixty (60) days after written notice from City to Air Products of said violation ("Violation Notice"); said termination shall be effective upon dispatch of the Termination Notice by City; the City Manager may in its discretion extend for good cause the period of time for correction of said violation;

(c) as to any provision hereof, by final determination of a court of competent jurisdiction that said provision hereof is ulta vires.

Section 18. Suspension. In the event of any condition involving the subject matter of this License which endangers the health or safety of any person or property within City, City may immediately suspend this License and said suspension shall remain in full force during said condition. The City Manager shall make a written report of said suspension and the reasons therefor to the City Council at the first meeting following said suspension. It shall not be a condition of the invoking of said suspension that Air Products has violated any of the provisions of this License nor shall said suspension extend the term of this License (unless the City Council otherwise determines). Notice of said suspension may be oral or in writing to Air Products and shall be effective immediately.

Section 19. Notice. All notices hereunder to City shall be addressed to the City Manager, City Hall, 455 East Calaveras Boulevard, Milpitas, California 95035. All notices to Air Products shall be given to Air Products and Chemicals, Inc., Attention: Thomas S. Houser, 12600 Northborough Drive, Suite 196 Houston TX. 77067

Provided, however, that either party may change the place of notice by giving the other party a written statement thereof sent registered mail, return receipt requested, at the above address to be effective upon receipt.

Section 20. Agent for Service of Process. The name and address of Air Product's agent for service of process in California are as follows: CT Corporation System, 700

South Flower Street, Los Angeles, California 90017. Air Products shall notify City of any changes in the name or address of Air Product's agent for service of process in California. *8

Section 21. City of Milpitas Business License. Air Products shall pay the annual City of Milpitas business license similar to any company doing business in the City of Milpitas.

Section 22. Sale, Transfer, Assignment or Sublease of License. No franchise granted hereunder shall be sold, assigned, transferred, leased or sublet, in whole or in part, voluntarily or by operation of law, without written consent of the City of Milpitas. The consent would be based on the new licensee having an acceptable industry standard safety record. In addition, consent is granted based on Air Products filing and paying the necessary processing costs, including but not limited to, the business license, bonding, insurance certificates, contact information, etc.

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

AIR PRODUCTS AND CHEMICALS, INC., a Delaware Corporation

By: Gary D. Kinsey

Name Printed: GARY D. KINSEY

Title: GLOBAL RIGHT-OF-WAY MANAGER

CITY OF MILPITAS

By _____

Thomas C. Williams, City Manager

RESOLUTION NO. _____ ***9**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A TAX REVENUE SHARING AGREEMENT WITH SILICON GRAPHICS INTERNATIONAL CORPORATION

WHEREAS, Silicon Graphics International Corporation, a Delaware corporation registered in the State of California ("SGI") develops, markets and sells computer server and data storage solutions and software and currently has a corporate headquarters in Fremont, California with over one thousand three hundred seventy five (1,375) employees worldwide; and

WHEREAS, SGI has proposed entering into a tax revenue sharing agreement with the City of Milpitas in consideration of relocation of its corporate headquarters and facilities from the City of Fremont to the City of Milpitas and the City of Milpitas has previously negotiated tax sharing agreements with other company(ies) as part of its economic development and Use Tax Outreach program; and

WHEREAS, the site contemplated for SGI's Milpitas headquarters and facilities ("Site") and has been vacant for a number of years and SGI's relocation of two hundred ten (210) employees to the Site may serve as a catalyst to attract other high-tech companies to the neighboring vacant sites; and

WHEREAS, if SGI relocates to the City of Milpitas, SGI anticipates paying property taxes (real property and personal property taxes) at the rate of one percent (1%) of the assessed land value, improvements, and personal properties for the Site ("Property Tax") pursuant to Proposition 13 and a certain amount of the Property Tax would be allocated and paid by Santa Clara County to the City of Milpitas on an annual basis; and

WHEREAS, the State of California imposes a sales and use tax on every retailer of personal property at a rate which includes a one percent (1%) use tax under the Bradley-Burns Uniform Local Sales and Use Tax Law and as further codified in Section 3 of Chapter IX-1 of the Milpitas Municipal Code ("Bradley-Burns 1% Use Tax"); and

WHEREAS, the Bradley-Burns 1% Use Tax is collected based upon the storage, use or other consumption of tangible personal property purchased from any retailer in the City and if SGI relocates to the City of Milpitas, SGI anticipates making the Bradley-Burns 1% Use Tax payments to the California State Board of Equalization on an annual basis and a certain amount of the Bradley-Burns 1% Use Tax would be allocated and paid by the California State Board of Equalization to the City; and

WHEREAS, the City of Milpitas imposes a Transient Occupancy Tax ("TOT") in the amount of ten percent (10%) of the rent charged by hotel operators to transients for the privilege of occupancy in any hotel located in the City of Milpitas; and

WHEREAS, if SGI relocates to the City of Milpitas, SGI anticipates having its business guests stay at hotels located in the City of Milpitas, which, will generate additional TOT for the City of Milpitas; and

WHEREAS, SGI now desires to relocate its headquarters and facilities from Fremont, California to Milpitas, California, in exchange for a rebate of fifty percent (50%) of the Property Tax, Bradley-Burns 1% Use Tax, and TOT collections as further described in this Resolution; and

WHEREAS, such rebate arrangements would further the valid public purposes of expansion of economic opportunities for surrounding businesses in the City of Milpitas, expansion of the City of Milpitas' employment base, generation of aggregate property tax, use tax, and TOT increases that the City of Milpitas could use to fund vital governmental services such as police, fire, street maintenance, and parks and recreation programs, and the general improvement of the economic health of the City of Milpitas; and

WHEREAS, as a general law city, the City of Milpitas has the authority to enter into contractual agreements, including tax revenue sharing agreements with private companies; and

WHEREAS, approval of the proposed tax revenue sharing agreement does not constitute a "project" for purposes of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guideline Section 15378(b)(4) in that the creation of this funding mechanism does not involve any commitment to any specific project or the relocation of SGI's headquarters from the City of Fremont to the City of Milpitas.

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

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

2. The City Manager is authorized to negotiate and execute a Tax Revenue Sharing Agreement Between the City of Milpitas and Silicon Graphics International Corporation, a Delaware corporation, based upon the following terms and a conditions and as approved as to form by the City Attorney:

   a. Contract term of five (5) years commencing on the date (i) SGI completes construction to relocate its headquarters and facilities from the City of Fremont to the City of Milpitas; and (ii) receives its Certificate of Occupancy, including any temporary or partial Certificate of Occupancy, to begin occupying its newly relocated headquarters and facilities in the City of Milpitas.

   b. A fifty percent (50%) sharing of Property Tax and Bradley-Burns 1% Use Tax paid by SGI for its proposed new headquarters and facilities in the City of Milpitas and allocated to the City of Milpitas and a fifty percent (50%) sharing of TOT for hotel guests who SGI books and stays in a Milpitas hotel, all subject to review, documentation, and verification by the Director of Finance.

   c. The relocation of SGI's headquarters and facilities to the City of Milpitas will be subject to all applicable local, State and federal rules, regulations and laws.

3. If SGI relocates its headquarters and facilities to the City of Milpitas and executes a Tax Revenue Sharing Agreement as set forth herein, the Director of Finance of the City of Milpitas is directed to disburse the Property Tax, Bradley-Burns 1% Use Tax, and TOT rebates to SGI pursuant to the terms and conditions set forth above and the fully executed Tax Revenue Sharing Agreement.

PASSED AND ADOPTED this _____ day of _____ 2013, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

_____
Mary Lavelle, City Clerk

_____
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

_____
Michael J. Ogaz, City Attorney

*10

CITY OF MILPITAS

ENGINEERING DIVISION

BID SUMMARY

Project Name: Street Resurfacing 2014 - Street Cape and Slurry Seal

Project No. : 3412, 4254 and 4268

Bid Date: June 3, 2013 @ 2:00 PM

BASED BID				Engineer's Estimate		O'Grady Paving, Inc.		Inter Mountain Slurry Seal, Inc.	
ITEM	DESCRIPTION	Qty.	UNIT	Unit Cost	Extension	Unit Cost	Extension	Unit Cost	Extension
1	Mobilization (Not to Exceed 10% of Total Bid)	1	LS	$30,000.00	$30,000.00	$25,000.00	$25,000.00	$84,000.00	$84,000.00
2	Traffic Control (Not to Exceed 10% of Total Bid)	1	LS	$30,000.00	$30,000.00	$25,000.00	$25,000.00	$85,000.00	$85,000.00
3	Tree Trimming	1	LS	$10,000.00	$10,000.00	$7,000.00	$7,000.00	$2,000.00	$2,000.00
4	Remove Existing Stripes and Pavement Markers	1	LS	$4,554.00	$4,554.00	$4,000.00	$4,000.00	$5,000.00	$5,000.00
5	Rubberized Asphalt Crack Seal	1	LS	$30,000.00	$30,000.00	$50,000.00	$50,000.00	$64,950.00	$64,950.00
6	Polymer Modified Slurry Seal, Type II	1	LS	$175,000.00	$175,000.00	$110,000.00	$110,000.00	$139,990.00	$139,990.00
7	Asphalt Rubber Cape Seal	1	LS	$650,000.00	$650,000.00	$380,000.00	$380,000.00	$525,000.00	$525,000.00
8	Pavement Delineation (Blue Reflective Markers)	86	EA	$25.00	$2,150.00	$8.00	$688.00	$7.50	$645.00
9	Pavement Delineation (Marking and Legend - Paint)	7,300	SF	$2.00	$14,600.00	$2.00	$14,600.00	$1.70	$12,410.00
10	Pavement Delineation (Marking and Legend - Thermoplastic)	2,500	SF	$5.00	$12,500.00	$3.50	$8,750.00	$3.35	$8,375.00
11	Paint Curb Red	240	LF	$2.00	$480.00	$1.50	$360.00	$1.25	$300.00
12	Pavement Delineation (Detail 4)	11,000	LF	$1.00	$11,000.00	$0.45	$4,950.00	$0.44	$4,840.00
13	Pavement Delineation (Detail 23)	4,000	SF	$2.00	$8,000.00	$1.50	$6,000.00	$1.45	$5,800.00
14	Pavement Delineation (Detail 38C)	72	LF	$3.00	$216.00	$2.50	$180.00	$2.00	$144.00
15	Roadside Signs	1	LS	$9,000.00	$9,000.00	$4,000.00	$4,000.00	$1,000.00	$1,000.00
16	Water Pollution Control and SWPPP	1	LS	$10,000.00	$10,000.00	$2,000.00	$2,000.00	$10,000.00	$10,000.00
17	Base Repair (3" Deep)	120,000	SF	$3.00	$360,000.00	$2.85	$342,000.00	$2.50	$300,000.00
18	3" AC Pavement Full Width Grind and Replace	3,700	TON	$110.00	$407,000.00	$118.00	$436,600.00	$85.00	$314,500.00
19	Misc. Concrete - Remove and Replace Curb Ramp (Type C)	26	EA	$7,000.00	$182,000.00	$7,000.00	$182,000.00	$2,600.00	$67,600.00
20	Misc. Concrete - Remove and Replace Curb Ramp (Type G)	1	EA	$6,000.00	$6,000.00	$5,000.00	$5,000.00	$3,500.00	$3,500.00
21	Misc. Concrete - Remove and Replace Curb and Gutter	500	LF	$80.00	$40,000.00	$70.00	$35,000.00	$40.00	$20,000.00
22	Misc. Concrete - Remove and Replace Sidewalk	300	SF	$25.00	$7,500.00	$20.00	$6,000.00	$12.00	$3,600.00
	TOTAL				$2,000,000.00		**$1,649,128.00**		$1,658,654.00
						APPARENT LOW BIDDER			

List of Sub-Contractors

Description	O'Grady Paving, Inc.	Inter Mountain Slurry Seal, Inc.
Concrete	JJR, San Mateo	MCK Services, Concord
Crack Seal	Graham Contr., San Jose	Rubberized Crackfiller Sealant
Slurry/Cape Seal	Graham Contr., San Jose	
Striping	Sierra, Roseville	Sierra Traffic Markongs, Roseville
Paving		MCK Services, Concord

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AUTHORIZING THE CITY MANAGER TO AWARD TO AND EXECUTE A CONSTRUCTION CONTRACT WITH THE LOWEST RESPONSIBLE BIDDER, O'GRADY PAVING, INC., IN THE AMOUNT OF $1,649,128 AND AUTHORIZE STAFF TO NEGOTIATE AND EXECUTE CHANGE ORDERS IN AN AMOUNT NOT TO EXCEED $250,000 FOR THE STREET RESURFACING PROJECT 2014, STREET CAPE AND SLURRY SEAL, PROJECT NOS. 3412, 4254 AND 4268

WHEREAS, on May 7, 2013, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals for Street Resurfacing Project 2014, Street Cape and Slurry Seal, Project Nos. 3412, 4254 and 4268 (collectively the "Project"), which consists of placing asphalt rubber cape seal, slurry seal, removal and replacement of asphalt and new roadway marking treatments on City streets; and

WHEREAS, the Engineer's Estimate for the base bid Project work was $2,000,000; and

WHEREAS, the Project was advertised and two (2) sealed bid proposals were received and opened on June 3, 2013, which ranged from $1,649,128 to $1,658,654, and the lowest responsible base bid was submitted by O'Grady Paving, Inc., a California corporation, in the amount of $1,649,128; and

WHEREAS, no bid protest was filed with the City within five (5) days of the bid opening as set forth in the project plans and specifications; and

WHEREAS, sufficient funds to award the Project will be available on July 1, 2013 and due to the constraints of the summer construction schedule to complete the resurfacing of City streets around schools while students are on summer vacation, staff recommends the City Council authorize the City Manager to award to and execute a construction contract with the lowest responsible bidder for the Project in conformity with State law during the month of July when the City Council is in recess in order to expedite commencement of work on the Project; and

WHEREAS, due to the Project's tight completion schedule and ability for staff to respond swiftly to construction conditions in order to limit potential claims or risk to the City, staff recommends the City Council authorize staff to negotiate and execute change orders in an amount not to exceed the construction contingency established for this Project of $250,000, which is approximately fifteen percent of the construction cost.

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

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

2. The City Manager is authorized to award to and execute a construction contract and related documents with the lowest responsible bidder, O'Grady Paving, Inc., a California corporation, for Street Resurfacing Project 2014, Street Cape and Slurry Seal, Project Nos. 3412, 4254 and 4268, in the amount of $1,649,128.

3. Staff is authorized to negotiate and execute change orders for Street Resurfacing Project 2014 and Street Cape and Slurry Seal Project Nos. 3412, 4254 and 4268, provided that the change orders do not exceed the established construction contingency amount of $250,000 for the Project.

PASSED AND ADOPTED this _____ day of _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

_____
Mary Lavelle, City Clerk

APPROVED:

_____
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

_____
Michael J. Ogaz, City Attorney

*11

RESOLUTION NO. ____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING AGREEMENT CREATING THE SANTA CLARA COUNTY RECYCLING AND WASTE REDUCTION TECHNICAL ADVISORY COMMITTEE

WHEREAS, the California Integrated Waste Management Act, known as "AB 939" (Public Resources Code Section 40000 *et seq.*) enacted in 1989 required jurisdictions to divert 50% of waste from disposal by 2000, and as amended by Assembly Bill 341 in 2011 now establishes a statewide goal of diverting 75% of solid waste by 2020; and

WHEREAS, in 1992 the Santa Clara County Board of Supervisors established the Solid Waste Commission of Santa Clara County to advise city councils and the Board of Supervisors on countywide solid waste and recycling issues, and in 2001 revised the name of the Commission to the "Recycling and Waste Reduction Commission of Santa Clara County" ("the Commission"); and

WHEREAS, the bylaws of the Commission included establishment of the Recycling and Waste Reduction Technical Advisory Committee ("the TAC") to provide technical advice to the Commission on solid waste management and policy, to bring together a wide spectrum of viewpoints and expertise on countywide solid waste and recycling issues affecting individual jurisdictions and to assist in development of policies, and programs as well as revisions to the County Solid Waste Management Plan/County Integrated Waste Management Plan; and

WHEREAS, in accordance with the AB 939 provisions for financing solid waste diversion and planning activities, the County of Santa Clara levies and collects the Countywide Solid Waste Planning Fee ("SWPF") on each ton of solid waste disposed at landfills located within the County, on tons taken to non-disposal facilities located within the County and subsequently transported for disposal to landfills outside Santa Clara County, and on tons transported directly to disposal facilities located outside Santa Clara County, and the revenues from the SWPF, along with grants and voluntary contributions from agencies are used to fund the work of the Commission and the TAC; and

WHEREAS, the field of solid waste management and recycling has become much more complex since the TAC was originally established, and the City of Milpitas has found it useful and cost-effective to work jointly with other local jurisdictions through the Commission and the TAC in order to comply with the increasing number of new laws and regulations; and

WHEREAS, the responsibilities of the TAC have evolved over time to include recommending, implementing, monitoring, and auditing the funding for existing and new countywide programs included in the Commission-approved Annual Workplan and Budget and these enhanced duties need to be formalized by the cities and the County; and

WHEREAS, in 2009 the Commission and the TAC appointed an Organizational Study Committee and an Organizational Study Subcommittee, respectively, and retained the services of Arroyo Associates to evaluate the organizational structure of the countywide integrated waste management system, programs, staffing and services; and

WHEREAS, the Commission held a public meeting in May 2012 to discuss the recommendations of the Organizational Study with the TAC and members of the public and directed the TAC to prepare an agreement between all the agencies in Santa Clara County that are

responsible for AB 939 compliance (all cities and the County) to clarify, enumerate and memorialize the expanded duties of the TAC and to streamline the decision-making and reporting functions of the TAC; and

WHEREAS, the Commission reviewed and approved the attached "Agreement Creating the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee" and has recommended the Agreement to the County and to all of the cities in Santa Clara County for consideration and approval; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA), the approval of the attached agreement is categorically exempt pursuant to Section 15308; and

WHEREAS, the City of Milpitas has considered the agreement at a regularly noticed meeting held on June 18, 2013;

NOW, THEREFORE, the Milpitas City Council does hereby find, resolve and determine as follows:

1. The attached "Agreement Creating the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee" is hereby approved.
2. The City of Milpitas finds that, with regard to CEQA, the approval of the attached agreement is categorically exempt pursuant to Section 15308.
3. Staff is directed to appoint a representative to serve on the TAC and to notify the Commission that the Agreement has been approved.

PASSED AND ADOPTED this _____ day of _____ 2013, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN**:**

ATTEST:

APPROVED:

_____
Mary Lavelle, City Clerk

_____
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

_____
Michael J. Ogaz, City Attorney

AGREEMENT
CREATING THE SANTA CLARA COUNTY
RECYCLING AND WASTE REDUCTION
TECHNICAL ADVISORY COMMITTEE

THIS AGREEMENT, is made and entered into this _____ day of _____ 2013 by and between the COUNTY OF SANTA CLARA, a political subdivision of the State of California; CITY OF CAMPBELL, a municipal corporation of the State of California; CITY OF CUPERTINO, a municipal corporation of the State of California; CITY OF GILROY, a municipal corporation of the State of California, CITY OF LOS ALTOS, a municipal corporation of the State of California; TOWN OF LOS ALTOS HILLS, a municipal corporation of the State of California; TOWN OF LOS GATOS, a municipal corporation of the State of California; **CITY OF MILPITAS, a municipal corporation of the State of California;** CITY OF MONTE SERENO, a municipal corporation of the State of California; CITY OF MORGAN HILL, a municipal corporation of the State of California, CITY OF MOUNTAIN VIEW, a municipal corporation of the State of California; CITY OF PALO ALTO, a municipal corporation of the State of California; CITY OF SAN JOSE, a municipal corporation of the State of California; CITY OF SANTA CLARA, a chartered municipal corporation of the State of California; CITY OF SARATOGA, a municipal corporation of the State of California; and CITY OF SUNNYVALE, a municipal corporation of the State of California.

All of the above-mentioned entities are hereinafter collectively referred to as “PARTIES” or individually as "PARTY."

RECITALS:

A. In 1989 the California Legislature passed and enacted the California Integrated Waste Management Act, known as “AB 939”, (Public Resources Code Section 40000 et. seq) requiring jurisdictions to divert 25% of waste from disposal by 1995 and 50% of waste from disposal by 2000. AB 939 required each County to develop and periodically update a County Integrated Waste Management Plan and to appoint an AB 939 Local Task Force.

B. Prior to 1992 the Solid Waste Committee of the Santa Clara County Intergovernmental Council advised the cities and the County on solid waste and recycling issues. The Technical Advisory Committee, also originally convened by the Intergovernmental Council, provided technical advice to the Solid Waste Committee on solid waste and recycling issues.

C. On or about February 1992, the Santa Clara County Board of Supervisors and the cities in Santa Clara County designated the Solid Waste Committee of the Intergovernmental Council as the AB 939 Task Force for Santa Clara County.

D. On February 4, 1992 the Santa Clara County Board of Supervisors replaced the Solid Waste Committee of the Intergovernmental Council with the Solid

Waste Commission of Santa Clara County ("Commission") in order to streamline the decision-making process on solid waste and recycling issues. (Ordinance No. NS-300.495) The powers and duties of the Commission are defined in Chapter XVII, Division A6 of the County of Santa Clara Ordinance Code.

E. On December 4, 2001 the Santa Clara County Board of Supervisors approved Ordinance No. NS-300.658 changing the name of the Commission to the Recycling and Waste Reduction Commission of Santa Clara County.

F. The Commission advises city councils and the Board of Supervisors in Santa Clara County on countywide solid waste and recycling planning issues and on the County Solid Waste Management Plan/County Integrated Waste Management Plan.

G. The By-Laws of the Commission (also approved by the County Board of Supervisors on February 4, 1992) continued the existence of the Recycling and Waste Reduction Technical Advisory Committee (the "TAC"). The purpose of the TAC was to provide technical advice to the Commission on solid waste management and policy; to bring together a wide spectrum of viewpoints and expertise on countywide solid waste and recycling issues affecting individual jurisdictions; and to assist in development of policies, programs and revisions and amendments to countywide plans.

H. On an annual basis, the TAC prepares and submits an Annual Workplan and Budget for review and approval by the Commission. The Commission-approved Annual Workplan is then implemented by the TAC using funds in the Commission-approved Annual Budget.

I. In accordance with the AB 939 provisions for financing solid waste diversion and planning activities, the County of Santa Clara levies and collects the Countywide Solid Waste Planning Fee ("SWPF") on each ton of solid waste disposed at landfills located within the County, on tons taken to non-disposal facilities located within the county and subsequently transported for disposal to landfills outside Santa Clara County, and on tons transported directly to disposal facilities located outside Santa Clara County. The current SWPF of $0.78 per ton was established by the County Board of Supervisors on May 19, 2009. Funds from the SWPF are used to fund the activities and programs of the Commission and the TAC. In addition, funds from grants, voluntary contributions from other agencies and other revenue sources are used to fund these activities and programs. Such funds, including monies from the SWPF, are referred to herein as "County-wide Funds".

J. In 2011 Assembly Bill 341 ("AB 341") was signed into law establishing a statewide goal of diverting 75% of solid waste from disposal by 2020 and requiring The California Department of Resources, Recycling and Recovery to prepare and submit a plan to the Legislature on or before January 1, 2014 on how to achieve this goal.

K. Since the TAC was originally established, the field of solid waste management and

recycling has become much more complex and the PARTIES must comply with an increasing number of laws and regulations. In order to achieve the statewide goal of 75% diversion, many materials currently disposed in landfills must be segregated and processed at new facilities, and channeled into useful purposes. New infrastructure, diversion systems and enhanced producer responsibility measures must be implemented in order to accomplish this goal.

L. Commensurate with changes in the breadth and complexity of the solid waste and recycling field, the work and functions of the TAC have evolved over time to encompass not only providing advice to the Commission, but also recommending, implementing and monitoring county-wide public education and diversion programs included in the Commission-approved Annual Workplan and Budget where it is cost-effective for the PARTIES to jointly provide such programs.

M. The TAC requires expanded powers and authority to monitor ongoing staffing support for programs in the Commission-approved Annual Workplan as well as the power and authority to recommend, monitor and audit the funding for these programs, at the levels contained in the Commission-approved Annual Budget.

N. In order to address these issues the Commission appointed the Ad Hoc Committee for TAC Organizational Study and the TAC appointed the TAC Ad Hoc Organizational Study Subcommittee. Pursuant to recommendations from these Committees, the County retained Arroyo Associates in 2010 to conduct an independent Organizational Study. The study evaluated the countywide integrated waste management programs and services and provided operational and organizational recommendations to enhance the efficiency and effectiveness of the countywide solid waste management system. The Commission's Ad Hoc Committee held a meeting on May 29, 2012 with representatives of the TAC and the public to discuss the recommendations of the Organizational Study and options for restructuring the operating parameters of the TAC.

O. The purpose of this Agreement is to implement the recommendations of the Commission's Ad Hoc Committee and the TAC Ad Hoc Subcommittee to revise the functions, powers, membership, structure and duties of the TAC to make these consistent with the manner in which the TAC currently functions; and to simplify the reporting relationship between the Commission and the TAC. Such changes are desired by the PARTIES in order to facilitate county-wide and regional approaches for meeting the statewide goal of 75% diversion articulated in AB 341; remaining in compliance with the existing requirements of AB 939, SB 1016 and all other state and federal laws and regulations, and planning for the goal of zero waste in the future.

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

I. <u>PURPOSES AND FUNDING</u>

The Santa Clara County Recycling and Waste Reduction Technical Advisory

Committee ("TAC") is hereby established to replace the Recycling and Waste Reduction Technical Advisory Committee referred to in Article V of the Commission Bylaws dated October 2001.

A. *Purposes.* The purposes of the TAC are:

1. To implement the Commission-approved Annual Workplan and Budget;
2. To advise the Commission and the decision-making bodies of all PARTIES on technical and policy issues related to solid waste management and recycling including plans to achieve the statewide AB 341 goal of 75% diversion by 2020 and plans for working toward the goal of zero waste;
3. To bring together a wide spectrum of viewpoints and expertise to focus on countywide solid waste management, issues affecting individual communities, and solid waste and recycling issues affecting public environmental health;
4. To assist in development of policies, programs and revisions and amendments to countywide plans that can meet countywide needs and thus receive countywide approval;
5. To provide a forum for exchange of solid waste, recycling, composting and other diversion information;
6. To inform the PARTIES' respective agencies and jurisdictions about issues and recommendations of the Commission, and perform follow-up actions, as necessary;
7. To recommend Commission approval of countywide programs to maximize the effectiveness of local funds spent for public education and recycling programs, and to implement and monitor such programs.
8. To assist with future master planning for facilities and infrastructure, as requested by the Commission.
9. To perform technical and policy review and make technical and policy recommendations to the Commission and technical recommendations to the PARTIES concerning best practices in solid and hazardous waste management; recycling, composting, diversion programs, source reduction; litter reduction on land; reduction of litter that originates from the storage, collection, transportation, and processing of solid waste, recyclable materials and organic materials that affects water quality in local creeks, San Francisco Bay, and oceans; and 'cradle to cradle' extended producer responsibility for products and packaging from creation through use and ultimate recycling or other disposition, with regard to:
    a. The feasibility of technical proposals;
    b. Analysis of issues and problems in solid waste management;
    c. Proposed and/or needed national and state legislation and policies;
    d. New infrastructure required to achieve countywide goals, and;
    e. Financing and management options for creation of such infrastructure.
10. To perform other duties as directed by the Commission.

B. *Funding.* The TAC is funded by the Solid Waste Planning Fee ("SWPF") that is charged to customers by the operators of all disposal and non-disposal facilities located within the County of Santa Clara, and remitted, by those facility operators, to the County of Santa Clara. The SWPF is also charged on tons of solid waste that are hauled directly to out-of-county disposal facilities. The amount of the SWPF is

established by the Board of Supervisors based upon input and recommendations from the Commission and the TAC Implementation Committee. Additional revenues come from grants, voluntary contributions of other agencies and other sources. These, together with the SWPF funds constitute the County-wide Funds used to fund the Commission-approved Annual Workplan and Budget.

II. COMPOSITION

A. Voting members, not to exceed 27 in number, shall include:

1. One (1) staff person from each City or Town that is a PARTY
2. Three (3) staff persons from the County as follows:
   a. One (1) to represent the Unincorporated Area
   b. One (1) to represent County interests related to environmental health
   c. One (1) to represent County interests related to integrated waste management
3. One (1) staff person from the Santa Clara Valley Water District
4. Up to eight (8) persons from non-governmental organizations appointed by the Commission as follows:
   a. No more than three (3) representing for-profit industry groups and/or business organizations (however no member shall represent a single for-profit company)
   b. No more than four (4) representatives of non-profit groups that advocate for source reduction, recycling programs, sustainability, and/or producer responsibility
   c. No more than two (2) representatives of institutions of higher learning located within Santa Clara County

B. *Appointment of Members*. All members representing a public agency shall be re-designated annually via a letter on agency letterhead addressed to the TAC Administrator ("Administrator"). The Commission will accept requests and nominations for non-governmental organizations to serve on the TAC. The Administrator will publish a notice in a daily local newspaper of general circulation to a minimum of two-hundred fifty thousand (250,000) people in September of every other year announcing that nominations and requests to serve are being accepted. The Administrator will take other reasonable and cost-effective measures to distribute the announcement via other media, including but not limited to, web sites, local publications and social media, to reach persons who might not see the notice in a daily newspaper. The Commission will select the non-governmental organizations to be represented on the TAC. Those organizations will, in turn, submit a letter to the Administrator designating a member and an alternate. Members representing non-governmental organizations shall serve for a period of two (2) years beginning in January. At the end of that time the Commission shall select the non-governmental organizations to be represented on the TAC for the new two (2) year term. The initial group of non-governmental organization representatives will be selected by the Commission on or before December 31, 2013 and will begin serving their terms on January 1, 2014. The Administrator will publish a notice in the newspaper, and distribute the notice via other suitable media, in September 2013 announcing that the

Commission will consider nominations and applications for non-governmental organizations to be represented on the TAC.

C. *Alternates.* Each PARTY may designate one or more alternate representative(s) to serve in the absence of the regular member. The alternate(s) will be designated in writing as described in Section II B. Alternates may serve on TAC committees, subcommittees, and ad hoc subcommittees.

D. *Vacancies.* Each PARTY is responsible for designating a replacement for its member if the member can no longer serve. In the event of a vacancy, the Chair shall, by letter, request that the PARTY designate a new member. If a vacancy occurs with regard to a representative of a non-governmental organization, the Administrator shall notify the non-governmental organization to designate a new member. In the event the non-governmental organization declines, the TAC shall notify the Commission and request that a new non-governmental organization be selected to fill the remainder of the term created by the vacancy.

E. *Attendance.* Attendance at meetings is vital to the proper and effective functioning of the TAC. Three (3) consecutive absences or a member missing over fifty percent (50%) of the TAC meetings in a calendar year are sufficient grounds for the Administrator to notify the member and request their attendance. Should a PARTY be unable to send its representative to meetings for an extended period of time, the PARTY shall notify the Chair in writing on letterhead and a replacement representative will not be requested from that PARTY.

III. QUORUM AND VOTING

A. *Quorum.* A quorum consists of thirteen (13) voting members physically present at a meeting.

B. *Voting.* Actions of the TAC shall be taken by a majority vote of the members present at the meeting. Each member has one vote. (See Section VI B for voting and quorum requirements for the Implementation Committee that differ from those for the full TAC.)

C. *Attendance From A Remote Location.* In the event of an unavoidable schedule conflict, a member may participate in a meeting from a remote location via telephone or video-conference provided that all requirements of the Brown Act (Government Code Section 54950, et seq.) are met and further provided that the scheduled meeting room has the technical capability to accommodate the request. In such event the member will notify the Administrator at least ten (10) days in advance of the meeting and ask to attend from a remote location. The Administrator will advise the member if this is possible. If so, the Administrator will comply with all Brown Act requirements including stating the alternate location in the meeting notice. The member shall also comply with all Brown Act requirements in Government Code Section 54953 (b), including, but not limited to, posting a meeting notice and agenda on the door of the remote location for the duration of the meeting, and allowing

members of the public to participate in the meeting from the remote location along with the member. The member's vote will be counted; however, the member will not be included in the count to determine a quorum. Attendance from a remote location is to be used only in rare cases of unavoidable schedule conflicts. In-person attendance and participation at meetings is strongly preferred and encouraged.

D. *Bylaws*. The TAC may, as necessary, recommend adoption of Bylaws for its governance to the Commission for approval, and operate according to Bylaws approved by the Commission. In the event revisions to Commission-approved Bylaws are desired, the TAC may recommend such revisions to the Commission.

IV. OFFICERS AND THEIR RESPONSIBILITIES

A. *Officer Positions*. The officers of the TAC shall be the Chair, Vice Chair, and the Subcommittee Chairs. The Chair and Vice Chair of the TAC must be voting members or alternates representing a PARTY.

B. *Election and Term.* Each officer shall be elected by majority vote of a quorum of the voting membership at the last meeting of each calendar year or as soon thereafter as possible. All officer's terms begin with the first meeting of each calendar year.

C. *Duties.* The Chair of the TAC shall be responsible for chairing all meetings of the TAC and the Implementation Committee (IC), and representing the TAC and the IC at Commission meetings. The Chair shall approve the draft agendas for TAC and IC meetings, except that any agenda item proposed by two (2) or more voting members must be placed on the next available agenda. The Vice Chair shall serve as the Chair in the Chair's absence. The Chairs of the Subcommittees shall be responsible for calling meetings of their respective Subcommittees and chairing those meetings. The Subcommittee Chairs shall approve the draft agendas for their respective Subcommittees except that any items proposed by two (2) or more voting members of a Subcommittee shall be placed on the next available Subcommittee agenda.

V. MEETINGS

A. *Meetings.* The TAC shall meet monthly at the time and place published on the agendas. Additional meetings may be called as needed. The Chair shall provide every member of the TAC with seventy-two (72) hours written notice of regular and additional TAC meetings. The agenda for each meeting shall be developed by the Administrator in consultation with the TAC Chair, and shall be approved by the Chair.

B. *Conduct of Meetings.* All meetings of the TAC, including all Committees, Subcommittees, Ad Hoc Committees and Subcommittees and any closed sessions with legal counsel, shall be properly noticed and conducted in accordance with the "Brown Act" (Government Code Section 54950 et seq.) Except for official meetings of the TAC and its Committees, Subcommittees and Ad Hoc Committees and Subcommittees, nothing herein shall be interpreted to require meetings between staff

members of the individual PARTIES (including designated representatives of the PARTIES) to be subject to the Brown Act, where the Brown Act would not otherwise apply. Each PARTY is individually responsible for ensuring it complies with the Brown Act. Wherever this Agreement is silent with regard to procedure, Robert's Rules of Order shall apply.

VI. IMPLEMENTATION COMMITTEE

A. *Composition and Duties.* The TAC Implementation Committee (IC) is comprised of one voting member from each PARTY to this Agreement plus one voting member from the Santa Clara Valley Water District (SCVWD). The PARTY'S IC representative is usually also the PARTY'S TAC representative. Each PARTY and the SCVWD may also designate an alternate. The purpose of the IC is to make decisions and recommendations on all fiscal, management and administrative issues of the TAC. The IC selects, monitors and provides oversight of the Administrator, the Fiscal Agent, the Contracting Agent, and legal counsel to the TAC. The IC recommends the level and setting of the SWPF to the Commission.

B. *Quorum, Voting and Meetings.* A quorum of the IC is nine (9) voting members. (Note: the City of San Jose representative counts as two (2) voting members toward the IC quorum.) The affirmative vote of at least eight (8) voting members of the IC, including PARTIES collectively representing at least forty percent (40%) of the population of the incorporated and unincorporated areas of the County of Santa Clara, is necessary to approve any measure brought before the IC. (For purposes of calculating whether or not the forty percent (40%) figure has been reached, the population of each PARTY shall be counted; however, no population shall be attributed to the SCVWD due to the fact that it encompasses such a large percentage of the population of the entire incorporated and unincorporated County.) Each member of the IC shall have one vote, with the exception of the City of San Jose which shall have two (2) votes. The IC shall meet at least annually to consider and recommend approval of the Annual Workplan and Budget to the Commission for the upcoming fiscal year. The Chair may call other meetings of the IC as needed. All IC meetings are open to the public and to all TAC members. Participation and discussion by all TAC members and by members of the public is encouraged. The Chair of the IC forwards all recommendations made by the IC directly to the Commission, and also makes an informational report to the TAC on the recommendations forwarded to the Commission. The Chair shall strive to achieve consensus among IC members. Consensus is defined as general agreement in sentiment or belief. If clear consensus cannot be reached, the Chair will call for a vote of the voting members present. In such event the Chair will report the recommendation of the IC along with the dissenting opinion(s) and viewpoints, to the Commission and to the TAC. In the event of a tie, the Chair will report that outcome and the viewpoint(s) expressed that led to that outcome. In the alternative, the Chair may, in the Chair's sole discretion, re-agendize the item for

another IC meeting.

C. *Use of Outside Contractors.* The IC is responsible for selecting any consultant(s) or contractor(s) ("Outside Contractors") to perform tasks included in the Commission-approved Annual Workplan and Budget and who are to be paid from County-wide Funds, using a process created in consultation with the Contracting Agent. The IC is responsible for reviewing and approving the parameters of any contracts with Outside Contractors, including the scope(s) of work, schedules of performance, use of subcontractors, and compensation for such Outside Contractors. The IC then directs the Contracting Agent to conduct the procurement process for Outside Contractors and to execute contracts with the selected Outside Contractor(s).

VII. TAC SUBCOMMITTEES

A. *Issue and Policy Subcommittees.* Issue and policy subcommittees shall be established as needed by the TAC. The TAC will evaluate and establish standing Subcommittees in December of each year. Additional Subcommittees may be established at other times throughout the year as needed.

B. *Membership and Meetings.* Membership on all issue and policy Subcommittees is open to all TAC voting members and designated alternates. There is no maximum size for each Subcommittee. The TAC shall appoint a Chair for each Subcommittee. A quorum is two (2) or more Subcommittee members. Subcommittees may elect a Vice-Chair to serve in the Chair's absence. Subcommittee chairs shall be responsible for calling and chairing meetings. The Subcommittee chairs shall approve the draft agenda and report the activities and recommendations of the Subcommittee to the TAC. Subcommittee chairs shall strive to achieve consensus among members. Consensus is defined as general agreement in sentiment or belief. If clear consensus cannot be reached, the Chair will call for a vote of the voting members present. In such event the Chair will report the recommendation of the Subcommittee along with the dissenting opinion(s) and viewpoints, to the TAC. In the event of a tie, the Subcommittee Chair will report that outcome and the viewpoint(s) expressed that led to that outcome. In the alternative the Subcommittee Chair, in consultation with the TAC Chair, may decide to re-agendize the item for discussion at another meeting.

C. *Ad Hoc Subcommittees.* The TAC may establish Ad Hoc Subcommittees as needed to address specific issues or problems. The TAC shall appoint a Chair for each Ad Hoc Subcommittee. All Ad Hoc Subcommittees shall follow the same operating procedures as the standing issue and policy subcommittees. The TAC Chair shall monitor the work of all Ad Hoc Subcommittees, and all such Subcommittees shall be promptly disbanded by the TAC once their tasks have been accomplished.

VIII. TAC ADMINISTRATOR

A. *Duties.* The TAC Administrator provides administration and management services to the TAC and carries out the Annual Workplan. Duties of the Administrator

include but are not limited to: scheduling meetings of the TAC and all committees, subcommittees, and ad hoc subcommittees; preparing agendas and meeting minutes; maintaining all TAC records and files; notifying the TAC of correspondence received and preparing outgoing correspondence; completing all tasks in the Annual Workplan; providing monthly reports at TAC meetings on the status of the Workplan; and other duties as directed by the IC. The Administrator reports to the Chair of the TAC. The Administrator shall work cooperatively and collaboratively with the IC, the Fiscal Agent and the Contracting Agent. The Administrator is paid from funds in the adopted TAC budget.

B. *Selection*. The IC shall select a PARTY or an Outside Contractor to serve as the Administrator for the TAC. The IC will receive and evaluate proposal(s) and make a recommendation to the Commission on selection of an Administrator, as further described in Attachment 2.

C. *Initial Administrator.* The initial Administrator for the TAC shall be the County of Santa Clara, Integrated Waste Management Division ("County IWMD"). The initial staff provided is described on Attachment 1. In the event of a change in the initial staff, the procedures described in Attachment 2 shall be followed. In the event the IC determines there is a need for a change in the Administrator in the future (due to costs, availability of designated employees or for other reasons), or in the event the County IWMD is unable or unwilling to serve, the procedures for selection of a new Administrator in Attachment 2 shall be followed.

D. *If Administrator Is Also A PARTY.* In the event the Administrator is a PARTY, that PARTY shall appoint a TAC/IC representative whose function is to represent the PARTY's point of view on issues, policy and fiscal matters. The PARTY'S TAC/IC representative shall be a person who is not be involved in the work of the Administrator. This designation shall be made in writing on the PARTY'S letterhead to the Chair of the TAC. The person(s) fulfilling the duties of the Administrator shall act as staff to the TAC, TAC committees and subcommittees, and to the IC.

E. *Contract With Administrator.* All duties and responsibilities of the Administrator, and a list and description of all staff assigned to provide Administrator services, shall be included in a contract between the Contracting Agent and the Administrator. The contract term may be for a single year or for multiple years, at the discretion of the IC. In the event that the Administrator is a PARTY, a letter agreement will be prepared between the Contracting Agent and the Administrator, containing all of the duties, responsibilities, staffing commitments and costs for the Administrator to serve for the upcoming fiscal year. The letter agreement will include the Annual Workplan and costs for the Administrator's services. The letter agreement shall state that the Administrator agrees to provide the described services at the approved costs for the upcoming fiscal year and that all employee and overhead costs will be maintained at the levels specified in the agreement for that fiscal year. With regard to the initial Administrator, the first letter agreement shall be prepared and executed prior to July 1, 2014 to reflect the costs and the scope of work to be performed for FY

2014/15. If the Administrator and the Contracting Agent are the same PARTY, the letter agreement will be prepared and signed by a staff person designated to represent the Administrator and also signed by a separate staff person designated to represent the Contracting Agent.

F. *Annual Workplan and Budget.* As the work of the TAC progresses each year, the Administrator will maintain a list of potential work items to be placed in the Annual Workplan for the upcoming fiscal year. Beginning with preparation of the Annual Workplan and Budget for fiscal year 2014/15 the following schedule will apply. In November of each year, the IC will review the list of potential work items compiled by the Administrator, add additional items as needed, and direct the Administrator to prepare a proposed Workplan and Budget for the upcoming fiscal year. The proposed Annual Workplan will contain the elements described in Attachment 3.

The Administrator shall submit the final draft of the proposed Annual Workplan and Budget to the IC no later than December 15 of each year. If required, the IC will provide revisions and comments to the Administrator who will then revise and finalize the Annual Workplan and Budget. The IC will approve the Annual Workplan and Budget on or before January 31 of each year and forward it to the Commission for approval. Commission approval is anticipated to be during the month of February. Upon approval by the Commission, the Contracting Agent will prepare agreements with the Administrator, the Fiscal Agent and the Contracting Agent that include the approved Annual Workplan and Budget (for the Administrator) and the approved costs and duties (for the Fiscal Agent and the Contracting Agent) as described in Sections VIII E, IX D and X C. The agreements will be signed by designated representatives of the Administrator, the Fiscal Agent and the Contracting Agent. In the event the Administrator, the Fiscal Agent and/or the Contracting Agent are the same PARTY, that PARTY shall designate separate representatives to execute the agreements on behalf of the Administrator, the Fiscal Agent and the Contracting Agent. Said agreements shall be fully executed and in place prior to July 1 of each year.

G. *Annual Reporting and Evaluation.* The Administrator shall prepare a self-evaluation/audit report to the IC including significant accomplishments, work items planned but not accomplished, work items not planned but completed, and the status of all work items in the Annual Workplan. The report will include recommendations and suggestions for improving the work of the Administrator and will be submitted on or before September 15 each year. The IC will consider the report at a regular meeting and discuss and provide recommendations and feedback to the Administrator. The IC will rate the overall implementation and effectiveness of the Workplan and, in turn, rate the performance of the Administrator based upon the ability of the Administrator to meet the timelines and budget in the Workplan and to effectively support the Commission and the TAC. The final recommendations and feedback of the IC will be recorded in the minutes and also in a letter from the IC Chair to the Administrator. This feedback will be used by the Administrator to make any required changes in operations, procedures and/or work tasks for the next fiscal year. In addition to the annual review of the Administrator the IC may, at any time,

discuss questions, concerns or issues of performance with the Administrator.

IX. FISCAL AGENT

A. *Duties.* The Fiscal Agent serves as the treasurer of the County-wide Funds and is responsible for collecting the SWPF from all solid waste disposal facilities and non-disposal facilities located within Santa Clara County. The Fiscal Agent also collects and receives grant funds and revenues from other sources. The Fiscal Agent shall diligently pursue collection of all SWPF funds and shall keep the IC apprised of the amount and entity owing delinquent payments, as well as of the status of collection activity initiated by the Fiscal Agent regarding the delinquent payments. The Fiscal Agent shall manage all funds in accordance with generally accepted government accounting procedures. The Fiscal Agent shall keep County-wide Funds segregated from all other funds administered by the Fiscal Agent in separately numbered and coded accounts that are readily identifiable as those containing County-wide Funds; shall credit appropriate interest income earned on such funds in each fiscal year; and shall not expend, use or transfer any funds except in accordance with the Annual Workplan and Budget approved by the IC and the Commission, or as otherwise directed by the IC. In the event the Fiscal Agent is not also the Contracting Agent, the Fiscal Agent shall transfer County-wide Funds to the Contracting Agent as directed by the IC, in accordance with the procedures in Attachment 5. The Fiscal Agent shall work cooperatively and collaboratively with the IC, the Administrator, and the Contracting Agent.

B. *Initial Fiscal Agent.* The initial Fiscal Agent shall be the County of Santa Clara. The specific contact person shall be designated in writing to the Administrator and to the TAC Chair. In the event the IC determines there is a need for a change in the Fiscal Agent in the future (due to costs, lack of availability of designated employees or for other reasons), or in the event the County is unable or unwilling to serve, the following procedures for selection of a new Fiscal Agent shall be followed.

C. *Selection.* Any PARTY willing to serve as the Fiscal Agent may be nominated by another PARTY. The nominated PARTY(IES) will submit a letter proposal to the IC containing the costs for performing the services of the Fiscal Agent including all employee and overhead costs and all proposed expenses. If the same PARTY is also already serving, or is proposing to serve, as the Administrator, the Contracting Agent, or both, the proposed costs to perform each function shall be separately specified. The IC will hold discussions with representatives of the nominated PARTY(IES) as needed. The recommendation of the IC will be forwarded to the Commission for approval. Upon receipt of Commission approval, the Contracting Agent will execute an agreement with the new Fiscal Agent that includes the approved costs for the PARTY to provide Fiscal Agent services for the upcoming fiscal year.

D. *Payment For Services.* The Fiscal Agent shall provide the Administrator with proposed costs to perform the duties of TAC Fiscal Agent for the upcoming fiscal year upon request. The proposed costs shall be at the level of detail described in Attachment 2. If the Fiscal Agent is also serving as the Administrator, the Contracting

Agent, or both, the proposed costs to perform each function shall be separately specified. The proposed costs will be reviewed by the IC as part of review of the Annual Workplan and Budget. If there is a question or concern about the proposed costs the Chair of the IC and the Administrator will meet with the Fiscal Agent concerning the issues. Upon approval of the Annual Workplan and Budget by the IC and the Commission, the Contracting Agent will prepare an agreement to be signed by the Fiscal Agent and the Contracting Agent to perform services for the new fiscal year. In the event that the Contracting Agent and the Fiscal Agent are the same PARTY, the agreement shall be signed by the designated employee of the PARTY serving as the Fiscal Agent and the (separate) designated employee of the PARTY serving as the Contracting Agent.

E. *Quarterly and Annual Budget Status.* The Fiscal Agent shall prepare and submit quarterly budget updates to the IC every three (3) months, and shall provide a Year-End Budget Report. These reports shall be formatted in a clear and concise manner such that all expenditures, revenues, movement of monies, reallocation of funds and adjustments to the budget are detailed by project and line item (i.e. numerical reference and narrative description). The Year-End Budget Report shall be submitted to the IC on or before October 31 each year. The IC may, at any time, request additional budget information, detail, documentation and updates. The Fiscal Agent shall respond promptly to all such requests.

F. *Biennial Audit.* The Fiscal Agent shall arrange for an audit by an independent third party Certified Public Accounting Firm (CPA) to be conducted every other year beginning with an audit of the 2013/14 fiscal year. The Fiscal Agent may utilize the CPA firm retained by the jurisdiction of which the Fiscal Agent is a part, to perform that PARTY's annual audit. In such event, the results of the audit of the County-wide Funds and accounts shall be clearly and separately called out in the CPA's audit report. The results of the audit shall be reported to the IC on or before January 15 every other year.

G. *Evaluation of the Fiscal Agent.* Each year the Fiscal Agent shall prepare a self-evaluation, along with the Year-End Budget Report, for submittal to the IC. The self-evaluation will include a description of key work tasks performed, any duties or tasks not completed, and any non-planned work tasks completed. The report will include recommendations and suggestions for improving the services of the Fiscal Agent. The self-evaluation shall be submitted at the same time as the Year-End Budget Report. The IC will review the report at a regular meeting and discuss any suggested or needed changes or improvements. The IC will rate the overall performance of the Fiscal Agent based upon the ability of the Fiscal Agent to perform its duties in a timely manner and in accordance with all requirements of this Agreement. The final recommendations and feedback of the IC will be recorded in the minutes and also in a letter from the IC Chair to the Fiscal Agent. This feedback will be used by the Fiscal Agent to make any required changes in operations and procedures and/or work tasks for the next fiscal year. In addition to the annual review of the Fiscal Agent, the IC may, at any time, discuss questions, concerns or issues of

performance with the designated representative of the Fiscal Agent.

X. CONTRACTING AGENT

A. *Duties.* The Contracting Agent executes contracts with Outside Contractors, including the Administrator and the Fiscal Agent (where applicable) that have been requested and approved by the IC. The Contracting Agent consults with the IC to establish a procurement process for Outside Contractors, and then conducts that process once the IC has approved a scope of work, schedule, budget and other parameters of the contract that will be awarded by the Contracting Agent. The Contracting Agent shall conduct the procurement process and execute all contracts within a reasonable period of time after being directed to do so by the IC. The Contracting Agent shall provide a copy of any contract executed on behalf of the TAC to any PARTY, any TAC member, and to any PARTY or person designated by any PARTY or the IC upon request. The governing body of the Contracting Agent, at its discretion, may delegate authority to execute agreements and contracts approved by the IC to a designated employee. Notice of any such delegation of authority shall be provided in writing to the Chair of the IC and to the Administrator.

In the event the Contracting Agent is not also the Fiscal Agent, the Contracting Agent shall receive County-wide Funds transferred to the Contracting Agent by the Fiscal Agent on a periodic basis as described in Attachment 5. The Contracting Agent shall manage all County-wide Funds in accordance with generally accepted government accounting procedures. The Contracting Agent shall keep County-wide Funds segregated from all other funds administered by the Contracting Agent in separately numbered and coded accounts that are readily identifiable as County-wide Funds, and shall not expend, use or transfer any funds except as specifically directed by the IC. At the close of the fiscal year, the Contracting Agent shall, pursuant to the procedures in Attachment 5, comply with all directions from the IC with regard to retention of funds for contracts with Outside Contractors that are still in effect, and with regard to return of unexpended or unencumbered funds to the Fiscal Agent. The Fiscal Agent shall work cooperatively and collaboratively with the IC, the Administrator, and the Contracting Agent.

B. *Initial Contracting Agent.* The initial Contracting Agent shall be the County of Santa Clara. The specific contact person shall be designated in writing to the Administrator and to the TAC Chair. In the event the IC determines there is a need for a change in the Contracting Agent in the future (due to costs, lack of availability of designated employees or for other reasons), or in the event the County is unable or unwilling to serve, the procedures for selection of a new Contracting Agent shall be the same as those for selection of a Fiscal Agent as described in Section IX C.

C. *Payment For Services.* The Contracting Agent shall provide the Administrator with proposed costs to perform the duties of TAC Contracting Agent for the upcoming fiscal year upon request. The proposed costs shall be at the level of detail described in Attachment 2. If the Contracting Agent is also serving as the Administrator, the Fiscal Agent, or both, the proposed costs to perform each function shall be separately

specified. The proposed costs will be reviewed by the IC as part of review of the Annual Workplan and Budget. If there is a question or concern about the proposed costs the Chair of the IC and the Administrator will meet with the Contracting Agent concerning the issues. Upon approval of the Annual Workplan and Budget by the IC and the Commission, the Administrator will prepare an agreement to be signed by the Contracting Agent and the Administrator to perform services for the new fiscal year. In the event that the Administrator and the Contracting Agent are the same PARTY, the agreement shall be signed by the designated employee of the PARTY serving as the Contracting Agent and the (separate) designated employee of the PARTY serving as the Administrator.

D. *Annual Contract Status Report.* The Contracting Agent shall prepare and submit an annual report to the IC on the status of all contracts (listing all contracts in progress, expired, terminated, and the amount of work and budget remaining in each) on or before October 31 each year. The report shall also note the amount of County-wide Funds held by the Contracting Agent, and specify the amount(s) of funds encumbered for contracts, and the amount(s) of funds that are unspent and unencumbered. The IC may, at any time, request additional information, detail, documentation and updates on any or all contracts. The Contracting Agent shall respond promptly to all such requests.

E. *Audits.* The Contracting Agent shall cooperate with and provide all information and documentation required in order to complete the bi-annual audit described in Section IX F. In the event the IC decides that any actions or activities of the Contracting Agent are not in compliance with this Agreement, or if the IC determines there are other reasons for an audit to be performed, the IC may perform an audit of the County-wide Funds received and expended by the Contracting Agent. In such event the Contracting Agent shall cooperate fully, and in a timely manner, with persons performing the audit.

F. *Evaluation of the Contracting Agent.* Each year the Contracting Agent shall prepare a self-evaluation, along with the Annual Contract Status Report, for submittal to the IC. The self-evaluation will include a description of key work tasks performed, any duties or tasks not completed, and any non-planned work tasks completed. The report will include recommendations and suggestions for improving the services of the Contracting Agent. The self-evaluation shall be submitted at the same time as the Annual Contract Status Report. The IC will review the report at a regular meeting and discuss any suggested or needed changes or improvements. The IC will rate the overall performance of the Contracting Agent based upon the ability of the Contracting Agent to perform its duties in a timely manner and in accordance with all requirements of this Agreement. The final recommendations and feedback of the IC will be recorded in the minutes and also in a letter from the IC Chair to the Contracting Agent. This feedback will be used by the Contracting Agent to make any required changes in operations and procedures for the next fiscal year. In addition to the annual review of the Contracting Agent, the IC may, at any time, discuss questions, concerns or issues of performance with the designated representative of the Contracting Agent.

XI. LEGAL COUNSEL

A. *Selection.* The IC may select an attorney or firm that is experienced in solid waste, recycling and municipal law to research legal issues, proposed legislation, and to provide legal advice to the TAC ("Legal Counsel") as provided for in the Commission-approved Annual Workplan and Budget. Legal Counsel may be a City Attorney or County Counsel (i.e. an employee of one of the PARTIES) or may be an outside attorney or law firm. The IC will interview and select Legal Counsel as needed, and direct the Contracting Agent to prepare a contract with Legal Counsel for the provision of legal services. The IC shall direct the work of Legal Counsel. The Administrator may assist in coordination of activities with Legal Counsel, but shall not give direction without prior authorization from the IC. Legal Counsel shall not be responsible for providing legal advice to individual PARTIES related to their individual compliance with Public Resources Code Section 40000 et. seq but may provide such services under separate contract with any PARTY or PARTIES.

XII. OTHER AGREEMENTS OF THE PARTIES

A. *Term of Agreement.* The term of this Agreement shall commence on the date the last duly authorized representative of the PARTIES executes it. This Agreement shall remain in effect until terminated by the PARTIES or until eight (8) or more PARTIES containing more than fifty percent (50%) of the population of the incorporated and unincorporated areas of County of Santa Clara withdraw from the Agreement, whichever occurs first. A PARTY may withdraw from the Agreement by providing written notice to the Administrator, stating the effective date of the PARTY'S withdrawal. The withdrawal of a PARTY shall not entitle that PARTY to receive or retain any portion of the SWPF.

B. *Ethical Code of Conduct.* All TAC members and Alternates shall adhere to the Ethical Code of Conduct in Attachment 4. All TAC members and Alternates shall attend a TAC-sponsored ethics training every other year beginning in FY 2013/14. The Administrator shall arrange for this training and include the cost in the Annual Workplan and Budget for each year the training is required to be conducted.

C. *Counterparts.* This Agreement may be executed and delivered in any number of copies ("counterparts") by the PARTIES, including by means of facsimile and e-mail of PDF copies. When each PARTY has signed and delivered at least one counterpart to the Administrator, each counterpart shall be deemed an original, and taken together, shall constitute one and the same Agreement, which shall be binding and effective as to the PARTIES hereto.

D. *Non-Compliance With State and Federal Laws.* No PARTY shall, by entering into this Agreement, participating in the TAC or the IC, or agreeing to serve as Administrator, Fiscal Agent, Contracting Agent, and/or Legal Counsel, assume or be deemed to assume responsibility for any other PARTY in complying with the requirements of state and federal solid waste and recycling laws, including but not limited to, the California Integrated Waste Management Act of 1989 as amended

(Public Resources Code Section 400000 et seq). This Agreement is intended solely for the convenience and benefit of the PARTIES hereto and shall not be deemed for the benefit of any third party and may not be enforced by any third party, including, but not limited to, the United States Environmental Protection Agency and the California Department of Resources, Recycling and Recovery, or any person acting on their behalf or in their stead.

E. *Indemnification*. In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the PARTIES pursuant to Government Code Section 895.6, the PARTIES agree that all losses or liabilities incurred by a PARTY, or by the Santa Clara Valley Water District in carrying out its duties under Section VI. Implementation Committee shall not be shared pro rata, but instead the PARTIES agree that pursuant to Government Code Section 895.4, each of the PARTIES hereto shall fully defend, indemnify and hold harmless each of the other PARTIES, and the Santa Clara Valley Water District in the carrying out of its duties under Section VI. Implementation Committee, from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying PARTY, its officers agents or employees, or in connection with or arising from any work, authority or jurisdiction delegated to such PARTY under this Agreement. No PARTY, nor any officer, board member, employee or agent thereof, shall be responsible for any damage or liability incurred by reason of the negligent acts or omissions or willful misconduct of the other PARTIES hereto, their officers, board members, employees or agents under or in connection with or arising from any work, authority or jurisdiction delegated to such PARTY under this Agreement.

F. *Entire Agreement.* This Agreement supersedes any prior arrangement or agreement among the PARTIES regarding the composition, structure, duties and powers of the TAC including but not limited to the TAC Rules of Procedure dated May 22, 2006, but does not supersede any other agreements between any of the PARTIES.

G. *Amendments.* This Agreement may be amended by unanimous written agreement of the PARTIES. All PARTIES agree to bring any proposed amendments to this Agreement to their Council or Board, as applicable, within three (3) months following acceptance by the IC. The IC shall, on a biennial basis, evaluate this Agreement and determine if any amendments are needed. The first biennial evaluation shall be in 2015. The IC may recommend amendments on a more frequent basis if desired.

H. *Venue.* In the event that suit shall be brought by any PARTY to this Agreement, the PARTIES agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or where otherwise appropriate, exclusively in the United States District Court, Northern District of California, San Jose, California.

I. *Attachments.* Attachments 1 through 5 are attached hereto and incorporated

herein by this reference.

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement as of the dates shown below.

COUNTY OF SANTA CLARA, a public entity of the State of California

Date:_____

By:_____
Chair, Board of Supervisors

APPROVED AS TO FORM:

By:_____
Deputy County Counsel

ATTEST:

Date:_____

By:_____

CITY OF _____

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APPROVED AS TO FORM:

By:_____
Name :_____
Title:_____

ATTACHMENT 1

INITIAL STAFFING OF ADMINISTRATOR

The following is the initial staff complement for the Administrator:

Staff Person	% FTE Committed To Administrator Duties	% FTE Committed To County Unincorporated Duties
Elizabeth Constantino, Program Manager II Provides oversight of all Annual Workplan Tasks and all functions of the Administrator.	0.82 FTE	0.18 FTE
Lisa Rose, Senior Management Analyst Coordinates the Green Business Program, Serves as staff to the Commission, and performs various other duties.	0.87 FTE	0.13 FTE
Clifton Chew, Management Analyst Serves as staff to the TAC, prepares state Reporting and DRS, and performs various other duties.	0.80 FTE	0.20 FTE
Zachary DeVine, Management Analyst Contracts monitoring, budget tracking, Outreach Specialist, and various other duties.	0.67 FTE	0.33 FTE
Sue Sherrin, Associate Management Analyst B, Green Business Specialist	0.98 FTE	0.02 FTE
Sarah Smith, Management Analyst Home Composting Education Program Coordinator	1.0 FTE	0.00 FTE
Joanna Chapa, Office Specialist III	0.94 FTE	0.06 FTE

ATTACHMENT 2

SELECTION PROCESS FOR THE ADMINISTRATOR

1. **Selection.** The IC shall select a PARTY or an Outside Contractor to serve as the Administrator for the TAC. As part of the selection process, the potential candidate(s) shall submit a proposal to the IC for providing Administrator services. The proposal shall include: a detailed scope of work for the upcoming fiscal year, detailed costs and work hours for the completion of each task, and a list of the employees proposed to perform each part of the Annual Workplan, as well as the administrative and management duties of the Administrator. The proposal shall also include a resume and description of the education, experience and expertise of each proposed staff member highlighting experience in solid waste management, recycling, diversion programs, producer responsibility, public education and outreach, legislative analysis, budgeting, public sector management, administration and policy development. It is of great importance that each member of the Administrator staff possess a high level of experience and expertise in the listed areas. The proposal shall designate the duties and activities to be carried out by each employee. The IC will review the proposal(s) and conduct interview(s) with the potential Administrator(s). The IC will select an Administrator and recommend approval to the Commission.

2. **Change in Administrator Staff***.* In the event any member of the Administrator's staff is unable or unavailable to serve in the capacity indicated in the original proposal, the IC shall work with the Administrator to determine if an acceptable alternate staff member is available. This shall include, if desired by the IC, having representatives from the IC participate in the selection process for the alternate staff person; review the resumes, references and writing samples of proposed candidates; attend and participate in interviews; and provide input to the decision-making process for selection of the proposed alternate staff member. If the proposed alternate staff person is not acceptable to the IC, and the IC determines that the employee who is unavailable is a key employee, the IC may give written notice to the Administrator that the TAC will seek another Administrator, and the IC may recommend to the Commission that the selection process for a new Administrator be commenced. Upon receipt of Commission approval, the IC will begin that process. The Administrator shall serve until such time as either a replacement Administrator is selected and approved by the Commission, or (if the Administrator is not a PARTY) until the current contract for the services of the Administrator expires, whichever occurs first. In the IC's sole discretion, the services of the Administrator may be terminated prior to the selection of a new Administrator. In the event the Administrator is not a PARTY, an early termination clause shall be placed in the contract with the Administrator for use by the IC in the event a key staff person becomes unavailable.

3. **Key Employee.** A "key employee" includes, but is not limited to, any one of the following:

a. An employee who is performing twenty percent (20%) or more of the work hours in the Annual Workplan.
b. An employee whose work tasks require a high level of technical expertise and experience in recycling, solid and/or hazardous waste management programs and practices.
c. An employee whose work tasks require a high level of professional judgment that is the product of numerous years of experience in recycling, solid and hazardous waste management, and/or in work for public agencies,
d. An employee whose work tasks involve a high level of interaction with the public (e.g. in trainings, liaison with businesses or non-profit organizations, etc.).
e. An employee whose work tasks involve presentations or testimony to public agencies (e.g. City Councils, the Board of Supervisors) and/or community organizations (e.g. service organizations, community groups, homeowner's associations, etc.).

ATTACHMENT 3

ELEMENTS TO BE CONTAINED IN THE ANNUAL WORKPLAN AND BUDGET

1. **Scope of Work.** The proposed Annual Workplan and Budget will contain a detailed scope of work for each proposed task, the employee work hours estimated to complete each task, the name(s) of the specific employees that will perform the work for each task, the cost of the work hours for each task, all proposed overhead costs for the Administrator and all other projected costs. If the Administrator is a public agency, the costs may be shown as a percentage of each Full Time Equivalent (FTE) and the cost therefor, as long as the position (such as 'Analyst I') and the name of the employee filling that position are indicated, along with the fully burdened cost of the specified percentage of each FTE. The proposed Annual Workplan shall contain a list of key milestones for each task.

2. **Administrative Tasks.** The Workplan shall include a task for providing administrative support for the TAC including work hours to prepare meeting agendas, to schedule meetings, attend meetings, prepare minutes and correspondence, and carry out the direction of the TAC and all Committees and Subcommittees. The Workplan shall also include a separate task for providing administrative support to the Commission including work hours to prepare agendas, attend Commission meetings, prepare minutes, and carry out the direction of the Commission, its Committees and Subcommittees.

3. **Other Staff Commitments.** The proposed Workplan will contain a listing of the other duties and responsibilities of each assigned employee (other than the work to be performed as Administrator for the TAC and the Commission) including the work hours and a general description of the key tasks and projects to be performed. This will serve as a cross-check (regardless of whether the Administrator is a public agency or a private firm) to ensure that the time of each employee is not overcommitted, and that sufficient time exists for each employee to complete all their assigned tasks.

4. **Fiscal Agent and Contracting Agent Costs.** The Administrator shall consult with the Fiscal Agent and with the Contracting Agent (in the event they are separate PARTIES) and shall incorporate the proposed costs for the services of each into the proposed Workplan and Budget. Such costs shall be clearly and separately identified for each function (and identified separately from those of the Administrator) and shall include the costs for employee time, expenses (such as bank fees), overhead charges and all other proposed costs.

5. **Cost Detail For Comparison.** The budget shall be formatted in a clear and concise manner such that all projected expenditures and revenues are detailed by project

and line item. The proposed Workplan and Budget shall contain sufficient detail about proposed work hours and costs such that a comparison can be made between the proposed costs for the current Administrator, the current Fiscal Agent and the current Contracting Agent, and other potential providers of these services.

6. **Projected Amount of Fund Transfer From Fiscal Agent to Contracting Agent.** In the event the Fiscal Agent and the Contracting Agent are different PARTIES, the budget shall include the projected amount of funds to be transferred from the Fiscal Agent to the Contracting Agent in order to pay for contracts with Outside Contractors that will be awarded by the Contracting Agent in the upcoming year. Such projections shall take into account all funds currently held by the Contracting Agent (if any) and the amount of such funds already encumbered for contracts in progress. The projection shall be accompanied by a recommendation as to the frequency of fund transfers from the Fiscal Agent to the Contracting Agent that will be required to fund contracts awarded by the Contracting Agent for the upcoming year (e.g. annual one-time transfer of funds, quarterly transfer of funds, or other recommended timing.)

7. **Discussion Concerning Potential Conflicts.** Once the initial draft of the proposed Annual Workplan is prepared, the IC Chair, the Administrator, the Fiscal Agent and the Contracting Agent shall meet to review and discuss the Workplan and shall work cooperatively to identify and address any potential conflicts that could arise with regard to policies of the Administrator, the Fiscal Agent or the Contracting Agent. Examples include proposed sale of recycling containers or other goods at less than the purchase price (i.e. subsidized cost of compost bins for the home composting program); provision of recycling grants, prizes, incentives; and other such items. At the direction of the IC Chair, the Administrator shall further investigate any potential conflicts that have been identified, and shall, in consultation with the Fiscal Agent and the Contracting Agent, research and propose solutions for each. If solutions cannot be found, the issue may be presented to the IC for further consideration and/or the IC Chair may direct the Administrator to revise the Workplan and Budget to remove the items creating the potential conflict. In this event the IC Chair will inform the IC of such action when the Annual Workplan and Budget are considered for approval.

ATTACHMENT 4

CODE OF ETHICAL CONDUCT

1. Members shall strive to conduct all meetings, discussions and deliberations in a spirit of collaboration and partnership. Members shall treat all persons with respect and courtesy. In the course of discussions, members shall make their arguments on the merits of the issue rather than engaging in personal remarks or attacks on persons holding positions other than their own.
2. All members shall remain aware that the activities of the TAC are funded by fees raised from the public; and that the TAC is recommending expenditures of public funds. Members shall act prudently and in the best interest of the public when making fiscal and policy decisions.
3. Members shall voluntarily recuse themselves from all discussions and votes, and shall refrain from expressing any opinion to other members on issues where any one of the following apply:
    a. The member holds a financial interest such that the member could financially benefit from the action or issue being considered.
    b. The member is an owner or investor of a business the TAC is considering doing business with.
    c. The member owns land that is being considered for purchase or lease by the TAC or by any program funded by the TAC.
    d. A charity, community group or non-governmental organization to which the member belongs or contributes funds would receive funds from the TAC for projects or services.
    e. A person in the member's family could benefit financially from the action or issue being considered. Family includes the members' spouse, children, step-children, grandchildren and step-grandchildren, as well as siblings and parents of the member and the member's spouse.
4. A member recusing themselves shall mean (a) announcing the member has a conflict of interest when the item is opened for discussion, (b) leaving the meeting room before discussion on the matter commences, and (c) not returning to the room until after discussion and any vote on the matter is concluded.
5. Members shall periodically conduct a self-assessment and inventory of any potential conflicts of interest they may have and, if the member is unsure whether or not a conflict exists, the member shall discuss the issue with the TAC Chair, the Administrator, TAC Legal Counsel or legal counsel for the member's own agency.
6. In the event a member fails to recuse him or her self during discussion of an issue where the member appears to have a conflict of interest, the Chair of the meeting shall ask the member to recuse him or her self and shall halt discussion about the issue until the member has left the room.

7. Members shall not engage in financial transactions using non-public information nor allow the improper use of such information to further any personal or private interest.
8. Members shall not solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the TAC, or whose interests may be substantially affected by actions of the TAC. Gifts do not include coffee, tea, donuts, discounts available to the general public, greeting cards or plaques of minor intrinsic value. It is appropriate and prudent for members to decline even items of minor intrinsic value from sources described in this section.
9. Members shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the TAC to take any type of action or to approve any contract, program or other commitment.
10. Members shall not use their membership on the TAC for private gain.
11. Members shall always act impartially and objectively and not give preferential treatment to any organization or individual.
12. Members shall not seek or accept any contract to provide services to the TAC for a period of at least six (6) months after termination of their membership on the TAC.
13. Members shall adhere to, and be vigilant that the TAC adheres to, all applicable state, federal and local laws and regulations.
14. All members shall participate in a TAC-sponsored Ethics Training biennially.
15. Members shall endeavor to avoid any actions or statements that violate, or that create the appearance that they are violating, the law or any ethical standards set forth in this Attachment.

ATTACHMENT 5
PROCEDURES FOR TRANSFER OF COUNTY-WIDE FUNDS FROM FISCAL AGENT TO CONTRACTING AGENT

The following procedures shall be used in the event the Fiscal Agent and the Contracting Agent are different PARTIES.

1. As part of its review and approval of the Annual Workplan and Budget, the IC shall establish the amount of funds and the schedule for transfer of funds from the Fiscal Agent to the Contracting Agent for the upcoming fiscal year.
2. Upon approval of the Annual Workplan and Budget by the Commission, the IC may take appropriate actions consistent with the Annual Workplan and Budget, including but not limited to, the following:
    A. Direct the Fiscal Agent to transfer specific amount(s) of County-wide Funds to the Contracting Agent on a specified schedule. The schedule may call for annual, quarterly, or more frequent transfers, as needed for the fiscal year.
    B. Adjust the timing and/or the amount(s) of funds to be transferred by the Fiscal Agent to the Contracting agent if circumstances change during the year, or if there are other reasons to do so.
    C. In the event the IC directs a change in the scope of work for an existing Outside Contractor that will increase the cost of the work, the IC may direct the Fiscal Agent to transfer additional funds to the Contracting Agent to pay for the amended scope of work.
3. In the event the Fiscal Agent is also serving as the Administrator, the IC shall direct the Fiscal Agent to transfer funds to the Contracting Agent for payment of the Administrator. The Contracting Agent shall pay the Administrator pursuant to the contract executed between the Contracting Agent and the Administrator.
4. If a single PARTY is serving as the Fiscal Agent and the Contracting Agent, the IC may direct that PARTY to retain a specified amount of County-wide Funds to pay the PARTY for performing the services of Fiscal Agent and Contracting Agent.
5. In the event a single PARTY is serving as the Fiscal Agent, the Administrator and the Contracting Agent, the IC will direct the PARTY to implement the Annual Workplan and Budget as approved by the IC and the Commission. This includes paying the costs specified in the approved Budget for the PARTY performing the duties of the Administrator, the Fiscal Agent and the Contracting Agent, as well as carrying out the duties of each.
6. If the Contracting Agent is, at any time, running out of funds or projects a shortfall in funds due to changed conditions or circumstances, the Contracting Agent shall immediately inform the IC and the Fiscal Agent and proceed according to the directions of the IC.
7. When making transfers of funds to the Contracting Agent, the Fiscal Agent shall make the required arrangements for an electronic transfer of funds or for preparation of a check made payable to the Contracting Agent.
8. If the Contracting Agent does not receive funds from the Fiscal Agent pursuant to the schedule directed by the IC, the Contracting Agent shall promptly inform the

Fiscal Agent and the Fiscal Agent shall promptly arrange for the funds to be transferred.

9. At the end of the fiscal year the IC will review the Year End Contract Status Report from the Contracting Agent, the Year-End Budget Report from the Fiscal Agent, and the Year-End Report from the Administrator. The IC may direct the Contracting Agent to transfer unspent, unencumbered funds to the Fiscal Agent or to retain such funds for use in the following fiscal year. The Contracting Agent will promptly comply with the directions of the IC.

10. If the IC directs the Contracting Agent to transfer unspent funds to the Fiscal Agent, the Fiscal Agent shall acknowledge receipt of such funds to the Contracting Agent and shall note the transfer in the accounting records of the Fiscal Agent pursuant to generally accepted government accounting procedures.

Subdivider: Taylor Morrison of California, LLC

Project Name: District 2

File No. : 100.01.230.1 *12
Private Job Account No.: 2825
Improvement Plan No.: 2-1165
Tract Nos: 10141, 10145, 10148 & 10149
Council Approval Date:
Completion Period: 3 years

CITY OF MILPITAS

SUBDIVISION IMPROVEMENT AGREEMENT

THIS AGREEMENT, executed this ____ day of _____ 2013, at Milpitas, California, by and between the CITY OF MILPITAS, a municipal corporation of the State of California, (hereafter referred to as "City") and

Taylor Morrison, LLC, a California Limited Liability Company (hereafter referred to as "SUBDIVIDER"):

R E C I T A L S

A. SUBDIVIDER desires to develop certain land in the CITY in accordance with final maps filed with the Milpitas City Council, marked and designated Tract Nos. 10141, 10145, 10148, and 10149 (Taylor Morrison, LLC)

B. Said map shows certain streets and easements which are offered for dedication for public use.

NOW, THEREFORE, in consideration of the mutual covenants terms and conditions herein contained, and for other valuable consideration, the receipt of which is hereby acknowledged, the parties do hereby agree as follows:

1. SUBDIVIDER agrees that it will construct at its sole cost and expense, all those certain improvements listed in the **Improvement Plan No. 2-1165 consisting of approximately _____ sheets** and specifications, and Penitencia Creek Trail Improvements Plans approved by said City Council on _____ _____, including setting survey monuments and identified by Project/Agency Fund Account No. 2825 (hereby referred to and made a part hereof the same as if set forth at length herein), and as set fourth in the conditions of approval for the SUBDIVIDER.

2. No improvement work shall be undertaken by SUBDIVIDER until all plans and specifications have been submitted to the City Engineer and have been approved by him/her in writing nor shall any change be made in said plans and specifications or in the work of improvement to be done under them without the prior written approval of CITY.

3. SUBDIVIDER agrees that said improvements will be constructed under and subject to the inspection of and to the satisfaction of the CITY.

4. SUBDIVIDER agrees that it will construct said improvements in accordance with the requirements set forth in said "Improvement Plans and Specifications" referred to above, all applicable local, state, and federal codes, ordinances, resolutions and orders of CITY enacted or adopted by said City Council as amended or revised as of the date hereof, and governing statutes of the State of California or of the United States of America.

5. SUBDIVIDER agrees that it will carry out and shall cause its contractors to carry out construction of the said improvements in conformity with all applicable laws and regulations, including without limitation, all applicable federal and state labor laws and standards. To the extent applicable to, **Taylor Morrison, LLC** and its subcontractors and agents, shall comply with California Labor Code Section 1720 et seq. and regulations adopted pursuant thereto **("Prevailing Wage Laws")** and shall be responsible for carrying out the requirements of such provisions.

   SUBDIVIDER shall, and hereby agrees to indemnify, defend (with counsel approved by City/Agency), protect and hold harmless the Indemnitees from and against any and all Claims whether known or unknown, and which directly or indirectly, in whole or in part, are caused by, arise from, or relate to, or are alleged to be caused by, arise from, or relate to, the payment or requirement of payment of prevailing wages, the failure to comply with any state or federal labor laws, regulations or standards in connection with this Agreement, including but not limited to the Prevailing Wage Laws, or any act or omission of Agency, City or Developer related to this Agreement with respect to the payment or requirement of payment of prevailing wages, whether or not any insurance policies shall have been determined to be applicable to any such Claims. It is further agreed that Agency and City do not, and shall not, waive any rights against Developer which they may have by reason of this indemnity and hold harmless agreement because of the acceptance by Agency or City, or Developer's deposit with Agency of any of the insurance policies described in this Agreement.

6. All said improvements shall be completed and ready for final inspection by the CITY **within 36 months of the date of execution of this Agreement.** If SUBDIVIDER shall fail to complete the work required by this Agreement within same time, CITY may, at its option, and after giving ten (10) days written notice thereof to SUBDIVIDER, complete the same and recover the full cost and expense thereof from SUBDIVIDER.

7. Upon the execution of this Agreement, SUBDIVIDER shall file and submit security to CITY as obligee in the penal sum of **Three million three hundred thousand DOLLARS ($3,300,000.00) for public improvements 2-1165 and the Penitencia Creek Trail Improvements**, conditioned upon the full and faithful performance of each of the terms, covenants, and conditions of this Agreement and conditioned upon the full and faithful performance of any and all public improvement work required hereunder.

8. In the event that SUBDIVIDER fails to perform any obligation on its part to be performed hereunder, SUBDIVIDER agrees to pay all costs and expenses incurred by CITY in securing performance of such obligation, and if suit be brought by CITY to enforce this Agreement, SUBDIVIDER, agrees to pay costs of suit and reasonable attorney's fees to be fixed by the Court.

9. Upon the execution of this Agreement, SUBDIVIDER shall file and submit security to CITY, as obligee, in the penal sum of **Three million three hundred thousand DOLLARS ($3,300,000.00) for public improvements 2-1165 and the Penitencia Creek Trail Improvements**, inuring to the benefit of any contractor, his subcontractors and to persons renting equipment or furnishing labor or materials to them for the cost of labor and materials furnished in connection with any and all improvement work required hereunder.

10. SUBDIVIDER agrees to pay all costs for labor or materials in connection with the work of improvement hereunder.

11. Any faithful performance security required hereunder shall be reduced to 10% of the security's original value for one year after the date of final completion and initial acceptance of said work to fulfill the one-year maintenance guarantee period for said improvements.

12. Prior to commencing any work, SUBDIVIDER, agrees to obtain an Encroachment Permit from the Engineering Division and at SUBDIVIDER's expense, provide CITY with a duplicate public general

liability and automobile liability insurance policy with endorsements showing the CITY as additional insured which insures CITY, its officers and employees against liability for injuries to persons or property (with minimum coverage of $1,000,000 for each person and $1,000,000 for each occurrence and $1,000,000 for property damage for each occurrence) in connection with work performed by, for or on behalf of SUBDIVIDER. Said Policy shall: (a) be issued by an insurance company authorized to transact business in the State of California; (b) be written on the Standard California Comprehensive General Liability Policy Form which includes, but not limited to property damage, and bodily injury; (c) be written on an occurrence basis; (d) require thirty (30) days prior written notice to CITY of cancellation or coverage reduction; (e) provide that it is full primary coverage so that if said CITY, its officers and employees have other insurance covered by said policy, said other insurance shall be excess insurance; (f) provide that said CITY; its officers and employees shall not be precluded from claim against other insured parties thereunder; (g) be maintained in effect until final acceptance of SUBDIVIDER's improvements. If SUBDIVIDER does not comply with the provisions of this paragraph, City may (at its election and in addition to other legal remedies) take out the necessary insurance, and SUBDIVIDER shall forthwith repay City the premium therefor.

13. SUBDIVIDER agrees that any general contractor engaged by the SUBDIVIDER for any work of improvement under this Agreement will have:

    a) In full force and effect, a Worker's Compensation Insurance as shown by a Certificate of Worker's Compensation Insurance issued by an admitted insurer. Said Certificate shall state that there is in existence a valid policy of Worker's Compensation Insurance in a form approved by the California Insurance Commissioner. The certificate shall show the expiration date of the policy, that the full deposit premium on the policy has been paid and that the insurer will give CITY at least thirty (30) days prior written notice of the cancellation or coverage reduction of the policy.

    or

    b) In full force and effect, a Certificate of Consent to Self-Insure issued by the Director of Industrial Relations and certified by him to be current, together with a Declaration under penalty of perjury in a form satisfactory to the City Attorney that said Certificate is in full force and effect and that the SUBDIVIDER or its general contractor shall immediately notify the CITY in writing in the event of its cancellation or coverage reduction at any time prior to the completion of all work of improvement.

14. SUBDIVIDER agrees to indemnify and save harmless CITY, City Council, City Engineer or any other officer or employee of CITY from any and all costs, expenses, claims, liabilities or damages, known or unknown, to persons or property heretofore or hereafter arising out of or in any way connected with the act, omission or negligence of SUBDIVIDER, its officers, agents, employees, contractors or subcontractors or any officer, agent or employee thereof.

15. SUBDIVIDER agrees to comply with all special conditions and notes of approval for this development, pay all fees, and costs and expenses incurred by CITY in connection with said subdivision (including, but not limited to: office check of maps and improvement plans, field checking, staking and inspection of street monuments, construction water, wet taps, testing and inspection of improvement). SUBDIVIDER shall maintain Project/Private Job Account No. 3222 for this purpose with additional deposits as required by CITY.

    A. Fees to be paid upon execution of this agreement are as follows:

	Type of Fees and Deposits	City Account No.	Calculated Fee
1	Plan Review, Map Review and Inspection Deposit (10% of Engineers Estimate)	P2825-13-2500	$330,000.00
2	Improvement Reimbursement Fee	310-3614-xx70	N/A
3	Other Fees/Deposits	xxxx-xx-xxx	N/A
		Total =	**$330,000.00**

B. Fees to be paid at the time of building permit issuance:

	Type of Fee	City Account No.	Calculated Fee
1	Water Connection Fee: *(based on 200 units @ $1,164 per unit, with $14,328/AC credit for previous use)*	402-3715	$94,105.00
2	Potable Water Meter Fee	400-3662	TBD
3	Water System Capacity Impact Fee (Fee is as of July 2012, and shall be adjusted per ENR Cost Index at time of payment)	402-3718	N/A
4	Recycled Water Meter Fee	406-3622	TBD
5	Sewer Connection Fee *(based on 200 units @ $1,406 per unit, with $20,448/AC credit for previous use)*	452-3715	$83,263.00
6	Sewage Capacity Impact Fee (Fee is as of July 2012, and shall be adjusted per ENR Cost Index at time of payment)	452-3718	N/A
7	Main Sewage Pumping Station Impact Fee	455-3718	N/A
8	Storm Drain Connection Fee *(based on 9.68 acres@ $21,562 per acre)*	340-3711	$208,720.00
9	Transit Area Specific Plan I mpact Fees *(200 units @ $29,012 per unit)*	350-3718	$5,802,400.00
10	Park site Fee 1. Park Dedication In-Lieu Fee 2. PUD Park Fee	320-3712	N/A
11	Permit Automation Fee (2.5% of B1-B10)	505-3601	$154,712.00
		Total =	**$6,343,200.00**

C. Estimated Credits and/or Reimbursements due to SUBDIVIDER:

	TASP Credits	Initial "Budgeted" Credit
1	Not Applicable	$0.00
	Total =	**$0.00**

16. Upon completion of the work and before City Initial Acceptance of the work thereof, SUBDIVIDER shall provide the City a complete original mylar of "Record Drawing" showing all the changes from the original plan.

17. Upon completion of the work, and before City Council final acceptance thereof, SUBDIVIDER shall be billed for and pay or shall be refunded the difference between the amount of said costs and expenses in each instance and the amount of said remittance.

18. Any easement or right-of-way necessary for the completion of any of the improvements required of SUBDIVIDER shall be acquired by SUBDIVIDER at its sole cost and expense. In the event that eminent domain proceedings are necessary for the acquisition of any easement or right-of-way, SUBDIVIDER

agrees that he will pay all engineering fees and costs, legal fees and costs, and other incidental costs sustained by CITY in connection with said eminent domain proceedings and any condemnation award and damages (including all costs awarded in said eminent domain proceedings). SUBDIVIDER further agrees that prior to the institution of any eminent domain proceedings and upon ten (10) days written notice from CITY. SUBDIVIDER will deposit such sums as are determined by City Council to be necessary to defray said fees, costs, awards, and damages.

19. CITY will accept on behalf of the public, the dedication of the streets, and easements offered for dedication, and will supply water for sale to and within said subdivision, provided however, that as a condition precedent to said initial acceptance and to supplying water, SUBDIVIDER shall perform the covenants, terms and conditions of this Agreement.

20. SUBDIVIDER hereby irrevocably offers to convey title of the water mains and lines, and appurtenances constructed in or for said subdivision to CITY. Upon final acceptance of said improvements by CITY, said title will be deemed to be accepted by CITY in the event that title has not previously passed to CITY by operation by law.

21. SUBDIVIDER agrees to comply with all requirements set forth on Exhibit "A" (attached hereto, hereby referred to and made a part hereof).

22. This Agreement shall be deemed to include any final conditions imposed by CITY upon the approval of the tentative and final maps related to public improvements of said subdivision.

23. SUBDIVIDER agrees that, upon ten (10) days written notice from CITY, it will immediately remedy, restore, repair or replace, at its sole expense and to the satisfaction of City Engineer, all defects, damages or imperfections due to or arising from faulty materials or workmanship appearing within a period of one-year after the date of initial acceptance of all said improvements. If SUBDIVIDER shall fail to remedy, restore, repair, or replace said defects, damages or imperfections as herein required, CITY may at its option, do so and recover the full cost and expense thereof from SUBDIVIDER.

24. This Agreement shall bind the heirs, administrators, executors, successors, assigns and transferees of SUBDIVIDER. It is agreed and understood that the covenants in this Agreement shall run with the land and are for the benefit of the other lands in the CITY OF MILPITAS, and are made by SUBDIVIDER expressly, its heirs, administrators, executors, successors, assigns and transferees and to the CITY, its successors and assigns.

25. Nothing contained in this Agreement shall be construed to be a waiver, release or extension of any provision heretofore required by ordinance, resolution or order of the City Council of the CITY.

26. Time shall be of the essence of this Agreement. All covenants herein contained shall be deemed to be conditions. The singular shall include the plural; the masculine gender shall include the feminine and neuter gender. All comments presented by SUBDIVIDER hereunder shall be subject to approval of the City Attorney as to form.

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

*Signed and Sealed this _____ day of _____, 2013.

CITY OF MILPITAS

By:_____

SUBDIVIDER:

Taylor Morrison, LLC

Thomas C. Williams, City Manager

By: Taylor Morrison, LLC, a California Limited Liability Company

**By: _____
Name: Jay Pawlek
Title: Vice President of Land

APPROVED AS TO FORM THIS

_____ day of _____, 2013

By:_____
Michael J. Ogaz, City Attorney

APPROVED AS TO SUFFICIENCY THIS

_____ day of _____, 2013

By:_____
Keyvan Irannejad, Chief Building Official

* Date should be same as date on Page 1 of 6.

** It is essential that the signatures be acknowledged before a California Notary Public and attach proper acknowledgment.

EXHIBIT "A"

1. The Subdivider agrees to complete necessary Water Service Agreements, and pay the connection fees prior to Building Permit issuance.

2. The Subdivider agrees to complete the construction of all public improvements and settings of all Survey Monuments before the City issuance of the Occupancy Permit/Final Inspection of the last residential building.

3. The Subdivider agrees to execute a petition to annex and establish, with respect to the property, the Special taxes levied by a Community Facility District 2008-1 (CFD 2008-1) for the purpose of maintaining the public services, upon execution of this Agreement.

4. The Subdivider agrees to enter into an encroachment permit agreement with the City for future maintenance of private improvements within the public right of way or public service utilities easement.

5. The subdivider agrees to pay the City 2.5% Permit Automation Fee for the applicable fees.

6. The Subdivider agrees to comply with the special conditions and notes of approval for this Subdivision.

Principal: Taylor Morrison of California, LLC
Project Name: District 2

Project No. PJ2825
Bond No. _____

CITY OF MILPITAS
FAITHFUL PERFORMANCE BOND

WHEREAS, the Principal has entered into a contract with the City of Milpitas to perform the following work, to wit:_____

WHEREAS, said contract (and any City approved plans and specifications in connection therewith) is hereby referred to and made a part hereof, with like force an effect as it herein at length set forth:

NOW, THEREFORE, we the Principal and _____, as surety, are held and firmly bound unto the City of Milpitas, California, in the penal sum of **Three million three hundred thousand DOLLARS ($3,300,000.00)** lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above bonded principal, it heirs, executors, administrators, successors or assigns, shall well and truly keep and perform the covenants, conditions, and provisions in said agreement and any alteration thereof on his or their part, to be kept and performed, at the time and in the manner therein specified, and shall indemnify and save harmless the City of Milpitas, its officers, agents and employees as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the principal and surety above named on __ _____, 2013.

NOTE: BE SURE BOND DATE DOES NOT PRE-DATE CONTRACT.

SUBDIVIDER:_____

BY:_____
(write name)

BY:_____
(type name and office)

SURETY:_____

BY:_____
(write name)

BY:_____
(type name and office)

Address of Surety:_____
_____

VERIFICATION

I declare under the penalty of perjury that I have authority to execute this bond on behalf of the above-named surety.

Executed at _____, California, on the _____ day of _____, 2013.

_____
(Name)

_____
(Type Name)

Address:_____

_____

Subscribed and sworn to before me, a Notary Public, this _____ day of _____, 2013.

)
)
)
)
)
)
)

THIS JURAT MUST BE COMPLETED BY A NOTARY IF THE VERIFICATION IS EXECUTED OUTSIDE OF CALIFORNIA

_____
(Sign)

_____
(Type)

ACKNOWLEDGMENT

NOTE: A Notary acknowledgment must be completed for signatures of both principal and surety. Use correct form. A power of attorney is not enough.

Form Approved:

_____

Principal: Taylor Morrison of California, LLC
Project Name: District 2

Project No. PJ2825
Bond No. _____

CITY OF MILPITAS
LABOR AND MATERIALS BOND

WHEREAS, the Principal has entered into a contract with the City of Milpitas to perform the following work, to wit:

WHEREAS, said contract (and any City approved plans and specifications in connection therewith) is hereby referred to and made a part hereof, with like force and effect as it herein at length set forth:

NOW, THEREFORE, said Principal and the undersigned as corporate surety, their heirs, successors, executors and administrators, are held firmly bound, jointly and severally, unto the City of Milpitas California, and all contractors, subcontractors, laborers, materialmen, and other persons employed in the performance of the aforesaid agreement in the sum of **Three million three hundred thousand DOLLARS ($3,300,000.00)**, for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that said surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the fact amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, to be awarded and fixed by the Court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said agreement or to the work to be performed thereunder or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the principal and surety above named on __ _____, 2013.

NOTE: BE SURE BOND DATE DOES NOT PRE-DATE CONTRACT.

SUBDIVIDER:_____

BY:_____
(write name)

BY:_____
(type name and office)

SURETY:_____

BY:_____
(write name)

BY:_____
(type name and office)

Address of Surety:_____

VERIFICATION

I declare under the penalty of perjury that I have authority to execute this bond on behalf of the above-named surety.

Executed at _____, California, on the _____ day of _____, 2013.

_____
(Name)

_____
(Type Name)

Address:_____

_____

Subscribed and sworn to before me, a Notary Public, this _____ day of _____, 2013.

_____
(Sign)

_____
(Type)

THIS JURAT MUST BE COMPLETED BY A NOTARY IF THE VERIFICATION IS EXECUTED OUTSIDE OF CALIFORNIA

ACKNOWLEDGMENT

NOTE: A Notary acknowledgment must be completed for signatures of both principal and surety. Use correct form. A power of attorney is not enough.

Form Approved:

_____

Principal: Taylor Morrison of California, LLC
Project Name: District 2

Project No. PJ2825
Bond No. _____

CITY OF MILPITAS
SURVEY MONUMENTATION BOND

WHEREAS, the Principal has entered into a contract with the City of Milpitas to install and complete certain designated public improvements, including setting of survey monuments by an engineer or surveyor prior to a certain date.

WHEREAS, said contract (and any City approved plans and specifications in connection therewith) is hereby referred to and made a part hereof, with like force an effect as it herein at length set forth:

NOW, THEREFORE, we the Principal and _____, as surety, are held and firmly bound unto the City of Milpitas, California, and that Engineer or Surveyor, who set said survey monuments in the penal sum of **Twenty five thousand Dollars ($25,000.00),** lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above bonded principal, it heirs, executors, administrators, successors or assigns, shall well and truly keep and perform the covenants, conditions, and provisions in said agreement and any alteration thereof on his or their part, to be kept and performed, at the time and in the manner therein specified, and shall indemnify and save harmless the City of Milpitas, its officers, agents and employees as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the principal and surety above named on __ _____, 2013.

NOTE: BE SURE BOND DATE DOES NOT PRE-DATE CONTRACT.

SUBDIVIDER:_____ SURETY:_____

BY:_____ BY:_____
(write name) (write name)

BY:_____ BY:_____
(type name and office) (type name and office)

Address of Surety: _____

VERIFICATION

I declare under the penalty of perjury that I have authority to execute this bond on behalf of the above-named surety.

Executed at _____, California, on the _____ day of _____, 2013.

_____
(Name)

_____
(Type Name)

Address:_____

_____

Subscribed and sworn to before me, a Notary Public, this _____ day of _____, 2013.

_____
(Sign)

_____
(Type)

THIS JURAT MUST BE COMPLETED BY A NOTARY IF THE VERIFICATION IS EXECUTED OUTSIDE OF CALIFORNIA

ACKNOWLEDGMENT

NOTE: A Notary acknowledgment must be completed for signatures of both principal and surety. Use correct form. A power of attorney is not enough.

Form Approved:

_____

CITY OF MILPITAS

CERTIFICATE RELATING TO WORKER'S COMPENSATION
INSURANCE PURSUANT TO LABOR CODE SECTION 3800

(Subdivision)

I, THE UNDERSIGNED, HEREBY CERTIFY that at all times during the performance of any work of improvement under agreement with the City of Milpitas. (Check one of the following):

Any general contractor engaged by me for said work will have in full force and effect Worker's Compensation Insurance pursuant to the attached certificate of Worker's Compensation Insurance issued by an admitted insurer. Said Certificate shall state that there is in existence a valid policy of Worker's Compensation Insurance in a form approved by the California Insurance Commissioner. The certificate shall show the expiration date of the policy, that the full deposit premium on the policy has been paid and that the insurer will give City at least ten days advance notice of the cancellation of the policy (an exact copy or duplicate of the Certificate of Worker's Compensation Insurance certified by the Director of Industrial Relations or the insurer may be attached).

Or has in full force and effect and have attached hereto a Certificate of Consent to Self-insure issued by the Director of Industrial Relations or the insurer may be attached).

I declare under penalty of perjury that the foregoing is true and correct and executed on _____
at _____.
(Date) (City)

By:_____

_____
Official Title

On behalf of: _____
Contractor

NOTE: YOUR CERTIFICATE OF WORKER'S COMPENSATION INSURANCE MUST BE ATTACHED AND MUST MEET THE REQUIREMENTS SET FORTH ABOVE.

PLEASE NOTE THAT IF YOU HAVE ANYONE WORKING FOR OR WITH YOU, YOU MAY BE REQUIRED TO HAVE WORKER'S COMPENSATION INSURANCE. FOR FURTHER INFORMATION, CONTACT THE OFFICE OF THE DIRECTOR OF INDUSTRIAL RELATIONS.

Principal: Taylor Morrison of California, LLC Project No. PJ2825
Project Name: District 2

CITY OF MILPITAS
CERTIFICATE OF WORKER'S COMPENSATION INSURANCE

Pursuant to California Labor Code Section 3800, the undersigned Insurer certifies that it is an admitted Worker's Compensation Insurer, that it has issued a valid policy of Worker's Compensation Insurance in a form approved by the California Insurance Commissioner (bearing policy number _____) to _____ _____ in connection with the above project, title and subdivider. Said policy is now in full force and effect and the full deposit premium has been paid. At least 10 days advance notice of the cancellation of said policy will be given to the City of Milpitas. The expiration date on said policy is _____.

Dated:_____

_____
INSURANCE COMPANY

Address:_____

_____

_____
AUTHORIZED REPRESENTATIVE (Signature)

_____
AUTHORIZED REPRESENTATIVE (Type Name)

Address:_____

_____

VERIFICATION

I declare under the penalty of perjury that I am authorized to sign this Certificate on behalf of the above-named insurer. Executed at _____, California, on the _____ day of _____, 2013. **

_____
Authorized Signatory (Sign)

_____
(Type Name)

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, this _____ day of _____, 2013.

_____
(Sign)

_____
(Type Name)

Principal: Taylor Morrison of California, LLC Project No. PJ2825
Project Name: District 2

CERTIFICATE OF GENERAL LIABILITY AND AUTOMOBILE LIABILITY INSURANCE

The undersigned insurance company certifies to the City of Milpitas, California, that it has issued a general public liability insurance policy, policy number _____ to _____ _____in connection with a work of improvement generally described as Street and underground improvement on _____. The policy names the City of Milpitas, its officers and employees (as additional insured) and insures said City, officers and employees against liability arising out of activities, including but not limited to, coverage for all work performed by or on behalf of permittee, products and completed operations of the permittee; the premises owned, occupied or used by the permittee; or automobiles owned, leased, hired or borrowed by the permittee in the following minimum amounts and for the following periods:

COVERAGE	POLICY NUMBER	POLICY PERIOD	MINIMUM LIMITS OF LIABILITY	
(1) Bodily Injury			$1,000,000 each person	)
			$1,000,000 each occurrence	)
				) *
(2) Property Damage			$1,000,000 each occurrence	)
			$1,000,000 aggregate	)

This policy provides: (1) primary coverage for additional insured parties; if said additional insured have other insurance against loss covered by this policy, the other insurance shall be excess insurance only; (2) that said additional insured parties are not precluded from claim under this policy against other insured parties; and (3) each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City Clerk.

_____ Address of Signatory:
Insurance Company

_____ _____
Authorized Signature (Sign)

_____ _____
Authorized Signature (Type)

* If project involves less than $50,000, City will accept $300,000/$50,000

VERIFICATION

I declare under the penalty of perjury that I am authorized to sign this Certificate on behalf of the above-named insurer. Executed at _____, California, on the _____ day of _____, 2013. **

_____
Authorized Signatory (Sign)

_____
(Type Name)

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, this _____ day of _____, 2013.

_____ _____
(Sign) (Type Name)

** If this certificate is executed outside of California, it must be sworn to before a Notary Public.

FORM APPROVED:_____, 2013, by_____

Control No 2013-

RECORDING REQUESTED BY AND
WHEN RECORDED, MAIL TO:

City of Milpitas
455 East Calaveras Blvd
Milpitas CA 95035
Attn: Land Development Section

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

APN 086-33-094
APN 086-33-095
APN 086-33-098
APN 086-33-099

AGREEMENT AFFECTING REAL PROPERTY RELATED TO COVENANT AND RESTRICTION OF ON-SITE PRIVATE UTILITIES

This Agreement Affecting Real Property Related to Covenant and Restriction of On-Site Private Utilities ("Agreement") is entered into and effective _____ (date) by and between *Taylor Morrison, LLC, a California Limited Liability Company* (Developer) and the City of Milpitas ("City").

RECITALS:

A. Pursuant to the Conditions and Notes of Approval for the subject development to have on-site private utilities, the Developer shall ensure that the Developer's private utilities shall be operated in a manner to the City's satisfaction for the purposes of compliance with local codes, regional and state requirements.

B. This Agreement is intended to satisfy the aforementioned requirement.

NOW, THEREFORE, in consideration of the recitals and mutual obligations expressed herein, the Parties (City and Developer) agree as follows:

STATEMENT OF AGREEMENT

1. Taylor Morrison, LLC, a California Limited Liability Company, owner of the District 2 Project located along McCandless Drive just north of Penitencia Creek (the "Project"), agrees to provide on-site private utilities consistent with the requirements of the City, region and state.

Control No. 2013- ___

Recording requested by
And When recorded mail to:

City of Milpitas
455 East Calaveras Blvd
Milpitas CA 95035
Attn: Land Development Engineer

Record without fee under
Section 6103 Government Code
State of California

Covenant and Permit for Encroachment Upon City Right-of-Way

This authorization ("Permit") is entered into between the City of Milpitas, a municipal corporation ("City") and **Taylor Morrison, LLC, a California Limited Liability Company**, ("Permittee").

RECITALS

A. Permittee has requested permission from the City to enter upon, use, and construct improvements within certain portions of the City's right-of-way along the frontage of McCandless Drive in front of Tract Nos. 10141, 10145, 10148, and 10149 as shown on Exhibit "A" (the Encroachment Area).

B. Permittee's use of this "Encroachment Area" will be undertaken for the benefit of the Permittee's property (the "Benefitted Property") as shown on Exhibit "A" as Tract Nos. 10141, 10145, 10148, and 10149.

C. Permittee desires to enter upon the Encroachment Area to construct, install, maintain and replace certain improvements ("the Improvements"), described with greater particularity and as shown in Exhibit "A" and Improvement Plans 2-1165. The improvements include curb/gutter, pavement, landscaping and related irrigation, wet and dry utilities, sidewalk and project entry signs located within the City's right-of-way.

D. Replacement, operation and maintenance responsibilities of the sewer system (up to sanitary sewer manhole ___ on sheet __ and __ of the private improvement plan) belongs to the Permittee.

E. Replacement, operation and maintenance responsibilities of storm drain system (up to storm drain manhole __ on Sheet __ and __ of the private improvement plan) belongs to the Permittee.

F. Replacement, operation and maintenance responsibilities of the water system (within the subdivision to master meter(s)) belongs to the Permittee.

OWNERS' STATEMENT

WE HEREBY STATE THAT WE ARE THE OWNERS OF OR HAVE SOME RIGHT, TITLE, OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN HEREON; THAT WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS A CLEAR TITLE TO SAID REAL PROPERTY; THAT WE CONSENT TO THE MAKING AND FILING OF THIS SUBDIVISION MAP AS SHOWN WITHIN THE DISTINCTIVE BORDER LINE.

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED AS AN EASEMENT FOR PUBLIC PURPOSES TO THE CITY OF MILPITAS FOR OPERATION, ALTERATION, RELOCATION, MAINTENANCE, REPAIR AND REPLACEMENT OF ALL PUBLIC SERVICE FACILITIES AND THEIR APPURTENANCES, OVER, UNDER, ALONG AND ACROSS THE FOLLOWING:

1. PARCEL "A", SHOWN AS "NEWBURY STREET", FOR PUBLIC STREET AND PUBLIC UTILITY PURPOSES.
2. EASEMENTS FOR PUBLIC SERVICE AND UTILITY EASEMENT PURPOSES (PSUE).
3. EASEMENTS FOR EMERGENCY VEHICLE ACCESS PURPOSES (EAE).
4. EASEMENTS FOR OVERLAND DRAINAGE RELEASE OF STORM WATER (ODE).
5. EASEMENTS FOR SIDEWALK EASEMENT PURPOSES (SWE).

THE ABOVE MENTIONED EASEMENTS (PSUE), (EAE), (ODE) AND (SWE) SHALL REMAIN OPEN AND FREE FROM BUILDINGS AND STRUCTURES OF ANY KIND EXCEPT UTILITY SERVICE AND UTILITY STRUCTURES, CURBS, SIDEWALKS, APPURTENANCES TO THE ABOVE, AND ALL LAWFUL UNSUPPORTED BUILDING OVERHANGS. UNOBSTRUCTED CONTINUOUS ACCESS SHALL BE MAINTAINED AT ALL TIMES.

WE HEREBY RETAIN FOR THE PRIVATE USE OF THE LOT OWNERS WITHIN THIS SUBDIVISION, THEIR LICENSEES, VISITORS AND TENANTS, WITH MAINTENANCE BY THE HOMEOWNERS ASSOCIATION AS STATED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS CREATED FOR "TRACT 10141, MCCANDLESS DISTRICT 2", THE FOLLOWING:

1. PARCELS "B", "C", "D", "E", "F", "G", "H", "I", "J", AND "K" FOR PRIVATE STREETS, SHOWN AS "BLEECKER STREET", "BOND STREET", "DRIVE A", "DRIVE B", "DRIVE E1", "DRIVE E2", AND "DRIVE E3".
2. PARCELS "L", "N", AND "O" FOR PRIVATE RECREATION AND PRIVATE OPEN SPACE PURPOSES (POS). SAID PARCELS SHALL REMAIN FREE FROM HABITABLE STRUCTURES.
3. PARCEL "M" FOR PRIVATE SOLID WASTE HANDLING AND MAINTENANCE FACILITIES. SAID PARCEL SHALL REMAIN FREE FROM HABITABLE STRUCTURES.
4. EASEMENTS FOR PRIVATE UTILITY PURPOSES (PRUE), INCLUDING, BUT NOT LIMITED TO, THE CONSTRUCTION AND MAINTENANCE OF CONDUITS FOR STORM DRAINS, SANITARY SEWERS, WATER LINES, SIDEWALKS, AND APPURTENANCES TO ALL THE ABOVE.

SAID EASEMENTS SHALL REMAIN OPEN AND FREE FROM BUILDINGS AND STRUCTURES AND THEIR APPURTENANCES, EXCEPT FOR IRRIGATION SYSTEMS AND THEIR APPURTENANCES, LAWFUL FENCES, WALKWAYS, AND ALL LAWFUL UNSUPPORTED BUILDING OVERHANGS. UNOBSTRUCTED CONTINUOUS ACCESS SHALL BE MAINTAINED AT ALL TIMES.

OWNER: TAYLOR MORRISON OF CALIFORNIA, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

BY: _____ BY: _____

NAME: _____ NAME: _____

TITLE: _____ TITLE: _____

OWNER ACKNOWLEDGMENT

STATE OF CALIFORNIA
COUNTY OF _____ }ss.

ON _____, 2013, BEFORE ME, _____, NOTARY PUBLIC

PERSONALLY APPEARED_____
WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND.

NOTARY'S SIGNATURE: _____
NAME OF NOTARY (PLEASE PRINT): _____
PRINCIPAL COUNTY OF BUSINESS: _____
MY COMMISSION NUMBER: _____
MY COMMISSION EXPIRES: _____

TRUSTEE STATEMENT

WE, FIRST AMERICAN TITLE INSURANCE COMPANY, AS TRUSTEE UNDER THAT CERTAIN DEED OF TRUST RECORDED APRIL 30, 2012 AS DOCUMENT NO. 21646467, OFFICIAL RECORDS OF SANTA CLARA COUNTY, CALIFORNIA, DOES HEREBY CONSENT TO THE PREPARATION AND FILING OF THIS MAP, "TRACT 10141, McCANDLESS DISTRICT 2", AND JOINS IN ALL DEDICATIONS THEREON.

IN WITNESS HEREOF, THE UNDERSIGNED HAS EXECUTED THIS STATEMENT ON _____, 2013 BY ITS DULY AUTHORIZED OFFICERS AS TRUSTEE: FIRST AMERICAN TITLE INSURANCE COMPANY

BY: _____

NAME: _____

ITS: _____

TRUSTEE ACKNOWLEDGMENT

STATE OF CALIFORNIA
COUNTY OF _____ }ss.

ON _____, 2013, BEFORE ME, _____, NOTARY PUBLIC

PERSONALLY APPEARED_____
WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND.

NOTARY'S SIGNATURE: _____
NAME OF NOTARY (PLEASE PRINT): _____
PRINCIPAL COUNTY OF BUSINESS: _____
MY COMMISSION NUMBER: _____
MY COMMISSION EXPIRES: _____

CITY CLERK'S CERTIFICATE

I, MARY LAVELLE, CITY CLERK OF THE CITY OF MILPITAS, CALIFORNIA, HEREBY CERTIFY THAT SAID CITY COUNCIL OF THE CITY OF MILPITAS, AS GOVERNING BODY OF SAID CITY AT A REGULAR MEETING HELD ON _____, 20____, HAS TAKEN THE FOLLOWING ACTIONS:

1. APPROVED THIS FINAL MAP, "TRACT 10141, McCANDLESS DISTRICT 2".
2. ACCEPTED, SUBJECT TO IMPROVEMENT, ON BEHALF OF THE PUBLIC THOSE PARCELS OF LAND OFFERED FOR DEDICATION FOR PUBLIC USE IN CONFORMITY WITH THE TERMS OF OFFER OF DEDICATION TO WIT:
   - a.) PARCEL "A", SHOWN AS "NEWBURY STREET", FOR PUBLIC STREET AND PUBLIC UTILITY PURPOSES.
   - b.) EASEMENTS FOR PUBLIC SERVICE AND UTILITY EASEMENT PURPOSES (PSUE).
   - c.) EASEMENTS FOR EMERGENCY VEHICLE ACCESS PURPOSES (EAE).
   - d.) EASEMENTS FOR OVERLAND DRAINAGE RELEASE OF STORM WATER (ODE).
   - e.) EASEMENTS FOR SIDEWALK EASEMENT PURPOSES (SWE).
3. PURSUANT TO SECTION 66499.20.2 OF THE SUBDIVISION MAP ACT, THE FILING OF THIS MAP SHALL CONSTITUTE ABANDONMENT OF THE FOLLOWING:
   - a.) THAT PORTION OF THE "LANDSCAPE EASEMENT" GRANTED TO THE CITY OF MILPITAS, IN THE DEED RECORDED DECEMBER 10, 1985, IN BOOK J542, PAGE 2058, OFFICIAL RECORDS OF SANTA CLARA COUNTY, CALIFORNIA, CONTAINED WITHIN THE SUBDIVISION SHOWN HEREON. ALL OTHER PUBLIC STREETS AND EASEMENTS NOT SPECIFICALLY LISTED HEREON FOR ABANDONMENT ARE RETAINED FOR PUBLIC USE.

THE DESIGNATED PRIVATE STREETS ON THIS MAP ARE NOT PART OF THE CITY OF MILPITAS STREET SYSTEM AND ARE NOT ACCEPTED FOR PUBLIC MAINTENANCE.

DATED: _____

_____
MARY LAVELLE
CITY CLERK, CITY OF MILPITAS

RECORDER'S CERTIFICATE

FILE NO._____ FEE $_____PAID. ACCEPTED FOR RECORD AND FILED IN BOOK_____OF MAPS AT PAGES_____, SANTA CLARA COUNTY RECORDS, THIS_____ DAY OF_____, 20__ AT_____ M., AT THE REQUEST OF FIRST AMERICAN TITLE COMPANY.

REGINA ALCOMENDRAS, RECORDER
SANTA CLARA COUNTY, CALIFORNIA BY_____
DEPUTY

TRACT 10141
McCANDLESS DISTRICT 2

A SUBDIVISION FOR CONDOMINIUM PURPOSES
CITY OF MILPITAS
SANTA CLARA COUNTY, CALIFORNIA

A RE-SUBDIVISION OF PARCEL 4 AND PARCEL 5, AS SHOWN ON THE PARCEL MAP FILED DECEMBER 5, 1984, IN BOOK 536 OF MAPS, AT PAGES 41 THROUGH 43, RECORDS OF SANTA CLARA COUNTY, CALIFORNIA

PRELIMINARY

Prepared By:
RUGGERI-JENSEN-AZAR & ASSOCIATES
8055 Camino Arroyo, Gilroy, CA 95020
JUNE 2013

JOB #072030-5000

OWNERS' STATEMENT

WE HEREBY STATE THAT WE ARE THE OWNERS OF OR HAVE SOME RIGHT, TITLE, OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN HEREON; THAT WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS A CLEAR TITLE TO SAID REAL PROPERTY; THAT WE CONSENT TO THE MAKING AND FILING OF THIS SUBDIVISION MAP AS SHOWN WITHIN THE DISTINCTIVE BORDER LINE.

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED AS AN EASEMENT FOR PUBLIC PURPOSES TO THE CITY OF MILPITAS FOR OPERATION, ALTERATION, RELOCATION, MAINTENANCE, REPAIR AND REPLACEMENT OF ALL PUBLIC SERVICE FACILITIES AND THEIR APPURTENANCES, OVER, UNDER, ALONG AND ACROSS THE FOLLOWING:

1. EASEMENTS FOR PUBLIC SERVICE AND UTILITY EASEMENT PURPOSES (PSUE).
2. EASEMENTS FOR EMERGENCY VEHICLE ACCESS PURPOSES (EAE).
3. EASEMENTS FOR OVERLAND DRAINAGE RELEASE OF STORM WATER (ODE).
4. EASEMENTS FOR SIDEWALK EASEMENT PURPOSES (SWE).

THE ABOVE MENTIONED EASEMENTS (PSUE), (EAE), (ODE) AND (SWE) SHALL REMAIN OPEN AND FREE FROM BUILDINGS AND STRUCTURES OF ANY KIND EXCEPT UTILITY SERVICE AND UTILITY STRUCTURES, CURBS, SIDEWALKS, APPURTENANCES TO THE ABOVE, AND ALL LAWFUL UNSUPPORTED BUILDING OVERHANGS. UNOBSTRUCTED CONTINUOUS ACCESS SHALL BE MAINTAINED AT ALL TIMES.

WE HEREBY RETAIN FOR THE PRIVATE USE OF THE LOT OWNERS WITHIN THIS SUBDIVISION, THEIR LICENSEES, VISITORS AND TENANTS, WITH MAINTENANCE BY THE HOMEOWNERS ASSOCIATION AS STATED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS CREATED FOR "TRACT 10145, MCCANDLESS DISTRICT 2", THE FOLLOWING:

1. PARCELS "A", "B", AND "F" FOR PRIVATE STREETS, SHOWN AS "CANAL STREET" AND "NEWBURY WAY".
2. PARCELS "C" AND "E" FOR PRIVATE RECREATION AND PRIVATE OPEN SPACE PURPOSES (POS).
3. PARCEL "D" FOR PRIVATE SOLID WASTE HANDLING AND MAINTENANCE FACILITIES.
4. EASEMENTS FOR PRIVATE UTILITY PURPOSES (PRUE), INCLUDING, BUT NOT LIMITED TO, THE CONSTRUCTION AND MAINTENANCE OF CONDUITS FOR STORM DRAINS, SANITARY SEWERS, WATER LINES, SIDEWALKS, AND APPURTENANCES TO ALL THE ABOVE.

SAID EASEMENTS SHALL REMAIN OPEN AND FREE FROM BUILDINGS AND STRUCTURES AND THEIR APPURTENANCES, EXCEPT FOR IRRIGATION SYSTEMS AND THEIR APPURTENANCES, LAWFUL FENCES, WALKWAYS, AND ALL LAWFUL UNSUPPORTED BUILDING OVERHANGS. UNOBSTRUCTED CONTINUOUS ACCESS SHALL BE MAINTAINED AT ALL TIMES.

OWNER: TAYLOR MORRISON OF CALIFORNIA, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

BY: _____ BY: _____

NAME: _____ NAME: _____

TITLE: _____ TITLE: _____

OWNER ACKNOWLEDGMENT

STATE OF CALIFORNIA
COUNTY OF _____ } ss.

ON _____, 2013, BEFORE ME, _____, NOTARY PUBLIC

PERSONALLY APPEARED_____
WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND.

NOTARY'S SIGNATURE: _____
NAME OF NOTARY (PLEASE PRINT): _____
PRINCIPAL COUNTY OF BUSINESS: _____
MY COMMISSION NUMBER: _____
MY COMMISSION EXPIRES: _____

OWNER ACKNOWLEDGMENT

STATE OF CALIFORNIA
COUNTY OF _____ } ss.

ON _____, 2013, BEFORE ME, _____, NOTARY PUBLIC

PERSONALLY APPEARED_____
WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND.

NOTARY'S SIGNATURE: _____
NAME OF NOTARY (PLEASE PRINT): _____
PRINCIPAL COUNTY OF BUSINESS: _____
MY COMMISSION NUMBER: _____
MY COMMISSION EXPIRES: _____

TRUSTEE STATEMENT

WE, FIRST AMERICAN TITLE INSURANCE COMPANY, AS TRUSTEE UNDER THAT CERTAIN DEED OF TRUST RECORDED APRIL 30, 2012 AS DOCUMENT NO. 21646467, OFFICIAL RECORDS OF SANTA CLARA COUNTY, CALIFORNIA, DOES HEREBY CONSENT TO THE PREPARATION AND FILING OF THIS MAP, "TRACT 10145, McCANDLESS DISTRICT 2", AND JOINS IN ALL DEDICATIONS THEREON.

IN WITNESS HEREOF, THE UNDERSIGNED HAS EXECUTED THIS STATEMENT ON _____, 2013 BY ITS DULY AUTHORIZED OFFICERS AS TRUSTEE: FIRST AMERICAN TITLE INSURANCE COMPANY

BY: _____

NAME: _____

TITLE: _____

TRUSTEE ACKNOWLEDGMENT

STATE OF CALIFORNIA
COUNTY OF _____ } ss.

ON _____, 2013, BEFORE ME, _____, NOTARY PUBLIC

PERSONALLY APPEARED_____
WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND.

NOTARY'S SIGNATURE: _____
NAME OF NOTARY (PLEASE PRINT): _____
PRINCIPAL COUNTY OF BUSINESS: _____
MY COMMISSION NUMBER: _____
MY COMMISSION EXPIRES: _____

CITY CLERK'S CERTIFICATE

I, MARY LAVELLE, CITY CLERK OF THE CITY OF MILPITAS, CALIFORNIA, HEREBY CERTIFY THAT SAID CITY COUNCIL OF THE CITY OF MILPITAS, AS GOVERNING BODY OF SAID CITY AT A REGULAR MEETING HELD ON _____, 20____, HAS TAKEN THE FOLLOWING ACTIONS:

1. APPROVED THIS FINAL MAP, "TRACT 10145, McCANDLESS DISTRICT 2".
2. ACCEPTED, SUBJECT TO IMPROVEMENT, ON BEHALF OF THE PUBLIC THOSE PARCELS OF LAND OFFERED FOR DEDICATION FOR PUBLIC USE IN CONFORMITY WITH THE TERMS OF OFFER OF DEDICATION TO WIT:

   a.) EASEMENTS FOR PUBLIC SERVICE, UTILITY, AND SIDEWALK PURPOSES (PSUE).

   b.) EASEMENTS FOR EMERGENCY VEHICLE ACCESS PURPOSES (EAE).

   c.) EASEMENTS FOR OVERLAND DRAINAGE RELEASE OF STORM WATER (ODE).

   d.) EASEMENTS FOR SIDEWALK EASEMENT PURPOSES (SWE).
3. PURSUANT TO SECTION 66499.20.2 OF THE SUBDIVISION MAP ACT, THE FILING OF THIS MAP SHALL CONSTITUTE ABANDONMENT OF THE FOLLOWING:

   a.) THAT PORTION OF THE "LANDSCAPE EASEMENT" GRANTED TO THE CITY OF MILPITAS, IN THE DEED RECORDED DECEMBER 10, 1985, IN BOOK J542, PAGE 2058, OFFICIAL RECORDS OF SANTA CLARA COUNTY, CALIFORNIA, CONTAINED WITHIN THE SUBDIVISION SHOWN HEREON. ALL OTHER PUBLIC STREETS AND EASEMENTS NOT SPECIFICALLY LISTED HEREON FOR ABANDONMENT ARE RETAINED FOR PUBLIC USE.

THE DESIGNATED PRIVATE STREETS ON THIS MAP ARE NOT PART OF THE CITY OF MILPITAS STREET SYSTEM AND ARE NOT ACCEPTED FOR PUBLIC MAINTENANCE.

DATED: _____

_____
MARY LAVELLE
CITY CLERK, CITY OF MILPITAS

RECORDER'S CERTIFICATE

FILE NO._____ FEE $_____PAID. ACCEPTED FOR RECORD AND FILED IN BOOK_____OF MAPS AT PAGES_____, SANTA CLARA COUNTY RECORDS, THIS____ DAY OF_____, 20__ AT_____ M., AT THE REQUEST OF FIRST AMERICAN TITLE COMPANY.

REGINA ALCOMENDRAS, RECORDER
SANTA CLARA COUNTY, CALIFORNIA BY_____
DEPUTY

TRACT 10145
McCANDLESS DISTRICT 2

A SUBDIVISION FOR CONDOMINIUM PURPOSES
CITY OF MILPITAS
SANTA CLARA COUNTY, CALIFORNIA

A RE-SUBDIVISION OF PARCEL 9 AND PARCEL 10, AS SHOWN ON THE PARCEL MAP FILED DECEMBER 5, 1984, IN BOOK 536 OF MAPS, AT PAGES 41 THROUGH 43, RECORDS OF SANTA CLARA COUNTY, CALIFORNIA

PRELIMINARY

Prepared By:
RUGGERI-JENSEN-AZAR & ASSOCIATES
8055 Camino Arroyo, Gilroy, CA 95020
JUNE 2013

JOB #072030-5000

OWNERS' STATEMENT

WE HEREBY STATE THAT WE ARE THE OWNERS OF OR HAVE SOME RIGHT, TITLE, OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN HEREON; THAT WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS A CLEAR TITLE TO SAID REAL PROPERTY; THAT WE CONSENT TO THE MAKING AND FILING OF THIS SUBDIVISION MAP AS SHOWN WITHIN THE DISTINCTIVE BORDER LINE.

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED AS AN EASEMENT FOR PUBLIC PURPOSES TO THE CITY OF MILPITAS FOR OPERATION, ALTERATION, RELOCATION, MAINTENANCE, REPAIR AND REPLACEMENT OF ALL PUBLIC SERVICE FACILITIES AND THEIR APPURTENANCES, OVER, UNDER, ALONG AND ACROSS THE FOLLOWING:

1. EASEMENTS FOR PUBLIC SERVICE AND UTILITY PURPOSES (PSUE).
2. EASEMENTS FOR EMERGENCY VEHICLE ACCESS PURPOSES (EAE).
3. EASEMENTS FOR OVERLAND DRAINAGE RELEASE OF STORM WATER (ODE).
4. EASEMENTS FOR SIDEWALK EASEMENT PURPOSES (SWE).

THE ABOVE MENTIONED EASEMENTS (PSUE), (EAE), (ODE) AND (SWE) SHALL REMAIN OPEN AND FREE FROM BUILDINGS AND STRUCTURES OF ANY KIND EXCEPT UTILITY SERVICE AND UTILITY STRUCTURES, CURBS, SIDEWALKS, APPURTENANCES TO THE ABOVE, AND ALL LAWFUL UNSUPPORTED BUILDING OVERHANGS. UNOBSTRUCTED CONTINUOUS ACCESS SHALL BE MAINTAINED AT ALL TIMES.

WE HEREBY RETAIN FOR THE PRIVATE USE OF THE LOT OWNERS WITHIN THIS SUBDIVISION, THEIR LICENSEES, VISITORS AND TENANTS, WITH MAINTENANCE BY THE HOMEOWNERS ASSOCIATION AS STATED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS CREATED FOR "TRACT 10148, MCCANDLESS DISTRICT 2", THE FOLLOWING:

1. PARCELS "A", "B", "C", "D", "F", "G", "H", AND "I" FOR PRIVATE STREETS, SHOWN AS "BOND STREET", "BLEECKER STREET", "DRIVE C", "DRIVE D1", "DRIVE D2", AND "DRIVE D3".
2. PARCEL "E" FOR PRIVATE RECREATION AND PRIVATE OPEN SPACE PURPOSES (POS). SAID PARCEL SHALL REMAIN FREE FROM HABITABLE STRUCTURES.
3. EASEMENTS FOR PRIVATE UTILITY EASEMENT PURPOSES (PRUE), INCLUDING, BUT NOT LIMITED TO, THE CONSTRUCTION AND MAINTENANCE OF CONDUITS FOR STORM DRAINS, SANITARY SEWERS, WATER LINES, SIDEWALKS, AND APPURTENANCES TO ALL THE ABOVE.

SAID EASEMENTS SHALL REMAIN OPEN AND FREE FROM BUILDINGS AND STRUCTURES AND THEIR APPURTENANCES, EXCEPT FOR IRRIGATION SYSTEMS AND THEIR APPURTENANCES, LAWFUL FENCES, WALKWAYS, AND ALL LAWFUL UNSUPPORTED BUILDING OVERHANGS. UNOBSTRUCTED CONTINUOUS ACCESS SHALL BE MAINTAINED AT ALL TIMES.

OWNER: TAYLOR MORRISON OF CALIFORNIA, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

BY: _____ BY: _____

NAME: _____ NAME: _____

TITLE: _____ TITLE: _____

OWNER ACKNOWLEDGMENT

STATE OF CALIFORNIA
COUNTY OF _____ } ss.

ON _____, 2013, BEFORE ME, _____, NOTARY PUBLIC

PERSONALLY APPEARED_____
WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND.

NOTARY'S SIGNATURE: _____
NAME OF NOTARY (PLEASE PRINT): _____
PRINCIPAL COUNTY OF BUSINESS: _____
MY COMMISSION NUMBER: _____
MY COMMISSION EXPIRES: _____

TRUSTEE STATEMENT

WE, FIRST AMERICAN TITLE INSURANCE COMPANY, AS TRUSTEE UNDER THAT CERTAIN DEED OF TRUST RECORDED APRIL 30, 2012 AS DOCUMENT NO. 21646467, OFFICIAL RECORDS OF SANTA CLARA COUNTY, CALIFORNIA, DOES HEREBY CONSENT TO THE PREPARATION AND FILING OF THIS MAP, "TRACT 10148, McCANDLESS DISTRICT 2", AND JOINS IN ALL DEDICATIONS THEREON.

IN WITNESS HEREOF, THE UNDERSIGNED HAS EXECUTED THIS STATEMENT ON _____, 2013 BY ITS DULY AUTHORIZED OFFICERS AS TRUSTEE: FIRST AMERICAN TITLE INSURANCE COMPANY

BY: _____

NAME: _____

TITLE: _____

CITY CLERK'S CERTIFICATE

I, MARY LAVELLE, CITY CLERK OF THE CITY OF MILPITAS, CALIFORNIA, HEREBY CERTIFY THAT SAID CITY COUNCIL OF THE CITY OF MILPITAS, AS GOVERNING BODY OF SAID CITY AT A REGULAR MEETING HELD ON _____, 20____, HAS TAKEN THE FOLLOWING ACTIONS:

1. APPROVED THIS FINAL MAP, "TRACT 10148, McCANDLESS DISTRICT 2".
2. ACCEPTED, SUBJECT TO IMPROVEMENT, ON BEHALF OF THE PUBLIC THOSE PARCELS OF LAND OFFERED FOR DEDICATION FOR PUBLIC USE IN CONFORMITY WITH THE TERMS OF OFFER OF DEDICATION TO WIT:

   a.) EASEMENTS FOR PUBLIC SERVICE AND UTILITY PURPOSES (PSUE).

   b.) EASEMENTS FOR EMERGENCY VEHICLE ACCESS PURPOSES (EAE).

   c.) EASEMENTS FOR OVERLAND DRAINAGE RELEASE OF STORM WATER (ODE).

   d.) EASEMENTS FOR SIDEWALK EASEMENT PURPOSES (SWE).

THE DESIGNATED PRIVATE STREETS ON THIS MAP ARE NOT PART OF THE CITY OF MILPITAS STREET SYSTEM AND ARE NOT ACCEPTED FOR PUBLIC MAINTENANCE.

DATED: _____

_____
MARY LAVELLE
CITY CLERK, CITY OF MILPITAS

RECORDER'S CERTIFICATE

FILE NO._____ FEE $_____PAID. ACCEPTED FOR RECORD AND FILED IN BOOK_____OF MAPS AT PAGES_____, SANTA CLARA COUNTY RECORDS, THIS_____ DAY OF_____, 20__ AT_____ M., AT THE REQUEST OF FIRST AMERICAN TITLE COMPANY.

REGINA ALCOMENDRAS, RECORDER
SANTA CLARA COUNTY, CALIFORNIA BY_____
DEPUTY

OWNER ACKNOWLEDGMENT

STATE OF CALIFORNIA
COUNTY OF _____ } ss.

ON _____, 2013, BEFORE ME, _____, NOTARY PUBLIC

PERSONALLY APPEARED_____
WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND.

NOTARY'S SIGNATURE: _____
NAME OF NOTARY (PLEASE PRINT): _____
PRINCIPAL COUNTY OF BUSINESS: _____
MY COMMISSION NUMBER: _____
MY COMMISSION EXPIRES: _____

TRUSTEE ACKNOWLEDGMENT

STATE OF CALIFORNIA
COUNTY OF _____ } ss.

ON _____, 2013, BEFORE ME, _____, NOTARY PUBLIC

PERSONALLY APPEARED_____
WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND.

NOTARY'S SIGNATURE: _____
NAME OF NOTARY (PLEASE PRINT): _____
PRINCIPAL COUNTY OF BUSINESS: _____
MY COMMISSION NUMBER: _____
MY COMMISSION EXPIRES: _____

TRACT 10148
McCANDLESS DISTRICT 2

A SUBDIVISION FOR CONDOMINIUM PURPOSES
CITY OF MILPITAS
SANTA CLARA COUNTY, CALIFORNIA

PRELIMINARY

A SUBDIVISION OF THE DESIGNATED REMAINDER, AS SHOWN ON THE MAP ENTITLED "TRACT 10141, McCANDLESS DISTRICT 2" FILED _____, IN BOOK ___ OF MAPS, AT PAGES __ THROUGH __, RECORDS OF SANTA CLARA COUNTY, CALIFORNIA

Prepared By:
RUGGERI-JENSEN-AZAR & ASSOCIATES
8055 Camino Arroyo, Gilroy, CA 95020
JUNE 2013

JOB #072030-5000 SHEET 1 OF 5 SHEETS

2ND SUBMITTAL JUNE 2013

OWNERS' STATEMENT

WE HEREBY STATE THAT WE ARE THE OWNERS OF OR HAVE SOME RIGHT, TITLE, OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN HEREON; THAT WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS A CLEAR TITLE TO SAID REAL PROPERTY; THAT WE CONSENT TO THE MAKING AND FILING OF THIS SUBDIVISION MAP AS SHOWN WITHIN THE DISTINCTIVE BOUNDARY LINE.

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED AS AN EASEMENT FOR PUBLIC PURPOSES TO THE CITY OF MILPITAS FOR OPERATION, ALTERATION, RELOCATION, MAINTENANCE, REPAIR AND REPLACEMENT OF ALL PUBLIC SERVICE FACILITIES AND THEIR APPURTENANCES, OVER, UNDER, ALONG AND ACROSS THE FOLLOWING:

1. EASEMENTS FOR PUBLIC SERVICE AND UTILITY EASEMENT PURPOSES (PSUE).
2. EASEMENTS FOR EMERGENCY VEHICLE ACCESS (EAE).
3. EASEMENTS FOR OVERLAND DRAINAGE RELEASE (ODE).
4. EASEMENTS FOR SIDEWALK EASEMENT PURPOSES (SWE).

THE ABOVE MENTIONED EASEMENT (PSUE), (EAE), (ODE) AND (SWE) SHALL REMAIN OPEN AND FREE FROM BUILDINGS AND STRUCTURES OF ANY KIND EXCEPT UTILITY SERVICE AND UTILITY STRUCTURES, CURBS, SIDEWALKS, APPURTENANCES TO THE ABOVE, AND ALL LAWFUL UNSUPPORTED BUILDING OVERHANGS. UNOBSTRUCTED CONTINUOUS ACCESS SHALL BE MAINTAINED AT ALL TIMES.

WE HEREBY RETAIN FOR THE PRIVATE USE OF THE LOT OWNERS WITHIN THIS SUBDIVISION, THEIR LICENSEES, VISITORS AND TENANTS, WITH MAINTENANCE BY THE HOMEOWNERS ASSOCIATION AS STATED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS CREATED FOR "TRACT 10149, MCCANDLESS DISTRICT 2", THE FOLLOWING:

1. PARCELS "A", "B" AND "C" FOR PRIVATE STREETS, SHOWN AS "CANAL STREET".
2. PARCELS "D" AND "E" FOR PRIVATE RECREATION AND PRIVATE OPEN SPACE PURPOSES (POS). SAID PARCELS SHALL REMAIN FREE FROM HABITABLE STRUCTURES.
3. EASEMENTS FOR PRIVATE UTILITY EASEMENT PURPOSES (PRUE), INCLUDING, BUT NOT LIMITED TO, THE CONSTRUCTION AND MAINTENANCE OF CONDUITS FOR STORM DRAINS, SANITARY SEWERS, WATER LINES, SIDEWALKS, AND APPURTENANCES TO ALL THE ABOVE.

SAID EASEMENTS SHALL REMAIN OPEN AND FREE FROM BUILDINGS AND STRUCTURES AND THEIR APPURTENANCES, EXCEPT FOR IRRIGATION SYSTEMS AND THEIR APPURTENANCES, LAWFUL FENCES, WALKWAYS, AND ALL LAWFUL UNSUPPORTED BUILDING OVERHANGS. UNOBSTRUCTED CONTINUOUS ACCESS SHALL BE MAINTAINED AT ALL TIMES.

OWNER: TAYLOR MORRISON OF CALIFORNIA, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

BY: _____ BY: _____

NAME: _____ NAME: _____

TITLE: _____ TITLE: _____

OWNER ACKNOWLEDGMENT

STATE OF CALIFORNIA
COUNTY OF _____ } ss.

ON _____, 2013, BEFORE ME, _____,

PERSONALLY APPEARED_____
WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND.

NOTARY'S SIGNATURE: _____
NAME OF NOTARY (PLEASE PRINT): _____
PRINCIPAL COUNTY OF BUSINESS: _____
MY COMMISSION NUMBER: _____
MY COMMISSION EXPIRES: _____

OWNER ACKNOWLEDGMENT

STATE OF CALIFORNIA
COUNTY OF _____ } ss.

ON _____, 2013, BEFORE ME, _____,

PERSONALLY APPEARED_____
WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND.

NOTARY'S SIGNATURE: _____
NAME OF NOTARY (PLEASE PRINT): _____
PRINCIPAL COUNTY OF BUSINESS: _____
MY COMMISSION NUMBER: _____
MY COMMISSION EXPIRES: _____

TRUSTEE STATEMENT

WE, FIRST AMERICAN TITLE INSURANCE COMPANY, AS TRUSTEE UNDER THAT CERTAIN DEED OF TRUST RECORDED APRIL 30, 2012 AS DOCUMENT NO. 21646467, OFFICIAL RECORDS OF SANTA CLARA COUNTY, CALIFORNIA, DOES HEREBY CONSENT TO THE PREPARATION AND FILING OF THIS MAP, "TRACT 10149, McCANDLESS DISTRICT 2", AND JOINS IN ALL DEDICATIONS THEREON.

IN WITNESS HEREOF, THE UNDERSIGNED HAS EXECUTED THIS STATEMENT ON _____, 2013 BY ITS DULY AUTHORIZED OFFICERS AS TRUSTEE: FIRST AMERICAN TITLE INSURANCE COMPANY

BY: _____

NAME: _____

ITS: _____

TRUSTEE ACKNOWLEDGMENT

STATE OF CALIFORNIA
COUNTY OF _____ } ss.

ON _____, 2013, BEFORE ME, _____,

PERSONALLY APPEARED_____
WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND.

NOTARY'S SIGNATURE: _____
NAME OF NOTARY (PLEASE PRINT): _____
PRINCIPAL COUNTY OF BUSINESS: _____
MY COMMISSION NUMBER: _____
MY COMMISSION EXPIRES: _____

CITY CLERK'S CERTIFICATE

I, MARY LAVELLE, CITY CLERK OF THE CITY OF MILPITAS, CALIFORNIA, HEREBY CERTIFY THAT SAID CITY COUNCIL OF THE CITY OF MILPITAS, AS GOVERNING BODY OF SAID CITY AT A REGULAR MEETING HELD ON _____, 20____, HAS TAKEN THE FOLLOWING ACTIONS:

1. APPROVED THIS FINAL MAP, "TRACT 10149, McCANDLESS DISTRICT 2".
2. ACCEPTED, SUBJECT TO IMPROVEMENT, ON BEHALF OF THE PUBLIC THOSE PARCELS OF LAND OFFERED FOR DEDICATION FOR PUBLIC USE IN CONFORMITY WITH THE TERMS OF OFFER OF DEDICATION TO WIT:

   a.) EASEMENTS FOR PUBLIC SERVICE AND UTILITY EASEMENT PURPOSES (PSUE).
   b.) EASEMENTS FOR EMERGENCY VEHICLE ACCESS (EAE).
   c.) EASEMENTS FOR OVERLAND DRAINAGE RELEASE (ODE).
   d.) EASEMENTS FOR SIDEWALK EASEMENT PURPOSES (SWE).

THE DESIGNATED PRIVATE STREETS ON THIS MAP ARE NOT PART OF THE CITY OF MILPITAS STREET SYSTEM AND ARE NOT ACCEPTED FOR PUBLIC MAINTENANCE.

DATED: _____

_____
MARY LAVELLE
CITY CLERK, CITY OF MILPITAS

RECORDER'S CERTIFICATE

FILE NO._____ FEE $_____PAID. ACCEPTED FOR RECORD AND FILED IN BOOK_____OF MAPS AT PAGES_____, SANTA CLARA COUNTY RECORDS, THIS____ DAY OF_____, 20__ AT_____ M., AT THE REQUEST OF FIRST AMERICAN TITLE COMPANY.

REGINA ALCOMENDRAS, RECORDER
SANTA CLARA COUNTY, CALIFORNIA BY_____
DEPUTY

TRACT 10149
McCANDLESS DISTRICT 2

A SUBDIVISION FOR CONDOMINIUM PURPOSES
CITY OF MILPITAS
SANTA CLARA COUNTY, CALIFORNIA

A SUBDIVISION OF THE DESIGNATED REMAINDER PARCEL, AS SHOWN ON THE MAP ENTITLED "TRACT 10145, McCANDLESS DISTRICT 2", FILED _____, 2013, IN BOOK __ OF MAPS, AT PAGES __ THROUGH __, RECORDS OF SANTA CLARA COUNTY, CALIFORNIA

PRELIMINARY

Prepared By:
RUGGERI-JENSEN-AZAR & ASSOCIATES
8055 Camino Arroyo, Gilroy, CA 95020
JUNE 2013

JOB #072030-5000 SHEET 1 OF 5 SHEETS

2ND SUBMITTAL JUNE 2013

IMPROVEMENT PLANS FOR
McCANDLESS DRIVE
MILPITAS, CALIFORNIA

BENCHMARK

SOUTHERLY DISK IN MONUMENT WELL AT THE INTERSECTION OF ABEL STREET AND CORNING AVENUE, ELEVATION = 17.124' NGVD29 (19.864' NAVD88) PROJECT ELEVATIONS ARE BASED ON NGVD29

EXISTING UTILITY NOTE:

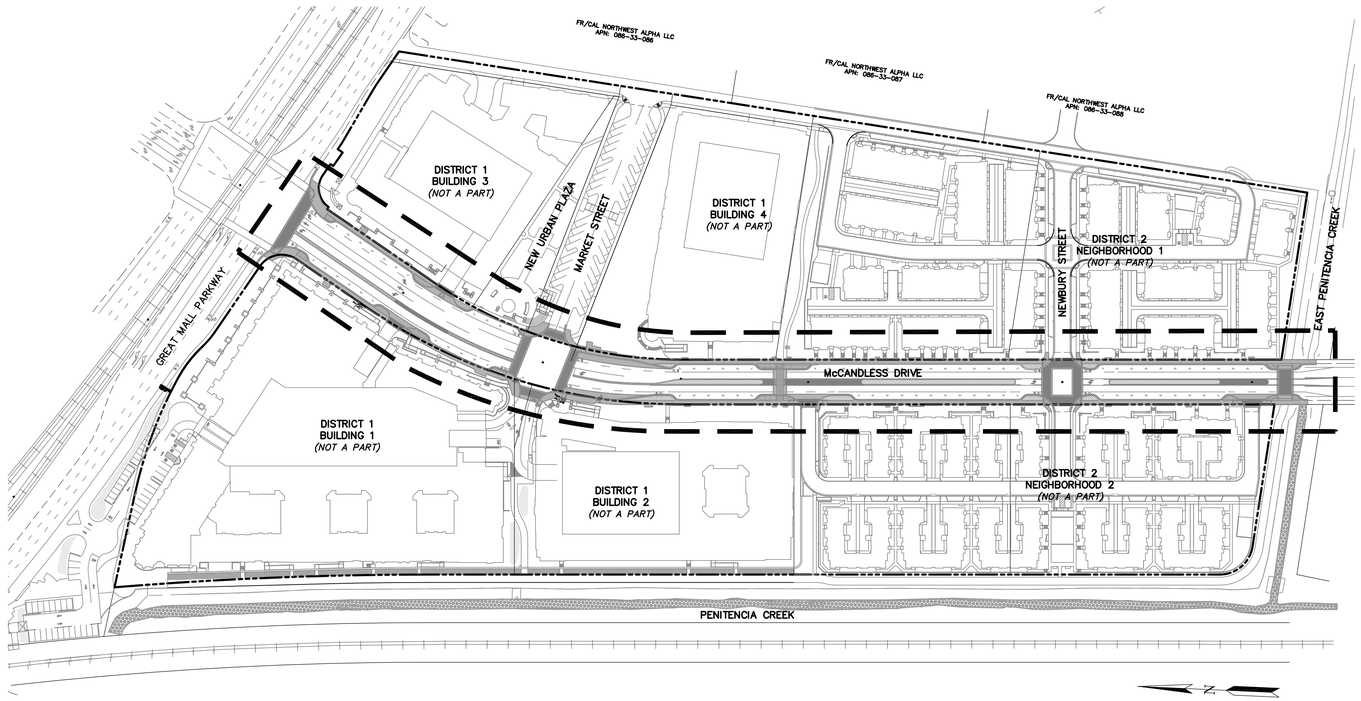
EXISTING UNDERGROUND UTILITIES AND IMPROVEMENTS ARE SHOWN IN THEIR APPROXIMATE LOCATIONS BASED UPON RECORD INFORMATION AVAILABLE TO THE ENGINEER AT THE TIME OF PREPARATION OF THESE PLANS. LOCATIONS MAY NOT HAVE BEEN VERIFIED IN THE FIELD AND NO GUARANTEE IS MADE AS TO THE ACCURACY OR COMPLETENESS OF THE INFORMATION SHOWN. THE CONTRACTOR SHALL NOTIFY UTILITY COMPANIES AT LEAST 2 WORKING DAYS IN ADVANCE OF CONSTRUCTION TO FIELD LOCATE UTILITIES. CALL UNDERGROUND SERVICE ALERT (U.S.A.), AT 1-800-227-2600. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO DETERMINE THE EXISTENCE AND LOCATION

FEMA FLOOD ZONE

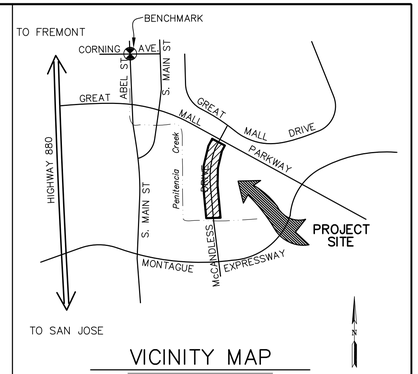
"ZONE AO" - AVERAGE FLOOD DEPTHS OF 1 FOOT.
MAP NO. 06085C0067H, DATED MAY 18, 2009

LEGEND

PROPOSED	DESCRIPTION	EXISTING
	TRACT BOUNDARY	
	LOT LINE	
	CENTERLINE	
	FACE OF CURB	
	BACK OF CURB	
	LIP OF GUTTER	
	EASEMENT LINE	
	CONTOUR	
	SAWCUT	
SD	STORM DRAIN	
SS	SANITARY SEWER	
W	WATER	
W-REC	RECYCLED WATER	
	UTILITY TO BE REMOVED/ABANDONED	
	MANHOLE	
	CATCH BASIN/FIELD INLET	
	FIRE HYDRANT	
	WATER VALVE	
	WATER SERVICE	
	SANITARY SEWER LATERAL AND CLEANOUT	
	BLOWOFF	
	CONCRETE CURB/GUTTER/SIDEWALK	
OR	HANDICAP RAMP	
2.5%	SLOPE AND DIRECTION	
	BUILDING LINE	
	ELECTROLIER	
	DIRECTION OF FLOW	
	MONUMENT	
	RAILROAD TRACKS	
	CREEK	



LOCATION MAP
NO SCALE



VICINITY MAP
NO SCALE

SHEET INDEX

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C1	TITLE SHEET
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C4	CITY GENERAL NOTES
C5	PROJECT NOTES
C6	STREET SECTIONS & DETAILS
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L1.01-L1.02	CONSTRUCTION PLAN
L1.11-L1.12	DIMENSION PLAN
L1.21	CONSTRUCTION DETAILS
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L3.21	PLANTING SPECIFICATIONS

TRAFFIC PLANS	TITLE
T1 - T4	GREAT MALL / McCANDLESS SIGNALIZED INTERSECTION MODIFICATIONS

STREET LIGHTING / PHOTOMETRICS PLANS	TITLE
SL1-SL3,SL5-SL6	STREET LIGHTING PLANS
PH1	PHOTOMETRICS PLANS

JOINT TRENCH PLANS	TITLE
1-3	DISTRICT 1 FRONTAGE JT PLAN
JT 1 - JT 5	DISTRICT 2 FRONTAGE JT PLAN

ABBREVIATIONS

AB	AGGREGATE BASE
AC	ASPHALTIC CONCRETE
AD	AREA DRAIN
ARV	AIR RELIEF VALVE
BLDG	BUILDING
BNDY	BOUNDARY
BC	BEGIN CURVE
BVC	BEGINNING OF VERTICAL CURVE
B/C	BACK OF CURB
BW	BACK OF WALK
BMP	BEST MANAGEMENT PRACTICE
C&G	CURB & GUTTER
CB	CATCH BASIN
CL OR ℄	CENTERLINE
CO	CLEAN OUT
DIA	DIAMETER
DWG	DRAWING
DWY	DRIVEWAY
(E)	EAST
EC	END CURVE
EVA	EMERGENCY VEHICLE ACCESS
ELECT	ELECTROLIER
ELEV	ELEVATION
EP	EDGE OF PAVEMENT
ESMT	EASEMENT
EVC	END OF VERTICAL CURVE
EX	EXISTING
FC	FACE OF CURB
FF	FINISH FLOOR
FFGF	FINISH FLOOR FRONT OF GARAGE
FGI	FIELD GRADE INLET
FH	FIRE HYDRANT
FI	FIELD INLET
FL	FLOW LINE
GB	GRADE BREAK
GND	GROUND
GR	GRATE
HOA	HOMEOWNERS' ASSOCIATION
HP	HIGH POINT
HR	HOUR
IMP	IMPROVEMENTS
INV	INVERT
IRR	IRRIGATION
JT	JOINT TRENCH
L	LEFT
LF	LINEAR FEET
LME	LANDSCAPE MAINTENANCE EASEMENT
LP	LOW POINT
MAX	MAXIMUM
MIN	MINIMUM
(N)	NORTH
(NE)	NORTHEAST
(NW)	NORTHWEST
NO.	NUMBER
N.T.S.	NOT TO SCALE
OC	ON CENTER
PAD	PAD ELEVATION
PAV	PAVEMENT
PCC	PORTLAND CEMENT CONCRETE
PL or ℙ	PROPERTY LINE
PRC	POINT OF REVERSE CURVATURE
PRUE	PRIVATE UTILITY EASEMENT
PSI	PER SQUARE INCH
PSUE	PUBLIC SERVICE UTILITY EASEMENT
PSUSE	PUBLIC SERVICE UTILITY & SIDEWALK EASEMENT
PT	POINT
PVC	POLYVINYL CHLORIDE PIPE
PVI	POINT OF VERTICAL INTERSECTION
R	RIGHT or RADIUS
RCP	REINFORCED CONCRETE PIPE
RW or R/W	RIGHT OF WAY
RET	RETURN
S	SLOPE
(S)	SOUTH
(SE)	SOUTHEAST
(SW)	SOUTHWEST
SCVWD	SANTA CLARA VALLEY WATER DISTRICT
SD	STORM DRAIN
SDMH	STORM DRAIN MANHOLE
SERV	SERVICE
SS	SANITARY SEWER
SSLAT	SANITARY SEWER LATERAL
SSMH	SANITARY SEWER MANHOLE
STA	STATION
STD	STANDARD
SWK	SIDEWALK
TBF	TREE BOX FILTER
TC	TOP OF CURB
TDC	TOP OF DEPRESSED CURB
TBC	TOP OF BEVELED MEDIAN CURB
TVC	TOP OF VERTICAL MEDIAN CURB
TYP	TYPICAL
VC	VERTICAL CURVE
W	WATER
(W)	WEST
W(DOM)	DOMESTIC WATER SERVICE
W(FIRE)	FIRE SERVICE
W(IRR)	IRRIGATION SERVICE
W-REC	RECYCLED WATER
WSER or WM	WATER SERVICE

UNDERGROUND SERVICE ALERT
1 (800) 227-2600
CALL BEFORE YOU DIG

LOCATION OF UTILITIES

LOCATION OF UTILITIES SHOWN IS ONLY APPROXIMATE. DETERMINATION OF THE ACTUAL LOCATION IS THE RESPONSIBILITY OF THE CONTRACTOR.

U.S.A. 1-800-227-2600

CITY OF MILPITAS STANDARD DRAWINGS

DWG. NO.	CITY OF MILPITAS DESIGN STANDARD
202	LOCATION OF IMPROVEMENTS
220	TRENCH CONSTRUCTION
222	PAVEMENT RESTORATION
230	SANITARY & STORM MANHOLES
405	CORNER SIGHT DISTANCE
410	CURB & GUTTER
419 & 420	CURB RAMP - RESIDENTIAL
425	INDUSTRIAL SIDEWALK
432	COMMERCIAL/INDUSTRIAL DRIVEWAY WITH FLARES
439	STREET NAME SIGN
443	CITY SIGNING, STRIPINGS, MARKINGS & QUANTITIES
462	CURB DRAIN STORM INLET
464	FLAT GRATE STORM INLET
702	TYPICAL VALVE INSTALLATION
704	LOCATION OF THRUST BLOCKS
706	CONCRETE ANCHOR BLOCK WITH CAPPED END ASSEMBLY
708	WET TAPS (4" TAPS OR LARGER)
726	2" WATER SERVICE
728	INSTALLATION OF 2 TO 10 INCH COMPOUND WATER METER
730	DETECTOR CHECK VALVE
734	REDUCED PRESSURE BACKFLOW PREVENTER
740	2" BLOW OFF
742	FIRE HYDRANT ASSEMBLY (CLOW MODEL 960)

BASIS OF BEARINGS:

THE CALCULATED GRID BEARING OF N39°43'13"W OF THE LINE BETWEEN THE FOUND MONUMENT AT THE INTERSECTION OF MONTAGUE EXPRESSWAY WITH CENTRE POINTE DRIVE AND THE FOUND MONUMENT AT THE INTERSECTION OF SOUTH ABEL STREET WITH WEST CURTIS AVENUE WAS USED FOR THE BASIS OF BEARINGS FOR THIS MAP. THESE MONUMENTS ARE SHOWN AS POINT NUMBERS "1008" AND "1011" ON THAT RECORD OF SURVEY FILED JUNE 26, 1996 IN BOOK 678 OF MAPS, AT PAGES 10 THROUGH 13, RECORDS OF SANTA CLARA COUNTY, CALIFORNIA. THE BEARING WAS CALCULATED FROM THE COORDINATE VALUES FROM EPOCH 1986 SHOWN ON SHEET 4 OF 4 OF THAT SURVEY.

THE VALUES OF POINTS "1008" AND "1011" ARE AS FOLLOWS:

	NORTHING	EASTING
"1008"	1974285.72	6156434.98
"1011"	1977865.34	6153460.98

SCOPE OF WORK

1. McCANDLESS DRIVE STORM DRAIN, SANITARY SEWER, AND WATER UTILITIES.
2. McCANDLESS DRIVE SURFACE IMPROVEMENTS INCLUDING CURB, GUTTER, SIDEWALK, PAVING, AND STRIPING.
3. McCANDLESS DRIVE/GREAT MALL PARKWAY SIGNALIZED INTERSECTION.
4. McCANDLESS DRIVE LANDSCAPING.
5. McCANDLESS DRIVE ELECTRICAL PLAN.

SOILS ENGINEER: These plans have been reviewed and found to be in substantial conformance with the intent and purpose of the geotechnical exploration report dated February 23, 2012, prepared by Engeo, Inc.

Date

Firm:

Address:

Telephone:

CIVIL ENGINEER: I hereby declare that I am the engineer of work for this project, that I have exercised responsible charge over the design of the project as defined in section 6703 of the business and professions codes, and that the design is consistent with current standards. The design shown hereon is necessary and reasonable and does not restrict any historic drainage flows from adjacent properties nor increase drainage to adjacent properties. The design includes principles and techniques to reduce quantity and improve the quality of storm water runoff, as required by NPDES. I understand that the check of project drawings and specifications by the City of Milpitas is confined to a review only and does not relieve me, as engineer of work, of my responsibilities for project design.

SIGNATURE DATE FIRM

Address:

Telephone:

REGISTERED PROFESSIONAL ENGINEER JORGE M. DUPAN C-59978 CIVIL STATE OF CALIFORNIA

RJA
RUGGERI-JENSEN-AZAR
ENGINEERS ▪ PLANNERS ▪ SURVEYORS
8055 CAMINO ARROYO GILROY, CA 95020
PHONE: (408) 848-0300 FAX: (408) 848-0302

RECOMMENDED FOR APPROVAL:

Planning _____ Date _____

Fire _____ Date _____

Building _____ Date _____

Record Drawings

To be competed prior to acceptance of work by the City

Signature + Seal Date

P.E. No. Exp.

Public Works Inspector:

Revisions

Num.	Date	By	Description	City Engr. Aprv.	Date

CITY OF MILPITAS
ENGINEERING DIVISION

Approved:

City Engineer Date

Any changes to this plan shall be approved by the City Engineer

Project No. 2825/3222

Dwg No. 2-1165

Sheet C1 of C27

TJKM

Vision That Moves Your Community

Transportation Consultants

May 30, 2013

Mr. Michael Sullivan
Sullivan Development Group / SDG Consulting
142 Pine Wood Lane
Los Gatos, CA 95032

Via e-mail only: mike@sdglanddevelopment.com

Subject: Evaluation of Potential Traffic Impacts of Proposed McCandless Drive Closure in the City of Milpitas

Dear Mr. Sullivan:

This letter report presents the results of TJKM's focused traffic analysis of the proposed closure of McCandless Drive to general traffic along the northerly segment between Great Mall Parkway and Penitencia Creek for a minimum of three months. The purpose of the closure is to allow for the reconstruction of McCandless Drive and also enable construction vehicle circulation along that segment for the District 1 and District 2 projects, without the conflicts of local general traffic. Barriers at the Great Mall Parkway and Penitencia Creek entries to the segment would be placed, permitting only construction traffic to pass through. Based on May 2013 traffic counts, it is estimated that an approximate maximum of 300 vehicles use this segment during typical AM and PM commute peak hours. These vehicles would be expected to use nearby alternate routes for the duration of the roadway closure.

This letter report focuses on traffic operations and queuing impacts on the following six study intersections that would potentially be affected by the street closure:

1. Great Mall Parkway / S. Abel Street
2. Great Mall Parkway / S. Main Street
3. Great Mall Parkway / McCandless Drive
4. Great Mall Parkway / Centre Pointe Drive
5. Montague Expressway / Great Mall Parkway / E. Capitol Avenue
6. Montague Expressway / McCandless Drive / Trade Zone Boulevard

Results of existing conditions analysis both before and after McCandless Drive closure are presented, along with recommended project conditions for the duration of the closure.

Existing Conditions (Before McCandless Drive Closure) – Level of Service and Maximum Turn Lane Queues

Existing Conditions volumes for typical weekday AM and PM peak hours were collected by TJKM in May 2013 at six intersections that would potentially be affected by the McCandless Drive closure. Figure 1 illustrates the location of the proposed roadway closure, Existing Conditions volumes, lane geometry and traffic controls. Table 1 illustrates the results of the LOS analysis under Existing Conditions prior to the proposed McCandless Drive closure. Currently, LOS operations at the study intersections are within acceptable levels, defined as LOS D for City of Milpitas intersections, or LOS E for County expressway intersections such as the two Montague Expressway study intersections.

Pleasanton
4305 Hacienda Drive
Suite 500
Pleasanton, CA
94588-2798
925.463.0611
925.463.3690 fax

Fresno
516 W. Shaw Avenue
Suite 200
Fresno, CA
93704-2515
559.325.7530
559.221.4940 fax

Sacramento
980 Ninth Street
16th Floor
Sacramento, CA
95814-2736
916.449.9095

Santa Rosa
1400 N. Dutton Avenue
Suite 21
Santa Rosa, CA
95401-4643
707.575.5800
707.575.5888 fax

tjkm@tjkm.com
www.tjkm.com

Table 1: LOS Results – Existing Conditions (No Road Closure)

Intersection	*Before Road Closure*			
	AM		*PM*	
	Delay	*LOS*	*Delay*	*LOS*
Great Mall Pkwy / Abel St	41.2	D	41.4	D
Great Mall Pkwy / Main St	27.4	C	34.9	C
Great Mall Pkwy / McCandless Dr	16.1	B	21.4	C
Great Mall Pkwy / Centre Pointe	13.8	B	18.5	B
Great Mall Pkwy / Montague Expwy	52.5	D	54.1	D
Montague Expwy / Trade Zone	40.7	D	45.6	D

TJKM additionally evaluated 95th-percentile (maximum) vehicle queues at left turn and right turn lanes for all six study intersections. Table 2 illustrates the results of this vehicle queue analysis under Existing Conditions prior to the proposed McCandless Drive closure. LOS results under both scenarios are included in Attachment A. In addition, queuing results under both scenarios are included in Attachment B.

Currently, there are spillover conditions at some of the study intersection turn pockets, as shown in bold within Table 2 below.

Table 2: Queuing Analysis Results – Existing Conditions (No Road Closure)

Intersection and Turn Pocket	*Storage Length (feet)*	*95th-Percentile Queue Length (feet)*	
		AM Peak Hour	*PM Peak Hour*
Great Mall Parkway / Abel Street			
Eastbound Left Turn	440*	51	369
Westbound Left Turn	220	88	100
Westbound Right Turn	200	61	108
Northbound Left Turn	175	**280**	120
Northbound Right Turn	270	18	16
Southbound Left Turn	215	121	**256**
Southbound Right Turn	280	**390**	17
Great Mall Parkway / Main Street			
Eastbound Left Turn	310	75	292
Westbound Left Turn	285	119	112
Westbound Right Turn	120	45	33
Northbound Left Turn	155	29	28
Northbound Right Turn	50	24	49
Southbound Left Turn	225	164	**347**
Southbound Right Turn	50	**53**	38

Intersection and Turn Pocket	***Storage Length (feet)***	***95th-Percentile Queue Length (feet)***	
		AM Peak Hour	***PM Peak Hour***
Great Mall Parkway / McCandless Drive			
Eastbound Left Turn	255*	59	138
Eastbound Right Turn	260	22	61
Westbound Left Turn	230	24	12
Westbound Right Turn	230	75	52
Northbound Left Turn	175	35	67
Southbound Left Turn	300*	70	177
Southbound Right Turn	300	38	51
Great Mall Parkway / Centre Pointe Drive			
Eastbound Left Turn	274	62	83
Westbound Left Turn	418	30	56
Westbound Right Turn	209	101	65
Northbound Left Turn	70	28	28
Southbound Left Turn	276*	44	180
Southbound Right Turn	276	2	24
Great Mall Parkway (N-S) / Montague Expwy (E-W)			
Eastbound Left Turn	500*	111	178
Eastbound Right Turn	400	0	0
Westbound Left Turn	300*	80	208
Westbound Right Turn	400	**1186**	84
Northbound Left Turn	350*	282	74
Northbound Right Turn	450	82	122
Southbound Left Turn	375*	213	631
Southbound Right Turn	Shared	0	0
Montague Expwy / McCandless Drive / Trade Zone Blvd.			
Eastbound Left Turn	200	51	98
Eastbound Right Turn	250	0	0
Westbound Left Turn	250	114	**354**
Westbound Right Turn	100	0	0
Northbound Left Turn	515	**871**	**629**
Northbound Right Turn	75	**99**	**196**
Southbound Left Turn	180	45	53
Southbound Right Turn	200	0	0

Note: 1) * = two lanes

Existing Conditions with McCandless Drive Closure – Level of Service and Maximum Turn Lane Queues

Based on current distribution patterns of traffic volumes turning in and out of McCandless Drive, TJKM redistributed existing McCandless Drive volumes to estimate current year conditions with the proposed McCandless Drive closure. Figure 2 illustrates the expected traffic volumes under Existing Conditions with the closure of McCandless Drive. Table 3 illustrates the results of the LOS analysis under Existing Conditions with the proposed McCandless Drive closure. With the proposed roadway closure, LOS operations at the study intersections are expected to remain within acceptable levels (LOS D for City of Milpitas intersections and LOS E for County expressway intersections). During the PM peak period at Great Mall Parkway / Montague Expressway, there will only be an additional 2.3 seconds signal delay above the Existing Conditions.

Table 3: LOS Results – Existing Conditions With Road Closure

Intersection	***After Road Closure***			
	AM		***PM***	
	Delay	***LOS***	***Delay***	***LOS***
Great Mall Pkwy / Abel St	41.5	D	45.4	D
Great Mall Pkwy / Main St	27.6	C	36.2	D
Great Mall Pkwy / McCandless Dr	14.5	B	16.8	B
Great Mall Pkwy / Centre Pointe	13.8	B	18.7	B
Great Mall Pkwy / Montague Expwy	52.9	D	56.4	E
Montague Expwy / Trade Zone	38.5	D	37.2	D

TJKM additionally evaluated 95th-percentile (maximum) vehicle queues at left turn and right turn lanes for all six study intersections under the proposed roadway closure scenario. Table 4 illustrates the results of this vehicle queue analysis under Existing Conditions with the proposed McCandless Drive closure. The LOS and queuing results under this scenario are included in Attachment A and Attachment B, respectively. With the proposed roadway closure and addition of redistributed traffic to turn pockets at the study intersections, queue lengths are expected to remain acceptable, and the existing spillover conditions are expected to remain approximately the same. At Great Mall Parkway / Main Street, the northbound right turn queue length during the PM peak hour is expected to increase and result in a spillover of one vehicle length (based on a conservatively low assumed storage length of 50 feet for this channelized right turn). At Montague Expressway / McCandless Drive / Trade Zone Blvd., the existing spillover queue lengths for two of the turn movements would increase during the PM peak hour, as follows:

- The westbound left turn spillover queue length is expected to increase by as much as two vehicle lengths, which is approximately ten percent of the current queue length.
- The northbound right turn spillover queue length is expected to increase by as much as one vehicle length, which is approximately nine percent of the current queue length.

The spillover conditions at the study intersection turn pockets, which other than described above are effectively the same as in the Existing Conditions, are shown in bold within Table 4 below.

Table 4: Queuing Analysis Results – Existing Conditions With Road Closure

Intersection and Turn Pocket	*Storage Length (feet)*	*95th Percentile Queue Length (feet)*	
		AM Peak Hour	*PM Peak Hour*
Great Mall Parkway / Abel Street			
Eastbound Left Turn	440*	51	369
Westbound Left Turn	220	88	100
Westbound Right Turn	200	61	108
Northbound Left Turn	175	**286**	162
Northbound Right Turn	270	18	16
Southbound Left Turn	215	121	**256**
Southbound Right Turn	280	**392**	18
Great Mall Parkway / Main Street			
Eastbound Left Turn	310	76	292
Westbound Left Turn	285	145	149
Westbound Right Turn	120	44	33
Northbound Left Turn	155	29	28
Northbound Right Turn	50	24	**75**
Southbound Left Turn	225	166	**347**
Southbound Right Turn	50	**55**	38
Great Mall Parkway / McCandless Drive			
Eastbound Left Turn	255*	59	156
Eastbound Right Turn	260	0	0
Westbound Left Turn	230	0	0
Westbound Right Turn	230	81	57
Northbound Left Turn	175	0	0
Southbound Left Turn	300*	79	204
Southbound Right Turn	300	0	0
Great Mall Parkway / Centre Pointe Drive			
Eastbound Left Turn	274	62	83
Westbound Left Turn	418	30	56
Westbound Right Turn	209	101	65
Northbound Left Turn	70	28	28
Southbound Left Turn	276*	44	180
Southbound Right Turn	276	2	24

Intersection and Turn Pocket	***Storage Length (feet)***	***95th Percentile Queue Length (feet)***	
		AM Peak Hour	***PM Peak Hour***
Great Mall Parkway (N-S) / Montague Expwy (E-W)			
Eastbound Left Turn	500*	116	207
Eastbound Right Turn	400	0	0
Westbound Left Turn	300*	80	208
Westbound Right Turn	400	**1197**	84
Northbound Left Turn	350*	282	74
Northbound Right Turn	450	82	122
Southbound Left Turn	375*	213	631
Southbound Right Turn	Shared	0	0
Montague Expwy / McCandless Drive / Trade Zone Blvd.			
Eastbound Left Turn	200	22	26
Eastbound Right Turn	250	0	0
Westbound Left Turn	250	131	**391**
Westbound Right Turn	100	0	0
Northbound Left Turn	515	**845**	**610**
Northbound Right Turn	75	**103**	**214**
Southbound Left Turn	180	13	12
Southbound Right Turn	200	0	0

Note: 1) * = two lanes

Recommended City Conditions

The preceding TJKM analysis concludes that LOS operations and vehicle queues at six local study intersections are expected to remain acceptable with the redistribution of McCandless Drive traffic to other area roadways given the proposed roadway closure. Although not expected, in the event that an LOS standard is exceeded or unacceptable vehicle queues occur during AM or PM peak hours, TJKM recommends the following City conditions for purposes of maintaining acceptable traffic operations during construction:

- The applicant will monitor traffic at the six study intersections, collecting and analyzing weekday AM and PM peak period traffic volumes (7-9 AM and 4-6 PM, respectively) on a monthly basis during the road closure to determine whether they are reasonably within levels estimated in this study.
- If the measured traffic volume levels are significantly higher than estimated levels such that significantly increased average intersection delay and/or vehicle queue spillovers at the study intersections result, the applicant will provide City staff with a traffic staging proposal that maintains at least one lane of through traffic on McCandless Drive between Great Mall Parkway and Penitencia Creek for the remaining duration of construction activities.

- The applicant will cease full road closure on McCandless Drive prior to the onset of the 2013 holiday shopping season at the adjacent Great Mall.

Thank you for providing TJKM with the opportunity to provide this important traffic analysis in Milpitas. If you have any questions concerning this study, please feel free to call me at (925) 264-5034, or Rich Haygood at (925) 264-5025.

Sincerely,

Andrew R. Kluter

Andrew R. Kluter, PE
Project Manager

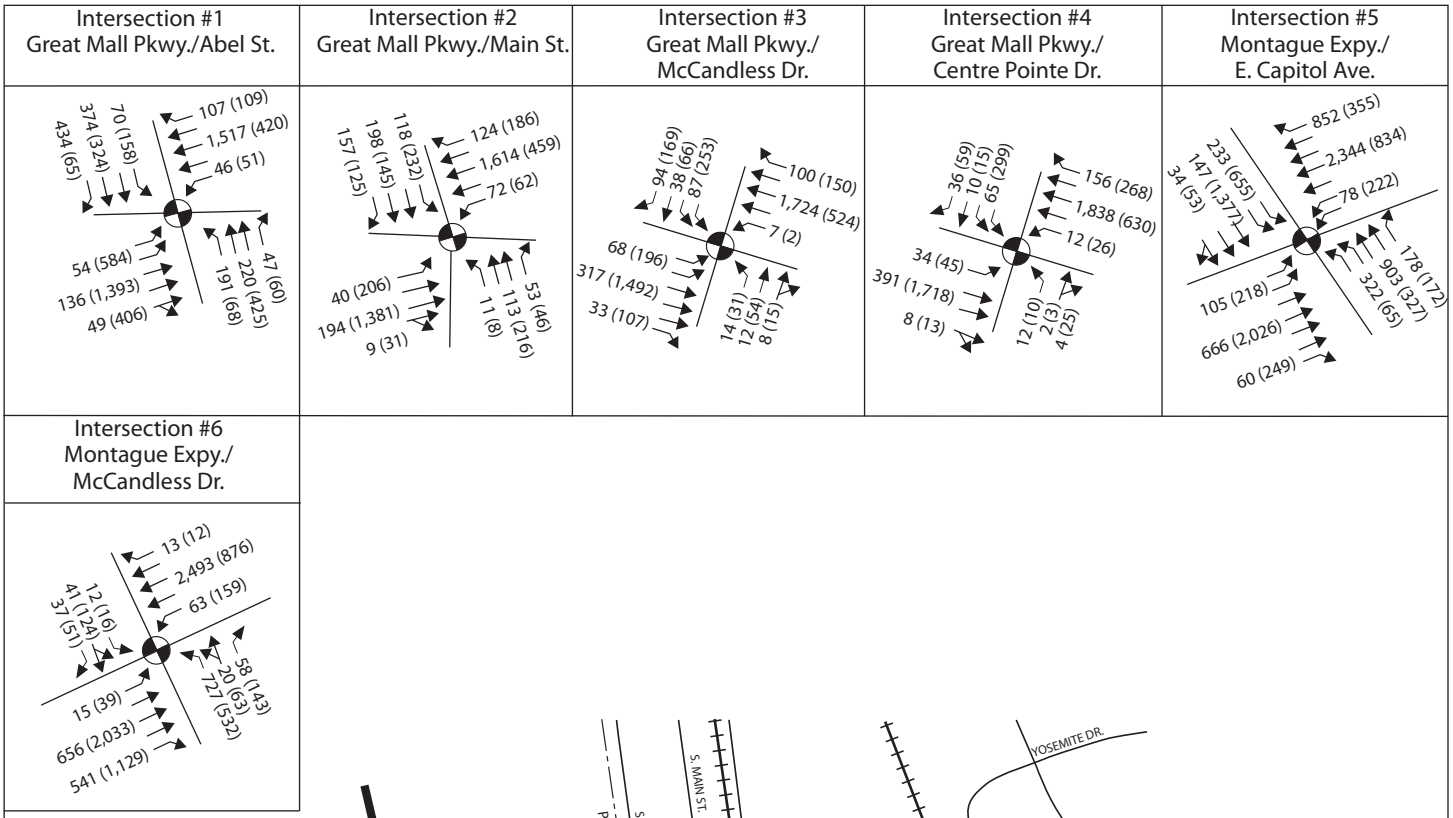
ARK/TC

J:\JURISDICTION\M\Milpitas\060-046 McCandless Drive Closure\LR052813.docx

City of Milpitas – Traffic Impacts of Proposed McCandless Drive Closure

Existing Conditions Traffic Volumes, Lane Geometry, and Traffic Controls

Figure 1



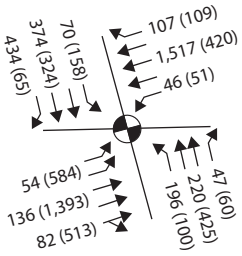
60-046 - 5/29/13 - AK

City of Milpitas – Traffic Impacts of Proposed McCandless Drive Closure

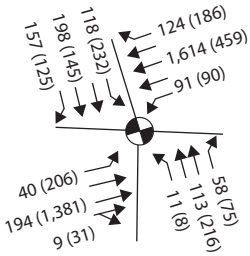
Existing Conditions with Closure
Traffic Volumes, Lane Geometry, and Traffic Controls

Figure 2

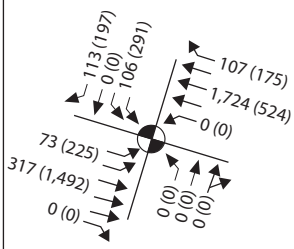
Intersection #1
Great Mall Pkwy./Abel St.



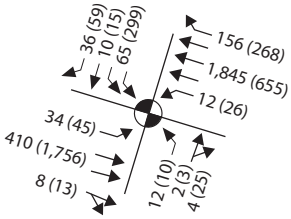
Intersection #2
Great Mall Pkwy./Main St.



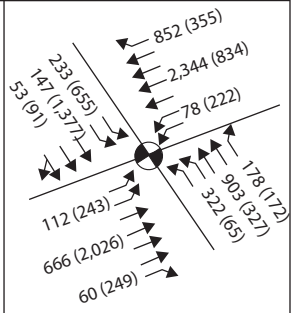
Intersection #3
Great Mall Pkwy./ McCandless Dr.



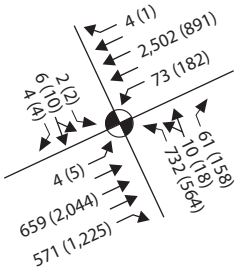
Intersection #4
Great Mall Pkwy./ Centre Pointe Dr.

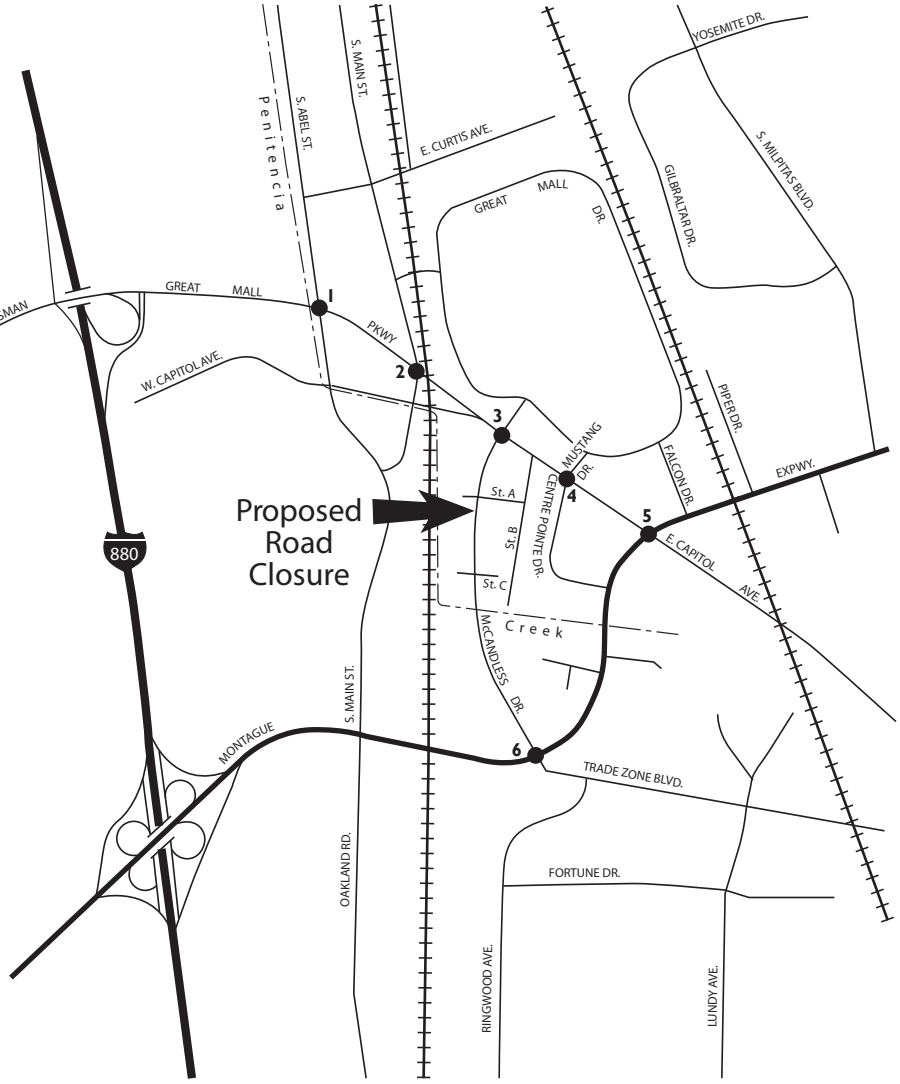


Intersection #5
Montague Expy./ E. Capitol Ave.



Intersection #6
Montague Expy./ McCandless Dr.





LEGEND
- ● Study Intersection
- XX AM Peak Hour Volume
- (XX) PM Peak Hour Volume
- Traffic Signal

NORTH
Not to Scale

TJKM

60-046 - 5/29/13 - AK

Appendix A – LOS Analysis Sheets – Existing Conditions Before and After Proposed Roadway Closure

City of Milpitas - McCandless Drive Closure
Intersection Level of Service Analysis

Intersection	***Before Road Closure***				***After Road Closure***			
	A.M.		***P.M.***		***A.M.***		***P.M.***	
	Delay	***LOS***	***Delay***	***LOS***	***Delay***	***LOS***	***Delay***	***LOS***
Great Mall Pkwy / Abel St	41.2	D	41.4	D	41.5	D	45.4	D
Great Mall Pkwy / Main St	27.4	C	34.9	C	27.6	C	36.2	D
Great Mall Pkwy / McCandless Dr	16.1	B	21.4	C	14.5	B	16.8	B
Great Mall Pkwy / Centre Pointe	13.8	B	18.5	B	13.8	B	18.7	B
Great Mall Pkwy / Montague Expwy	52.5	D	54.1	D	52.9	D	56.4	E
Montague Expwy / Trade Zone	40.7	D	45.6	D	38.5	D	37.2	D

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000
Total Lost time (s)	4.0	4.0		4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Lane Util. Factor	0.97	0.91		1.00	0.91	1.00	1.00	0.95	1.00	1.00	0.95	1.00
Frpb, ped/bikes	1.00	1.00		1.00	1.00	1.00	1.00	1.00	0.99	1.00	1.00	0.99
Flpb, ped/bikes	1.00	1.00		1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Frt	1.00	0.96		1.00	1.00	0.85	1.00	1.00	0.85	1.00	1.00	0.85
Flt Protected	0.95	1.00		0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	1.00
Satd. Flow (prot)	3614	5120		1863	5353	1667	1863	3725	1649	1863	3725	1652
Flt Permitted	0.95	1.00		0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	1.00
Satd. Flow (perm)	3614	5120		1863	5353	1667	1863	3725	1649	1863	3725	1652
Volume (vph)	54	136	49	46	1517	107	191	220	47	70	374	434
Peak-hour factor, PHF	0.89	0.89	0.89	0.83	0.83	0.83	0.81	0.81	0.81	0.93	0.93	0.93
Adj. Flow (vph)	61	153	55	55	1828	129	236	272	58	75	402	467
RTOR Reduction (vph)	0	32	0	0	0	40	0	0	38	0	0	40
Lane Group Flow (vph)	61	176	0	55	1828	89	236	272	20	75	402	427
Confl. Peds. (#/hr)	5		2	2		5	3					3
Confl. Bikes (#/hr)			1			16			3			1
Turn Type	Prot			Prot		pt+ov	Prot		pm+ov	Prot		pm+ov
Protected Phases	5	2		1	6	6 7	3	8	1	7	4	5
Permitted Phases									8			4
Actuated Green, G (s)	14.6	48.7		8.2	42.3	58.2	19.5	29.2	37.4	10.9	20.6	35.2
Effective Green, g (s)	15.6	49.7		9.2	43.3	58.2	19.5	31.2	40.4	10.9	22.6	38.2
Actuated g/C Ratio	0.13	0.42		0.08	0.37	0.50	0.17	0.27	0.35	0.09	0.19	0.33
Clearance Time (s)	5.0	5.0		5.0	5.0		4.0	6.0	5.0	4.0	6.0	5.0
Vehicle Extension (s)	5.0	6.0		4.0	6.0		4.0	4.0	4.0	4.0	6.0	5.0
Lane Grp Cap (vph)	482	2175		146	1981	829	311	993	626	174	720	596
v/s Ratio Prot	0.02	0.03		0.03	c0.34	0.05	c0.13	0.07	0.00	0.04	0.11	c0.10
v/s Ratio Perm									0.01			0.16
v/c Ratio	0.13	0.08		0.38	0.92	0.11	0.76	0.27	0.03	0.43	0.56	0.72
Uniform Delay, d1	44.7	20.0		51.2	35.3	15.6	46.5	33.9	25.4	50.1	42.7	34.6
Progression Factor	1.00	1.00		1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Incremental Delay, d2	0.2	0.0		2.2	8.3	0.2	10.8	0.2	0.0	2.3	2.0	5.0
Delay (s)	44.9	20.1		53.4	43.6	15.8	57.3	34.1	25.4	52.5	44.7	39.7
Level of Service	D	C		D	D	B	E	C	C	D	D	D
Approach Delay (s)		25.7			42.1			42.9			42.8	
Approach LOS		C			D			D			D	

Intersection Summary			
HCM Average Control Delay	41.2	HCM Level of Service	D
HCM Volume to Capacity ratio	0.81		
Actuated Cycle Length (s)	117.0	Sum of lost time (s)	12.0
Intersection Capacity Utilization	73.8%	ICU Level of Service	D
Analysis Period (min)	15		
c Critical Lane Group			

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000
Total Lost time (s)	5.0	4.0		4.0	4.0	4.0	3.0	4.0	4.0	1.5	4.0	4.0
Lane Util. Factor	1.00	0.91		1.00	0.91	1.00	1.00	0.95	1.00	1.00	0.95	1.00
Frpb, ped/bikes	1.00	1.00		1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Flpb, ped/bikes	1.00	1.00		1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Frt	1.00	0.99		1.00	1.00	0.85	1.00	1.00	0.85	1.00	1.00	0.85
Flt Protected	0.95	1.00		0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	1.00
Satd. Flow (prot)	1863	5310		1863	5353	1667	1863	3725	1667	1863	3725	1667
Flt Permitted	0.95	1.00		0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	1.00
Satd. Flow (perm)	1863	5310		1863	5353	1667	1863	3725	1667	1863	3725	1667
Volume (vph)	40	194	9	72	1614	124	11	113	53	118	198	157
Peak-hour factor, PHF	0.78	0.78	0.78	0.91	0.91	0.91	0.76	0.76	0.76	0.90	0.90	0.90
Adj. Flow (vph)	51	249	12	79	1774	136	14	149	70	131	220	174
RTOR Reduction (vph)	0	3	0	0	0	17	0	0	53	0	0	113
Lane Group Flow (vph)	51	258	0	79	1774	119	14	149	17	131	220	61
Confl. Peds. (#/hr)	6		7	7		6	2					2
Confl. Bikes (#/hr)			1			10			2			3
Turn Type	Prot			Prot		pt+ov	Prot		pt+ov	Prot		pt+ov
Protected Phases	5	2		1	6	6 7	3	8	8 1	7	4	4 5
Permitted Phases												
Actuated Green, G (s)	8.6	62.6		8.9	62.9	84.3	3.7	15.8	29.7	16.4	27.0	40.6
Effective Green, g (s)	8.1	63.6		9.4	63.9	85.8	7.7	16.8	30.2	20.4	28.0	41.1
Actuated g/C Ratio	0.07	0.51		0.08	0.52	0.69	0.06	0.14	0.24	0.16	0.23	0.33
Clearance Time (s)	4.5	5.0		4.5	5.0		7.0	5.0		5.5	5.0	
Vehicle Extension (s)	3.0	6.0		3.0	6.0		4.0	4.5		6.0	5.0	
Lane Grp Cap (vph)	122	2730		142	2765	1156	116	506	407	307	843	554
v/s Ratio Prot	0.03	0.05		c0.04	c0.33	0.07	0.01	0.04	0.01	c0.07	c0.06	0.04
v/s Ratio Perm												
v/c Ratio	0.42	0.09		0.56	0.64	0.10	0.12	0.29	0.04	0.43	0.26	0.11
Uniform Delay, d1	55.5	15.3		55.1	21.6	6.3	54.8	48.1	35.7	46.4	39.3	28.6
Progression Factor	1.00	1.00		1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Incremental Delay, d2	2.3	0.1		4.7	1.2	0.1	0.6	0.6	0.1	2.7	0.3	0.2
Delay (s)	57.8	15.4		59.8	22.8	6.4	55.4	48.7	35.8	49.1	39.7	28.8
Level of Service	E	B		E	C	A	E	D	D	D	D	C
Approach Delay (s)		22.4			23.1			45.2			38.4	
Approach LOS		C			C			D			D	

Intersection Summary			
HCM Average Control Delay	27.4	HCM Level of Service	C
HCM Volume to Capacity ratio	0.50		
Actuated Cycle Length (s)	123.7	Sum of lost time (s)	5.5
Intersection Capacity Utilization	57.9%	ICU Level of Service	B
Analysis Period (min)	15		
c Critical Lane Group			

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000
Total Lost time (s)	4.0	4.0	4.0	4.0	4.0	4.0	5.0	5.0		4.0	5.0	5.0
Lane Util. Factor	0.97	0.91	1.00	1.00	0.91	1.00	1.00	0.95		0.97	1.00	1.00
Frpb, ped/bikes	1.00	1.00	1.00	1.00	1.00	0.97	1.00	1.00		1.00	1.00	0.99
Flpb, ped/bikes	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00		1.00	1.00	1.00
Frt	1.00	1.00	0.85	1.00	1.00	0.85	1.00	0.94		1.00	1.00	0.85
Flt Protected	0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00		0.95	1.00	1.00
Satd. Flow (prot)	3614	5353	1667	1863	5353	1617	1863	3502		3614	1961	1644
Flt Permitted	0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00		0.95	1.00	1.00
Satd. Flow (perm)	3614	5353	1667	1863	5353	1617	1863	3502		3614	1961	1644
Volume (vph)	68	317	33	7	1724	100	14	12	8	87	38	94
Peak-hour factor, PHF	0.91	0.91	0.91	0.89	0.89	0.89	0.65	0.65	0.65	0.87	0.87	0.87
Adj. Flow (vph)	75	348	36	8	1937	112	22	18	12	100	44	108
RTOR Reduction (vph)	0	0	12	0	0	20	0	11	0	0	0	95
Lane Group Flow (vph)	75	348	24	8	1937	92	22	19	0	100	44	13
Confl. Peds. (#/hr)	11					11	2					2
Confl. Bikes (#/hr)						13						
Turn Type	Prot		Perm	Prot		Perm	Prot			Prot		Perm
Protected Phases	5	2		1	6		3	8		7	4	
Permitted Phases			2			6						4
Actuated Green, G (s)	6.8	69.2	69.2	1.1	63.5	63.5	3.0	7.8		7.9	13.2	13.2
Effective Green, g (s)	6.8	70.2	70.2	1.1	64.5	64.5	2.5	7.3		8.9	12.7	12.7
Actuated g/C Ratio	0.07	0.67	0.67	0.01	0.62	0.62	0.02	0.07		0.09	0.12	0.12
Clearance Time (s)	4.0	5.0	5.0	4.0	5.0	5.0	4.5	4.5		5.0	4.5	4.5
Vehicle Extension (s)	3.0	5.0	5.0	3.0	5.0	5.0	3.0	3.0		3.0	3.0	3.0
Lane Grp Cap (vph)	235	3596	1120	20	3304	998	45	245		308	238	200
v/s Ratio Prot	c0.02	0.07		0.00	c0.36		0.01	0.01		c0.03	c0.02	
v/s Ratio Perm			0.01			0.06						0.01
v/c Ratio	0.32	0.10	0.02	0.40	0.59	0.09	0.49	0.08		0.32	0.18	0.07
Uniform Delay, d1	46.6	6.0	5.7	51.4	12.0	8.1	50.4	45.4		45.0	41.2	40.6
Progression Factor	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00		1.00	1.00	1.00
Incremental Delay, d2	0.8	0.1	0.0	12.6	0.8	0.2	8.1	0.1		0.6	0.4	0.1
Delay (s)	47.4	6.1	5.7	64.0	12.8	8.3	58.5	45.6		45.6	41.6	40.8
Level of Service	D	A	A	E	B	A	E	D		D	D	D
Approach Delay (s)		12.8			12.7			51.0			42.8	
Approach LOS		B			B			D			D	

Intersection Summary			
HCM Average Control Delay	16.1	HCM Level of Service	B
HCM Volume to Capacity ratio	0.48		
Actuated Cycle Length (s)	104.5	Sum of lost time (s)	12.0
Intersection Capacity Utilization	55.9%	ICU Level of Service	B
Analysis Period (min)	15		
c Critical Lane Group			

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000
Total Lost time (s)	4.0	4.0		4.0	4.0	4.0	4.0	4.0		4.0	4.0	4.0
Lane Util. Factor	1.00	0.91		1.00	0.91	1.00	1.00	1.00		0.97	1.00	1.00
Frpb, ped/bikes	1.00	1.00		1.00	1.00	0.95	1.00	1.00		1.00	1.00	1.00
Flpb, ped/bikes	1.00	1.00		1.00	1.00	1.00	1.00	1.00		1.00	1.00	1.00
Frt	1.00	1.00		1.00	1.00	0.85	1.00	0.90		1.00	1.00	0.85
Flt Protected	0.95	1.00		0.95	1.00	1.00	0.95	1.00		0.95	1.00	1.00
Satd. Flow (prot)	1863	5334		1863	5353	1586	1863	1765		3614	1961	1667
Flt Permitted	0.95	1.00		0.95	1.00	1.00	0.95	1.00		0.95	1.00	1.00
Satd. Flow (perm)	1863	5334		1863	5353	1586	1863	1765		3614	1961	1667
Volume (vph)	34	391	8	12	1838	156	12	2	4	65	10	36
Peak-hour factor, PHF	0.84	0.84	0.84	0.83	0.83	0.83	0.64	0.64	0.64	0.52	0.52	0.52
Adj. Flow (vph)	40	465	10	14	2214	188	19	3	6	125	19	69
RTOR Reduction (vph)	0	1	0	0	0	37	0	6	0	0	0	60
Lane Group Flow (vph)	40	474	0	14	2214	151	19	3	0	125	19	9
Confl. Peds. (#/hr)	12					12						
Confl. Bikes (#/hr)			2			15						
Turn Type	Prot			Prot		Perm	Prot			Prot		Perm
Protected Phases	5	2		1	6		3	8		7	4	
Permitted Phases						6						4
Actuated Green, G (s)	3.8	49.5		0.8	46.5	46.5	2.2	5.1		7.7	11.1	11.1
Effective Green, g (s)	4.3	50.5		1.3	47.5	47.5	2.7	5.1		8.7	11.1	11.1
Actuated g/C Ratio	0.05	0.62		0.02	0.58	0.58	0.03	0.06		0.11	0.14	0.14
Clearance Time (s)	4.5	5.0		4.5	5.0	5.0	4.5	4.0		5.0	4.0	4.0
Vehicle Extension (s)	2.0	4.5		2.0	4.5	4.5	2.5	2.5		2.5	2.5	2.5
Lane Grp Cap (vph)	98	3301		30	3116	923	62	110		385	267	227
v/s Ratio Prot	c0.02	c0.09		0.01	c0.41		0.01	0.00		c0.03	c0.01	
v/s Ratio Perm						0.10						0.01
v/c Ratio	0.41	0.14		0.47	0.71	0.16	0.31	0.03		0.32	0.07	0.04
Uniform Delay, d1	37.4	6.5		39.8	12.2	7.9	38.5	35.9		33.7	30.8	30.6
Progression Factor	1.00	1.00		1.00	1.00	1.00	1.00	1.00		1.00	1.00	1.00
Incremental Delay, d2	1.0	0.0		4.1	0.9	0.1	2.0	0.1		0.4	0.1	0.1
Delay (s)	38.4	6.5		43.9	13.0	8.0	40.6	36.0		34.1	30.8	30.7
Level of Service	D	A		D	B	A	D	D		C	C	C
Approach Delay (s)		9.0			12.8			39.1			32.7	
Approach LOS		A			B			D			C	

Intersection Summary			
HCM Average Control Delay	13.8	HCM Level of Service	B
HCM Volume to Capacity ratio	0.58		
Actuated Cycle Length (s)	81.6	Sum of lost time (s)	16.0
Intersection Capacity Utilization	53.7%	ICU Level of Service	A
Analysis Period (min)	15		
c Critical Lane Group			

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000
Total Lost time (s)	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	
Lane Util. Factor	0.97	0.86	1.00	0.97	0.86	1.00	0.97	0.95	1.00	0.97	0.91	
Frpb, ped/bikes	1.00	1.00	0.99	1.00	1.00	0.98	1.00	1.00	0.96	1.00	1.00	
Flpb, ped/bikes	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	
Frt	1.00	1.00	0.85	1.00	1.00	0.85	1.00	1.00	0.85	1.00	0.97	
Flt Protected	0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	
Satd. Flow (prot)	3614	6745	1645	3614	6745	1641	3614	3725	1607	3614	5187	
Flt Permitted	0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	
Satd. Flow (perm)	3614	6745	1645	3614	6745	1641	3614	3725	1607	3614	5187	
Volume (vph)	105	666	60	78	2344	852	322	903	178	233	147	34
Peak-hour factor, PHF	0.97	0.97	0.97	0.94	0.94	0.94	0.90	0.90	0.90	0.81	0.81	0.81
Adj. Flow (vph)	108	687	62	83	2494	906	358	1003	198	288	181	42
RTOR Reduction (vph)	0	0	0	0	0	175	0	0	134	0	19	0
Lane Group Flow (vph)	108	687	62	83	2494	731	358	1003	64	288	204	0
Confl. Peds. (#/hr)			1	1			2		14	14		2
Confl. Bikes (#/hr)			2			7			11			
Turn Type	Prot		Free	Prot		Perm	Prot		Perm	Prot		
Protected Phases	5	2		1	6		7	4		3	8	
Permitted Phases			Free			6			4			
Actuated Green, G (s)	11.1	88.5	190.0	9.7	87.1	87.1	23.2	52.1	52.1	18.4	47.3	
Effective Green, g (s)	12.6	89.8	190.0	11.2	88.4	88.4	24.7	53.1	53.1	19.9	48.3	
Actuated g/C Ratio	0.07	0.47	1.00	0.06	0.47	0.47	0.13	0.28	0.28	0.10	0.25	
Clearance Time (s)	5.5	5.3		5.5	5.3	5.3	5.5	5.0	5.0	5.5	5.0	
Vehicle Extension (s)	3.0	6.0		3.0	6.0	6.0	3.0	4.0	4.0	3.0	4.0	
Lane Grp Cap (vph)	240	3188	1645	213	3138	763	470	1041	449	379	1319	
v/s Ratio Prot	c0.03	0.10		0.02	0.37		c0.10	c0.27		0.08	0.04	
v/s Ratio Perm			c0.04			c0.45			0.04			
v/c Ratio	0.45	0.22	0.04	0.39	0.79	0.96	0.76	0.96	0.14	0.76	0.15	
Uniform Delay, d1	85.4	29.4	0.0	86.1	43.1	49.0	79.8	67.5	51.4	82.7	55.0	
Progression Factor	1.12	0.82	1.00	1.10	0.75	0.64	1.00	1.00	1.00	1.00	1.00	
Incremental Delay, d2	1.3	0.2	0.0	1.0	1.9	21.6	7.2	19.6	0.2	8.5	0.1	
Delay (s)	97.2	24.3	0.0	95.9	34.4	53.0	87.0	87.1	51.6	91.2	55.1	
Level of Service	F	C	A	F	C	D	F	F	D	F	E	
Approach Delay (s)		31.7			40.7			82.6			75.4	
Approach LOS		C			D			F			E	

Intersection Summary			
HCM Average Control Delay	52.5	HCM Level of Service	D
HCM Volume to Capacity ratio	0.89		
Actuated Cycle Length (s)	190.0	Sum of lost time (s)	12.0
Intersection Capacity Utilization	97.5%	ICU Level of Service	F
Analysis Period (min)	15		
c Critical Lane Group			

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000
Total Lost time (s)	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Lane Util. Factor	1.00	0.91	1.00	1.00	0.91	1.00	0.95	0.95	1.00	0.95	0.95	1.00
Frpb, ped/bikes	1.00	1.00	0.98	1.00	1.00	0.98	1.00	1.00	1.00	1.00	1.00	0.99
Flpb, ped/bikes	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Frt	1.00	1.00	0.85	1.00	1.00	0.85	1.00	1.00	0.85	1.00	1.00	0.85
Flt Protected	0.95	1.00	1.00	0.95	1.00	1.00	0.95	0.95	1.00	0.95	1.00	1.00
Satd. Flow (prot)	1863	5353	1632	1863	5353	1633	1770	1778	1667	1770	1863	1646
Flt Permitted	0.95	1.00	1.00	0.95	1.00	1.00	0.95	0.95	1.00	0.95	1.00	1.00
Satd. Flow (perm)	1863	5353	1632	1863	5353	1633	1770	1778	1667	1770	1863	1646
Volume (vph)	15	656	541	63	2493	13	727	20	58	12	41	37
Peak-hour factor, PHF	0.88	0.88	0.88	0.93	0.93	0.93	0.90	0.90	0.90	0.90	0.90	0.90
Adj. Flow (vph)	17	745	615	68	2681	14	808	22	64	13	46	41
RTOR Reduction (vph)	0	0	0	0	0	0	0	0	12	0	0	0
Lane Group Flow (vph)	17	745	615	68	2681	14	404	426	52	13	46	41
Confl. Bikes (#/hr)			2			1						1
Turn Type	Prot		Free	Prot		Free	Split		Perm	Split		Free
Protected Phases	1	6		5	2		3	3		4	4	
Permitted Phases			Free			Free			3			Free
Actuated Green, G (s)	5.5	107.8	190.0	13.4	115.7	190.0	41.0	41.0	41.0	8.5	8.5	190.0
Effective Green, g (s)	5.5	109.1	190.0	13.4	117.0	190.0	42.0	42.0	42.0	9.5	9.5	190.0
Actuated g/C Ratio	0.03	0.57	1.00	0.07	0.62	1.00	0.22	0.22	0.22	0.05	0.05	1.00
Clearance Time (s)	4.0	5.3		4.0	5.3		5.0	5.0	5.0	5.0	5.0	
Vehicle Extension (s)	4.0	4.0		4.0	4.0		4.0	4.0	4.0	4.0	4.0	
Lane Grp Cap (vph)	54	3074	1632	131	3296	1633	391	393	368	89	93	1646
v/s Ratio Prot	0.01	0.14		c0.04	c0.50		0.23	c0.24		0.01	0.02	
v/s Ratio Perm			c0.38			0.01			0.03			0.02
v/c Ratio	0.31	0.24	0.38	0.52	0.81	0.01	1.03	1.08	0.14	0.15	0.49	0.02
Uniform Delay, d1	90.4	20.0	0.0	85.2	28.1	0.0	74.0	74.0	59.5	86.4	87.9	0.0
Progression Factor	1.00	1.00	1.00	1.09	0.79	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Incremental Delay, d2	4.5	0.2	0.7	2.8	1.4	0.0	54.3	69.8	0.2	1.0	5.5	0.0
Delay (s)	94.9	20.2	0.7	95.3	23.6	0.0	128.3	143.8	59.8	87.4	93.5	0.0
Level of Service	F	C	A	F	C	A	F	F	E	F	F	A
Approach Delay (s)		12.4			25.2			130.8			54.4	
Approach LOS		B			C			F			D	

Intersection Summary			
HCM Average Control Delay	40.7	HCM Level of Service	D
HCM Volume to Capacity ratio	0.84		
Actuated Cycle Length (s)	190.0	Sum of lost time (s)	12.0
Intersection Capacity Utilization	82.7%	ICU Level of Service	E
Analysis Period (min)	15		

c Critical Lane Group

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000
Total Lost time (s)	4.0	4.0		4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Lane Util. Factor	0.97	0.91		1.00	0.91	1.00	1.00	0.95	1.00	1.00	0.95	1.00
Frpb, ped/bikes	1.00	0.99		1.00	1.00	1.00	1.00	1.00	0.99	1.00	1.00	0.99
Flpb, ped/bikes	1.00	1.00		1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Frt	1.00	0.97		1.00	1.00	0.85	1.00	1.00	0.85	1.00	1.00	0.85
Flt Protected	0.95	1.00		0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	1.00
Satd. Flow (prot)	3614	5142		1863	5353	1667	1863	3725	1646	1863	3725	1651
Flt Permitted	0.95	1.00		0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	1.00
Satd. Flow (perm)	3614	5142		1863	5353	1667	1863	3725	1646	1863	3725	1651
Volume (vph)	584	1393	406	51	420	109	68	425	60	158	324	65
Peak-hour factor, PHF	0.94	0.94	0.94	0.78	0.78	0.78	0.68	0.68	0.68	0.82	0.82	0.82
Adj. Flow (vph)	621	1482	432	65	538	140	100	625	88	193	395	79
RTOR Reduction (vph)	0	33	0	0	0	21	0	0	55	0	0	36
Lane Group Flow (vph)	621	1881	0	65	538	119	100	625	33	193	395	43
Confl. Peds. (#/hr)	6		5	5		6	6		4	4		6
Confl. Bikes (#/hr)			11			7			3			1
Turn Type	Prot			Prot		pt+ov	Prot		pm+ov	Prot		pm+ov
Protected Phases	5	2		1	6	6 7	3	8	1	7	4	5
Permitted Phases									8			4
Actuated Green, G (s)	26.8	43.8		8.6	25.6	47.6	10.3	25.8	34.4	17.0	32.5	59.3
Effective Green, g (s)	27.8	44.8		9.6	26.6	47.6	10.3	27.8	37.4	17.0	34.5	62.3
Actuated g/C Ratio	0.24	0.39		0.08	0.23	0.41	0.09	0.24	0.32	0.15	0.30	0.54
Clearance Time (s)	5.0	5.0		5.0	5.0		4.0	6.0	5.0	4.0	6.0	5.0
Vehicle Extension (s)	5.0	6.0		4.0	6.0		4.0	4.0	4.0	4.0	6.0	5.0
Lane Grp Cap (vph)	872	2000		155	1236	689	167	899	592	275	1116	950
v/s Ratio Prot	c0.17	c0.37		0.03	0.10	0.07	0.05	c0.17	0.00	c0.10	0.11	0.01
v/s Ratio Perm									0.02			0.02
v/c Ratio	0.71	0.94		0.42	0.44	0.17	0.60	0.70	0.06	0.70	0.35	0.04
Uniform Delay, d1	40.0	33.9		50.2	37.9	21.4	50.5	39.8	26.7	46.7	31.6	12.4
Progression Factor	1.00	1.00		1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Incremental Delay, d2	3.4	10.0		2.5	0.7	0.3	6.6	2.5	0.1	8.4	0.5	0.0
Delay (s)	43.5	43.9		52.6	38.6	21.7	57.1	42.4	26.8	55.1	32.2	12.5
Level of Service	D	D		D	D	C	E	D	C	E	C	B
Approach Delay (s)		43.8			36.6			42.5			36.5	
Approach LOS		D			D			D			D	

Intersection Summary			
HCM Average Control Delay	41.4	HCM Level of Service	D
HCM Volume to Capacity ratio	0.82		
Actuated Cycle Length (s)	115.2	Sum of lost time (s)	16.0
Intersection Capacity Utilization	73.9%	ICU Level of Service	D
Analysis Period (min)	15		
c Critical Lane Group			

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000
Total Lost time (s)	5.0	4.0		4.0	4.0	4.0	3.0	4.0	4.0	1.5	4.0	4.0
Lane Util. Factor	1.00	0.91		1.00	0.91	1.00	1.00	0.95	1.00	1.00	0.95	1.00
Frpb, ped/bikes	1.00	1.00		1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Flpb, ped/bikes	1.00	1.00		1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Frt	1.00	1.00		1.00	1.00	0.85	1.00	1.00	0.85	1.00	1.00	0.85
Flt Protected	0.95	1.00		0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	1.00
Satd. Flow (prot)	1863	5332		1863	5353	1667	1863	3725	1667	1863	3725	1667
Flt Permitted	0.95	1.00		0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	1.00
Satd. Flow (perm)	1863	5332		1863	5353	1667	1863	3725	1667	1863	3725	1667
Volume (vph)	206	1381	31	62	459	186	8	216	46	232	145	125
Peak-hour factor, PHF	0.95	0.95	0.95	0.97	0.97	0.97	0.91	0.91	0.91	0.87	0.87	0.87
Adj. Flow (vph)	217	1454	33	64	473	192	9	237	51	267	167	144
RTOR Reduction (vph)	0	1	0	0	0	70	0	0	27	0	0	79
Lane Group Flow (vph)	217	1486	0	64	473	122	9	237	24	267	167	65
Confl. Peds. (#/hr)	5		7	7		5	18					18
Confl. Bikes (#/hr)			12			4			5			4
Turn Type	Prot			Prot		pt+ov	Prot		pt+ov	Prot		pt+ov
Protected Phases	5	2		1	6	6 7	3	8	8 1	7	4	4 5
Permitted Phases												
Actuated Green, G (s)	21.0	73.7		8.7	61.4	90.3	1.8	18.0	31.7	23.9	38.6	64.6
Effective Green, g (s)	20.5	74.7		9.2	62.4	91.8	5.8	19.0	32.2	27.9	39.6	65.1
Actuated g/C Ratio	0.14	0.52		0.06	0.43	0.64	0.04	0.13	0.22	0.19	0.27	0.45
Clearance Time (s)	4.5	5.0		4.5	5.0		7.0	5.0		5.5	5.0	
Vehicle Extension (s)	3.0	6.0		3.0	6.0		4.0	4.5		6.0	5.0	
Lane Grp Cap (vph)	265	2760		119	2315	1061	75	490	372	360	1022	752
v/s Ratio Prot	c0.12	c0.28		0.03	0.09	0.07	0.00	c0.06	0.01	c0.14	0.04	0.04
v/s Ratio Perm												
v/c Ratio	0.82	0.54		0.54	0.20	0.12	0.12	0.48	0.06	0.74	0.16	0.09
Uniform Delay, d1	60.1	23.3		65.5	25.5	10.3	66.8	58.1	44.2	54.8	39.8	22.6
Progression Factor	1.00	1.00		1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Incremental Delay, d2	17.6	0.8		4.6	0.2	0.1	1.0	1.3	0.1	10.6	0.2	0.1
Delay (s)	77.7	24.0		70.1	25.7	10.4	67.8	59.4	44.3	65.4	39.9	22.7
Level of Service	E	C		E	C	B	E	E	D	E	D	C
Approach Delay (s)		30.9			25.6			57.1			47.4	
Approach LOS		C			C			E			D	

Intersection Summary			
HCM Average Control Delay	34.9	HCM Level of Service	C
HCM Volume to Capacity ratio	0.60		
Actuated Cycle Length (s)	144.3	Sum of lost time (s)	10.5
Intersection Capacity Utilization	69.1%	ICU Level of Service	C
Analysis Period (min)	15		
c Critical Lane Group			

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000
Total Lost time (s)	4.0	4.0	4.0	4.0	4.0	4.0	5.0	5.0		4.0	5.0	5.0
Lane Util. Factor	0.97	0.91	1.00	1.00	0.91	1.00	1.00	0.95		0.97	1.00	1.00
Frpb, ped/bikes	1.00	1.00	0.97	1.00	1.00	0.98	1.00	1.00		1.00	1.00	0.99
Flpb, ped/bikes	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00		1.00	1.00	1.00
Frt	1.00	1.00	0.85	1.00	1.00	0.85	1.00	0.97		1.00	1.00	0.85
Flt Protected	0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00		0.95	1.00	1.00
Satd. Flow (prot)	3614	5353	1623	1863	5353	1633	1863	3605		3614	1961	1645
Flt Permitted	0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00		0.95	1.00	1.00
Satd. Flow (perm)	3614	5353	1623	1863	5353	1633	1863	3605		3614	1961	1645
Volume (vph)	196	1492	107	2	524	150	31	54	15	253	66	169
Peak-hour factor, PHF	0.95	0.95	0.95	0.95	0.95	0.95	0.78	0.78	0.78	0.90	0.90	0.90
Adj. Flow (vph)	206	1571	113	2	552	158	40	69	19	281	73	188
RTOR Reduction (vph)	0	0	33	0	0	80	0	17	0	0	0	152
Lane Group Flow (vph)	206	1571	80	2	552	78	40	71	0	281	73	36
Confl. Peds. (#/hr)	6					6	1					1
Confl. Bikes (#/hr)			10			3						
Turn Type	Prot		Perm	Prot		Perm	Prot			Prot		Perm
Protected Phases	5	2		1	6		3	8		7	4	
Permitted Phases			2			6						4
Actuated Green, G (s)	11.1	61.1	61.1	0.9	50.9	50.9	4.7	11.8		12.9	20.5	20.5
Effective Green, g (s)	11.1	62.1	62.1	0.9	51.9	51.9	4.2	11.3		13.9	20.0	20.0
Actuated g/C Ratio	0.11	0.59	0.59	0.01	0.49	0.49	0.04	0.11		0.13	0.19	0.19
Clearance Time (s)	4.0	5.0	5.0	4.0	5.0	5.0	4.5	4.5		5.0	4.5	4.5
Vehicle Extension (s)	3.0	5.0	5.0	3.0	5.0	5.0	3.0	3.0		3.0	3.0	3.0
Lane Grp Cap (vph)	381	3160	958	16	2641	806	74	387		478	373	313
v/s Ratio Prot	c0.06	c0.29		0.00	0.10		0.02	0.02		c0.08	c0.04	
v/s Ratio Perm			0.05			0.05						0.02
v/c Ratio	0.54	0.50	0.08	0.12	0.21	0.10	0.54	0.18		0.59	0.20	0.11
Uniform Delay, d1	44.6	12.5	9.3	51.8	15.1	14.2	49.6	42.7		43.0	35.8	35.3
Progression Factor	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00		1.00	1.00	1.00
Incremental Delay, d2	1.6	0.6	0.2	3.5	0.2	0.2	7.8	0.2		1.9	0.3	0.2
Delay (s)	46.2	13.1	9.5	55.3	15.2	14.4	57.4	43.0		44.8	36.1	35.4
Level of Service	D	B	A	E	B	B	E	D		D	D	D
Approach Delay (s)		16.5			15.2			47.5			40.4	
Approach LOS		B			B			D			D	

Intersection Summary			
HCM Average Control Delay	21.4	HCM Level of Service	C
HCM Volume to Capacity ratio	0.45		
Actuated Cycle Length (s)	105.2	Sum of lost time (s)	8.0
Intersection Capacity Utilization	55.8%	ICU Level of Service	B
Analysis Period (min)	15		
c Critical Lane Group			

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000
Total Lost time (s)	4.0	4.0		4.0	4.0	4.0	4.0	4.0		4.0	4.0	4.0
Lane Util. Factor	1.00	0.91		1.00	0.91	1.00	1.00	1.00		0.97	1.00	1.00
Frpb, ped/bikes	1.00	1.00		1.00	1.00	0.97	1.00	1.00		1.00	1.00	1.00
Flpb, ped/bikes	1.00	1.00		1.00	1.00	1.00	1.00	1.00		1.00	1.00	1.00
Frt	1.00	1.00		1.00	1.00	0.85	1.00	0.87		1.00	1.00	0.85
Flt Protected	0.95	1.00		0.95	1.00	1.00	0.95	1.00		0.95	1.00	1.00
Satd. Flow (prot)	1863	5346		1863	5353	1608	1863	1698		3614	1961	1667
Flt Permitted	0.95	1.00		0.95	1.00	1.00	0.95	1.00		0.95	1.00	1.00
Satd. Flow (perm)	1863	5346		1863	5353	1608	1863	1698		3614	1961	1667
Volume (vph)	45	1718	13	26	630	268	10	3	25	299	15	59
Peak-hour factor, PHF	0.90	0.90	0.90	0.91	0.91	0.91	0.73	0.73	0.73	0.83	0.83	0.83
Adj. Flow (vph)	50	1909	14	29	692	295	14	4	34	360	18	71
RTOR Reduction (vph)	0	1	0	0	0	166	0	31	0	0	0	52
Lane Group Flow (vph)	50	1922	0	29	692	129	14	7	0	360	18	19
Confl. Peds. (#/hr)	8					8						
Confl. Bikes (#/hr)			9			5						
Turn Type	Prot			Prot		Perm	Prot			Prot		Perm
Protected Phases	5	2		1	6		3	8		7	4	
Permitted Phases						6						4
Actuated Green, G (s)	2.2	29.5		1.8	29.1	29.1	0.7	6.4		12.4	18.6	18.6
Effective Green, g (s)	2.7	30.5		2.3	30.1	30.1	1.2	6.4		13.4	18.6	18.6
Actuated g/C Ratio	0.04	0.44		0.03	0.44	0.44	0.02	0.09		0.20	0.27	0.27
Clearance Time (s)	4.5	5.0		4.5	5.0	5.0	4.5	4.0		5.0	4.0	4.0
Vehicle Extension (s)	2.0	4.5		2.0	4.5	4.5	2.5	2.5		2.5	2.5	2.5
Lane Grp Cap (vph)	73	2377		62	2349	706	33	158		706	532	452
v/s Ratio Prot	c0.03	c0.36		0.02	0.13		0.01	0.00		c0.10	0.01	
v/s Ratio Perm						0.08						c0.01
v/c Ratio	0.68	0.81		0.47	0.29	0.18	0.42	0.05		0.51	0.03	0.04
Uniform Delay, d1	32.5	16.5		32.5	12.4	11.7	33.4	28.3		24.7	18.4	18.4
Progression Factor	1.00	1.00		1.00	1.00	1.00	1.00	1.00		1.00	1.00	1.00
Incremental Delay, d2	19.1	2.4		2.0	0.1	0.2	6.3	0.1		0.4	0.0	0.0
Delay (s)	51.6	18.9		34.6	12.5	12.0	39.6	28.4		25.1	18.4	18.5
Level of Service	D	B		C	B	B	D	C		C	B	B
Approach Delay (s)		19.7			13.0			31.4			23.8	
Approach LOS		B			B			C			C	

Intersection Summary			
HCM Average Control Delay	18.5	HCM Level of Service	B
HCM Volume to Capacity ratio	0.56		
Actuated Cycle Length (s)	68.6	Sum of lost time (s)	8.0
Intersection Capacity Utilization	57.0%	ICU Level of Service	B
Analysis Period (min)	15		
c Critical Lane Group			

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000
Total Lost time (s)	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	
Lane Util. Factor	0.97	0.86	1.00	0.97	0.86	1.00	0.97	0.95	1.00	0.97	0.91	
Frpb, ped/bikes	1.00	1.00	0.99	1.00	1.00	0.99	1.00	1.00	0.96	1.00	1.00	
Flpb, ped/bikes	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	
Frt	1.00	1.00	0.85	1.00	1.00	0.85	1.00	1.00	0.85	1.00	0.99	
Flt Protected	0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	
Satd. Flow (prot)	3614	6745	1645	3614	6745	1645	3614	3725	1608	3614	5320	
Flt Permitted	0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	
Satd. Flow (perm)	3614	6745	1645	3614	6745	1645	3614	3725	1608	3614	5320	
Volume (vph)	218	2026	249	222	834	355	65	327	172	655	1377	53
Peak-hour factor, PHF	0.84	0.84	0.84	0.96	0.96	0.96	0.91	0.91	0.91	0.86	0.86	0.86
Adj. Flow (vph)	260	2412	296	231	869	370	71	359	189	762	1601	62
RTOR Reduction (vph)	0	0	0	0	0	221	0	0	113	0	2	0
Lane Group Flow (vph)	260	2412	296	231	869	149	71	359	76	762	1661	0
Confl. Peds. (#/hr)			1	1			1		21	21		1
Confl. Bikes (#/hr)			3			2						5
Turn Type	Prot		Free	Prot		Perm	Prot		Perm	Prot		
Protected Phases	5	2		1	6		7	4		3	8	
Permitted Phases			Free			6			4			
Actuated Green, G (s)	17.9	78.1	190.0	15.2	75.4	75.4	9.3	39.4	39.4	35.0	66.1	
Effective Green, g (s)	19.4	79.4	190.0	16.7	76.7	76.7	10.8	40.4	40.4	37.5	67.1	
Actuated g/C Ratio	0.10	0.42	1.00	0.09	0.40	0.40	0.06	0.21	0.21	0.20	0.35	
Clearance Time (s)	5.5	5.3		5.5	5.3	5.3	5.5	5.0	5.0	6.5	5.0	
Vehicle Extension (s)	3.0	6.0		3.0	6.0	6.0	3.0	4.0	4.0	3.0	4.0	
Lane Grp Cap (vph)	369	2819	1645	318	2723	664	205	792	342	713	1879	
v/s Ratio Prot	c0.07	c0.36		0.06	0.13		0.02	0.10		c0.21	c0.31	
v/s Ratio Perm			c0.18			0.09			0.05			
v/c Ratio	0.70	0.86	0.18	0.73	0.32	0.22	0.35	0.45	0.22	1.07	0.88	
Uniform Delay, d1	82.5	50.1	0.0	84.4	38.8	37.2	86.2	65.2	61.8	76.2	57.8	
Progression Factor	1.33	0.44	1.00	1.05	0.95	1.11	1.00	1.00	1.00	1.00	1.00	
Incremental Delay, d2	4.3	2.6	0.2	7.7	0.3	0.8	1.0	0.6	0.4	53.6	5.5	
Delay (s)	113.9	24.7	0.2	96.2	37.0	41.9	87.2	65.7	62.2	129.8	63.3	
Level of Service	F	C	A	F	D	D	F	E	E	F	E	
Approach Delay (s)		30.1			47.5			67.1			84.2	
Approach LOS		C			D			E			F	

Intersection Summary			
HCM Average Control Delay	54.1	HCM Level of Service	D
HCM Volume to Capacity ratio	0.87		
Actuated Cycle Length (s)	190.0	Sum of lost time (s)	8.0
Intersection Capacity Utilization	98.4%	ICU Level of Service	F
Analysis Period (min)	15		
c Critical Lane Group			

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000
Total Lost time (s)	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Lane Util. Factor	1.00	0.91	1.00	1.00	0.91	1.00	0.95	0.95	1.00	0.95	0.95	1.00
Frpb, ped/bikes	1.00	1.00	0.98	1.00	1.00	0.98	1.00	1.00	1.00	1.00	1.00	0.99
Flpb, ped/bikes	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Frt	1.00	1.00	0.85	1.00	1.00	0.85	1.00	1.00	0.85	1.00	1.00	0.85
Flt Protected	0.95	1.00	1.00	0.95	1.00	1.00	0.95	0.96	1.00	0.95	1.00	1.00
Satd. Flow (prot)	1863	5353	1632	1863	5353	1631	1770	1792	1667	1770	1863	1646
Flt Permitted	0.95	1.00	1.00	0.95	1.00	1.00	0.95	0.96	1.00	0.95	1.00	1.00
Satd. Flow (perm)	1863	5353	1632	1863	5353	1631	1770	1792	1667	1770	1863	1646
Volume (vph)	39	2033	1129	159	876	12	532	63	143	16	124	51
Peak-hour factor, PHF	0.88	0.88	0.88	0.88	0.88	0.88	0.96	0.96	0.96	0.84	0.84	0.84
Adj. Flow (vph)	44	2310	1283	181	995	14	554	66	149	19	148	61
RTOR Reduction (vph)	0	0	0	0	0	0	0	0	35	0	0	0
Lane Group Flow (vph)	44	2310	1283	181	995	14	302	318	114	19	148	61
Confl. Peds. (#/hr)	1					1						
Confl. Bikes (#/hr)			2			2						1
Turn Type	Prot		Free	Prot		Free	Split		Perm	Split		Free
Protected Phases	1	6		5	2		3	3		4	4	
Permitted Phases			Free			Free			3			Free
Actuated Green, G (s)	9.4	93.4	190.0	20.4	104.4	190.0	37.5	37.5	37.5	18.7	18.7	190.0
Effective Green, g (s)	10.4	94.4	190.0	21.4	105.4	190.0	38.5	38.5	38.5	19.7	19.7	190.0
Actuated g/C Ratio	0.05	0.50	1.00	0.11	0.55	1.00	0.20	0.20	0.20	0.10	0.10	1.00
Clearance Time (s)	5.0	5.0		5.0	5.0		5.0	5.0	5.0	5.0	5.0	
Vehicle Extension (s)	4.0	4.0		4.0	4.0		4.0	4.0	4.0	4.0	4.0	
Lane Grp Cap (vph)	102	2660	1632	210	2970	1631	359	363	338	184	193	1646
v/s Ratio Prot	0.02	c0.43		0.10	0.19		0.17	c0.18		0.01	0.08	
v/s Ratio Perm			c0.79			0.01			0.07			0.04
v/c Ratio	0.43	0.87	0.79	0.86	0.34	0.01	0.84	0.88	0.34	0.10	0.77	0.04
Uniform Delay, d1	86.9	42.3	0.0	82.8	23.1	0.0	72.8	73.4	64.8	77.1	82.9	0.0
Progression Factor	1.00	1.00	1.00	0.73	2.17	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Incremental Delay, d2	4.0	4.2	3.9	28.6	0.3	0.0	16.7	20.9	0.8	0.3	17.5	0.0
Delay (s)	90.9	46.5	3.9	88.8	50.4	0.0	89.5	94.3	65.6	77.5	100.4	0.0
Level of Service	F	D	A	F	D	A	F	F	E	E	F	A
Approach Delay (s)		32.0			55.6			86.9			71.6	
Approach LOS		C			E			F			E	

Intersection Summary			
HCM Average Control Delay	45.6	HCM Level of Service	D
HCM Volume to Capacity ratio	0.85		
Actuated Cycle Length (s)	190.0	Sum of lost time (s)	8.0
Intersection Capacity Utilization	81.3%	ICU Level of Service	D
Analysis Period (min)	15		
c Critical Lane Group			

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000
Total Lost time (s)	4.0	4.0		4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Lane Util. Factor	0.97	0.91		1.00	0.91	1.00	1.00	0.95	1.00	1.00	0.95	1.00
Frpb, ped/bikes	1.00	0.99		1.00	1.00	1.00	1.00	1.00	0.99	1.00	1.00	0.99
Flpb, ped/bikes	1.00	1.00		1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Frt	1.00	0.94		1.00	1.00	0.85	1.00	1.00	0.85	1.00	1.00	0.85
Flt Protected	0.95	1.00		0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	1.00
Satd. Flow (prot)	3614	5022		1863	5353	1667	1863	3725	1649	1863	3725	1652
Flt Permitted	0.95	1.00		0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	1.00
Satd. Flow (perm)	3614	5022		1863	5353	1667	1863	3725	1649	1863	3725	1652
Volume (vph)	54	136	82	46	1517	107	196	220	47	70	374	434
Peak-hour factor, PHF	0.89	0.89	0.89	0.83	0.83	0.83	0.81	0.81	0.81	0.93	0.93	0.93
Adj. Flow (vph)	61	153	92	55	1828	129	242	272	58	75	402	467
RTOR Reduction (vph)	0	53	0	0	0	40	0	0	38	0	0	38
Lane Group Flow (vph)	61	192	0	55	1828	89	242	272	20	75	402	429
Confl. Peds. (#/hr)	5		2	2		5	3					3
Confl. Bikes (#/hr)			1			16			3			1
Turn Type	Prot			Prot		pt+ov	Prot		pm+ov	Prot		pm+ov
Protected Phases	5	2		1	6	6 7	3	8	1	7	4	5
Permitted Phases									8			4
Actuated Green, G (s)	14.8	48.9		8.2	42.3	58.2	19.8	29.5	37.7	10.9	20.6	35.4
Effective Green, g (s)	15.8	49.9		9.2	43.3	58.2	19.8	31.5	40.7	10.9	22.6	38.4
Actuated g/C Ratio	0.13	0.42		0.08	0.37	0.50	0.17	0.27	0.35	0.09	0.19	0.33
Clearance Time (s)	5.0	5.0		5.0	5.0		4.0	6.0	5.0	4.0	6.0	5.0
Vehicle Extension (s)	5.0	6.0		4.0	6.0		4.0	4.0	4.0	4.0	6.0	5.0
Lane Grp Cap (vph)	486	2133		146	1973	826	314	999	627	173	716	596
v/s Ratio Prot	0.02	0.04		0.03	c0.34	0.05	c0.13	0.07	0.00	0.04	0.11	c0.10
v/s Ratio Perm									0.01			0.16
v/c Ratio	0.13	0.09		0.38	0.93	0.11	0.77	0.27	0.03	0.43	0.56	0.72
Uniform Delay, d1	44.8	20.2		51.4	35.6	15.8	46.7	34.0	25.4	50.4	43.0	34.8
Progression Factor	1.00	1.00		1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Incremental Delay, d2	0.2	0.1		2.2	8.7	0.2	11.7	0.2	0.0	2.4	2.1	5.1
Delay (s)	45.0	20.3		53.6	44.2	16.0	58.4	34.2	25.4	52.7	45.1	39.9
Level of Service	D	C		D	D	B	E	C	C	D	D	D
Approach Delay (s)		25.2			42.7			43.5			43.1	
Approach LOS		C			D			D			D	

Intersection Summary			
HCM Average Control Delay	41.5	HCM Level of Service	D
HCM Volume to Capacity ratio	0.81		
Actuated Cycle Length (s)	117.5	Sum of lost time (s)	12.0
Intersection Capacity Utilization	74.0%	ICU Level of Service	D
Analysis Period (min)	15		
c Critical Lane Group			

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000
Total Lost time (s)	5.0	4.0		4.0	4.0	4.0	3.0	4.0	4.0	1.5	4.0	4.0
Lane Util. Factor	1.00	0.91		1.00	0.91	1.00	1.00	0.95	1.00	1.00	0.95	1.00
Frpb, ped/bikes	1.00	1.00		1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Flpb, ped/bikes	1.00	1.00		1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Frt	1.00	0.99		1.00	1.00	0.85	1.00	1.00	0.85	1.00	1.00	0.85
Flt Protected	0.95	1.00		0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	1.00
Satd. Flow (prot)	1863	5310		1863	5353	1667	1863	3725	1667	1863	3725	1667
Flt Permitted	0.95	1.00		0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	1.00
Satd. Flow (perm)	1863	5310		1863	5353	1667	1863	3725	1667	1863	3725	1667
Volume (vph)	40	194	9	91	1614	124	11	113	58	118	198	157
Peak-hour factor, PHF	0.78	0.78	0.78	0.91	0.91	0.91	0.76	0.76	0.76	0.90	0.90	0.90
Adj. Flow (vph)	51	249	12	100	1774	136	14	149	76	131	220	174
RTOR Reduction (vph)	0	3	0	0	0	17	0	0	56	0	0	113
Lane Group Flow (vph)	51	258	0	100	1774	119	14	149	20	131	220	61
Confl. Peds. (#/hr)	6		7	7		6	2					2
Confl. Bikes (#/hr)			1			10			2			3
Turn Type	Prot			Prot		pt+ov	Prot		pt+ov	Prot		pt+ov
Protected Phases	5	2		1	6	6 7	3	8	8 1	7	4	4 5
Permitted Phases												
Actuated Green, G (s)	8.6	60.4		11.7	63.5	85.1	3.7	15.7	32.4	16.6	27.1	40.7
Effective Green, g (s)	8.1	61.4		12.2	64.5	86.6	7.7	16.7	32.9	20.6	28.1	41.2
Actuated g/C Ratio	0.07	0.49		0.10	0.52	0.70	0.06	0.13	0.26	0.17	0.23	0.33
Clearance Time (s)	4.5	5.0		4.5	5.0		7.0	5.0		5.5	5.0	
Vehicle Extension (s)	3.0	6.0		3.0	6.0		4.0	4.5		6.0	5.0	
Lane Grp Cap (vph)	121	2621		183	2775	1160	115	500	441	309	841	552
v/s Ratio Prot	0.03	0.05		c0.05	c0.33	0.07	0.01	0.04	0.01	c0.07	c0.06	0.04
v/s Ratio Perm												
v/c Ratio	0.42	0.10		0.55	0.64	0.10	0.12	0.30	0.05	0.42	0.26	0.11
Uniform Delay, d1	55.9	16.8		53.5	21.6	6.2	55.2	48.6	34.1	46.6	39.6	28.9
Progression Factor	1.00	1.00		1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Incremental Delay, d2	2.4	0.1		3.3	1.1	0.1	0.6	0.6	0.1	2.6	0.3	0.2
Delay (s)	58.3	16.8		56.8	22.7	6.3	55.8	49.1	34.1	49.2	40.0	29.1
Level of Service	E	B		E	C	A	E	D	C	D	D	C
Approach Delay (s)		23.6			23.3			44.8			38.7	
Approach LOS		C			C			D			D	

Intersection Summary			
HCM Average Control Delay	27.6	HCM Level of Service	C
HCM Volume to Capacity ratio	0.53		
Actuated Cycle Length (s)	124.4	Sum of lost time (s)	9.5
Intersection Capacity Utilization	57.9%	ICU Level of Service	B
Analysis Period (min)	15		
c Critical Lane Group			

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000
Total Lost time (s)	4.0	4.0			4.0	4.0				4.0		5.0
Lane Util. Factor	0.97	0.91			0.91	1.00				0.97		1.00
Frpb, ped/bikes	1.00	1.00			1.00	0.97				1.00		0.99
Flpb, ped/bikes	1.00	1.00			1.00	1.00				1.00		1.00
Frt	1.00	1.00			1.00	0.85				1.00		0.85
Flt Protected	0.95	1.00			1.00	1.00				0.95		1.00
Satd. Flow (prot)	3614	5353			5353	1619				3614		1644
Flt Permitted	0.95	1.00			1.00	1.00				0.95		1.00
Satd. Flow (perm)	3614	5353			5353	1619				3614		1644
Volume (vph)	73	317	0	0	1724	107	0	0	0	106	0	113
Peak-hour factor, PHF	0.91	0.91	0.91	0.89	0.89	0.89	0.65	0.65	0.65	0.87	0.87	0.87
Adj. Flow (vph)	80	348	0	0	1937	120	0	0	0	122	0	130
RTOR Reduction (vph)	0	0	0	0	0	22	0	0	0	0	0	105
Lane Group Flow (vph)	80	348	0	0	1937	98	0	0	0	122	0	25
Confl. Peds. (#/hr)	11					11	2					2
Confl. Bikes (#/hr)						13						
Turn Type	Prot		Perm	Prot		Perm	Prot			Prot		Perm
Protected Phases	5	2		1	6		3	8		7	4	
Permitted Phases			2			6						4
Actuated Green, G (s)	6.6	67.1			56.5	56.5				7.8		18.9
Effective Green, g (s)	6.6	68.1			57.5	57.5				8.8		18.4
Actuated g/C Ratio	0.07	0.71			0.60	0.60				0.09		0.19
Clearance Time (s)	4.0	5.0			5.0	5.0				5.0		4.5
Vehicle Extension (s)	3.0	5.0			5.0	5.0				3.0		3.0
Lane Grp Cap (vph)	250	3817			3223	975				333		317
v/s Ratio Prot	c0.02	0.07			c0.36					c0.03		
v/s Ratio Perm						0.06						c0.02
v/c Ratio	0.32	0.09			0.60	0.10				0.37		0.08
Uniform Delay, d1	42.3	4.2			11.8	8.0				40.7		31.6
Progression Factor	1.00	1.00			1.00	1.00				1.00		1.00
Incremental Delay, d2	0.7	0.0			0.8	0.2				0.7		0.1
Delay (s)	43.1	4.3			12.7	8.3				41.4		31.7
Level of Service	D	A			B	A				D		C
Approach Delay (s)		11.5			12.4			0.0			36.4	
Approach LOS		B			B			A			D	

Intersection Summary			
HCM Average Control Delay	14.5	HCM Level of Service	B
HCM Volume to Capacity ratio	0.49		
Actuated Cycle Length (s)	95.5	Sum of lost time (s)	12.0
Intersection Capacity Utilization	47.8%	ICU Level of Service	A
Analysis Period (min)	15		
c Critical Lane Group			

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000
Total Lost time (s)	4.0	4.0		4.0	4.0	4.0	4.0	4.0		4.0	4.0	4.0
Lane Util. Factor	1.00	0.91		1.00	0.91	1.00	1.00	1.00		0.97	1.00	1.00
Frpb, ped/bikes	1.00	1.00		1.00	1.00	0.95	1.00	1.00		1.00	1.00	1.00
Flpb, ped/bikes	1.00	1.00		1.00	1.00	1.00	1.00	1.00		1.00	1.00	1.00
Frt	1.00	1.00		1.00	1.00	0.85	1.00	0.90		1.00	1.00	0.85
Flt Protected	0.95	1.00		0.95	1.00	1.00	0.95	1.00		0.95	1.00	1.00
Satd. Flow (prot)	1863	5335		1863	5353	1586	1863	1765		3614	1961	1667
Flt Permitted	0.95	1.00		0.95	1.00	1.00	0.95	1.00		0.95	1.00	1.00
Satd. Flow (perm)	1863	5335		1863	5353	1586	1863	1765		3614	1961	1667
Volume (vph)	34	410	8	12	1845	156	12	2	4	65	10	36
Peak-hour factor, PHF	0.84	0.84	0.84	0.83	0.83	0.83	0.64	0.64	0.64	0.52	0.52	0.52
Adj. Flow (vph)	40	488	10	14	2223	188	19	3	6	125	19	69
RTOR Reduction (vph)	0	1	0	0	0	37	0	6	0	0	0	60
Lane Group Flow (vph)	40	497	0	14	2223	151	19	3	0	125	19	9
Confl. Peds. (#/hr)	12					12						
Confl. Bikes (#/hr)			2			15						
Turn Type	Prot			Prot		Perm	Prot			Prot		Perm
Protected Phases	5	2		1	6		3	8		7	4	
Permitted Phases						6						4
Actuated Green, G (s)	3.8	49.5		0.8	46.5	46.5	2.2	5.1		7.7	11.1	11.1
Effective Green, g (s)	4.3	50.5		1.3	47.5	47.5	2.7	5.1		8.7	11.1	11.1
Actuated g/C Ratio	0.05	0.62		0.02	0.58	0.58	0.03	0.06		0.11	0.14	0.14
Clearance Time (s)	4.5	5.0		4.5	5.0	5.0	4.5	4.0		5.0	4.0	4.0
Vehicle Extension (s)	2.0	4.5		2.0	4.5	4.5	2.5	2.5		2.5	2.5	2.5
Lane Grp Cap (vph)	98	3302		30	3116	923	62	110		385	267	227
v/s Ratio Prot	c0.02	c0.09		0.01	c0.42		0.01	0.00		c0.03	c0.01	
v/s Ratio Perm						0.10						0.01
v/c Ratio	0.41	0.15		0.47	0.71	0.16	0.31	0.03		0.32	0.07	0.04
Uniform Delay, d1	37.4	6.5		39.8	12.2	7.9	38.5	35.9		33.7	30.8	30.6
Progression Factor	1.00	1.00		1.00	1.00	1.00	1.00	1.00		1.00	1.00	1.00
Incremental Delay, d2	1.0	0.0		4.1	0.9	0.1	2.0	0.1		0.4	0.1	0.1
Delay (s)	38.4	6.6		43.9	13.1	8.0	40.6	36.0		34.1	30.8	30.7
Level of Service	D	A		D	B	A	D	D		C	C	C
Approach Delay (s)		8.9			12.9			39.1			32.7	
Approach LOS		A			B			D			C	

Intersection Summary			
HCM Average Control Delay	13.8	HCM Level of Service	B
HCM Volume to Capacity ratio	0.59		
Actuated Cycle Length (s)	81.6	Sum of lost time (s)	16.0
Intersection Capacity Utilization	53.9%	ICU Level of Service	A
Analysis Period (min)	15		
c Critical Lane Group			

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000
Total Lost time (s)	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	
Lane Util. Factor	0.97	0.86	1.00	0.97	0.86	1.00	0.97	0.95	1.00	0.97	0.91	
Frpb, ped/bikes	1.00	1.00	0.99	1.00	1.00	0.98	1.00	1.00	0.96	1.00	1.00	
Flpb, ped/bikes	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	
Frt	1.00	1.00	0.85	1.00	1.00	0.85	1.00	1.00	0.85	1.00	0.96	
Flt Protected	0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	
Satd. Flow (prot)	3614	6745	1645	3614	6745	1641	3614	3725	1607	3614	5121	
Flt Permitted	0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	
Satd. Flow (perm)	3614	6745	1645	3614	6745	1641	3614	3725	1607	3614	5121	
Volume (vph)	112	666	60	78	2344	852	322	903	178	233	147	53
Peak-hour factor, PHF	0.97	0.97	0.97	0.94	0.94	0.94	0.90	0.90	0.90	0.81	0.81	0.81
Adj. Flow (vph)	115	687	62	83	2494	906	358	1003	198	288	181	65
RTOR Reduction (vph)	0	0	0	0	0	173	0	0	134	0	34	0
Lane Group Flow (vph)	115	687	62	83	2494	733	358	1003	64	288	212	0
Confl. Peds. (#/hr)			1	1			2		14	14		2
Confl. Bikes (#/hr)			2			7			11			
Turn Type	Prot		Free	Prot		Perm	Prot		Perm	Prot		
Protected Phases	5	2		1	6		7	4		3	8	
Permitted Phases			Free			6			4			
Actuated Green, G (s)	11.4	88.5	190.0	9.7	86.8	86.8	23.2	52.1	52.1	18.4	47.3	
Effective Green, g (s)	12.9	89.8	190.0	11.2	88.1	88.1	24.7	53.1	53.1	19.9	48.3	
Actuated g/C Ratio	0.07	0.47	1.00	0.06	0.46	0.46	0.13	0.28	0.28	0.10	0.25	
Clearance Time (s)	5.5	5.3		5.5	5.3	5.3	5.5	5.0	5.0	5.5	5.0	
Vehicle Extension (s)	3.0	6.0		3.0	6.0	6.0	3.0	4.0	4.0	3.0	4.0	
Lane Grp Cap (vph)	245	3188	1645	213	3128	761	470	1041	449	379	1302	
v/s Ratio Prot	c0.03	0.10		0.02	0.37		c0.10	c0.27		0.08	0.04	
v/s Ratio Perm			c0.04			c0.45			0.04			
v/c Ratio	0.47	0.22	0.04	0.39	0.80	0.96	0.76	0.96	0.14	0.76	0.16	
Uniform Delay, d1	85.3	29.4	0.0	86.1	43.4	49.4	79.8	67.5	51.4	82.7	55.1	
Progression Factor	1.14	0.83	1.00	1.10	0.76	0.65	1.00	1.00	1.00	1.00	1.00	
Incremental Delay, d2	1.4	0.2	0.0	1.0	1.9	22.6	7.2	19.6	0.2	8.5	0.1	
Delay (s)	98.7	24.6	0.0	95.9	34.7	54.5	87.0	87.1	51.6	91.2	55.2	
Level of Service	F	C	A	F	C	D	F	F	D	F	E	
Approach Delay (s)		32.7			41.3			82.6			74.6	
Approach LOS		C			D			F			E	

Intersection Summary			
HCM Average Control Delay	52.9	HCM Level of Service	D
HCM Volume to Capacity ratio	0.89		
Actuated Cycle Length (s)	190.0	Sum of lost time (s)	12.0
Intersection Capacity Utilization	97.5%	ICU Level of Service	F
Analysis Period (min)	15		
c Critical Lane Group			

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000
Total Lost time (s)	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Lane Util. Factor	1.00	0.91	1.00	1.00	0.91	1.00	0.95	0.95	1.00	0.95	0.95	1.00
Frpb, ped/bikes	1.00	1.00	0.98	1.00	1.00	0.98	1.00	1.00	1.00	1.00	1.00	0.99
Flpb, ped/bikes	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Frt	1.00	1.00	0.85	1.00	1.00	0.85	1.00	1.00	0.85	1.00	1.00	0.85
Flt Protected	0.95	1.00	1.00	0.95	1.00	1.00	0.95	0.95	1.00	0.95	1.00	1.00
Satd. Flow (prot)	1863	5353	1632	1863	5353	1633	1770	1776	1667	1770	1863	1646
Flt Permitted	0.95	1.00	1.00	0.95	1.00	1.00	0.95	0.95	1.00	0.95	1.00	1.00
Satd. Flow (perm)	1863	5353	1632	1863	5353	1633	1770	1776	1667	1770	1863	1646
Volume (vph)	4	659	571	73	2502	4	732	10	61	2	6	4
Peak-hour factor, PHF	0.88	0.88	0.88	0.93	0.93	0.93	0.90	0.90	0.90	0.90	0.90	0.90
Adj. Flow (vph)	5	749	649	78	2690	4	813	11	68	2	7	4
RTOR Reduction (vph)	0	0	0	0	0	0	0	0	12	0	0	0
Lane Group Flow (vph)	5	749	649	78	2690	4	407	417	56	2	7	4
Confl. Bikes (#/hr)			2			1						1
Turn Type	Prot		Free	Prot		Free	Split		Perm	Split		Free
Protected Phases	1	6		5	2		3	3		4	4	
Permitted Phases			Free			Free			3			Free
Actuated Green, G (s)	1.6	112.0	190.0	14.4	124.8	190.0	41.0	41.0	41.0	3.3	3.3	190.0
Effective Green, g (s)	1.6	113.3	190.0	14.4	126.1	190.0	42.0	42.0	42.0	4.3	4.3	190.0
Actuated g/C Ratio	0.01	0.60	1.00	0.08	0.66	1.00	0.22	0.22	0.22	0.02	0.02	1.00
Clearance Time (s)	4.0	5.3		4.0	5.3		5.0	5.0	5.0	5.0	5.0	
Vehicle Extension (s)	4.0	4.0		4.0	4.0		4.0	4.0	4.0	4.0	4.0	
Lane Grp Cap (vph)	16	3192	1632	141	3553	1633	391	393	368	40	42	1646
v/s Ratio Prot	0.00	0.14		0.04	c0.50		0.23	c0.23		0.00	0.00	
v/s Ratio Perm			c0.40			0.00			0.03			0.00
v/c Ratio	0.31	0.23	0.40	0.55	0.76	0.00	1.04	1.06	0.15	0.05	0.17	0.00
Uniform Delay, d1	93.7	18.0	0.0	84.7	21.6	0.0	74.0	74.0	59.6	90.9	91.1	0.0
Progression Factor	1.00	1.00	1.00	1.01	0.98	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Incremental Delay, d2	14.6	0.2	0.7	3.5	0.9	0.0	56.5	62.5	0.3	0.7	2.6	0.0
Delay (s)	108.3	18.2	0.7	88.9	22.0	0.0	130.5	136.5	59.9	91.6	93.6	0.0
Level of Service	F	B	A	F	C	A	F	F	E	F	F	A
Approach Delay (s)		10.4			23.9			127.9			64.5	
Approach LOS		B			C			F			E	

Intersection Summary			
HCM Average Control Delay	38.5	HCM Level of Service	D
HCM Volume to Capacity ratio	0.80		
Actuated Cycle Length (s)	190.0	Sum of lost time (s)	8.0
Intersection Capacity Utilization	88.8%	ICU Level of Service	E
Analysis Period (min)	15		

c Critical Lane Group

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000
Total Lost time (s)	4.0	4.0		4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Lane Util. Factor	0.97	0.91		1.00	0.91	1.00	1.00	0.95	1.00	1.00	0.95	1.00
Frpb, ped/bikes	1.00	0.99		1.00	1.00	1.00	1.00	1.00	0.99	1.00	1.00	0.99
Flpb, ped/bikes	1.00	1.00		1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Frt	1.00	0.96		1.00	1.00	0.85	1.00	1.00	0.85	1.00	1.00	0.85
Flt Protected	0.95	1.00		0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	1.00
Satd. Flow (prot)	3614	5102		1863	5353	1667	1863	3725	1646	1863	3725	1653
Flt Permitted	0.95	1.00		0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	1.00
Satd. Flow (perm)	3614	5102		1863	5353	1667	1863	3725	1646	1863	3725	1653
Volume (vph)	584	1393	513	51	420	109	100	425	60	158	324	65
Peak-hour factor, PHF	0.94	0.94	0.94	0.78	0.78	0.78	0.68	0.68	0.68	0.82	0.82	0.82
Adj. Flow (vph)	621	1482	546	65	538	140	147	625	88	193	395	79
RTOR Reduction (vph)	0	41	0	0	0	20	0	0	56	0	0	40
Lane Group Flow (vph)	621	1987	0	65	538	120	147	625	32	193	395	39
Confl. Peds. (#/hr)	6		5	5		6	6		4	4		6
Confl. Bikes (#/hr)			11			7			3			1
Turn Type	Prot			Prot		pt+ov	Prot		pm+ov	Prot		pm+ov
Protected Phases	5	2		1	6	6 7	3	8	1	7	4	5
Permitted Phases									8			4
Actuated Green, G (s)	26.8	43.8		8.6	25.6	47.6	15.0	24.7	33.3	17.0	26.7	53.5
Effective Green, g (s)	27.8	44.8		9.6	26.6	47.6	15.0	26.7	36.3	17.0	28.7	56.5
Actuated g/C Ratio	0.24	0.39		0.08	0.23	0.42	0.13	0.23	0.32	0.15	0.25	0.50
Clearance Time (s)	5.0	5.0		5.0	5.0		4.0	6.0	5.0	4.0	6.0	5.0
Vehicle Extension (s)	5.0	6.0		4.0	6.0		4.0	4.0	4.0	4.0	6.0	5.0
Lane Grp Cap (vph)	881	2003		157	1248	695	245	872	581	278	937	876
v/s Ratio Prot	c0.17	c0.39		0.03	0.10	0.07	0.08	c0.17	0.00	c0.10	0.11	0.01
v/s Ratio Perm									0.01			0.01
v/c Ratio	0.70	0.99		0.41	0.43	0.17	0.60	0.72	0.06	0.69	0.42	0.04
Uniform Delay, d1	39.4	34.5		49.6	37.3	20.9	46.7	40.2	27.0	46.1	35.8	14.9
Progression Factor	1.00	1.00		1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Incremental Delay, d2	3.2	18.2		2.4	0.7	0.3	4.6	3.0	0.1	7.9	0.9	0.0
Delay (s)	42.6	52.7		52.0	38.0	21.2	51.3	43.3	27.1	54.0	36.6	14.9
Level of Service	D	D		D	D	C	D	D	C	D	D	B
Approach Delay (s)		50.3			36.0			43.0			39.1	
Approach LOS		D			D			D			D	

Intersection Summary			
HCM Average Control Delay	45.4	HCM Level of Service	D
HCM Volume to Capacity ratio	0.84		
Actuated Cycle Length (s)	114.1	Sum of lost time (s)	16.0
Intersection Capacity Utilization	76.2%	ICU Level of Service	D
Analysis Period (min)	15		
c Critical Lane Group			

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000
Total Lost time (s)	5.0	4.0		4.0	4.0	4.0	3.0	4.0	4.0	1.5	4.0	4.0
Lane Util. Factor	1.00	0.91		1.00	0.91	1.00	1.00	0.95	1.00	1.00	0.95	1.00
Frpb, ped/bikes	1.00	1.00		1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Flpb, ped/bikes	1.00	1.00		1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Frt	1.00	1.00		1.00	1.00	0.85	1.00	1.00	0.85	1.00	1.00	0.85
Flt Protected	0.95	1.00		0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	1.00
Satd. Flow (prot)	1863	5332		1863	5353	1667	1863	3725	1667	1863	3725	1667
Flt Permitted	0.95	1.00		0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	1.00
Satd. Flow (perm)	1863	5332		1863	5353	1667	1863	3725	1667	1863	3725	1667
Volume (vph)	206	1381	31	90	459	186	8	216	75	232	145	125
Peak-hour factor, PHF	0.95	0.95	0.95	0.97	0.97	0.97	0.91	0.91	0.91	0.87	0.87	0.87
Adj. Flow (vph)	217	1454	33	93	473	192	9	237	82	267	167	144
RTOR Reduction (vph)	0	2	0	0	0	70	0	0	32	0	0	79
Lane Group Flow (vph)	217	1485	0	93	473	122	9	237	50	267	167	65
Confl. Peds. (#/hr)	5		7	7		5	18					18
Confl. Bikes (#/hr)			12			4			5			4
Turn Type	Prot			Prot		pt+ov	Prot		pt+ov	Prot		pt+ov
Protected Phases	5	2		1	6	6 7	3	8	8 1	7	4	4 5
Permitted Phases												
Actuated Green, G (s)	21.0	69.3		12.1	60.4	89.3	1.8	18.0	35.1	23.9	38.6	64.6
Effective Green, g (s)	20.5	70.3		12.6	61.4	90.8	5.8	19.0	35.6	27.9	39.6	65.1
Actuated g/C Ratio	0.14	0.49		0.09	0.43	0.63	0.04	0.13	0.25	0.19	0.28	0.45
Clearance Time (s)	4.5	5.0		4.5	5.0		7.0	5.0		5.5	5.0	
Vehicle Extension (s)	3.0	6.0		3.0	6.0		4.0	4.5		6.0	5.0	
Lane Grp Cap (vph)	267	2616		164	2294	1056	75	494	414	363	1029	757
v/s Ratio Prot	c0.12	c0.28		0.05	0.09	0.07	0.00	c0.06	0.03	c0.14	0.04	0.04
v/s Ratio Perm												
v/c Ratio	0.81	0.57		0.57	0.21	0.12	0.12	0.48	0.12	0.74	0.16	0.09
Uniform Delay, d1	59.5	25.8		62.7	25.7	10.4	66.3	57.6	41.7	54.2	39.3	22.2
Progression Factor	1.00	1.00		1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Incremental Delay, d2	17.0	0.9		4.4	0.2	0.1	1.0	1.3	0.2	10.2	0.2	0.1
Delay (s)	76.5	26.7		67.2	25.9	10.5	67.3	58.8	41.9	64.5	39.4	22.3
Level of Service	E	C		E	C	B	E	E	D	E	D	C
Approach Delay (s)		33.0			27.1			54.8			46.7	
Approach LOS		C			C			D			D	

Intersection Summary			
HCM Average Control Delay	36.2	HCM Level of Service	D
HCM Volume to Capacity ratio	0.62		
Actuated Cycle Length (s)	143.3	Sum of lost time (s)	10.5
Intersection Capacity Utilization	69.1%	ICU Level of Service	C
Analysis Period (min)	15		
c Critical Lane Group			

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000
Total Lost time (s)	4.0	4.0			4.0	4.0				4.0		5.0
Lane Util. Factor	0.97	0.91			0.91	1.00				0.97		1.00
Frpb, ped/bikes	1.00	1.00			1.00	0.98				1.00		0.99
Flpb, ped/bikes	1.00	1.00			1.00	1.00				1.00		1.00
Frt	1.00	1.00			1.00	0.85				1.00		0.85
Flt Protected	0.95	1.00			1.00	1.00				0.95		1.00
Satd. Flow (prot)	3614	5353			5353	1634				3614		1646
Flt Permitted	0.95	1.00			1.00	1.00				0.95		1.00
Satd. Flow (perm)	3614	5353			5353	1634				3614		1646
Volume (vph)	225	1492	0	0	524	175	0	0	0	291	0	197
Peak-hour factor, PHF	0.95	0.95	0.95	0.95	0.95	0.95	0.78	0.78	0.78	0.90	0.90	0.90
Adj. Flow (vph)	237	1571	0	0	552	184	0	0	0	323	0	219
RTOR Reduction (vph)	0	0	0	0	0	91	0	0	0	0	0	166
Lane Group Flow (vph)	237	1571	0	0	552	93	0	0	0	323	0	53
Confl. Peds. (#/hr)	6					6	1					1
Confl. Bikes (#/hr)			10			3						
Turn Type	Prot		Perm	Prot		Perm	Prot			Prot		Perm
Protected Phases	5	2		1	6		3	8		7	4	
Permitted Phases			2			6						4
Actuated Green, G (s)	11.6	63.5			47.9	47.9				13.3		23.9
Effective Green, g (s)	11.6	64.5			48.9	48.9				14.3		23.4
Actuated g/C Ratio	0.12	0.67			0.50	0.50				0.15		0.24
Clearance Time (s)	4.0	5.0			5.0	5.0				5.0		4.5
Vehicle Extension (s)	3.0	5.0			5.0	5.0				3.0		3.0
Lane Grp Cap (vph)	433	3563			2701	825				533		397
v/s Ratio Prot	c0.07	c0.29			0.10					c0.09		
v/s Ratio Perm						0.06						c0.03
v/c Ratio	0.55	0.44			0.20	0.11				0.61		0.13
Uniform Delay, d1	40.2	7.7			13.3	12.6				38.7		28.8
Progression Factor	1.00	1.00			1.00	1.00				1.00		1.00
Incremental Delay, d2	1.4	0.4			0.2	0.3				2.0		0.2
Delay (s)	41.6	8.1			13.4	12.9				40.6		29.0
Level of Service	D	A			B	B				D		C
Approach Delay (s)		12.5			13.3			0.0			35.9	
Approach LOS		B			B			A			D	

Intersection Summary			
HCM Average Control Delay	16.8	HCM Level of Service	B
HCM Volume to Capacity ratio	0.44		
Actuated Cycle Length (s)	96.9	Sum of lost time (s)	8.0
Intersection Capacity Utilization	50.3%	ICU Level of Service	A
Analysis Period (min)	15		
c Critical Lane Group			

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000
Total Lost time (s)	4.0	4.0		4.0	4.0	4.0	4.0	4.0		4.0	4.0	4.0
Lane Util. Factor	1.00	0.91		1.00	0.91	1.00	1.00	1.00		0.97	1.00	1.00
Frpb, ped/bikes	1.00	1.00		1.00	1.00	0.97	1.00	1.00		1.00	1.00	1.00
Flpb, ped/bikes	1.00	1.00		1.00	1.00	1.00	1.00	1.00		1.00	1.00	1.00
Frt	1.00	1.00		1.00	1.00	0.85	1.00	0.87		1.00	1.00	0.85
Flt Protected	0.95	1.00		0.95	1.00	1.00	0.95	1.00		0.95	1.00	1.00
Satd. Flow (prot)	1863	5346		1863	5353	1608	1863	1698		3614	1961	1667
Flt Permitted	0.95	1.00		0.95	1.00	1.00	0.95	1.00		0.95	1.00	1.00
Satd. Flow (perm)	1863	5346		1863	5353	1608	1863	1698		3614	1961	1667
Volume (vph)	45	1756	13	26	655	268	10	3	25	299	15	59
Peak-hour factor, PHF	0.90	0.90	0.90	0.91	0.91	0.91	0.73	0.73	0.73	0.83	0.83	0.83
Adj. Flow (vph)	50	1951	14	29	720	295	14	4	34	360	18	71
RTOR Reduction (vph)	0	1	0	0	0	165	0	31	0	0	0	52
Lane Group Flow (vph)	50	1964	0	29	720	130	14	7	0	360	18	19
Confl. Peds. (#/hr)	8					8						
Confl. Bikes (#/hr)			9			5						
Turn Type	Prot			Prot		Perm	Prot			Prot		Perm
Protected Phases	5	2		1	6		3	8		7	4	
Permitted Phases						6						4
Actuated Green, G (s)	2.2	29.9		1.8	29.5	29.5	0.7	6.5		12.4	18.7	18.7
Effective Green, g (s)	2.7	30.9		2.3	30.5	30.5	1.2	6.5		13.4	18.7	18.7
Actuated g/C Ratio	0.04	0.45		0.03	0.44	0.44	0.02	0.09		0.19	0.27	0.27
Clearance Time (s)	4.5	5.0		4.5	5.0	5.0	4.5	4.0		5.0	4.0	4.0
Vehicle Extension (s)	2.0	4.5		2.0	4.5	4.5	2.5	2.5		2.5	2.5	2.5
Lane Grp Cap (vph)	73	2391		62	2363	710	32	160		701	531	451
v/s Ratio Prot	c0.03	c0.37		0.02	0.13		0.01	0.00		c0.10	0.01	
v/s Ratio Perm						0.08						c0.01
v/c Ratio	0.68	0.82		0.47	0.30	0.18	0.44	0.04		0.51	0.03	0.04
Uniform Delay, d1	32.8	16.7		32.8	12.5	11.7	33.6	28.5		24.9	18.6	18.6
Progression Factor	1.00	1.00		1.00	1.00	1.00	1.00	1.00		1.00	1.00	1.00
Incremental Delay, d2	19.1	2.6		2.0	0.1	0.2	6.8	0.1		0.5	0.0	0.0
Delay (s)	51.9	19.3		34.8	12.6	11.9	40.4	28.6		25.4	18.6	18.6
Level of Service	D	B		C	B	B	D	C		C	B	B
Approach Delay (s)		20.1			13.0			31.8			24.1	
Approach LOS		C			B			C			C	

Intersection Summary			
HCM Average Control Delay	18.7	HCM Level of Service	B
HCM Volume to Capacity ratio	0.56		
Actuated Cycle Length (s)	69.1	Sum of lost time (s)	8.0
Intersection Capacity Utilization	57.0%	ICU Level of Service	B
Analysis Period (min)	15		
c Critical Lane Group			

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000
Total Lost time (s)	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	
Lane Util. Factor	0.97	0.86	1.00	0.97	0.86	1.00	0.97	0.95	1.00	0.97	0.91	
Frpb, ped/bikes	1.00	1.00	0.99	1.00	1.00	0.99	1.00	1.00	0.96	1.00	1.00	
Flpb, ped/bikes	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	
Frt	1.00	1.00	0.85	1.00	1.00	0.85	1.00	1.00	0.85	1.00	0.99	
Flt Protected	0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	
Satd. Flow (prot)	3614	6745	1645	3614	6745	1645	3614	3725	1608	3614	5298	
Flt Permitted	0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	1.00	0.95	1.00	
Satd. Flow (perm)	3614	6745	1645	3614	6745	1645	3614	3725	1608	3614	5298	
Volume (vph)	243	2026	249	222	834	355	65	327	172	655	1377	91
Peak-hour factor, PHF	0.84	0.84	0.84	0.96	0.96	0.96	0.91	0.91	0.91	0.86	0.86	0.86
Adj. Flow (vph)	289	2412	296	231	869	370	71	359	189	762	1601	106
RTOR Reduction (vph)	0	0	0	0	0	226	0	0	112	0	4	0
Lane Group Flow (vph)	289	2412	296	231	869	144	71	359	77	762	1703	0
Confl. Peds. (#/hr)			1	1			1		21	21		1
Confl. Bikes (#/hr)			3			2						5
Turn Type	Prot		Free	Prot		Perm	Prot		Perm	Prot		
Protected Phases	5	2		1	6		7	4		3	8	
Permitted Phases			Free			6			4			
Actuated Green, G (s)	18.7	76.8	190.0	14.8	72.9	72.9	9.3	41.1	41.1	35.0	67.8	
Effective Green, g (s)	20.2	78.1	190.0	16.3	74.2	74.2	10.8	42.1	42.1	37.5	68.8	
Actuated g/C Ratio	0.11	0.41	1.00	0.09	0.39	0.39	0.06	0.22	0.22	0.20	0.36	
Clearance Time (s)	5.5	5.3		5.5	5.3	5.3	5.5	5.0	5.0	6.5	5.0	
Vehicle Extension (s)	3.0	6.0		3.0	6.0	6.0	3.0	4.0	4.0	3.0	4.0	
Lane Grp Cap (vph)	384	2773	1645	310	2634	642	205	825	356	713	1918	
v/s Ratio Prot	c0.08	c0.36		0.06	0.13		0.02	0.10		c0.21	c0.32	
v/s Ratio Perm			0.18			0.09			0.05			
v/c Ratio	0.75	0.87	0.18	0.75	0.33	0.23	0.35	0.44	0.22	1.07	0.89	
Uniform Delay, d1	82.5	51.3	0.0	84.8	40.5	38.7	86.2	63.7	60.5	76.2	57.0	
Progression Factor	1.17	0.56	1.00	1.06	0.94	1.11	1.00	1.00	1.00	1.00	1.00	
Incremental Delay, d2	6.4	3.2	0.2	9.0	0.3	0.8	1.0	0.5	0.4	53.6	5.6	
Delay (s)	103.0	32.1	0.2	98.6	38.4	43.6	87.2	64.2	60.9	129.8	62.6	
Level of Service	F	C	A	F	D	D	F	E	E	F	E	
Approach Delay (s)		35.8			49.1			65.8			83.3	
Approach LOS		D			D			E			F	

Intersection Summary			
HCM Average Control Delay	56.4	HCM Level of Service	E
HCM Volume to Capacity ratio	0.90		
Actuated Cycle Length (s)	190.0	Sum of lost time (s)	12.0
Intersection Capacity Utilization	98.4%	ICU Level of Service	F
Analysis Period (min)	15		
c Critical Lane Group			

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000	2000
Total Lost time (s)	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Lane Util. Factor	1.00	0.91	1.00	1.00	0.91	1.00	0.95	0.95	1.00	0.95	0.95	1.00
Frpb, ped/bikes	1.00	1.00	0.98	1.00	1.00	0.98	1.00	1.00	1.00	1.00	1.00	0.99
Flpb, ped/bikes	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Frt	1.00	1.00	0.85	1.00	1.00	0.85	1.00	1.00	0.85	1.00	1.00	0.85
Flt Protected	0.95	1.00	1.00	0.95	1.00	1.00	0.95	0.96	1.00	0.95	1.00	1.00
Satd. Flow (prot)	1863	5353	1632	1863	5353	1631	1770	1779	1667	1770	1863	1646
Flt Permitted	0.95	1.00	1.00	0.95	1.00	1.00	0.95	0.96	1.00	0.95	1.00	1.00
Satd. Flow (perm)	1863	5353	1632	1863	5353	1631	1770	1779	1667	1770	1863	1646
Volume (vph)	5	2044	1225	182	891	1	564	18	158	2	10	4
Peak-hour factor, PHF	0.88	0.88	0.88	0.88	0.88	0.88	0.96	0.96	0.96	0.84	0.84	0.84
Adj. Flow (vph)	6	2323	1392	207	1012	1	588	19	165	2	12	5
RTOR Reduction (vph)	0	0	0	0	0	0	0	0	40	0	0	0
Lane Group Flow (vph)	6	2323	1392	207	1012	1	296	311	125	2	12	5
Confl. Peds. (#/hr)	1					1						
Confl. Bikes (#/hr)			2			2						1
Turn Type	Prot		Free	Prot		Free	Split		Perm	Split		Free
Protected Phases	1	6		5	2		3	3		4	4	
Permitted Phases			Free			Free			3			Free
Actuated Green, G (s)	1.7	102.3	190.0	25.8	126.4	190.0	36.7	36.7	36.7	5.2	5.2	190.0
Effective Green, g (s)	2.7	103.3	190.0	26.8	127.4	190.0	37.7	37.7	37.7	6.2	6.2	190.0
Actuated g/C Ratio	0.01	0.54	1.00	0.14	0.67	1.00	0.20	0.20	0.20	0.03	0.03	1.00
Clearance Time (s)	5.0	5.0		5.0	5.0		5.0	5.0	5.0	5.0	5.0	
Vehicle Extension (s)	4.0	4.0		4.0	4.0		4.0	4.0	4.0	4.0	4.0	
Lane Grp Cap (vph)	26	2910	1632	263	3589	1631	351	353	331	58	61	1646
v/s Ratio Prot	0.00	0.43		0.11	0.19		0.17	0.17		0.00	0.01	
v/s Ratio Perm			c0.85			0.00			0.07			0.00
v/c Ratio	0.23	0.80	0.85	0.79	0.28	0.00	0.84	0.88	0.38	0.03	0.20	0.00
Uniform Delay, d1	92.6	35.0	0.0	78.8	12.7	0.0	73.3	74.0	66.0	89.0	89.5	0.0
Progression Factor	1.00	1.00	1.00	0.72	2.63	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Incremental Delay, d2	6.1	2.4	5.9	14.6	0.2	0.0	17.2	22.2	1.0	0.3	2.2	0.0
Delay (s)	98.7	37.3	5.9	71.5	33.7	0.0	90.5	96.2	67.0	89.3	91.6	0.0
Level of Service	F	D	A	E	C	A	F	F	E	F	F	A
Approach Delay (s)		25.7			40.1			87.8			67.3	
Approach LOS		C			D			F			E	

Intersection Summary			
HCM Average Control Delay	37.2	HCM Level of Service	D
HCM Volume to Capacity ratio	0.85		
Actuated Cycle Length (s)	190.0	Sum of lost time (s)	0.0
Intersection Capacity Utilization	79.1%	ICU Level of Service	D
Analysis Period (min)	15		
c Critical Lane Group			

Appendix B – Queue Length Tables and Analysis Sheets – Existing Conditions Before and After Proposed Roadway Closure

City of Milpitas - McCandless Drive Closure
Queue Comparison

EXISTING CONDITIONS

Roadway	Intersection	Peak Hour	Queue Length By Lane Group							
			EBL	EBR	WBL	WBR	NBL	NBR	SBL	SBR
Great Mall Pkwy	Abel Street	A.M.	51	N/A	88	61	280	18	121	390
		P.M.	369	N/A	100	108	120	16	256	17
	Main Street	A.M.	75	N/A	119	45	29	24	164	53
		P.M.	292	N/A	112	33	28	49	347	38
	McCandless Drive	A.M.	59	22	24	75	35	N/A	70	38
		P.M.	138	61	12	52	67	N/A	177	51
	Centre Pointe Drive	A.M.	62	N/A	30	101	28	N/A	44	2
		P.M.	83	N/A	56	65	28	N/A	180	24
	Montague Expwy	A.M.	111	0	80	1186	282	82	213	0
		P.M.	178	0	208	84	74	122	631	0
Montague Expwy	McCandless Drive	A.M.	51	0	114	0	871	99	45	0
		P.M.	98	0	354	0	629	196	53	0

PROPOSED

Roadway	Intersection	Peak Hour	Queue Length By Lane Group							
			EBL	EBR	WBL	WBR	NBL	NBR	SBL	SBR
Great Mall Pkwy	Abel Street	A.M.	51	N/A	88	61	286	18	121	392
		P.M.	369	N/A	100	108	162	16	256	18
	Main Street	A.M.	76	N/A	145	44	29	24	166	55
		P.M.	292	N/A	149	33	28	75	347	38
	McCandless Drive	A.M.	59	0	0	81	0	N/A	79	0
		P.M.	156	0	0	57	0	N/A	204	0
	Centre Pointe Drive	A.M.	62	N/A	30	101	28	N/A	44	2
		P.M.	83	N/A	56	65	28	N/A	180	24
	Montague Expwy	A.M.	116	0	80	1197	282	82	213	0
		P.M.	207	0	208	84	74	122	631	0
Montague Expwy	McCandless Drive	A.M.	22	0	131	0	845	103	13	0
		P.M.	26	0	391	0	610	214	12	0

% DIFFERENCE

Roadway	Intersection	Peak Hour	Queue Length By Lane Group							
			EBL	EBR	WBL	WBR	NBL	NBR	SBL	SBR
Great Mall Pkwy	Abel Street	A.M.	0.0%	N/A	0.0%	0.0%	2.1%	0.0%	0.0%	0.5%
		P.M.	0.0%	N/A	0.0%	0.0%	35.0%	0.0%	0.0%	5.9%
	Main Street	A.M.	1.3%	N/A	21.8%	-2.2%	0.0%	0.0%	1.2%	3.8%
		P.M.	0.0%	N/A	33.0%	0.0%	0.0%	53.1%	0.0%	0.0%
	McCandless Drive	A.M.	0.0%	-100.0%	-100.0%	8.0%	-100.0%	N/A	12.9%	-100.0%
		P.M.	13.0%	-100.0%	-100.0%	9.6%	-100.0%	N/A	15.3%	-100.0%
	Centre Pointe Drive	A.M.	0.0%	N/A	0.0%	0.0%	0.0%	N/A	0.0%	0.0%
		P.M.	0.0%	N/A	0.0%	0.0%	0.0%	N/A	0.0%	0.0%
	Montague Expwy	A.M.	4.5%	0.0%	0.0%	0.9%	0.0%	0.0%	0.0%	0.0%
		P.M.	16.3%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Montague Expwy	McCandless Drive	A.M.	-56.9%	0.0%	14.9%	0.0%	-3.0%	4.0%	-71.1%	0.0%
		P.M.	-73.5%	0.0%	10.5%	0.0%	-3.0%	9.2%	-77.4%	0.0%

Lane Group	EBL	EBT	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Group Flow (vph)	61	208	55	1828	129	236	272	58	75	402	467
v/c Ratio	0.13	0.09	0.32	0.94	0.15	0.76	0.27	0.09	0.43	0.55	0.80
Control Delay	49.3	19.0	59.2	48.6	9.6	64.0	33.7	5.1	61.6	44.9	38.7
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	49.3	19.0	59.2	48.6	9.6	64.0	33.7	5.1	61.6	44.9	38.7
Queue Length 50th (ft)	20	24	39	483	19	166	86	0	54	148	263
Queue Length 95th (ft)	51	61	88	#760	61	280	110	18	121	195	390
Internal Link Dist (ft)		1579		1016			756			920	
Turn Bay Length (ft)	440		220		200	175		270	215		280
Base Capacity (vph)	1061	2311	421	1936	939	376	1055	781	351	915	786
Starvation Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.06	0.09	0.13	0.94	0.14	0.63	0.26	0.07	0.21	0.44	0.59

Intersection Summary

95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

Lane Group	EBL	EBT	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Group Flow (vph)	51	261	79	1774	136	14	149	70	131	220	174
v/c Ratio	0.40	0.09	0.47	0.62	0.11	0.07	0.39	0.16	0.41	0.25	0.25
Control Delay	64.2	15.3	62.1	21.8	3.7	53.5	53.9	9.2	48.3	39.8	6.0
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	64.2	15.3	62.1	21.8	3.7	53.5	53.9	9.2	48.3	39.8	6.0
Queue Length 50th (ft)	37	33	57	323	15	9	56	0	88	66	2
Queue Length 95th (ft)	75	56	119	502	45	29	83	24	164	123	53
Internal Link Dist (ft)		1016		967			401			735	
Turn Bay Length (ft)	310		285		120	155		50	225		50
Base Capacity (vph)	537	3258	294	2846	1241	323	654	606	427	919	927
Starvation Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.09	0.08	0.27	0.62	0.11	0.04	0.23	0.12	0.31	0.24	0.19

Intersection Summary

Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	SBL	SBT	SBR
Lane Group Flow (vph)	75	348	36	8	1937	112	22	30	100	44	108
v/c Ratio	0.26	0.09	0.03	0.07	0.57	0.11	0.19	0.07	0.27	0.16	0.34
Control Delay	45.3	9.1	5.9	53.0	17.0	9.3	51.6	24.8	42.5	33.8	9.2
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	45.3	9.1	5.9	53.0	17.0	9.3	51.6	24.8	42.5	33.8	9.2
Queue Length 50th (ft)	16	10	0	4	169	9	10	4	21	19	0
Queue Length 95th (ft)	59	94	22	24	656	75	35	12	70	53	38
Internal Link Dist (ft)		967			784			389		222	
Turn Bay Length (ft)	255		260	230		230	175				
Base Capacity (vph)	808	3874	1216	253	3395	1032	172	1233	719	817	747
Starvation Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.09	0.09	0.03	0.03	0.57	0.11	0.13	0.02	0.14	0.05	0.14

Intersection Summary

Lane Group	EBL	EBT	WBL	WBT	WBR	NBL	NBT	SBL	SBT	SBR
Lane Group Flow (vph)	40	475	14	2214	188	19	9	125	19	69
v/c Ratio	0.24	0.13	0.10	0.65	0.18	0.11	0.04	0.25	0.06	0.21
Control Delay	43.4	9.8	47.2	17.7	9.7	44.1	21.5	35.4	28.0	8.8
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	43.4	9.8	47.2	17.7	9.7	44.1	21.5	35.4	28.0	8.8
Queue Length 50th (ft)	16	13	6	197	15	7	1	24	7	0
Queue Length 95th (ft)	62	114	30	#772	101	28	9	44	15	2
Internal Link Dist (ft)		784		257			354		196	
Turn Bay Length (ft)	274		418		209	70				
Base Capacity (vph)	585	3843	419	3426	1027	428	463	925	567	531
Starvation Cap Reductn	0	0	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.07	0.12	0.03	0.65	0.18	0.04	0.02	0.14	0.03	0.13

Intersection Summary

95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT
Lane Group Flow (vph)	108	687	62	83	2494	906	358	1003	198	288	223
v/c Ratio	0.45	0.22	0.04	0.39	0.79	0.97	0.76	0.96	0.34	0.76	0.17
Control Delay	101.4	24.5	0.1	99.1	34.7	40.8	90.6	87.0	9.4	96.2	49.6
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	101.4	24.5	0.1	99.1	34.7	40.8	90.6	87.0	9.4	96.2	49.6
Queue Length 50th (ft)	72	97	0	49	763	830	225	662	11	182	71
Queue Length 95th (ft)	111	113	0	m80	598	#1186	282	#812	82	213	89
Internal Link Dist (ft)		587			524			763			307
Turn Bay Length (ft)	500		400	300		400	350		450	375	
Base Capacity (vph)	399	3187	1645	323	3139	938	533	1040	583	399	1338
Starvation Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.27	0.22	0.04	0.26	0.79	0.97	0.67	0.96	0.34	0.72	0.17

Intersection Summary

95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

m Volume for 95th percentile queue is metered by upstream signal.

Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Group Flow (vph)	17	745	615	68	2681	14	404	426	64	13	46	41
v/c Ratio	0.20	0.24	0.38	0.52	0.80	0.01	1.03	1.08	0.17	0.12	0.42	0.02
Control Delay	92.4	20.6	0.7	100.3	23.5	0.0	123.6	135.8	47.0	87.1	98.0	0.0
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	92.4	20.6	0.7	100.3	23.5	0.0	123.6	135.8	47.0	87.1	98.0	0.0
Queue Length 50th (ft)	21	170	0	90	339	0	~566	~624	50	16	58	0
Queue Length 95th (ft)	51	204	0	m114	412	m0	#808	#871	99	45	113	0
Internal Link Dist (ft)		670			841			82			906	
Turn Bay Length (ft)	200		250	250		100			75	180		200
Base Capacity (vph)	118	3103	1632	255	3370	1633	391	393	380	112	118	1646
Starvation Cap Reductn	0	0	0	0	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.14	0.24	0.38	0.27	0.80	0.01	1.03	1.08	0.17	0.12	0.39	0.02

Intersection Summary

~ Volume exceeds capacity, queue is theoretically infinite.
Queue shown is maximum after two cycles.

95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

m Volume for 95th percentile queue is metered by upstream signal.

Lane Group	EBL	EBT	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Group Flow (vph)	621	1914	65	538	140	100	625	88	193	395	79
v/c Ratio	0.70	0.93	0.35	0.45	0.20	0.51	0.71	0.15	0.69	0.35	0.08
Control Delay	45.3	43.6	59.7	43.0	20.1	61.9	45.5	6.6	63.3	34.0	2.7
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	45.3	43.6	59.7	43.0	20.1	61.9	45.5	6.6	63.3	34.0	2.7
Queue Length 50th (ft)	208	483	44	122	46	68	218	3	131	120	0
Queue Length 95th (ft)	369	#900	100	198	108	120	249	16	256	187	17
Internal Link Dist (ft)		1579		1016			756			920	
Turn Bay Length (ft)	440		220		200	175		270	215		280
Base Capacity (vph)	1195	2276	435	1740	872	359	969	760	382	1134	1024
Starvation Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.52	0.84	0.15	0.31	0.16	0.28	0.64	0.12	0.51	0.35	0.08

Intersection Summary

95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

Lane Group	EBL	EBT	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Group Flow (vph)	217	1487	64	473	192	9	237	51	267	167	144
v/c Ratio	0.78	0.51	0.45	0.20	0.16	0.05	0.66	0.14	0.71	0.16	0.17
Control Delay	76.1	21.9	73.1	24.8	1.8	65.5	70.1	20.8	63.6	39.4	3.9
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	76.1	21.9	73.1	24.8	1.8	65.5	70.1	20.8	63.6	39.4	3.9
Queue Length 50th (ft)	189	312	56	93	0	7	110	12	222	56	0
Queue Length 95th (ft)	292	411	112	142	33	28	166	49	347	105	38
Internal Link Dist (ft)		1016		928			401			735	
Turn Bay Length (ft)	310		285		120	155		50	225		50
Base Capacity (vph)	514	3088	256	2385	1168	278	573	519	391	1073	984
Starvation Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.42	0.48	0.25	0.20	0.16	0.03	0.41	0.10	0.68	0.16	0.15

Intersection Summary

Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	SBL	SBT	SBR
Lane Group Flow (vph)	206	1571	113	2	552	158	40	88	281	73	188
v/c Ratio	0.52	0.47	0.11	0.02	0.21	0.18	0.31	0.20	0.56	0.19	0.39
Control Delay	49.9	15.5	6.8	59.0	19.5	5.0	58.2	32.7	47.3	34.5	7.2
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	49.9	15.5	6.8	59.0	19.5	5.0	58.2	32.7	47.3	34.5	7.2
Queue Length 50th (ft)	60	153	6	1	65	0	23	21	80	40	0
Queue Length 95th (ft)	138	520	61	12	180	52	67	39	177	81	51
Internal Link Dist (ft)		928			806			508		222	
Turn Bay Length (ft)	255		260	230		230	175				
Base Capacity (vph)	816	3320	1033	245	2580	865	170	1285	730	844	815
Starvation Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.25	0.47	0.11	0.01	0.21	0.18	0.24	0.07	0.38	0.09	0.23

Intersection Summary

Lane Group	EBL	EBT	WBL	WBT	WBR	NBL	NBT	SBL	SBT	SBR
Lane Group Flow (vph)	50	1923	29	692	295	14	38	360	18	71
v/c Ratio	0.25	0.75	0.15	0.27	0.32	0.07	0.13	0.47	0.03	0.13
Control Delay	43.3	20.8	44.4	15.8	4.4	46.8	13.8	30.8	19.7	6.2
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	43.3	20.9	44.4	15.8	4.4	46.8	13.8	30.8	19.7	6.2
Queue Length 50th (ft)	10	95	6	25	0	3	1	35	3	0
Queue Length 95th (ft)	83	#782	56	208	65	28	19	180	22	24
Internal Link Dist (ft)		806		275			340		226	
Turn Bay Length (ft)	274		418		209	70				
Base Capacity (vph)	670	3382	514	3128	1052	506	546	1235	795	719
Starvation Cap Reductn	0	0	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	142	0	0	0	0	15	32	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.07	0.59	0.06	0.22	0.28	0.03	0.07	0.30	0.02	0.10

Intersection Summary

95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT
Lane Group Flow (vph)	260	2412	296	231	869	370	71	359	189	762	1663
v/c Ratio	0.71	0.86	0.18	0.73	0.32	0.42	0.34	0.45	0.42	1.07	0.89
Control Delay	117.2	25.3	0.2	101.5	38.0	5.2	90.4	66.2	18.7	122.9	64.1
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	12.1
Total Delay	117.2	25.3	0.2	101.5	38.0	5.2	90.4	66.2	18.7	122.9	76.2
Queue Length 50th (ft)	152	792	0	154	167	1	44	205	46	~546	707
Queue Length 95th (ft)	m178	687	m0	#208	212	84	74	253	122	#631	705
Internal Link Dist (ft)		514			694			754			337
Turn Bay Length (ft)	500		400	300		400	350		450	375	
Base Capacity (vph)	418	2820	1645	322	2724	885	342	921	506	713	1930
Starvation Cap Reductn	0	0	0	0	0	0	0	0	0	0	278
Spillback Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.62	0.86	0.18	0.72	0.32	0.42	0.21	0.39	0.37	1.07	1.01

Intersection Summary

~ Volume exceeds capacity, queue is theoretically infinite.
Queue shown is maximum after two cycles.

95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

m Volume for 95th percentile queue is metered by upstream signal.

Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Group Flow (vph)	44	2310	1283	181	995	14	302	318	149	19	148	61
v/c Ratio	0.38	0.87	0.79	0.86	0.33	0.01	0.84	0.88	0.40	0.10	0.77	0.04
Control Delay	93.7	46.3	3.9	94.1	49.4	0.0	92.7	96.3	49.4	83.6	103.5	0.0
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	93.7	46.3	3.9	94.1	49.4	0.0	92.7	96.3	49.4	83.6	103.5	0.0
Queue Length 50th (ft)	54	964	0	237	434	0	368	391	109	23	197	0
Queue Length 95th (ft)	98	854	0	m#354	395	m0	#585	#629	196	53	#362	0
Internal Link Dist (ft)		690			684			107			258	
Turn Bay Length (ft)	200		250	250		100			75	180		200
Base Capacity (vph)	157	2902	1632	216	3109	1631	362	367	377	184	193	1646
Starvation Cap Reductn	0	0	0	0	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.28	0.80	0.79	0.84	0.32	0.01	0.83	0.87	0.40	0.10	0.77	0.04

Intersection Summary

95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

m Volume for 95th percentile queue is metered by upstream signal.

Lane Group	EBL	EBT	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Group Flow (vph)	61	245	55	1828	129	242	272	58	75	402	467
v/c Ratio	0.12	0.11	0.32	0.95	0.15	0.77	0.27	0.09	0.43	0.56	0.80
Control Delay	49.4	16.4	59.5	49.5	9.6	64.7	33.8	5.1	61.8	45.2	39.2
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	49.4	16.4	59.5	49.5	9.6	64.7	33.8	5.1	61.8	45.2	39.2
Queue Length 50th (ft)	20	24	39	490	20	172	86	0	54	150	268
Queue Length 95th (ft)	51	63	88	#760	61	286	110	18	121	195	392
Internal Link Dist (ft)		1579		1016			756			920	
Turn Bay Length (ft)	440		220		200	175		270	215		280
Base Capacity (vph)	1058	2282	419	1927	936	376	1055	783	350	912	783
Starvation Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.06	0.11	0.13	0.95	0.14	0.64	0.26	0.07	0.21	0.44	0.60

Intersection Summary

95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

Lane Group	EBL	EBT	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Group Flow (vph)	51	261	100	1774	136	14	149	76	131	220	174
v/c Ratio	0.40	0.10	0.53	0.62	0.11	0.07	0.39	0.17	0.41	0.25	0.25
Control Delay	65.4	16.4	62.9	21.6	3.6	54.5	54.9	8.8	49.2	40.6	6.1
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	65.4	16.4	62.9	21.6	3.6	54.5	54.9	8.8	49.2	40.6	6.1
Queue Length 50th (ft)	38	34	73	323	15	10	57	0	90	67	2
Queue Length 95th (ft)	76	58	145	505	44	29	84	24	166	126	55
Internal Link Dist (ft)		1016		967			401			735	
Turn Bay Length (ft)	310		285		120	155		50	225		50
Base Capacity (vph)	532	3164	299	2873	1246	319	646	617	422	910	921
Starvation Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.10	0.08	0.33	0.62	0.11	0.04	0.23	0.12	0.31	0.24	0.19

Intersection Summary

Lane Group	EBL	EBT	WBT	WBR	SBL	SBR
Lane Group Flow (vph)	80	348	1937	120	122	130
v/c Ratio	0.26	0.09	0.56	0.11	0.30	0.20
Control Delay	42.5	7.0	16.2	9.1	39.8	0.7
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	42.5	7.0	16.2	9.1	39.8	0.7
Queue Length 50th (ft)	18	10	169	10	26	0
Queue Length 95th (ft)	59	81	#718	81	79	0
Internal Link Dist (ft)		967	784			
Turn Bay Length (ft)	255			230		
Base Capacity (vph)	852	4033	3438	1046	760	980
Starvation Cap Reductn	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0
Reduced v/c Ratio	0.09	0.09	0.56	0.11	0.16	0.13

Intersection Summary

95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

Lane Group	EBL	EBT	WBL	WBT	WBR	NBL	NBT	SBL	SBT	SBR
Lane Group Flow (vph)	40	498	14	2223	188	19	9	125	19	69
v/c Ratio	0.24	0.13	0.10	0.65	0.18	0.11	0.04	0.25	0.06	0.21
Control Delay	43.4	9.8	47.2	17.7	9.7	44.1	21.5	35.4	28.0	8.8
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	43.4	9.8	47.2	17.7	9.7	44.1	21.5	35.4	28.0	8.8
Queue Length 50th (ft)	16	14	6	199	15	7	1	24	7	0
Queue Length 95th (ft)	62	119	30	#778	101	28	9	44	15	2
Internal Link Dist (ft)		784		257			354		196	
Turn Bay Length (ft)	274		418		209	70				
Base Capacity (vph)	585	3844	419	3426	1027	428	463	925	567	531
Starvation Cap Reductn	0	0	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.07	0.13	0.03	0.65	0.18	0.04	0.02	0.14	0.03	0.13

Intersection Summary

95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT
Lane Group Flow (vph)	115	687	62	83	2494	906	358	1003	198	288	246
v/c Ratio	0.47	0.22	0.04	0.39	0.80	0.97	0.76	0.96	0.34	0.76	0.18
Control Delay	103.0	24.8	0.1	99.1	35.1	42.3	90.6	87.0	9.4	96.2	46.0
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	103.0	24.8	0.1	99.1	35.1	42.3	90.6	87.0	9.4	96.2	46.0
Queue Length 50th (ft)	77	100	0	49	765	840	225	662	11	182	72
Queue Length 95th (ft)	116	116	0	m80	609	#1197	282	#812	82	213	91
Internal Link Dist (ft)		587			524			763			307
Turn Bay Length (ft)	500		400	300		400	350		450	375	
Base Capacity (vph)	399	3187	1645	323	3126	933	533	1040	583	399	1334
Starvation Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.29	0.22	0.04	0.26	0.80	0.97	0.67	0.96	0.34	0.72	0.18

Intersection Summary

95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

m Volume for 95th percentile queue is metered by upstream signal.

Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Group Flow (vph)	5	749	649	78	2690	4	407	417	68	2	7	4
v/c Ratio	0.06	0.23	0.40	0.55	0.72	0.00	1.04	1.06	0.18	0.02	0.08	0.00
Control Delay	89.2	17.8	0.7	93.8	19.6	0.0	125.3	129.9	47.1	86.5	88.3	0.0
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	89.2	17.8	0.7	93.8	19.6	0.0	125.3	129.9	47.1	86.5	88.3	0.0
Queue Length 50th (ft)	6	138	0	102	342	0	~574	~600	53	2	9	0
Queue Length 95th (ft)	22	202	0	m131	422	m0	#816	#845	103	13	29	0
Internal Link Dist (ft)		670			841			82			906	
Turn Bay Length (ft)	200		250	250		100			75	180		200
Base Capacity (vph)	118	3277	1632	255	3726	1633	391	393	381	112	118	1646
Starvation Cap Reductn	0	0	0	0	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.04	0.23	0.40	0.31	0.72	0.00	1.04	1.06	0.18	0.02	0.06	0.00

Intersection Summary

~ Volume exceeds capacity, queue is theoretically infinite.
Queue shown is maximum after two cycles.

95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

m Volume for 95th percentile queue is metered by upstream signal.

Lane Group	EBL	EBT	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Group Flow (vph)	621	2028	65	538	140	147	625	88	193	395	79
v/c Ratio	0.70	0.99	0.35	0.45	0.20	0.60	0.71	0.15	0.69	0.42	0.09
Control Delay	45.3	52.3	59.7	43.0	20.1	61.0	45.5	6.6	63.3	37.8	3.1
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	45.3	52.3	59.7	43.0	20.1	61.0	45.5	6.6	63.3	37.8	3.1
Queue Length 50th (ft)	208	~570	44	122	46	100	218	3	131	124	0
Queue Length 95th (ft)	369	#987	100	198	108	162	249	16	256	195	18
Internal Link Dist (ft)		1579		1016			756			920	
Turn Bay Length (ft)	440		220		200	175		270	215		280
Base Capacity (vph)	1195	2267	435	1740	872	376	969	760	382	1011	958
Starvation Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.52	0.89	0.15	0.31	0.16	0.39	0.64	0.12	0.51	0.39	0.08

Intersection Summary

~ Volume exceeds capacity, queue is theoretically infinite.
Queue shown is maximum after two cycles.

95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

Lane Group	EBL	EBT	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Group Flow (vph)	217	1487	93	473	192	9	237	82	267	167	144
v/c Ratio	0.78	0.55	0.55	0.20	0.16	0.05	0.66	0.21	0.71	0.16	0.17
Control Delay	76.1	24.5	73.2	24.8	1.8	65.5	70.1	24.2	63.6	39.4	3.9
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	76.1	24.5	73.2	24.8	1.8	65.5	70.1	24.2	63.6	39.4	3.9
Queue Length 50th (ft)	189	323	81	93	0	7	110	28	222	56	0
Queue Length 95th (ft)	292	429	149	142	33	28	166	75	347	105	38
Internal Link Dist (ft)		1016		928			401			735	
Turn Bay Length (ft)	310		285		120	155		50	225		50
Base Capacity (vph)	514	2996	263	2385	1168	278	573	538	391	1073	984
Starvation Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.42	0.50	0.35	0.20	0.16	0.03	0.41	0.15	0.68	0.16	0.15

Intersection Summary

Lane Group	EBL	EBT	WBT	WBR	SBL	SBR
Lane Group Flow (vph)	237	1571	552	184	323	219
v/c Ratio	0.53	0.43	0.20	0.20	0.58	0.30
Control Delay	45.9	10.6	16.7	4.5	44.0	1.0
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	45.9	10.6	16.7	4.5	44.0	1.0
Queue Length 50th (ft)	59	88	47	0	79	0
Queue Length 95th (ft)	156	455	183	57	204	0
Internal Link Dist (ft)		928	806			
Turn Bay Length (ft)	255			230		
Base Capacity (vph)	875	3691	2788	934	787	1025
Starvation Cap Reductn	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0
Reduced v/c Ratio	0.27	0.43	0.20	0.20	0.41	0.21

Intersection Summary

Lane Group	EBL	EBT	WBL	WBT	WBR	NBL	NBT	SBL	SBT	SBR
Lane Group Flow (vph)	50	1965	29	720	295	14	38	360	18	71
v/c Ratio	0.25	0.76	0.16	0.28	0.32	0.07	0.13	0.47	0.03	0.13
Control Delay	43.4	21.0	44.4	15.8	4.4	46.9	13.9	31.0	19.9	6.2
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	43.4	21.1	44.4	15.8	4.4	46.9	13.9	31.0	19.9	6.2
Queue Length 50th (ft)	11	100	6	26	0	3	1	37	3	0
Queue Length 95th (ft)	83	#808	56	217	65	28	19	180	22	24
Internal Link Dist (ft)		806		275			340		226	
Turn Bay Length (ft)	274		418		209	70				
Base Capacity (vph)	665	3379	510	3124	1051	502	542	1224	789	714
Starvation Cap Reductn	0	0	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	141	0	0	0	0	12	35	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.08	0.61	0.06	0.23	0.28	0.03	0.07	0.30	0.02	0.10

Intersection Summary

95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT
Lane Group Flow (vph)	289	2412	296	231	869	370	71	359	189	762	1707
v/c Ratio	0.75	0.87	0.18	0.75	0.33	0.43	0.34	0.44	0.40	1.07	0.89
Control Delay	106.6	32.6	0.2	104.0	39.3	5.3	90.4	64.7	18.3	122.5	63.4
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	22.8
Total Delay	106.6	32.6	0.2	104.0	39.3	5.3	90.4	64.7	18.3	122.5	86.1
Queue Length 50th (ft)	166	819	0	154	170	1	44	201	44	~546	714
Queue Length 95th (ft)	207	682	0	#208	212	84	74	253	122	#631	731
Internal Link Dist (ft)		514			694			754			337
Turn Bay Length (ft)	500		400	300		400	350		450	375	
Base Capacity (vph)	418	2774	1645	314	2635	868	342	921	506	714	1950
Starvation Cap Reductn	0	0	0	0	0	0	0	0	0	0	310
Spillback Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.69	0.87	0.18	0.74	0.33	0.43	0.21	0.39	0.37	1.07	1.04

Intersection Summary

~ Volume exceeds capacity, queue is theoretically infinite.
Queue shown is maximum after two cycles.

95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Group Flow (vph)	6	2323	1392	207	1012	1	296	311	165	2	12	5
v/c Ratio	0.07	0.78	0.85	0.79	0.27	0.00	0.84	0.88	0.44	0.02	0.13	0.00
Control Delay	88.2	36.8	5.9	77.3	30.2	0.0	93.7	98.1	50.2	86.0	89.4	0.0
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	88.2	36.8	5.9	77.3	30.2	0.0	93.7	98.1	50.2	86.0	89.4	0.0
Queue Length 50th (ft)	7	968	0	257	409	0	362	384	121	2	15	0
Queue Length 95th (ft)	26	862	0	m#391	384	m0	#569	#610	214	12	40	0
Internal Link Dist (ft)		690			684			107			258	
Turn Bay Length (ft)	200		250	250		100			75	180		200
Base Capacity (vph)	157	3033	1632	263	3760	1631	358	360	377	121	127	1646
Starvation Cap Reductn	0	0	0	0	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.04	0.77	0.85	0.79	0.27	0.00	0.83	0.86	0.44	0.02	0.09	0.00

Intersection Summary

95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

m Volume for 95th percentile queue is metered by upstream signal.

IMPROVEMENT PLANS FOR

TAYLOR MORRISON

DISTRICT 2 MULTI-USE TRAIL

MILPITAS, CALIFORNIA

BENCHMARK

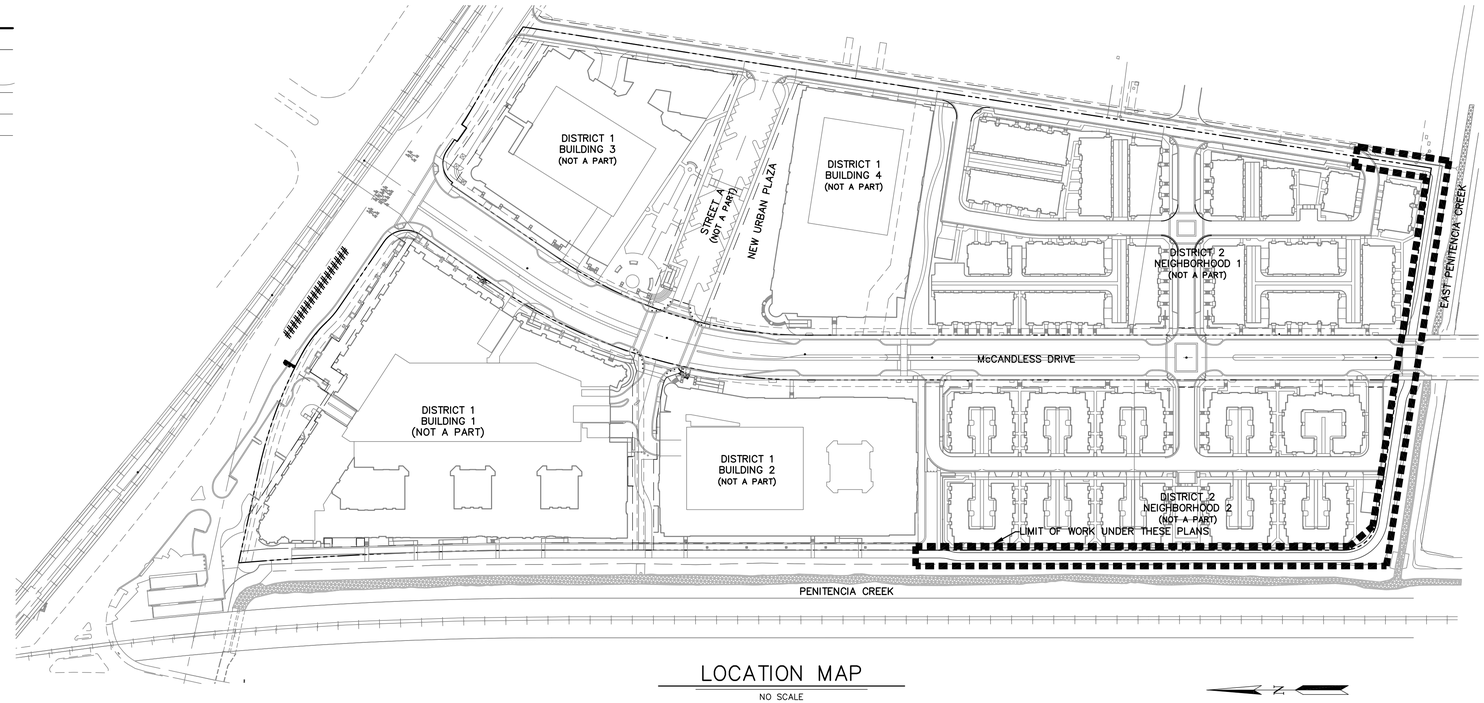
SOUTHERLY DISK IN MONUMENT WELL AT THE INTERSECTION OF ABEL STREET AND CORNING AVENUE, ELEVATION = 17.124' NGVD29 (19.864' NAVD88)

EXISTING UTILITY NOTE:

EXISTING UNDERGROUND UTILITIES AND IMPROVEMENTS ARE SHOWN IN THEIR APPROXIMATE LOCATIONS BASED UPON RECORD INFORMATION AVAILABLE TO THE ENGINEER AT THE TIME OF PREPARATION OF THESE PLANS. LOCATIONS MAY NOT HAVE BEEN VERIFIED IN THE FIELD AND NO GUARANTEE IS MADE AS TO THE ACCURACY OR COMPLETENESS OF THE INFORMATION SHOWN. THE CONTRACTOR SHALL NOTIFY UTILITY COMPANIES AT LEAST 2 WORKING DAYS IN ADVANCE OF CONSTRUCTION TO FIELD LOCATE UTILITIES. CALL UNDERGROUND SERVICE ALERT (U.S.A.), AT 1-800-227-2600. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO DETERMINE THE EXISTENCE AND LOCATION

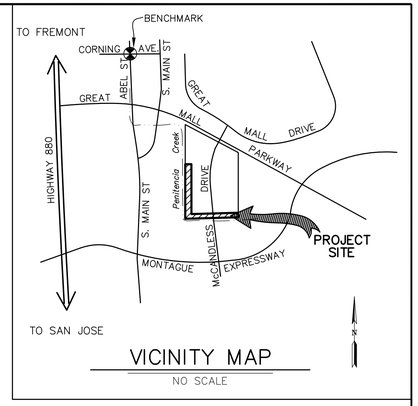
LEGEND

PROPOSED	DESCRIPTION	EXISTING
	TRACT BOUNDARY	
	LOT LINE	
	CONTOUR	
SD	STORM DRAIN	
W	WATER	
W-REC	RECYCLED WATER	
	MANHOLE	
	CATCH BASIN/FIELD INLET	
	FIRE HYDRANT	
	WATER VALVE	
	AIR RELEASE VALVE	
	CONCRETE CURB/GUTTER/SIDEWALK	
2.5%	SLOPE AND DIRECTION	
	BUILDING LINE	
	ELECTROLIER	
	DIRECTION OF FLOW	
	RAILROAD TRACKS	
	CREEK	



LOCATION MAP

NO SCALE



VICINITY MAP

NO SCALE

CIVIL SHEET INDEX

SHEET NO	TITLE
1	TITLE SHEET
2	CITY GENERAL NOTES
3	PROJECT NOTES & DETAILS
4	MULTI-USE TRAIL PLAN
5	MULTI-USE TRAIL PLAN
6	EROSION CONTROL
7	BEST MANAGEMENT PRACTICES

ABBREVIATIONS

AB	AGGREGATE BASE	NTS	NOT TO SCALE
AC	ASPHALT CONCRETE	O.C.	ON CENTER
ACP	ASBESTOS CEMENT PIPE	PAD	PAD ELEVATION
AD	AREA DRAIN	PAV	PAVEMENT
ARV	AIR RELIEF VALVE	PCC	PORTLAND CEMENT CONCRETE
BNDY	BOUNDARY	PL or ℄	PROPERTY LINE
BC	BEGIN CURVE	PRC	POINT OF REVERSE CURVATURE
B/C	BACK OF CURB	PRUE	PRIVATE UTILITY EASEMENT
BW	BACK OF WALK	PSI	PER SQUARE INCH
C&G	CURB & GUTTER	PSUE	PUBLIC SERVICE UTILITY EASEMENT
CL	CENTERLINE	PT	POINT
CLF	CHAIN LINK FENCE	PVC	POLYVINYL CHLORIDE PIPE
CO	CLEAN OUT	PVI	POINT OF VERTICAL INTERSECTION
DIA	DIAMETER	R	RIGHT or RADIUS
DWG	DRAWING	RCP	REINFORCED CONCRETE PIPE
DWY	DRIVEWAY	RW or R/W	RIGHT OF WAY
(E)	EAST	RET	RETURN
EC	END CURVE	S	SLOPE
ELECT	ELECTROLIER	(S)	SOUTH
ELEV	ELEVATION	(SE)	SOUTHEAST
EP	EDGE OF PAVEMENT	(SW)	SOUTHWEST
EVA	EMERGENCY VEHICLE ACCESS	SCVWD	SANTA CLARA VALLEY WATER DISTRICT
EX	EXISTING	SD	STORM DRAIN
FC	FACE OF CURB	SDAD	STORM DRAIN AREA DRAIN
FF	FINISH FLOOR	SDMH	STORM DRAIN MANHOLE
FFGF	FINISH FLOOR FRONT OF GARAGE	SAD	SEE ARCHITECTS DRAWINGS
FGI	FLAT GRATE INLET	SLD	SEE LANDSCAPE DRAWINGS
FH	FIRE HYDRANT	SPD	SEE PLUMBING DRAWINGS
FI	FIELD INLET	SSD	SEE STRUCTURAL DRAWINGS
FL	FLOW LINE	SS	SANITARY SEWER
GB	GRADE BREAK	SSLAT	SANITARY SEWER LATERAL
GR	GRATE	SSMH	SANITARY SEWER MANHOLE
HOA	HOMEOWNERS' ASSOCIATION	STA	STATION
HP	HIGH POINT	STD	STANDARD
IMP	IMPROVEMENTS	SWK	SIDEWALK
INV	INVERT	TC	TOP OF CURB
IRR	IRRIGATION	TDC	TOP OF DEPRESSED CURB
JT	JOINT TRENCH	TFC	TOP FLUSH CURB
L	LEFT	TSC	TOP OF CURB & SPILL GUTTER
LF	LINEAR FEET	TVC	TOP OF VERTICAL CURB
LP	LOW POINT	TYP	TYPICAL
MAX	MAXIMUM	VC	VERTICAL CURB
MIN	MINIMUM	W	WATER
(N)	NORTH	(W)	WEST
(NE)	NORTHEAST	WSER or WM	WATER SERVICE
NO.	NUMBER		

SCOPE OF WORK

1. DISTRICT 2 MULTI-USE TRAIL GRADING AND SURFACE IMPROVEMENTS.

CITY OF MILPITAS STANDARD DETAILS

DWG. NO.	CITY OF MILPITAS DESIGN STANDARD
464	FLAT GRATE STORM INLET

UNDERGROUND SERVICE ALERT
1 (800) 227-2600
CALL BEFORE YOU DIG

LOCATION OF UTILITIES

LOCATION OF UTILITIES SHOWN IS ONLY APPROXIMATE. DETERMINATION OF THE ACTUAL LOCATION IS THE RESPONSIBILITY OF THE CONTRACTOR.

U.S.A. 1-800-227-2600

SOILS ENGINEER: These plans have been reviewed and found to be in substantial conformance with the intent and purpose of the geotechnical exploration report dated _____, _____, prepared by _____.

Date

Firm: _____

Address: _____

Telephone: _____

CIVIL ENGINEER: I hereby declare that I am the engineer of work for this project, that I have exercised responsible charge over the design of the project as defined in section 6703 of the business and professions codes, and that the design is consistent with current standards. The design shown hereon is necessary and reasonable and does not restrict any historic drainage flows from adjacent properties nor increase drainage to adjacent properties. The design includes principles and techniques to reduce quantity and improve the quality of storm water runoff, as required by NPDES. I understand that the check of project drawings and specifications by the City of Milpitas is confined to a review only and does not relieve me, as engineer of work, of my responsibilities for project design.

SIGNATURE DATE FIRM

Address: _____

Telephone: _____

REGISTERED PROFESSIONAL ENGINEER
JORGE M. DURAN
C-59978
CIVIL
STATE OF CALIFORNIA

RJA
RUGGERI-JENSEN-AZAR
ENGINEERS ▪ PLANNERS ▪ SURVEYORS
8055 CAMINO ARROYO GILROY, CA 95020
PHONE: (408) 848-0300 FAX: (408) 848-0302

RECOMMENDED FOR APPROVAL:

Planning _____ Date _____

Fire _____ Date _____

Building _____ Date _____

Record Drawings

To be competed prior to acceptance of work by the City

Signature + Seal Date

P.E. No. Exp.

Public Works Inspector: _____

Revisions

Num.	Date	By	Description	City Engr.	Aprv.	Date

CITY OF MILPITAS
ENGINEERING DIVISION

Approved: _____

City Engineer Date

Any changes to this plan shall be approved by the City Engineer

Project No. 072030-5000

Sheet 1 of 7

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS ANNEXING CERTAIN REAL PROPERTY COMMONLY KNOWN AS TRACTS 10141, 10145, 10148, AND 10149 ("DISTRICT 2 PROJECT") INTO CITY OF MILPITAS COMMUNITY FACILITIES DISTRICT NO. 2008-1 ANNEXATION NO. 3

WHEREAS, Taylor Morrison of California, LLC, a California Limited Liability Company, is the owner of certain real property commonly known as Tracts 10141, 10145, 10148, and 10149 (APN Nos. 086-33-099, 086-33-095, 086-33-098 and 086-33-094), more specifically described in the annexation map attached as Exhibit 1.A. to this Resolution; and

WHEREAS, on March 20, 2012, the City Council approved the Tentative Map, Site Development Permit, and Conditional Use Permit for Tract 10141, 10145, 10148, and 10149 ("The District 2 Project), a residential subdivision with 200 single-family attached homes, private streets and associated common area improvements located on 9.7 acres on the westerly and easterly sides of McCandless Drive; and

WHEREAS, on January 6, 2009 the City Council created by Resolutions 7815 and 7816 and on January 29, 2009 the City Council created by Ordinance 278 the City of Milpitas Community Facilities District No. 2008-1 ("CFD 2008-1") pursuant to the Mello-Roos Community Facilities Act of 1982, California Government Code Section 53311 *et seq*. Each fiscal year, a special tax is levied on all assessor's parcels of residential property in CFD 2008-1 in an amount determined by the Council, as described in the attached Exhibit 1.B. to this Resolution; and

WHEREAS, pursuant to the Mello-Roos Community Facilities Act, the City Council also established a procedure to allow and provide for the annexation of parcels within the boundaries of CFD 2008-1 in the future without additional hearings, upon the unanimous approval of the owner or owners of each parcel or parcels at the time that parcel or those parcels are annexed, pursuant to Government Code Section 53339.7; and

WHEREAS, Taylor Morrison of California, LLC now voluntarily seeks to annex its property to CFD 2008-1 and to be subject to the levy of a special tax there under.

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

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

2. Legally valid and unanimous consent to the annexation of real property identified as Assessor's Parcel Nos. 086-33-094, 086-33-095, 086-33-098 and 086-33-099 into CFD 2008-1 has been given, as set forth in the Consent and Election to Annex Real Property To an Existing Community Facilities District, attached as Exhibit 1. All prior proceedings and actions taken by the City Council pursuant to the Mello-Roos Community Facilities Act and this Resolution were and are valid and in conformity with State and local law.

3. The City Council hereby declares and determines that the territory comprising Annexation No. 3, as described in Exhibit 1.A., is now added to and becomes a part of CFD 2008-1. City staff is hereby directed to include the property in the annual assessment. In no event shall the annual per-lot assessment exceed the maximum amount authorized by the engineer's report for the CFD 2008-1 in any given fiscal year. Exhibit 2 attached hereto is provided to show all parcels that have been annexed to the CFD 2008-1.

4. The City Clerk is hereby directed to record an amendment to the Notice of Special Tax Lien within fifteen (15) days of the adoption of this Resolution in the Office of the County Recorder. The City Clerk is further directed to file a certified copy of the map, attached as Exhibit 1.A., and Exhibit 2, within fifteen (15) days of the adoption of this Resolution in the Office of the County Recorder.

5. The City Clerk shall certify the adoption of this Resolution.

6. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this _____ day of _____, 2013 by the City Council by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

_____
Mary Lavelle, City Clerk

APPROVED:

_____
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

_____
Michael J. Ogaz, City Attorney

EXHIBIT 1

CONSENT AND ELECTION TO ANNEX REAL PROPERTY TO AN EXISTING COMMUNITY FACILITIES DISTRICT CITY OF MILPITAS COMMUNITY FACILITIES DISTRICT NO. 2008-1 (PUBLIC SERVICES)

TO: CITY COUNCIL OF THE CITY OF MILPITAS IN ITS CAPACITY AS THE LEGISLATIVE BODY OF THE ABOVE ENTITLED COMMUNITY FACILITIES DISTRICT:

1. The undersigned is the owner (the "Owner"), or the duly authorized representative of the Owner, of the real property as described in **Exhibit 1.A.** attached hereto and incorporated herein by reference (the "Property"), and in such capacity, possesses all legal authority necessary to execute this Consent and Election as and on behalf of the Owner in connection with the annexation of the Property to the District (as defined below).

   The Owner is: *Taylor Morrison of California, LLC, a California Limited Liability Company*

2. The Owner is aware of and understands the following:

   A. The City of Milpitas has conducted proceedings pursuant to the "Mello-Roos Community Facilities Act of 1982", (Government Code Section 53311 and following) (the "Act") to form a community facilities district known and designated as COMMUNITY FACILITIES DISTRICT NO. 2008-1 (PUBLIC SERVICES) (the "District") to finance the increased demand for public services (the "Services") resulting from new development within the District. The services to be financed by the CFD comprise services ("Services") authorized to be financed pursuant to Section 53313 and 53313.5 of the Government Code. CFD 2008-01 shall finance Services only to the extent they are in addition to those provided in the territory of CFD 2008-1 before the CFD was created and such Services may not supplant services already available within CFD 2008-1 when the CFD was created.
   For a full and complete description of the public services, reference is made to the final CFD Report, a copy of which is on file in the Office of the City Clerk. For all particulars, reference is made to said CFD Report.

   B. The City has also undertaken proceedings pursuant to Article 3.5 of the Act to provide for the future annexation of certain territory, including the Property, to the District. On January 6, 2009, the City held a public hearing as required by the Act, to consider the future annexation of such territory, including the Property, to the District. Notice of such hearing was given in the form and manner as required by law. A protest to such future annexation was not received from 50% or more of the registered voters, or six registered voters, whichever is more, residing in the territory proposed to be annexed in the future or the owners of one-half or more of the area of land in the territory proposed to be annexed in the future. At the conclusion of such public hearing, the legislative body of the City did approve and provide for the annexation in the future upon the unanimous approval of the owner or owners of each parcel or parcels at the time that such parcel or parcels are annexed, without additional hearings.

THE UNDERSIGNED DOES HEREBY CERTIFY UNDER PENALTY OF PERJURY AS FOLLOWS:

3. The Owner consents and elects to and expressly approves annexation of the Property to the District and the authorization for the levy of the Special Tax within the Property without further public hearing and without an election conducted pursuant to the provisions of Government Code Section 53339.7 and Article 2 of the Act and the Elections Code of the State of California. Owner agrees and intends that such consent and approval constitutes Owner's election to annex the Property to the District and to approve the authorization for the levy of the Special Tax within the Property.

4. The Owner waives any right, which the Owner may have to make any protest or complaint or undertake any legal action challenging the validity of the proceedings of the City or the District to authorize the future annexation of the Property to the District or the authorization for the levy of the Special Tax within the Property, any necessity, requirement, right or entitlement for further public hearing or election pertaining to the annexation of the Property to the District and the levy of the Special Tax within the Property.

5. The Owner specifically authorizes the levy of the Special Tax on the Property pursuant to the rate and method of apportionment set forth in **Exhibit 1.B.** to pay for the authorized Public Services.

EXECUTED this ____ day of _____, 2013, in _____, California.

Taylor Morrison of California, LLC, a California Limited Liability Company

BY: _____
Jay Pawlek, Vice President of Land

Note:

1. Signatures of property owner(s) or representatives must be notarized.
2. Proof of Authorization to sign is required for Corporations, Partnerships, Limited Liability Companies, Trusts, etc.

NOTARY ACKNOWLEDGMENT

STATE OF CALIFORNIA) COUNTY OF
SANTA CLARA) ss.

On _____, before me, _____, Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies) and that by his/her/their signature(s) on the instrument, the person(s) or the entity (ies) upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public (This area for official notaries seal)

EXHIBIT 1.A.

CONSENT AND ELECTION TO ANNEX REAL PROPERTY
TO AN EXISTING COMMUNITY FACILITIES DISTRICT
CITY OF MILPITAS COMMUNITY FACILITIES
DISTRICT NO. 2008-1 (PUBLIC SERVICES)

ANNEXATION No. 3

Assessor Parcel No.	Owner
086-33-094, 086-33-095, 086-33-098, and 086-33-099	Taylor Morrison of California, LLC

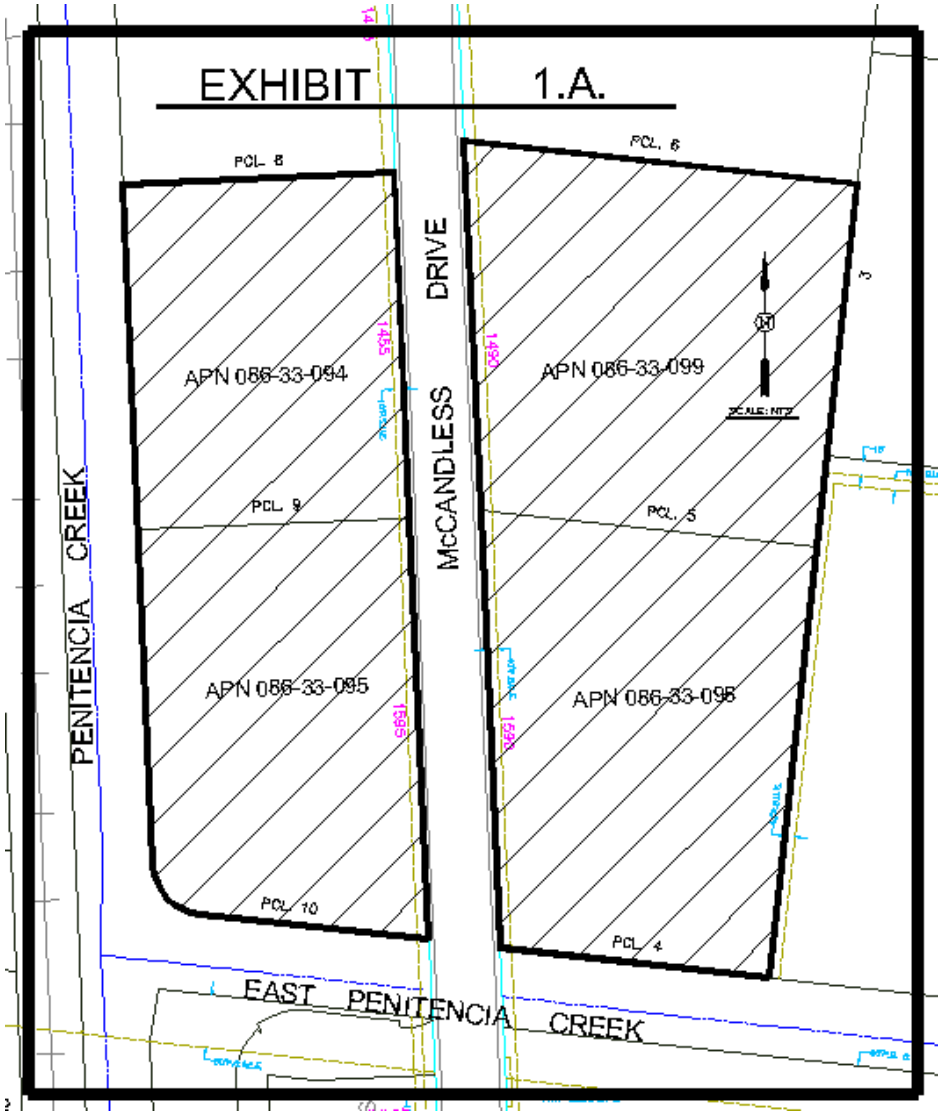


EXHIBIT 1.B.

CONSENT AND ELECTION TO ANNEX REAL PROPERTY TO AN EXISTING COMMUNITY FACILITIES DISTRICT CITY OF MILPITAS COMMUNITY FACILITIES DISTRICT NO. 2008-1 (PUBLIC SERVICES)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels of Residential Property in City of Milpitas Community Facilities District No. 2008-1 (Public Services) ("CFD No. 2008-1"), and collected each Fiscal Year commencing after adoption of CFD 2008-1, in an amount determined by the Council through the application of the appropriate Special Tax, as described below. All of the real property in CFD No. 2008-1, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Division 2 of Title 5 of the Government Code of the State of California.

"Administrative Expenses" means the following actual or reasonably estimated costs directly related to the administration of CFD No. 2008-1: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or any designee thereof or both); the costs of collecting the Special Taxes (whether by the City or otherwise); the costs to the City, CFD No. 2008-1 or any designee thereof of complying with City, CFD No. 2008-1 or obligated persons disclosure requirements associated with the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City, CFD No. 2008-1 or any designee thereof related to an appeal of the Special Tax; and the City's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the City or CFD No. 2008-1 for any other administrative purposes of CFD No. 2008-1, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

"Affordable Housing" means any Dwelling Units located on Residential Property that are subject to deed restrictions, resale restrictions and/or regulatory agreements recorded on the property that provide housing for persons that meet the Low, Very Low, and/or Extremely Very Low income levels pursuant to, as applicable, California Health & Safety Code Sections 50093, 50079.5, 50105, or 50106. The Fiscal Year after the January 1 following the termination of the agreement containing covenants or similar instrument, a Dwelling Unit shall no longer be considered Affordable Housing.

"Annexation Parcel" means any parcel that is annexed to the CFD after it is formed.

“Annual Costs” means for each Fiscal Year, the total of 1) Authorized Services 2) Administrative Expenses; and 3) any amounts needed to cure actual or estimated delinquencies in Special Taxes for the current or previous Fiscal Year.

“Authorized Services” mean those services, as listed in the resolution forming the CFD.

"Assessor's Parcel" means a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the Assessor of the County designating parcels by Assessor's Parcel number.

“Base Year” means the Fiscal Year beginning July 1, 2009 and ending June 30, 2010.

“Certificate of Occupancy” means a certificate issued by the City that authorizing the occupancy of a Dwelling Unit.

"CFD Administrator" means an official of the City, or any designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Taxes.

"CFD" means City of Milpitas Community Facilities District No. 2008-1 (Public Services) of the City.

"City" means the City of Milpitas.

“Consumer Price Index" means, for each Fiscal Year, the Consumer Price Index published by the U.S. Bureau of Labor Statistics for All Urban Consumers in the San Francisco-Oakland-San Jose Area, measured as of the month of February in the calendar year that ends in the previous Fiscal Year. In the event this index ceases to be published, the Consumer Price Index shall be another index as determined by the CFD Administrator that is reasonably comparable to the Consumer Price Index for the San Francisco-Oakland-San Jose Area.

"Council" means the City Council of the City, acting as the legislative body of CFD No. 2008-1.

“County” means the County of Santa Clara.

“County Median Income” means the current median income for the County of Santa Clara as determined by the U.S. Department of Housing and Urban Development.

"Developed Property" means, for each Fiscal Year, all Assessor’s Parcels of Residential and Non-Residential Property for which a Certificate of Occupancy, or equivalent certificate, was issued before February 1 of the prior Fiscal Year, but not earlier than January 1, 2009.

"Dwelling Unit" means a building or portion thereof designed for and occupied in whole or part as a residence or sleeping place, either permanently or temporarily, by one family and its guests, with sanitary facilities and one kitchen provided within the unit. Boarding or lodging houses, dormitories, and hotels shall not be defined as Dwelling Units unless the land use permit specifies a residential use.

"Extremely Low-Income Affordable Housing" means Affordable Housing suitable for households with incomes at or below 30% of the County Median Income.

"Fiscal Year" means the period starting July 1 and ending on the following June 30.

"Land Use Class" means the land use class into which an Assessor's Parcel of Residential Property has been assigned.

"Low-Income Affordable Housing" means Affordable Housing suitable for households with incomes at or below 80% of the County Median Income.

"Maximum Special Tax" means, for each Fiscal Year, the maximum Special Tax, determined in accordance with Section C, below, that can be levied on any Assessor's Parcel of Residential Property.

"Market-Priced Residential Property" means Residential Property not classified as Affordable Housing.

"Non-Residential Property" means, for each Fiscal Year, any Assessor's Parcel of Developed Property which is not a Residential Property.

"Property Owner Association Property" means, for each Fiscal Year, any Assessor's Parcel within the boundaries of CFD No. 2008-1 that is owned by or irrevocably offered for dedication to a property owner association, including any master or sub-association.

"Proportionately" means that the ratio of the actual annual Special Tax levy to the Maximum Special Tax is equal for all Assessor's Parcels of Residential Property.

"Public Property" means, for each Fiscal Year, (i) any property within the boundaries of CFD No. 2008-1 that is owned by or irrevocably offered for dedication to the federal government, the State, the City or any other public agency; provided however that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act, as such section may be amended or replaced, shall be taxed and classified in accordance with its use; or (ii) any property within the boundaries of CFD No. 2008-1 that is encumbered by an unmanned utility easement making impractical its utilization for other than the purpose set forth in the easement.

"Residential Property" means, for each Fiscal Year, any Assessor's Parcel of Developed Property for which a Certificate of Occupancy has been issued for purposes of allowing residents to inhabit one or more residential Dwelling Units.

“Second Family Unit” means an attached or detached additional residential dwelling unit on a single-family residential Developed Parcel. The Second-Family Unit is not considered a Dwelling Unit in terms of assigning the Maximum Annual Special Tax.

“Services” means services that CFD No. 2008-1 is authorized to fund. These services may include: a) police protection services, criminal justice services-jails, detention facilities and juvenile halls, b) fire protection & suppression services and ambulance & paramedic services, c) maintenance and lighting of parks, parkways, streets, roads, street landscaping and open space, d) flood and storm protection services-operation and maintenance of storm drainage systems, and e) services related to removal and remedial action for cleanup of any hazardous environmental substances.

"Special Tax" means the special tax to be levied in each Fiscal Year on each Assessor’s Parcel of Residential Property to fund the Special Tax Requirement.

"Special Tax Requirement" means that amount to be collected in any Fiscal Year for CFD No. 2008-1 to pay for certain costs as required to meet the needs of CFD No. 2008-1 in that Fiscal Year. The costs to be covered shall be the costs of (i) Services, and (ii) Administrative Expenses; less (iii) a credit for funds available to reduce the annual Special Tax levy, if any, as determined by the CFD Administrator.

"State" means the State of California.

“Tax Category” means the four categories of housing Dwelling Units shown in Table 1.

“Tax Collection Schedule” means the document prepared by the Administrator for the County Auditor-Controller to use in levying and collecting the Special Taxes each Fiscal Year.

“Tax Escalation Factor” means an annual percentage increase in the Maximum Annual Special Tax Rate per Unit based upon the Consumer Price Index (CPI) (as of February, San Francisco, All Urban Consumers (CPI-U) Index), the CPI (prior calendar year annual average, San Francisco, All Urban Wage Earners and Clerical Workers), or 2 percent, whichever is greater. The Tax Escalation Factor is applied each Fiscal Year following the Base Year.

“Taxable Parcel” means any Parcel that is not a Tax-Exempt Parcel

“Tax-Exempt Parcel” means a Parcel not subject to the Special Tax. Tax-Exempt Parcels are Public Parcels (subject to the limitations set forth below), Undeveloped Parcels, and nonresidential use parcels, such as commercial, office, industrial, etc.

"Undeveloped Property" means, for each Fiscal Year, all property not classified as Residential Property, Non-Residential Property, Public Property, or Property Owner Association Property.

“Very Low-Income Affordable Housing” means Affordable Housing suitable for households with incomes at or below 50% of the County Median Income.

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year, all Assessor's Parcels, as applicable within CFD No. 2008-1, shall be classified as Residential Property, Non-Residential Property, Undeveloped Property, Public Property, or Property Owner Association Property. However, only Residential Property shall be subject to annual Special Taxes in accordance with the rate and method of apportionment determined pursuant to Sections C and D below. Residential Property shall be assigned to Land Use Classes 1-4, as listed in Table 1, below.

C. MAXIMUM SPECIAL TAX RATE

1. Developed Property

a. Maximum Special Tax

The Maximum Special Taxes for Residential Property are shown below in Table 1, based on the Land Use Class in which such Residential Property has been assigned. Under no circumstances shall a Special Tax be levied on Non-Residential Property, or for renovations to an existing Dwelling Unit located on Residential Property.

TABLE 1

Maximum Special Taxes for Developed Property for Base Year 2009-10
Community Facilities District No. 2008-1

Land Use Class	Land Use Type	Maximum Special Tax Per Dwelling Unit
1	Market-Priced Residential Property	$510.00
2	Low- Income Affordable Housing (80% of Market)	$408.00
3	Very Low-Income Affordable Housing (50% of Market)	$255.00
4	Extremely Low-Income Affordable Housing	$0.00

b. Increase in the Maximum Special Tax

On each July 1, commencing on July 1, 2010, the Maximum Special Taxes set forth above shall be increased annually by the greater of the change in the San Francisco-Oakland-San Jose Area Urban Consumer Price Index during the twelve months prior to February of the previous Fiscal Year, or two percent (2%).

2. Undeveloped Property, Non-Residential Property, Public Property or Property Owner Association Property

No Special Taxes shall be levied on Undeveloped Property, Non-Residential Property, Property Owner Association Property, Public Property or Residential Property assigned to Land Use Class 4.

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Commencing with Fiscal Year 2010-11 and for each following Fiscal Year, the Council or its designee shall levy the annual Special Tax Proportionately for each Assessor's Parcel of Residential Property at up to 100% of the applicable Maximum Special Tax, until the amount of Special Taxes equals the Special Tax Requirement.

E. EXEMPTIONS

No Special Tax shall be levied on Undeveloped Property, Non-Residential Property, Public Property, Property Owner Association Property or Residential Property assigned to Land Use Class 4. However, should an Assessor's Parcel no longer be classified as Non-Residential Property, Public Property, Property Owner Association Property, or Residential Property assigned to Land Use Class 4, such Assessor's Parcel, if reclassified as Residential Property assigned to Land Use Classes 1, 2 or 3, shall be subject to the Special Tax. Furthermore, an Assessor's Parcel of Residential Property assigned to Land Use Classes 1, 2 or 3, if reclassified as belonging to a different Land Use Class, shall be subject to the Special Tax associated with its new Land Use Class.

F. APPEALS AND INTERPRETATIONS

Any landowner or resident may file a written appeal of the Special Tax on his/her property with the CFD Administrator, provided that the appellant is current in his/her payments of Special Taxes. During the pendency of an appeal, all Special Taxes previously levied must be paid on or before the payment date established when the levy was made. The appeal must specify the reasons why the appellant claims the Special Tax is in error. The CFD Administrator shall review the appeal, meet with the appellant if the CFD Administrator deems necessary, and advise the appellant of its determination. If the CFD Administrator agrees with the appellant, the CFD Administrator shall eliminate or reduce the Special Tax on the appellant's property and/or provide a refund to the appellant. If the CFD Administrator disagrees with the appellant and the appellant is dissatisfied with the determination, the appellant then has 30 days in which to appeal to the Council by filing a written notice of appeal with the City Clerk, provided that the appellant is current in his/her payments of Special Taxes. The second appeal must specify the reasons for the appellant's disagreement with the CFD Administrator's determination. The decision by the Council shall be final. The CFD Administrator may charge the appellant a reasonable fee for processing the appeal.

Interpretations may be made by the Council by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment.

G. MANNER OF COLLECTION

The annual Special Tax shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that CFD No. 2008-1 may directly bill the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary to meet its financial obligations. In particular, the Special Tax for Affordable

Housing may be collected off of the tax roll, to facilitate payment of the Special Tax by a party other than the property owner.

H. TERM OF SPECIAL TAX

The Special Tax shall be levied in perpetuity as necessary to meet the Special Tax Requirement.

CERTIFICATION OF ADEQUACY OF CONSENT AND ELECTION TO ANNEX REAL PROPERTY TO AN EXISTING COMMUNITY FACILITIES DISTRICT

CITY OF MILPITAS

COMMUNITY FACILITIES DISTRICT No. 2008-1
(PUBLIC SERVICES)

ANNEXATION NO. 3

The undersigned is the duly appointed CITY CLERK for the proceedings relating to the annexation of property to the District.

On the _____ day of _____, 2013, at MILPITAS, California.

_____
CITY CLERK
CITY OF MILPITAS
STATE OF CALIFORNIA

EXHIBIT 2

ANNEXATION MAP NO. 3 AND UPDATE OF ANNEXATION MAP NO. 2 OF CITY OF MILPITAS COMMUNITY FACILITIES DISTRICT NO. 2008-1 (PUBLIC SERVICES), COUNTY OF SANTA CLARA STATE OF CALIFORNIA AS RECORDED IN BOOK 44 PAGE 30 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, O.R., SANTA CLARA COUNTY

SHEET 1 OF 1

Filed in the office of the City Clerk of the City of Milpitas this ___ day of _____, 2013.

_____
City Clerk, City of Milpitas

I hereby certify Annexation Map No. 3 as shown within the boundaries of City of Milpitas Community Facilities District No. 2008-1 (Public Services) as originally recorded of maps of assessment and community Book 44 Page 30 Facilities District, O.R. , County of Santa Clara, State of California, was approved by the City Council of the City of Milpitas at a regular meeting thereof, held on the ___ day of _____ , 2013, by its Resolution No. _____.

_____
City Clerk, City of Milpitas

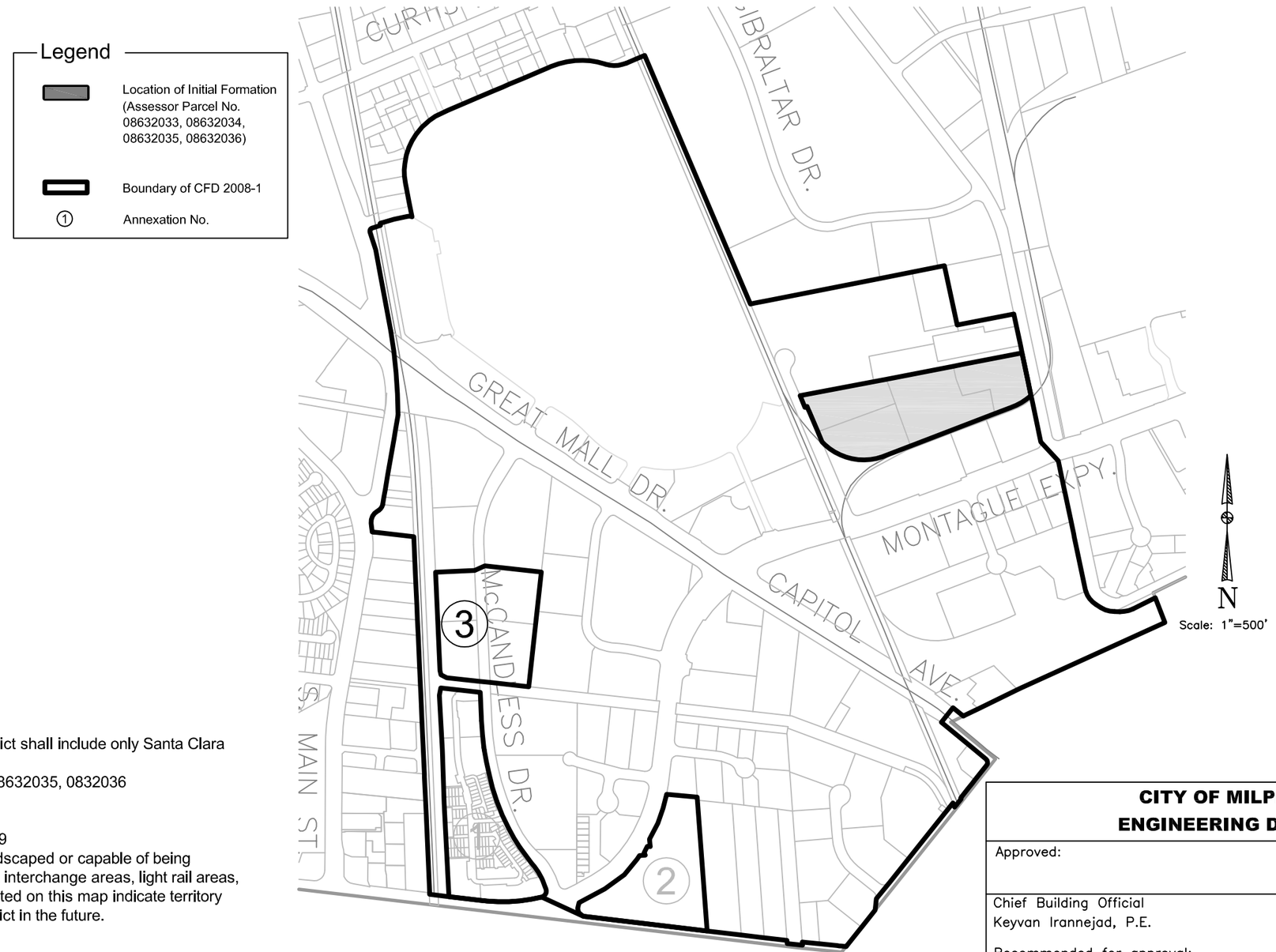
Filed this ____ day of _____, 2013, at the hour of ___o'clock ___,m., in Book ____of Maps of Assessment and Community Facilities Districts at Page_____ in the office of the County Recorder in the County of Santa Clara, State of California.

_____
County Recorder,
County of Santa Clara

The boundary of Community Facilities District No. 2008-1 is co-terminous with the boundary of the City of Milpitas in_____, 2013.

Reference is hereby made to the Assessor maps of the County of Santa Clara for an exact description of the lines and dimensions of each lot and parcel.

The territory included in the Community Facilities District shall include only Santa Clara County Assessor's for the following Annexation Maps :
Initial formation CFD 2008-1 : 08632033, 08632034, 08632035, 0832036
Map No. 1: 08641020, 08641021, 08641022
Map No. 2: 08636043
Map No. 3: 08633094, 08633095, 08633098, 08633099
and all publicly owned areas in the City of Milpitas landscaped or capable of being landscaped, such as parks, parkways, street medians, interchange areas, light rail areas, open space and all similar areas. All other areas depicted on this map indicate territory that may be annexed to the Community Facilities District in the future.



CITY OF MILPITAS
ENGINEERING DIVISION

Approved:

Chief Building Official — Date
Keyvan Irannejad, P.E.

Recommended for approval:

Land Development Engineer — Date
Ebby Sohrabi, P.E.

Drawn By: F.H. File No. CFD 2008-1 Sheet 1 of 1

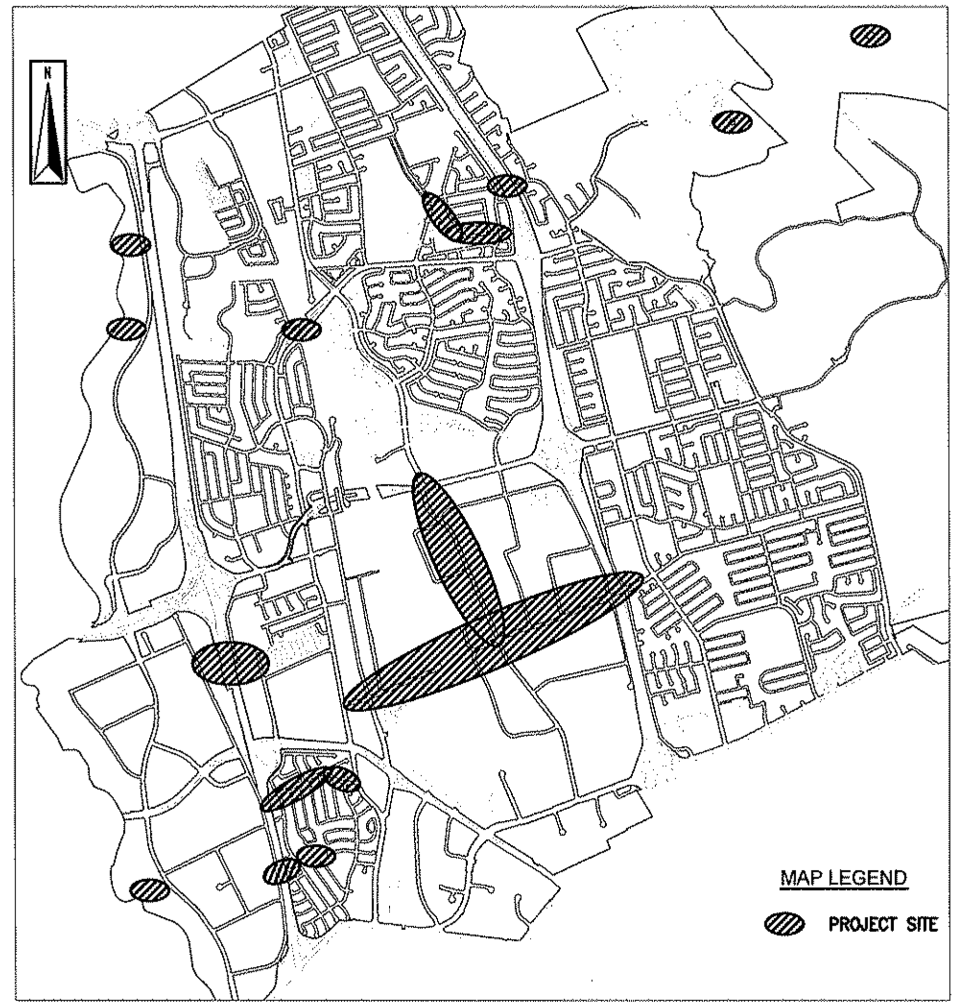
CITY OF MILPITAS

***13**

2013 CATHODIC PROTECTION IMPROVEMENT PROJECT
PROJECT NO. 7115, 6115 & 3706

GENERAL NOTES:

1. All materials and workmanship shall fully conform with the specification, standards and ordinances of the City of Milpitas and the State Standard Specifications Dated July 2010. Standard drawings and details are available at the Engineering Department, 408-586-3300.
2. It shall be the Contractor's responsibility to determine the existence and location of all underground utilities. The contractor shall notify utility companies 48 hours prior to construction to field locate utilities, contact underground service alert at 800-227-2600 and obtain a reference number. Any added cost on the part of the Contractor as a result of the actual locations of existing utilities being different from those shown on the plans shall be borne by the Contractor and assumed in the contract unit price.
3. The Contractor shall be responsible for becoming familiar with the site conditions prior to bidding the job. The work is within the Bay Margin, which is known to have varying soil conditions that include bay mud, loose sand lenses, and a ground water table that can be as high as three feet below the ground surface. Depth to ground water may be affected by tides, seasonal rainfall and location.
4. The locations and sizes of existing facilities shown herin, that are to receive cathodic protection as a result of the work of this contract, are based on record drawings of said facilities. If actual conditional vary from that shown on the drawings, the Contractor shall notify the Engineer immediately.
5. All quantities and pay items are and will be based on actual field measurements.
6. Contractor shall meet with the Project Inspector and sign off on quantities within 48 hours of completing each segment.
7. Contractor is responsible for verifying quantities and shall obtain an approved change order prior to proceeding with changes exceeding estimated quantities in the bid documents.
8. Detour of traffic to nearby streets will not be permitted. Contractor must maintain at least one through traffic lane, per travel direction, at all times or make special provision to allow through traffic.
9. All existing utilities and improvements that become damaged during construction shall be completely restored to the satisfaction of the City Engineer, at Contractor's sole expense.
10. Safety Measures: At all times the Contractor shall be solely and completely responsible for conditions of the jobsite including public safety, worker safety, and property, (this requirement shall apply continuously not just during working hours) and for all necessary independent engineering reviews of the conditions, the Engineers job site review is not intended to include review of the adequacy of the Contractor's safety measures. Excavations shall be in accordance with the applicable provisions of Cal/OSHA and the California State Labor Code.
11. Existing curbs, gutters, sidewalk, ramps, traffic islands, medians, survey monuments, pavement, traffic loops, driveways, pavement markings, and all other existing improvements that are removed or damaged during construction, shall be replaced in accordance with the contract documents and the standard specifications of the agency having jurisdiction over the improvements. The Contractor shall restore all disturbed areas to match pre-construction conditions after completion of the project. The contractor shall ensure drainage to and through existing drainage systems without creating standing water.
12. All survey monumentations shall be protected and perpetuated in place. Any disturbed or covered monuments shall be reset by a registered Civil Engineer or Land Surveyor at the direction of the City Engineer.
13. No construction is permitted on the following holidays: New Years day, Martin Luther King Birthday, Presidents Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Day after Thanksgiving, Day before Christmas, and Christmas Day.
14. Contractor shall comply with the City's non-point source pollution prevention ordinance and the Storm Water Pollution Prevention Plan Best Management Practices (BMPs) for this project.
15. Contractor shall maintain the project sites in a neat and professional condition at all times. Contractor shall not store materials on public roadways. Contractor shall remove all debris and equipment as the end of each working day.
16. Contractor shall provide temporary pedestrian walkway/paths that are ADA compliant to traverse around work.
17. Any operation that creates dust shall be stopped immediately if dust affects adjacent properties. Sufficient watering to control dust is required at all times and a dust palliative may be required by the City Engineer. Mud tracked onto streets or adjacent properties shall be removed immediately by the Contractor. Streets shall be swept at the Contractors expense as required by the project specifications and as directed by the City Engineer.
18. Temporary roadway marking shall be installed immediately after striping removal operations. Contractor is responsible for providing all temporary striping & signage until permanent roadway markings are installed.
19. At all time the Contractor shall have a sufficient number of cones, temporary signage, barricades, and other traffic control devices at hand in order to safely prosecute the work and to direct traffic including bicyclists and pedestrians as determined by the City Engineer.
20. Unless otherwise authorized in writing, there will be no total street closures. Contractor must make provisions to allow for through traffic and access to all driveways.
21. Work hours are from 7:30 AM to 4:00 PM Monday through Friday.



LOCATION MAP
NOT TO SCALE

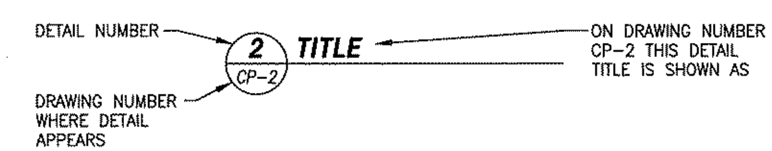
ABBREVIATIONS

SYMBOL	DESCRIPTION	SYMBOL	DESCRIPTION	SYMBOL	DESCRIPTION
A.C.	ALTERNATING CURRENT	LB	POUNDS	SW	STORM WATER
AC	ASPHALT CONCRETE	MAX	MAXIMUM	THHN	THERMOPLASTIC HIGH HEAT RESISTANT NYLON COATED
AMP	AMPERE	MH	MANHOLE		
AWG	AMERICAN WIRE GAUGE	MIN	MINIMUM		
CP	CATHODIC PROTECTION	N	NEW	TYP	TYPICAL
DIP	DUCTILE IRON PIPE	O.D.	OUTER DIAMETER	W/	WITH
E	EXISTING	PVC	POLYVINYL CHLORIDE	&	AND
EP	EDGE OF PAVEMENT	PW	POTABLE WATER	ø	DIAMETER
FT	FEET	REQ'D	REQUIRED	'	FEET
GRS	GALVANIZED RIGID STEEL	REV	REVISION	"	INCH
HMWPE	HIGH MOLECULAR WEIGHT POLYETHYLENE	SCH	SCHEDULE		
		SCP	STEEL CYLINDER PIPE		
ICCP	IMPRESSED CURRENT CATHODIC PROTECTION	SD	STORM DRAIN		
		SS	SANITARY SEWER		

DRAWING INDEX

SHEET	DRAWING	TITLE	SYSTEM
1	G-1	CATHODIC PROTECTION TITLE SHEET, NOTES, INDEX & ABBREVIATIONS	ALL
2	G-2	CATHODIC PROTECTION SITE IDENTIFICATION MAP	ALL
3	G-3	CATHODIC PROTECTION GENERAL NOTES	ALL
4	SP-1	IMPRESSED CURRENT CATHODIC PROTECTION SITE PLANS: ABBOTT AVE CASING	PW
5	SP-2	GALVANIC CATHODIC PROTECTION SITE PLANS: LIVE OAK COURT CASING	PW
6	SP-3	GALVANIC CP SITE PLANS: WEST CAPITOL AVENUE, 18" DIP, STRUCTURE 6	PW
7	SP-4	GALVANIC CP SITE PLANS: COLUMBUS DRIVE, 16" SCP, STRUCTURE 5	PW
8	SP-5	GALVANIC CP SITE PLANS: CURTIS AVE - 18"/18" DIP - STRUCTURE 10	PW
9	SP-6	GALVANIC CATHODIC PROTECTION SITE PLAN: RUSSELL LANE CASING	PW
10	SP-7	GALVANIC CATHODIC PROTECTION SITE PLANS-S. MILPITAS BLVD-16"&18" DIP, UNITS I&II-STRUCTURES 2&10	PW
11	SP-8	CORROSION CONTROL SITE PLAN: PINEWOOD WELL RISER ELECTRICAL ISOLATION	PW
12	SP-9	GALVANIC CP SITE PLANS-YOSEMITE DR-16" SCP & 18" DIP-STRUCT. 2&10	PW
13	CP-1	GALVANIC CATHODIC PROTECTION DETAILS 1	PW
14	CP-2	GALVANIC CATHODIC PROTECTION DETAILS 2	PW
15	CP-3	GALVANIC CATHODIC PROTECTION DETAILS 3	PW
16	CP-4	GALVANIC CATHODIC PROTECTION DETAILS 4	PW
17	CP-5	TANK GALVANIC CATHODIC PROTECTION PLAN, SECTION, SCHEMATICS & NOTES	PW
18	CP-6	TANK GALVANIC CATHODIC PROTECTION PLAN, SECTION & DETAILS 1	PW
19	CP-7	TANK GALVANIC CATHODIC PROTECTION DETAILS 2	PW
20	CP-8	TANK GALVANIC CATHODIC PROTECTION DETAILS 3	PW
21	CP-9	TANK GALVANIC CATHODIC PROTECTION DETAILS 4	PW
22	CP-10	IMPRESSED CURRENT CP: OAK CREEK PUMP STATION - PLANS	SW
23	CP-11	IMPRESSED CURRENT CP: OAK CREEK PUMP STATION - SECTIONS	SW
24	CP-12	IMPRESSED CURRENT CP: OAK CREEK PUMP STATION - DETAILS 1	SW
25	CP-13	IMPRESSED CURRENT CP: OAK CREEK PUMP STATION - DETAILS 2	SW
26	CP-14	IMPRESSED CURRENT CP: MCCARTHY PUMP STATION - DETAILS	SW
27	CP-15	IMPRESSED CURRENT CATHODIC PROTECTION: DETAILS 1	PW
28	CP-16	IMPRESSED CURRENT CP SITE PLAN: MAIN SEWER PUMP STATION	SS
29	CP-17	IMPRESSED CURRENT CP DETAILS: MAIN SEWER PUMP STATION - DETAILS 1	SS
30	CP-18	IMPRESSED CURRENT CP DETAILS: MAIN SEWER PUMP STATION - DETAILS 2	SS
31	CP-19	IMPRESSED CURRENT CP DETAILS: MAIN SEWER PUMP STATION - DETAILS 3	SS

DETAIL NUMBERING SYSTEM



1-800-227-2600
CALL BEFORE YOU DIG

CITY OF MILPITAS
ENGINEERING DIVISION
2013 CATHODIC PROTECTION IMPROVEMENT PROJECT
CIP 7115, 6115 & 3706
CATHODIC PROTECTION TITLE SHEET, NOTES, INDEX & ABBREVIATIONS

RECOMMENDED FOR BIDDING BY: Steve P. Ericksen, CIP Manager DATE: 6/10/13
APPROVED FOR BIDDING BY: Jeff Moneda Public Works Director/City Engineer DATE: —

PROJECT NO. 7115,6115,3706
DRAWING NO. G-1
E.P. NO. 2-1173
SCALE AS SHOWN
SHEET 1 OF 31

Revisions
Record Drawings

jdh corrosion
JDH Corrosion Consultants, Inc.
1100 Willow Pass Way
Concord, CA 94509
Phone: (925) 927-6630
WWW.JDHCORROSION.COM

*14

AMENDMENT NO. 2 TO THE AGREEMENT
WITH
ACCO ENGINEERED SYSTEMS
FOR
MAINTENANCE AND REPAIR OF CITY HALL HVAC SYSTEM

This Amendment is entered into this 19th day of June 2013, by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "CITY") and **ACCO Engineered Systems, Inc.**, a California Corporation (hereafter referred to as "VENDOR").

RECITALS

WHEREAS, VENDOR was the lowest responsible bidder for the original installation of the HVAC system when City Hall was built, and

WHEREAS, due to the customized and proprietary nature of the software used in the HVAC control system, on February 17, 2009 the City Council adopted Resolution 7838 approving VENDORS maintenance and repair service as a "Sole Source" purchase pursuant to Municipal Code Section I-2-3.09 "Sole Source Procurement", for a period of five years which expires on February 17, 2014, and

WHEREAS, on June 15, 2010, City Council approved a three year agreement for maintenance and repair of the City Hall HVAC system with VENDOR for the annual not-to-exceed amount of $61,236.80 for a total contract not-to-exceed amount of $183,710.40, and

WHEREAS, the City and Vendor entered into a three year contract on July 1, 2010 which will expire on June 30, 2013, and

WHEREAS, the parties wish to amend the agreement to extend the term from June 30, 2013 to February 17, 2014 to coincide with the end of the "Sole Source" designation and increase the total contract amount by $21,144.

NOW THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties agree to amend the Agreement as follows:

1. Section 2, entitled "Term" of the agreement is amended to read as follows: "The effective date of this contract is July 1, 2010 and it terminates on February 17, 2014 unless sooner terminated as provide herein."

2. Section 3, entitled "Payment Limit" of the agreement is amended to read as follows:
"City's total payment to contractor under this contract shall not exceed $204,854.40."

3. All other provisions of the amended Agreement not modified by this Amendment No. 2 shall remain in full force and effect.

This Amendment is executed as of the date first written above.

APPROVED BY:

CITY OF MILPITAS

Thomas C. Williams, City Manager

ACCO ENGINEERED SYSTEM

Name/Title of Authorized Representative

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

APPROVED AS TO CONTENT:

Steve Erickson, City Project Manager

CONSULTING SERVICES AGREEMENT BETWEEN THE CITY OF MILPITAS AND QUALITLY ASSURANCE ENGINEERING, INC.

THIS AGREEMENT for consulting services is made by and between the City of Milpitas, a municipal corporation of the State of California referred to herein as the ("City"), and Quality Assurance Engineering, Inc., a California corporation DBA "Consolidated Engineering Laboratories" ("Consultant") as of the date of July 1, 2013.

AGREEMENT

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

1.1 Term of Services. The term of this Agreement shall begin on the date first noted above and shall end on June 30, 2015, the date of completion specified in Exhibit A, and Consultant shall complete all the work described in Exhibit A prior to that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the City's right to terminate the Agreement, as provided for in Section 8.

1.2 Standard of Performance. Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices its profession. Consultant shall prepare all work products required by this Agreement in a substantial, first-class manner and shall conform to the standards of quality normally observed by a person practicing in Consultant's profession.

1.3 Assignment of Personnel. Consultant shall assign only competent personnel to perform services pursuant to this Agreement. Exhibit A shall name any specific personnel who shall be performing services. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.

1.4 Time. Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 1.1 above and to complete Consultant's obligations hereunder.

Section 2. COMPENSATION. City hereby agrees to pay Consultant an amount not to exceed Five Hundred Thousand Dollars ($500,000) based on time and materials for all services to be performed and reimbursable costs incurred under this Agreement. City shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Hourly rates for personnel performing services shall be as shown in Exhibit B. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 Invoices. Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred during the billing period. Invoices shall contain the following information:

- Serial identification of bills;
- The beginning and ending dates of the billing period;
- A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion, if applicable;
- At City's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
- The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder, as well as a separate notice when the total number of hours of work by Consultant and any individual employee, agent, or subcontractor of Consultant reaches or exceeds 9000 hours, which shall include an estimate of the time necessary to complete the work described in Exhibit A;
- The Consultant's signature.

2.2 Monthly Payment. City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above and is otherwise acceptable to the City to pay Consultant. Ten (10) percent shall be retained by the City from each

Agreement billing until the completion of the Agreement unless authorized differently by City. In the event that an invoice is not acceptable to the City, said invoice shall be returned to Consultant within thirty (30) days of the City's receipt of the invoice with a detailed explanation of the deficiency. City's obligation to pay a returned invoice shall not arise earlier than thirty (30) days after resubmission of the corrected invoice.

2.3 Total Payment. City shall pay for the services to be rendered by Consultant pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.

In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment. In the event that Consultant identifies additional work outside the scope of services specified in Exhibit A that may be required to complete the work required under this Agreement, Consultant shall immediately notify the City and shall provide a written not-to-exceed price for performing this additional work.

2.4 Hourly Fees. Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on Exhibit B.

2.5 Payment of Taxes. Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any other applicable federal or state taxes.

2.6 Reimbursable Expenses. Reimbursable expenses are shown on Exhibit B, and shall not exceed Five Thousand Dollars ($5000.00). Expenses not listed in Exhibit B are not chargeable to City. Reimbursable expenses are included in the total not-to-exceed amount of compensation provided under this Agreement.

2.7 Payment upon Termination. In the event that the City or Consultant terminates this Agreement pursuant to Section 8, the City shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets in order to verify costs incurred to that date. The City shall have no obligation to compensate Consultant for work not verified by logs or timesheets.

2.8 Authorization to Perform Services. The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of a written Notice to Proceed from the City.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

City shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of the City. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of City. In no event shall City be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, cellular telephone, long-distance telephone, or other communication charges, vehicles, and reproduction facilities.

If the performance of the work specified in Exhibit A requires destructive testing or other work within the City's public right-of-way, Consultant, or Consultant's subconsultant, shall obtain an encroachment permit from the City.

Section 4. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Consultant shall procure "occurrence coverage" insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant and its agents, representatives, employees, and subcontractors. Consultant shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects to the City. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement and shall produce said policies to the City upon demand. The cost of such insurance shall be included in the Consultant's price. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution.

4.1 Workers' Compensation. Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than ONE MILLION DOLLARS ($1,000,000.00) per accident. In the alternative, Consultant may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the City Attorney. The insurer, if insurance is provided, or the Consultant, if a program of self-insurance is provided, shall waive all rights of subrogation against the City and its officers, officials, employees, and volunteers for loss arising from work performed under this Agreement.

An endorsement shall state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

4.2 Commercial General and Automobile Liability Insurance.

4.2.1 General requirements. Consultant, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than ONE MILLION DOLLARS ($1,000,000.00) per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

4.2.2 Minimum scope of coverage. Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (ed. 11/88) or Insurance Services Office form number GL 0002 (ed. 1/73) covering comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (ed. 12/90) Code 1 ("any auto"). No endorsement shall be attached limiting the coverage.

4.2.3 Additional requirements. Each of the following shall be included in the insurance coverage or added as an endorsement to the policy:

a. City and its officers, employees, agents, contractors, consultants, and volunteers shall be covered as insureds with respect to each of the following: liability arising out of activities performed by or on behalf of Consultant, including the insured's general supervision of Consultant; products and completed operations of Consultant; premises owned, occupied, or used by Consultant; and automobiles owned, leased, or used by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City or its officers, employees, agents, contractors, consultants, or volunteers.

b. The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.

c. An endorsement must state that coverage is primary insurance with respect to the City and its officers, officials, employees, contractors, consultants, and volunteers, and that no insurance or self-insurance maintained by the City shall be called upon to contribute to a loss under the coverage.

d. Any failure of CONSULTANT to comply with reporting provisions of the policy shall not affect coverage provided to CITY and its officers, employees, agents, and volunteers.

e. An endorsement shall state that coverage shall not be suspended, voided, or canceled by either party, reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

4.3 Professional Liability Insurance. If Consultant shall be performing licensed professional services, Consultant shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than TWO MILLION DOLLARS ($2,000,000) covering the licensed professionals' errors and omissions.

4.3.1 Any deductible or self-insured retention shall not exceed $150,000 per claim.

4.3.2 An endorsement shall state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

4.3.3 The policy must contain a cross liability clause.

4.3.4 The following provisions shall apply if the professional liability coverages are written on a claims-made form:

a. The retroactive date of the policy must be shown and must be before the date of the Agreement.

b. Insurance must be maintained and evidence of insurance must be provided for at least three years after completion of the Agreement or the work, unless waived in writing by the City.

c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant must provide extended reporting coverage for a minimum of five years after completion of the Agreement or the work. The City shall have the right to exercise, at the Consultant's sole cost and expense, any extended reporting provisions of the policy, if the Consultant cancels or does not renew the coverage.

d. A copy of the claim reporting requirements must be submitted to the City prior to the commencement of any work under this Agreement.

4.4 Requirements for All Policies.

4.4.1 Acceptability of insurers. All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A.

4.4.2 Verification of coverage. Prior to beginning any work under this Agreement, Consultant shall furnish City with certificates of insurance and with original endorsements effecting coverage required herein. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The City reserves the right to require complete, certified copies of all required insurance policies at any time.

4.4.3 Subcontractors. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

4.4.4 Deductibles and Self-Insured Retentions. Consultant shall disclose to and obtain the approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement.

During the period covered by this Agreement, only upon the prior express written authorization of the City, Consultant may increase such deductibles or self-insured retentions with respect to City, its officers, employees, agents, contractors, consultants, and volunteers. The City may condition approval of an increase in deductible or self-insured retention levels with a requirement that Consultant procure a bond, guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to the City.

4.4.5 Notice of Reduction in Coverage. In the event that any coverage required by this section is reduced, limited, or materially affected in any other manner, Consultant shall provide written notice to City at Consultant's earliest possible opportunity and in no case later than five days after Consultant is notified of the change in coverage.

4.5 Remedies. In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;

- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or

- Declare Consultant in material breach of the Agreement and terminate the Agreement.

4.6 Waiver. The Risk Manager of the City has the authority to waive or vary any provision of Sections 4.2 through 4.5. Any such waiver or variation shall not be effective unless made in writing.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES. Consultant shall indemnify, defend with counsel reasonably acceptable to the City, and hold harmless the City and its officials, officers, employees, agents, contractors, consultants, and volunteers from and against any and all losses, liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct or negligent acts or omissions of Consultant or its employees, subcontractors, or agents, by acts for which they could be held strictly liable, or by the quality or character of their work. The foregoing obligation of Consultant shall not apply when (1) the injury, loss of life, damage to property, or violation of law arises wholly from the negligence or willful misconduct of the City or its officers, employees, agents, contractors, consultants, or volunteers and (2) the actions of Consultant or its employees, subcontractor, or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law. It is understood that the duty of Consultant to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been

determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Section 6. STATUS OF CONSULTANT.

6.1 Independent Contractor. At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3. Otherwise, City shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

6.2 Consultant No Agent. Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 7. LEGAL REQUIREMENTS.

7.1 Governing Law. The laws of the State of California shall govern this Agreement.

7.2 Compliance with Applicable Laws. Consultant and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.

7.3 Other Governmental Regulations. To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.

7.4 Licenses and Permits. Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to City that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions and to perform this Agreement. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid business license from City.

7.5 Nondiscrimination and Equal Opportunity. Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the City or this Agreement.

Section 8. TERMINATION AND MODIFICATION.

8.1 Termination. City may terminate this Agreement at any time and without cause upon written notification to Consultant.

In the event of termination, Consultant shall be entitled to compensation for services performed prior to the effective date of termination as provided in Section 2. City, however, may condition payment of such compensation upon Consultant delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or the City in connection with this Agreement.

8.2 Extension. City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the City, City shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.

8.3 Amendments. The parties may amend this Agreement only by a writing signed by all the parties.

8.4 Assignment and Subcontracting. City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the City. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors listed in the Consultant's proposal, without prior written approval of the City.

8.5 Survival. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant shall survive the termination of this Agreement.

8.6 Options upon Breach by Consultant. If Consultant materially breaches any of the terms of this Agreement, City's remedies shall include, but not be limited to, any or all of the following:

8.6.1 Immediate cancellation of the Agreement;

8.6.2 Retention of the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement prior to cancellation; and

8.6.3 Retention of a different consultant at Consultant's cost to complete the work described in Exhibit A not finished by Consultant.

Section 9. KEEPING AND STATUS OF RECORDS.

9.1 Records Created as Part of Consultant's Performance. All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Consultant hereby agrees to deliver those documents to the City at any time upon demand of the City. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. Failure by Consultant to deliver these documents to the City within the time period specified by the City shall be a material breach of this Agreement. City and Consultant agree that, until final

approval by City, all data, plans, specifications, reports and other documents are preliminary drafts not kept by the City in the ordinary course of business and will not be disclosed to third parties without prior written consent of both parties.

9.2 Consultant's Books and Records. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.

9.3 Inspection and Audit of Records. Any records or documents that Section 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds TEN THOUSAND DOLLARS ($10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of three (3) years after final payment under the Agreement.

Section 10 MISCELLANEOUS PROVISIONS.

10.1 Attorneys' Fees. If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

10.2 Venue. In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Santa Clara or in the United States District Court for the Northern District of California.

10.3 Severability. If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

10.4 No Implied Waiver of Breach. The waiver of performance or any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

10.5 Successors and Assigns. The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.

10.6 Use of Recycled Products. Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.

10.7 Conflict of Interest. Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

Consultant hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Consultant were an employee, agent, appointee, or official of the City in the previous twelve months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code §1090 *et.seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, may be disqualified from holding public office in the State of California.

Consultant certifies that it has not paid any direct or contingent fee, contribution, donation or consideration of any kind to any firm, organization, or person (other than a bona fide employee of Consultant) in connection with procuring this Agreement, nor has Consultant agreed to employ or retain any firm, organization, or person in connection with the performance of this Agreement as a condition for obtaining this Agreement.

10.8 Solicitation. Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

10.9 Contract Administration. This Agreement shall be administered by Michael Boitnott who is authorized to act for, and on behalf of, City. All correspondence shall be directed to or through the Contract Administrator or his or her designee.

10.10 Notices. Any written notice to Consultant shall be sent to:

Gary Cappa, President/CEO
Consolidated Engineering Laboratories
2001 Crow Canyon Road, Suite 100
San Ramon, California 94583

Any written notice to City shall be sent to:
Steve Erickson, CIP Manager
455 East Calaveras Boulevard
Milpitas, California 95035

10.11 Professional Seal. Where applicable in the determination of the City, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.

10.12 Integration. This Agreement, including the exhibits, represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

10.13 Exhibits. All exhibits referenced in this Agreement are incorporated by reference herein.

CITY OF MILPITAS

Thomas C Williams, City Manager

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

APPROVED AS TO CONTENT:

Jeff Moneda, Public Works Director/City Engineer

CONSOLIDATED ENGINEERING LABORATORIES

Gary Cappa, President/CEO

94-2988193

Taxpayer Identification Number

C1187558

Corporate Entity Number

EXHIBIT A

SCOPE OF SERVICES FOR ON CALL INSPECTION AND TESTING SERVICES FOR VARIOUS CAPITAL IMPROVEMENT PROJECTS AND PRIVATE JOB ACCOUNTS

A. Consultant shall provide the following general services upon written Notice(s) to Proceed from City and as more particularly described in Exhibit B:

1. Perform material testing and specialized inspection for the improvements installed with each project and provide testing and inspection reports. It may also include exploratory evaluations and testing, building inspection, special inspections such as historical buildings and potential hazardous material areas.

2. All inspections and material testing shall be conducted in accordance with the appropriate and applicable inspection or testing procedures for the requested inspection and material testing as approved by City. When a requested test or inspection procedure does not have a recognized methodology, the City shall be notified and then standards of the industry shall be used as approved by City.

3. Field Investigation, Data Collection & Field Survey.

4. When providing inspection and testing for federal aid projects services must comply with the City of Milpitas Quality Assurance Program.

5. In case of a failed tested or inspection, Consultant shall notify the City Project Inspector, Sr. Public Works Inspector, and the Project Manager immediately.

6. Consultant's Project Inspector shall leave a copy of the hand written report of the day's activities with the City's Public Works Inspector prior to leaving the City.

7. Electronic copies of the test results and inspections shall be e-mailed to the City team designated by project number as soon as electronic copies can be produced.

8. Consultant shall comply with the inspection and testing protocols and procedures as set forth in the project specification or the project specific "scope of work" or written directives from the City team.

B. All work under this Agreement shall be subject to City review and approval.

EXHIBIT B

COMPENSATION SCHEDULE

CITY OF MILPITAS

CONSTRUCTION INSPECTION AND MATERIAL TESTING

SERVICES FOR VARIOUS CAPITAL IMPROVEMENT PROGRAM (CIP) PROJECTS

PERSONNEL		UNIT RATE	UNIT
Principal	$	185.00	hour
Senior Engineer	$	160.00	hour
Project Engineer	$	130.00	hour
Staff Engineer	$	120.00	hour
Field Engineer	$	110.00	hour
DSA Certified Inspector	$	106.00	hour
Full-Time Staff Augmentation	$	85.00	hour
Inspector/Field Technician - Prevailing Wage	$	94.00	hour
SPECIAL SERVICES		**UNIT RATE**	**UNIT**
Soils Inspector with Nuclear Gauge	$	106.00	hour
Windsor Probe Tests (probes extra)	$	94.00	hour
Pachometer	$	94.00	hour
High-Strength Bolting	$	94.00	hour
In-Place Brick Shear Tests (Masonry) - Two-Person Crew (4-hour minimum)	$	163.00	hour
Pull-Out Tests (Proof Loading)	$	94.00	hour
Ultrasonic Testing of Weldments	$	106.00	hour
Glu-Lam Fabrication	$	106.00	hour
Ground Penetrating Radar (GPR)			
- One Man Crew	$	200.00	hour
- Two Man Crew	$	300.00	hour
Floor Flatness Testing:			
- Surveying/Inspection	$650.00/half day; $1000.00		day
- Profileograph	$	1,250.00	day
SOILS AND BASE MATERIALS		**UNIT RATE***	**UNIT**
Moisture/Density Curve			
Standard Proctor ASTM D 698	$	200.00	each
Modified Proctor ASTM D 1557/AASHTO T180	$	300.00	each
Checkpoint	$	145.00	each

California Impact, CT 216	$	310.00	each
Sieve Analysis			
Bulk Sample Gradation, ASTM C 136/CT202	$	120.00	each
Material Finer than #200 Sieve, ASTM C 117	$	80.00	each
Soil Mechanics			
Soil Classification, ASTM D 2487	$	350.00	each
"R" Value, ASTM D 2844/CT 301	$	360.00	each
Plasticity Index (Atterburg Limits), ASTM D 4318/CT 204	$	220.00	each
Sand Equivalent, ASTM D 2419/CT 217	$	120.00	each
Compression, Cement Treated Base (Including Preparation), CT 312	$	170.00	each
Particle Size Analysis ASTM D 422			
Hydrometer Minus #200	$	220.00	each
Sieve Analysis/Hydrometer	$	320.00	each
AGGREGATES		**UNIT RATE***	**UNIT**
Sieve Analysis			
Bulk Sample Gradation (coarse or fine), ASTM C 136	$	120.00	each
Material Finer than #200 Sieve, ASTM C 117	$	65.00	each
Bulk Sample Gradation, CT202	$	180.00	each
Specific Gravity (coarse), ASTM C 127/CT 206	$	85.00	each
Specific Gravity (fine), ASTM C 128/CT 207	$	85.00	each
Absorption, Sand or Gravel, ASTM C 127/ASTM C 140	$	75.00	each
Organic Impurities in Concrete Sand, ASTM C 88	$	75.00	each
L.A. Rattler, ASTM C 131 or C 535/Cal 211	$	300.00	each
Sulfate Soundness (per sieve), ASTM C 88	$	140.00	each
Unit Weight of Aggregates, ASTM C 29	$	85.00	each
Hardness, ASTM D 1865	$	120.00	each
Crushed Particles, CT 205	$	160.00	each
Cleanness Value, CT 227	$	120.00	each
Durability ASTM D 3744/CT 229	$	120.00	each
Moisture Content of Aggregate ASTM C 29	$	70.00	each
ASPHALTIC CONCRETE		**UNIT RATE***	**UNIT**
Hveem Compaction (including sample preparation), CT 366, per point	$	200.00	each
Hveem Compaction (premixed sample), CT 304, per point	$	145.00	each
Stabilometer Value, CT 366, per point	$	60.00	each
Bitumen Content (extraction), ASTM D 2172	$	200.00	each
Bitumen Content (extraction), CT 310/Cal 382 Ignition Furnace	$	200.00	each
Gradation of Extracted Sample, ASTM C 136/CT 202	$	170.00	each
Unit Weight of Compacted Asphaltic Concrete, ASTM D 2726/CT 308	$	55.00	each

Unit Weight of Compacted Asphaltic Concrete, (Paraffin Coated) ASTM D 1188	$	85.00	each
Marshall Compaction (including sample preparation), set of 3, ASTM D 1559	$	365.00	each
Marshall Compaction (premixed sample), set of 3, ASTM D 1559	$	300.00	each
Marshall Flow and Stability, per point, ASTM D 1559	$	65.00	each
Maximum Theoretical Specific Gravity (Rice Gravity), ASTM D 2041	$	160.00	each
Swell of Bituminous Mixtures, CT 304/305	$	210.00	each
Caltrans Complete Asphaltic Concrete Test (Hveem Compaction, Stabilometer Value, Extraction Gradation, Unit Weight), Average of Two Biscuits	$	799.00	each
ASPHALTIC CEMENT		**UNIT RATE***	**UNIT**
Penetration of Bituminous Materials at 77°F, ASTM D5/AASHTO T49	$	71.00	each
Penetration of Bituminous Materials at 32°F to 158°F, ASTM D 5/AASHTO T49	$	105.00	each
Kinematic Viscosity of Asphalt, ASTM D 2170/AASHTO T201	$	170.00	each
Absolute Viscosity of Asphalt, ASTM D2170/AASHTO T201	$	170.00	each
Viscosity (Asphalt Institute Method)	$	195.00	each
Rolling Thin Film Test, ASTM 2872/Cal 346/AASHTO T240	$	180.00	each
Residue by Evaporation, ASTM D244/AASHTO T59	$	220.00	each
Extraction and Recovery, ASTM D2172/ASTM D 1856	$	850.00	each
GEOTEXTILE FABRIC		**UNIT RATE***	**UNIT**
Tensile Strength by Grab Method	$	370.00	each
Puncture Resistance, Index, ASTM D 4833	$	254.00	each
Trapezoidal Tear	$	281.00	each
Mass Per Unit Area, ASTM D 3776	$	188.00	each
Simulated Asphalt Retention, ASTM D 4830	$	463.00	each
Unit Weight Analysis, ASTM S 2329	$	39.00	each
Ply Count and Void Analysis, ASTM D 2329	$	110.00	each
CONCRETE		**UNIT RATE***	**UNIT**
Concrete Mix Design Review	$	150.00	each
Trial Batches, Prepared in Laboratory	$	650.00	each
Shrinkage, set of 3, ASTM C157, CT 530	$	410.00	each
Compression, 6X12 Cylinders, ASTM C 39, CT 521	$	35.00	each
Compression, Core (including end preparation), ASTM C 42	$	85.00	each
Compression, 3X6 Cylinders Lightweight Insulating Concrete, ASTM C 495	$	35.00	each
Compression, 2X2 Cubes, each age, ASTM C 109	$	55.00	each
Molds, 6X12 Concrete			No Charge
Cylinders, Stored 60 days (hold cylinders)	$	35.00	each
Splitting Tensile, 6X12 Cylinders, ASTM C 496	$	75.00	each
Unit Weight of Concrete Cylinders, ASTM C 567	$	45.00	each
Unit Weight of Lightweight Insulating Concrete, ASTM C 495	$	55.00	each

Compression Test of Lightweight Insulating Concrete, ASTM C 495	$	35.00	each
Flexural Strength of Concrete, ASTM C 78 or C 495	$	180.00	each
Shotcrete Pre-Production Panel Test, Up to 12" Thick	$	1,100.00	each
Shotcrete Panel Core Compression Test, ASTM C 42	$	110.00	each
Chloride Ion Content, AASHTO T260	$	140.00	each
Emission of Moisture through Concrete	$	100.00	each
GFRC PANEL TEST		**UNIT RATE***	**UNIT**
Flexural Testing, per P.C.I Recommended Practice	$	71.00	each
Pullout Testing of Anchors, per P.C.I. Recommended Practice	$	116.00	each
Fiberwrap Testing (ASTM D3039)	$	610.00	set
REINFORCING STEEL - ASTM A 615		**UNIT RATE***	**UNIT**
Tensile Strength and Bend Test			
Samples, Size #3 - #10	$	85.00	each
Samples, Size #11	$	138.00	each
Samples, Size #14	$	336.00	each
Samples, Size #18 (Full Section)	$	419.00	each
PRESTRESSING STEEL - ASTM A 416		**UNIT RATE***	**UNIT**
Uncoated 7 Wire Strand, 1/4" to 1/2"			
Yield Strength, Breaking Strength, and Elongation (Note: for Vinyl Coated Strands, (add $ 25.00 per test; for Modulus of Elasticity, add $ 25.00 per test)	$	298.00	each
Breaking Strength Only	$	193.00	each
MASONRY		**UNIT RATE***	**UNIT**
Concrete Blocks			
Compression, Gross Area, ASTM C 140	$	110.00	each
Compression, Gross Area, Unusual Shape, ASTM C 67	$	110.00	each
Compression, Net Area, ASTM C 140	$	85.00	each
Absorption and Moisture, ASTM C 140	$	120.00	each
Linear Shrinkage. ASTM C 426	$	210.00	each
Bricks			
Absorption, with saturation Coefficient, ASTM C 67	$	110.00	each
Compression, ASTM C 67	$	85.00	each
Modulus of Rupture, ASTM C 67	$	40.00	each
Compression, Grout Prisms, ASTM C 39	$	40.00	each
Compression, Mortar Cylinders, ASTM C 39	$	40.00	each
Compression, Composite Prisms, ASTM E 447	$	160.00	each
Compression, Masonry Core, ASTM C 140	$	75.00	each
Shear, Masonry Core, CCR Title 24	$	100.00	each
Mortar Molds, ASTM C 470			No Charge

STRUCTURAL STEEL (mild steel not over one inch thick)		UNIT RATE*	UNIT
Tensile Strength, ASTM A 370 (test only)			
Samples, Under 1-1/2 square inch in cross section	$	115.00	each
Samples, 1-1/2 square inch and over in cross section	$	120.00	each
Bending	$	85.00	each
High Strength Bolts, Nuts, and Washers, ASTM A 325, A 490, A 449			
Bolts Proof Load or Ultimate	$	110.00	each
Nuts Proof Load	$	60.00	each
Washers Proof Load	$	30.00	each
Hardness (Rockwell)	$	30.00	each
WELDMENT TESTING (mild steel not over one inch thick)		**UNIT RATE***	**UNIT**
Transverse Tensile	$	120.00	each
Transverse Side Bend	$	80.00	each
Transverse Root and Face Bend	$	80.00	each
Macroetch	$	80.00	each
0.505" Tensile Specimen	$	125.00	each
Charpy V-Notch Specimen			Quotation on Request
NONDESTRUCTIVE TESTING		**UNIT RATE**	**UNIT**
Radiography			
Consultation	$	130.00	hour
One-Person Crew	$	95.00	hour
Two-Person Crew	$	175.00	hour
Film			Quotation on Request
Magnetic Particle Level III (ASNT)	$	130.00	hour
Magnetic Particle Level II (ASNT)	$	89.00	hour
Ultrasonic Level III (ASNT)	$	130.00	hour
Ultrasonic Level II (ASNT)	$	89.00	hour
Dye Penetrant Level III (ASNT)	$	130.00	hour
Dye Penetrant Level II (ASNT)	$	89.00	hour
CORING SERVICES		**UNIT RATE**	**UNIT**
Coring Machine Operator	$	120.00	hour
Helper (add per hour)	$	70.00	hour
Diamond Drill Bit Charges, per inch to 5"	$	8.00	inch
Diamond Drill Bit Charges, per inch 6" and over			Quotation on Request
Compression of Core, ASTM C 42	$	100.00	each
ROOFING		**UNIT RATE***	**UNIT**
Ply Count and Asphalt by Difference, ASTM D 2829	$	132.00	each
Weight Analysis, ASTM D 2829	$	49.00	each

FIREPROOFING		UNIT RATE*	UNIT
Density of Sprayed on Fireproofing, ASTM E 605/UBC 43-8	$	60.00	each
Cohesion/Adhesion, ASTM E 736	$	93.00	each
FIRE/LIFE SAFETY SYSTEMS		**UNIT RATE***	**UNIT**
Fire/Life Safety Systems Inspection	$	95.00	hour
Mechanical Engineer	$	155.00	hour
Staff Engineer	$	131.00	hour
Final Affidavit (Request 6 Working Days Advance Notice)			Quotation on Request
SPECIALTY GEOTECHNICAL TESTING		**UNIT RATE**	**UNIT**
ASTM D1140	$	49.00	each
Consolidation (ASTM D2435, D4546)	$	176.00	each
Time-Consolidation (ASTM D2435)	$	78.00	each
Collapse/Swell (ASTM D4546)	$	93.00	each
Unconfined Compressive Strength (ASTM D2166)	$	110.00	each
Direct Shear (3 pt.)	$	1,009.00	each
California Bearing Ratio, 1 pt. (ASTM D1883)	$	204.00	each
California Bearing Ratio, 3 pt. (ASTM D1883)	$	551.00	each
Water Soluble Sulfate	$	56.00	each
pH (ASTM D4972)	$	39.00	each
Lab Resistivity	$	93.00	each
Other Laboratory Testing			Quotation on Request
MISCELLANEOUS TESTS & INSPECTIONS		**UNIT RATE**	**UNIT**
Calibration of Hydraulic Rams	$	210.00	each
Universal Testing Machine with Technician	$	193.00	hour
Instron Testing Machine with Technician	$	160.00	hour
Windsor Test Probes			Quotation on Request
Welder Qualifications	$	110.00	each
Weld Procedure Review	$	110.00	each
Expert Witness	$	2,426.00	day
Laboratory Technician	$	88.00	hour
BASIS OF CHARGES		**UNIT RATE**	**UNIT**
Work Over 8 Hours per Day, or on Saturdays			Time and One-Half
Work Over 12 Hours			Double Time
Work on Sundays/Holidays			Double Time
Swing or Graveyard Shift Premium	$	8.00	hour
Work from 0 to 2 Hours			2-hour Minimum Billing
Work from 2 to 8 Hours			Actual
Show-Up Time			2-hour Minimum Billing

Sample Pick-Up	$	94.00	trip
Premium Sample Pick-Up (after 4 PM, before 5 AM, Weekends and Holidays)		1.5 times Sample Pick-Up Rate	
Laboratory Testing - Rush Fee		Add 50% to Testing Cost	
Final Affidavit per each Applicable Permit (Request 6 working days in advance)		$350.00 Minimum Billing	
Reimbursables		Cost + 10%	
QA/QC Plan Written Procedures		Quotation on Request	
Out of Area Services (Beyond 40-Mile Radius)		As Listed Below:	
Travel Time		Basic Hourly Rate	
Mileage	$	0.50	mile
Per-diem, Including Lodging	$	88.00	day

1. Consultant's services for each individual project will have a budget and specific work scope approved by City.

2. Working duration will be based on onsite hours and shall be rounded to the next nearest half hour and no more than a 2 hour minimum shall be allowed for durations less than 2 hours or show up charges.

3. Cost of testing includes storage and disposal of material.

4. No changes shall be made to the rates set forth above during the term of this Agreement.

5. No reimbursement of any costs and expenses under this Agreement, ie. travel time, mileage, vehicle, meals, etc.. All costs and expenses are incorporated into the rates set forth above.

6. When the City requests for plant inspections at locations that are further than a 40-mile radius from the City of Milpitas or a 40-mile radius from Consultant's office, a per-diem and mileage will be allowed under applicable state and federal rates.

EXHIBIT C

INSURANCE DOCUMENTS

Workers Compensation

CITY OF MILPITAS

EXCESS WORKERS' COMPENSATION

7-1-13 to 7-1-14

	Current 2012 / 2013	Renewal 2013 / 2014
COMPANY:	Safety National Casualty Corporation	Safety National Casualty Corporation
2012 BEST'S RATING:	A: XI; Admitted	A: XI; Admitted
LIMIT:	$20,000,000 WC $1,000,000 EL Per Occurrence/Aggregate	$20,000,000 WC $1,000,000 EL Per Occurrence/Aggregate
SELF-INSURED RETENTION (SIR):	$750,000 $1,000,000 Police and Fire	$750,000 $1,000,000 Police and Fire
PAYROLL:	$38,466,707	$33,561,000 (12.8% Decrease)
RATE:	.2954	.33858
DEPOSIT PREMIUM:	*$113,631	*$113,631
MINIMUM PREMIUM	*$102,268	*$102,268

***Note: No State of California Insurance Guarantee Association (CIGA) surcharge will apply for 2013/2014**

AGREEMENT FOR CITY OF MILPITAS RECREATION SERVICES *17

Instructor Name: Barry Poole
Address:
1947 Half Pence Wy
San Jose, CA 95132
Phone Number: (408) 569-3109

Tax ID Number: -
Social Security Number: - -

This Agreement for Recreation Services is made by and between the City of Milpitas ("City") and Barry Poole, ("Contractor") this agreement will be in effect from **July 1, 2013, through June 30, 2014**, in Milpitas, California.

1. Independent Contractor. At all times during the term of this Agreement, Contractor shall be an independent Contractor and shall not be an employee of City. City shall have the right to control Contractor only insofar as the results of Contractor's services rendered pursuant to this Agreement. Otherwise, City shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System(PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

2. Contractor No Agent. Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

3. Services. Subject to the terms and conditions set forth in this Agreement, Contractor shall provide the City with the following services: Tennis Classes **(see attached list)**

   A. Contractor shall supply and furnish all necessary work, labor, and materials in carrying out this Agreement at Contractor's sole cost and expense.

   B. Contractor agrees to contact Recreation Services three (3) days prior to the first class meeting to verify class enrollment. If fewer than the minimum students have enrolled for the course, class status will be determined by the Contractor and the designated Recreation Services Representative.

4. Compensation. It is agreed that payment to Contractor for work rendered hereunder shall be made within (30) days of completion of terms as herein indicated:

   Payment Rate**: 70% of receipts (resident rate only).

   A. Contractor shall be compensated based on enrollment totals at the end of the session. Recreation Services is not responsible for compensating Contractors participants who withdraw from the program due to dissatisfaction as stated in the Recreation Services Customer Satisfaction Policy.

      # of class meetings 4, 5, 7, and 8
      Minimum Participants 3, 4
      Maximum Participants 8, 16

   B. Should Contractor modify dates, times, or are tardy to a class more than two (2) times in a given session, resulting in changes to the schedule as listed in the Activity Guide, Contractors final compensation shall be reduced by 10%.

   C. In the event of a class cancellation by the Contractor resulting in a make-up class, the Contractor payment shall be reduced by any necessary refunds distributed to participants who are unable to attend the make-up class.

   D. Should Recreation Services be the cause of any class cancellation (i.e. scheduling conflict of facility or lack of building accessibility) the Contractor shall be compensated for missed or re-scheduled class(es).

   E. In the case that the class does not reach the stated minimum prior to the first class meeting and the class has not been previously canceled, the Contractor agrees that he/she will attend the first class meeting without compensation. If, after the first class meeting the stated minimum enrollment is still not reached, Recreation Services may, at its discretion cancel the class or if said class is not canceled, Contractor may elect to cancel the

class or conduct the class with a reduced class minimum. In the later case, compensation will be adjusted by Recreation Services.

F. Payment is for professional services and not as an hourly wage. City will not withhold such sum any amount for federal or state income taxes. All instructors must complete a W-9 form.

5. Licenses and Permits; Compliance with Laws. Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to provide services pursuant to this agreement. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement a valid business license from City and a copy of the license be included with the original signed contract.

6. Insurance. Should Contractor employ any party or person in connection with Contractor's operations under this contract, Contractor shall obtain Worker's Compensation Insurance and will provide the City with proof thereof. The Labor Code of the Workers' compensation laws of California states that an employer must cover employees for work-related injury and illness. As an Independent Contractor, and not an agent or employee of City and therefore will not be covered under the City's Compensation Fund. Additionally, City will not obtain unemployment insurance for the Independent Contractor. Therefore, CITY's insurance company will not defend or pay out claims brought against an Independent contractor of City. Contractor understands that as an Independent Contractor, he/she is responsible for his/her own insurance and liability coverage. _____Contractor initials

7. No Assignment. Contractor has agreed that the services called for under this Agreement are personal services, and Contractor shall not, under any circumstances, assign this contract. Any attempt to do so shall render this contract void and of no further effect.

8. Contractor grants full permission to the City of Milpitas for use of his/her name and photographs, videographs, motion pictures or recordings for any publicity and promotion purposes without obligation or liability to contractor.

9. Background Checks. If class/program is open to youth under the age of 18 years, Contractor and any assistant instructors/subcontractors agrees to fulfill all fingerprint/background checks prior to first class. Independent Contractor/assistant instructor/subcontractor is not eligible to work until the clearance is received from the Department of Justice and notified by a Recreation Services representative. The Independent Contractor attests that they have never been convicted of a crime, including military offenses, other than minor traffic offenses, which resulted in conviction and/or imprisonment.

10. Entire Agreement. This Agreement represents the entire and integrated agreement between the City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral.

11. Indemnification. Contractor hereby indemnifies and holds harmless and releases and discharges the City of Milpitas, its officers, agents, employees, and volunteers from any and all liability for any injuries to persons or property suffered by any persons(including but not limited to contractor, contractor's employees or students) arising from or connected with this Agreement or Contractor's activities pursuant to this Agreement. Therefore, Contractor evaluated the inherent risks involved in operating his/her activity and has sufficient insurance coverage. _____ Contractor initials

12. Governing Law. The laws of the State of California shall govern this Agreement.

Compliance with Applicable Laws. Contractor shall comply with all laws applicable to the performance of the work hereunder.

Noncompliance and Equal Opportunity. Contractor shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any participant in, recipient of, or applicant for any services or programs provided by Contractor under this Agreement. Contractor shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in the provision or any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Contractor thereby.

_____	_____
CONTRACTOR SIGNATURE	RECREATION SERVICES REPRESENTATIVE
DATE _____	DATE_____

AGREEMENT FOR CITY OF MILPITAS RECREATION SERVICES

Instructor Name: Communication Academy; attn: Jackson Chow
Address:

7337 Bollinger Rd #E

Cupertino, CA 95014
Phone Number: (408) 777-8876

Tax ID Number: -
Social Security Number: - -

This Agreement for Recreation Services is made by and between the City of Milpitas ("City") and Communication Academy, ("Contractor") this agreement will be in effect from **July 1, 2013, through June 30, 2014**, in Milpitas, California.

1. Independent Contractor. At all times during the term of this Agreement, Contractor shall be an independent Contractor and shall not be an employee of City. City shall have the right to control Contractor only insofar as the results of Contractor's services rendered pursuant to this Agreement. Otherwise, City shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System(PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

2. Contractor No Agent. Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

3. Services. Subject to the terms and conditions set forth in this Agreement, Contractor shall provide the City with the following services: Educational Writing, Speaking and Math Classes **(see attached list)**

   A. Contractor shall supply and furnish all necessary work, labor, and materials in carrying out this Agreement at Contractor's sole cost and expense.

   B. Contractor agrees to contact Recreation Services three (3) days prior to the first class meeting to verify class enrollment. If fewer than the minimum students have enrolled for the course, class status will be determined by the Contractor and the designated Recreation Services Representative.

4. Compensation. It is agreed that payment to Contractor for work rendered hereunder shall be made within (30) days of completion of terms as herein indicated:

   Payment Rate**: 70% of receipts (resident rate only).

   A. Contractor shall be compensated based on enrollment totals at the end of the session. Recreation Services is not responsible for compensating Contractors participants who withdraw from the program due to dissatisfaction as stated in the Recreation Services Customer Satisfaction Policy.

      # of class meetings 5
      Minimum Participants 6
      Maximum Participants 12

   B. Should Contractor modify dates, times, or are tardy to a class more than two (2) times in a given session, resulting in changes to the schedule as listed in the Activity Guide, Contractors final compensation shall be reduced by 10%.

   C. In the event of a class cancellation by the Contractor resulting in a make-up class, the Contractor payment shall be reduced by any necessary refunds distributed to participants who are unable to attend the make-up class.

   D. Should Recreation Services be the cause of any class cancellation (i.e. scheduling conflict of facility or lack of building accessibility) the Contractor shall be compensated for missed or re-scheduled class(es).

   E. In the case that the class does not reach the stated minimum prior to the first class meeting and the class has not been previously canceled, the Contractor agrees that he/she will attend the first class meeting without compensation. If, after the first class meeting the stated minimum enrollment is still not reached, Recreation

Services may, at its discretion cancel the class or if said class is not canceled, Contractor may elect to cancel the class or conduct the class with a reduced class minimum. In the later case, compensation will be adjusted by Recreation Services.

F. Payment is for professional services and not as an hourly wage. City will not withhold such sum any amount for federal or state income taxes. All instructors must complete a W-9 form.

5. Licenses and Permits; Compliance with Laws. Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to provide services pursuant to this agreement. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement a valid business license from City and a copy of the license be included with the original signed contract.

6. Insurance. Should Contractor employ any party or person in connection with Contractor's operations under this contract, Contractor shall obtain Worker's Compensation Insurance and will provide the City with proof thereof. The Labor Code of the Workers' compensation laws of California states that an employer must cover employees for work-related injury and illness. As an Independent Contractor, and not an agent or employee of City and therefore will not be covered under the City's Compensation Fund. Additionally, City will not obtain unemployment insurance for the Independent Contractor. Therefore, CITY's insurance company will not defend or pay out claims brought against an Independent contractor of City. Contractor understands that as an Independent Contractor, he/she is responsible for his/her own insurance and liability coverage. _____Contractor initials

7. No Assignment. Contractor has agreed that the services called for under this Agreement are personal services, and Contractor shall not, under any circumstances, assign this contract. Any attempt to do so shall render this contract void and of no further effect.

8. Contractor grants full permission to the City of Milpitas for use of his/her name and photographs, videographs, motion pictures or recordings for any publicity and promotion purposes without obligation or liability to contractor.

9. Background Checks. If class/program is open to youth under the age of 18 years, Contractor and any assistant instructors/subcontractors agrees to fulfill all fingerprint/background checks prior to first class. Independent Contractor/assistant instructor/subcontractor is not eligible to work until the clearance is received from the Department of Justice and notified by a Recreation Services representative. The Independent Contractor attests that they have never been convicted of a crime, including military offenses, other than minor traffic offenses, which resulted in conviction and/or imprisonment.

10. Entire Agreement. This Agreement represents the entire and integrated agreement between the City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral.

11. Indemnification. Contractor hereby indemnifies and holds harmless and releases and discharges the City of Milpitas, its officers, agents, employees, and volunteers from any and all liability for any injuries to persons or property suffered by any persons(including but not limited to contractor, contractor's employees or students) arising from or connected with this Agreement or Contractor's activities pursuant to this Agreement. Therefore, Contractor evaluated the inherent risks involved in operating his/her activity and has sufficient insurance coverage. _____ Contractor initials

12. Governing Law. The laws of the State of California shall govern this Agreement.

Compliance with Applicable Laws. Contractor shall comply with all laws applicable to the performance of the work hereunder.

Noncompliance and Equal Opportunity. Contractor shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any participant in, recipient of, or applicant for any services or programs provided by Contractor under this Agreement. Contractor shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in the provision or any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Contractor thereby.

_____	_____
CONTRACTOR SIGNATURE	RECREATION SERVICES REPRESENTATIVE
DATE _____	DATE_____

AGREEMENT FOR CITY OF MILPITAS RECREATION SERVICES
Fitness Instructor Contract

Instructor Name: Tatsiana Lahunovich	**Tax ID Number: -**
Address: 347 Conestoga Way **San Jose, CA 95123**	**Social Security Number:**
Phone Number: (408) 823-8922	

This Agreement for Recreation Services is made by and between the City of Milpitas ("City") and Tatsiana Lahunovich ("Contractor"). This Agreement will be in effect from July 1, 2013 ("Effective Date"), to June 30, 2014 ("Ending Date"), in Milpitas, California.

AGREEMENT

Section 1. EMPLOYEE STATUS

1.1 Independent Contractor. At all times during the term of this Agreement, Contractor will be an independent Contractor and will not be an employee of City. City will have the right to control Contractor only insofar as to the results of Contractor's services rendered pursuant to this Agreement. Otherwise, City will not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement will not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

1.2 Contractor Not Agent. Except as City may specify in writing, Contractor will have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor will have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 2. SERVICES Subject to the terms and conditions set forth in this Agreement, Contractor will provide to City the services described in the Scope of Services, attached as Exhibit A, at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, this Agreement will prevail.

2.1 Term of Services. The term of this Agreement will begin on the Effective Date and will end on the Ending Date, unless the term of the Agreement is otherwise

terminated or extended, as provided for in Section 4. The time provided to Contractor to complete the services required by this Agreement will not affect the City's right to terminate the Agreement, as provided for in Section 4.

2.2 **Standard of Performance.** Contractor will perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged in the geographical area in which Contractor practices his profession. Contractor will conform to the standards of quality normally observed by a person practicing in Contractor's profession.

2.3 **Assignment and Subcontracting.** City and Contractor recognize and agree that this Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the City. Contractor will not subcontract any portion of the performance contemplated and provided for herein without prior written approval of the City.

2.4 **Time.** Contractor will devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 2.2 above and to complete Contractor's obligations hereunder.

Section 3. COMPENSATION

3.1 **Fees.** Contractor compensation will be computed monthly based on the classes taught as reported in Contractor's timely submitted invoice. The City will pay the Contractor $65.00 per fitness class.

3.2 **Invoices.** Contractor will submit invoices monthly during the term of this Agreement. Invoices will contain the following information:

- Serial identification of classes and personal training sessions taught;
- The beginning and ending dates of the billing period;
- A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement;
- The Contractor's signature.

3.3 **Monthly Payment.** City will make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City will have thirty (30) days from the receipt of an invoice that complies with all of the requirements above and is otherwise acceptable to the City to pay Contractor. In the event that an invoice is not acceptable to the City,

said invoice will be returned to Contractor within thirty (30) days of the City's receipt of the invoice with a detailed explanation of the deficiency. City's obligation to pay a returned invoice will not arise earlier than thirty (30) days after resubmission of the corrected invoice.

Section 4. INSURANCE REQUIREMENTS. Consultant shall procure "occurrence coverage" insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant and its agents, representatives, employees, and subcontractors. Consultant shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects to the City within 30 days of the Effective Date. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement and shall produce said policies to the City upon demand. The cost of such insurance shall be included in the Consultant's price.

4.1 Workers' Compensation. Consultant shall perform all work under this Agreement and shall not maintain or hire any employees to accomplish said work. Consultant represents that he or she is performing such services in an individual capacity as a sole proprietor and shall not perform any such work as an employee of any firm, corporation, partnership or other sole proprietorship. As such, Consultant represents that he or she is not required to maintain Worker's Compensation coverage. Verification of such exemption from Workers' Compensation requirements shall be required solely in the discretion of the City Attorney. The insurer, if insurance is provided, or the Consultant, if a program of self-insurance is provided, shall waive all rights of subrogation against the City and its officers, officials, employees, and volunteers for loss arising from work performed under this Agreement.

If insurance is provided, an endorsement shall state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

4.2 Commercial General and Automobile Liability Insurance.

4.2.1 General requirements. Consultant, at his or her own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than ONE MILLION DOLLARS ($1,000,000.00) per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall

be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

4.2.2 **Minimum scope of coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (ed. 11/88) or Insurance Services Office form number GL 0002 (ed. 1/73) covering comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (ed. 12/90) Code 1 ("any auto"). No endorsement shall be attached limiting the coverage.

4.2.3 **Additional requirements.** Each of the following shall be included in the insurance coverage or added as an endorsement to the policy:

a. City and its officers, employees, agents, contractors, consultants, and volunteers shall be covered as insureds with respect to each of the following: liability arising out of activities performed by or on behalf of Consultant, including the insured's general supervision of Consultant; products and completed operations of Consultant; premises owned, occupied, or used by Consultant; and automobiles owned, leased, or used by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City or its officers, employees, agents, contractors, consultants, or volunteers.

b. The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.

c. An endorsement must state that coverage is primary insurance with respect to the City and its officers, officials, employees, contractors, consultants, and volunteers, and that no insurance or self-insurance maintained by the City shall be called upon to contribute to a loss under the coverage.

d. Any failure of Consultant to comply with reporting provisions of the policy shall not affect coverage provided to City and its officers, employees, agents, and volunteers.

e. An endorsement shall state that coverage shall not be suspended, voided, or canceled by either party, reduced in coverage or in

limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

4.3 (intentionally omitted)

4.4 **Requirements for All Policies.**

4.4.1 **Acceptability of insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A.

4.4.2 **Verification of coverage.** Verification of coverage shall be made as set forth in Section 4 above. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The City reserves the right to require complete, certified copies of all required insurance policies at any time.

4.4.3 **Subcontractors.** Not Applicable

4.4.4 **Deductibles and Self-Insured Retentions.** Consultant shall disclose to and obtain the approval of City for the self-insured retentions and deductibles.

During the period covered by this Agreement, only upon the prior express written authorization of the City, Consultant may increase such deductibles or self-insured retentions with respect to City, its officers, employees, agents, contractors, consultants, and volunteers. The City may condition approval of an increase in deductible or self-insured retention levels with a requirement that Consultant procure a bond, guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to the City.

4.4.5 **Notice of Reduction in Coverage.** In the event that any coverage required by this section is reduced, limited, or materially affected in any other manner, Consultant shall provide written notice to City at Consultant's earliest possible opportunity and in no case later than five (5) days after Consultant is notified of the change in coverage.

4.5 **Remedies.** In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the timeframe herein required, City may, at its sole option, exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;

- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or

- Declare Consultant in material breach of the Agreement and terminate the Agreement.

4.6 **Waiver.** The City Attorney jointly with the Risk Manager (Finance Director) of the City have the authority to waive or vary any provision of Sections 4.2 through 4.5. Any such waiver or variation shall not be effective unless made in writing and included in the Scope of Work attached as Exhibit A

Section 5. TERMINATION AND MODIFICATION

5.1 **Termination.** City may terminate this Agreement at any time by ten (10) working days written notice to the Contractor. In addition, if the Contractor is convicted of any crime or offense, fails or refuses to comply with the written policies or reasonable directive of City, is guilty of serious misconduct in connection with performance hereunder, or materially breaches provisions of this Agreement, City at any time may terminate the engagement of the Contractor immediately and without prior written notice to the Contractor.

In the event of termination, Contractor will be entitled to compensation for services performed prior to the effective date of termination as provided in Section 3. City, however, may condition payment of such compensation upon Contractor delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Contractor or prepared by or for Contractor or the City in connection with this Agreement.

5.2 **Extension.** City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond the Ending Date. Any such extension will require a written amendment to this Agreement, as provided for herein. Contractor understands and agrees that, if City grants such an extension, City will have no obligation to provide Contractor with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the City, City will have no obligation to reimburse Contractor for any otherwise reimbursable expenses incurred during the extension period.

5.3 **Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.

5.4 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Contractor will survive the termination of this Agreement.

5.5 **Options upon Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, City's remedies will include, but not be limited to, any or all of the following:

5.5.1 Immediate cancellation of the Agreement;

5.5.2 Retention of the plans, specifications, drawings, reports, design documents, and any other work product prepared by Contractor pursuant to this Agreement prior to cancellation.

Section 6. LEGAL REQUIREMENTS

6.1 **Governing Law.** The laws of the State of California will govern this Agreement.

6.2 **Compliance with Applicable Laws.** Contractor will comply with all laws applicable to the performance of the work hereunder.

6.3 **Licenses and Permits.** Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that is legally required to provide services pursuant to this Agreement.

6.4 **Insurance.** Should Contractor employ any party or person in connection with Contractor's operations under this contract, Contractor will obtain Worker's Compensation Insurance and will provide the City with proof thereof. The Labor Code of California states that an employer must cover employees for work-related injury and illness. As an Independent Contractor, and not an agent or employee of City, Contractor and any employees thereof will not be covered under the City's Worker's Compensation Fund. City will also not obtain unemployment insurance for Contractor. City's insurer will not defend or pay claims brought against Contractor. Contractor understands that as an Independent Contractor, he/she is responsible for his/her own insurance and liability coverage._____Contractor initials.

6.5 **Waiver of Subrogation.** Contractor hereby grants to City a waiver of any right to subrogation that any insurer of said Contractor may acquire against the City by virtue of the payment of any loss under such insurance. This provision applies regardless of whether or not the City has requested or received a waiver of subrogation endorsement from the insurer.

6.6 **Special Risks or Circumstances.** City reserves the right to modify these insurance requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

6.7 **Permission.** Contractor grants full permission to the City of Milpitas for use of his/her name and photographs, videos, motion pictures or recordings for any publicity and promotion purposes without obligation or liability to contractor.

6.8 **Background Checks.** If class/program is open to youth under the age of 18 years, Contractor and any assistant instructors/subcontractors agree to fulfill all fingerprint/background checks prior to first class. Independent Contractor/assistant instructor/subcontractor is not eligible to work until the clearance is received from the Department of Justice and notified by a Recreation Services representative. The Independent Contractor attests that they have never been convicted of a crime, including military offenses, other than minor traffic offenses, which resulted in conviction and/or imprisonment.

6.9 **Indemnification.** Contractor will defend and indemnify City and its officers, agents, employees and volunteers (collectively, "City Parties") against any and all claims, deductibles, self-insured retentions, demands, liability, judgments, awards, fines, mechanics' liens, or other liens, labor disputes, losses, damages, expenses, charges or costs, of any kind or character, including attorneys' fees and court costs (collectively, "Claims"), which arise out of or are in any way connected to this Agreement or Contractor's activities pursuant to this Agreement, including without limitation, Claims caused by the concurrent negligent act, error, or omission, whether active or passive, of City Parties. Contractor will have no obligation to defend or indemnify City Parties from a Claim if it is determined by a court of competent jurisdiction that such Claim was caused by the sole negligence or willful misconduct of City Parties. For purposes of Section 2782 of the Civil Code, the parties hereto recognize and agree that this Agreement is not a construction contract. For purposes of Section 2782.8 of the Civil Code, the parties hereto recognize and agree that this Agreement is not for design professional services.

6.10 **Noncompliance and Equal Opportunity.** Contractor will not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any participant in, recipient of, or applicant for any services or programs provided by Contractor under this Agreement. Contractor will comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in the provision or any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Contractor thereby.

6.11 **Severability.** In the event that any one or more of the provisions contained herein will for any reason be held to be unenforceable in any respect under any statute, rule or law of any state or of the United States of America, such unenforceability will not affect any other provision of this Agreement, but, with respect only to the

jurisdiction holding the provision to be unenforceable, this Agreement will then be construed as if such unenforceable provision or provisions had never been contained herein.

6.12 **Counterparts.** This Agreement may be executed in counterparts, and each counterpart will have the same force and effect as an original and will constitute an effective, binding agreement on the part of each of the undersigned.

6.13 **Successors and Assigns.** The provisions of this Agreement will inure to the benefit of and will apply to and bind the successors and assigns of the parties.

Section 7. MISCELLANEOUS PROVISIONS

7.1 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret any provision of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees not exceeding a total of $10,000 for any legal representation whether in a court of law or at formal or informal arbitration or mediation relating to the performance by either party of the terms of this Agreement.

7.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action will be vested exclusively in the state courts of California in the County of Santa Clara or in the United States District Court for the Northern District of California.

7.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged will remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement will not void or affect the validity of any other provision of this Agreement.

7.4 **No Implied Waiver of Breach.** The waiver of performance or any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

7.5 **Conflict of Interest.** Contractor may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Contractor in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 et seq.

Contractor will not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City will have any financial interest in this Agreement that would violate California Government Code Sections 1090 et seq.

Contractor warrants that he or she did not participate in any manner in the forming of this Agreement. Contractor understands that, if this Agreement is made in violation of Government Code Sections 1090 et.seq., the entire Agreement is void and Contractor will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Contractor will be required to reimburse the City for any sums paid to the Contractor. Contractor understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code Section 1090 and, if applicable, may be disqualified from holding public office in the State of California.

Contractor certifies that he or she has not paid any direct or contingent fee, contribution, donation or consideration of any kind to any firm, organization, or person in connection with procuring this Agreement, nor has Contractor agreed to employ or retain any firm, organization, or person in connection with the performance of this Agreement as a condition for obtaining this Agreement.

7.6 **Solicitation.** Contractor agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

7.7 **Contract Administration.** This Agreement will be administered by Carmen Valdez, who is authorized to act for, and on behalf of, City. All correspondence will be directed to or through the Contract Administrator or his or her designee.

7.8 **Notices.** Any written notice to Contractor will be sent to:

Tatsiana Lahunovich
347 Conestoga Way
San Jose, CA 95123

Any written notice to City will be sent to:

Carmen Valdez, Recreation Director
City of Milpitas
455 East Calaveras Boulevard
Milpitas, California 95035

7.9 **Exhibits.** All exhibits referenced in this Agreement are incorporated by reference herein.

7.10 **Integration.** This Agreement, including the exhibits, represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral.

CITY OF MILPITAS	CONTRACTOR
_____	_____
Thomas C. Williams, City Manager	Name
	_____
	Taxpayer Identification Number

APPROVED AS TO CONTENT AND FORM:

_____

Michael J. Ogaz, City Attorney

EXHIBIT A-1

SCOPE OF SERVICES

Consultant shall provide professional services in the following areas:

- Contractor shall provide fitness class instruction for the City of Milpitas Sports Center:
    - Mondays, Body Architect 11:30 a.m.-12:15 p.m.,Yoga & Core Conditioning, 12:15-1:00 p.m. and Yoga II, 5:30-6:30 p.m.
    - Wednesdays, Xpress Sculpt & Core, 11:30 a.m.-12:15 p.m., Pilates Sculpt, 12:15-1:00 p.m., Body Architect, 5:30-6:30 p.m.
    - Fridays, Power Up, 11:30 a.m.-12:15 p.m. and Yogalates, 12:15-1:00 p.m.
    - Fitness Class Substitution when agreed upon by the City of Milpitas and Contractor.
    - A minimum of 10 paid participants per class must be met. If minimum is not met class will be terminated if participation continues to be less than the minimum, after two months.
    - Contractor must notify the City of Milpitas Sports Center at least 15 days prior to vacation/time off and shall be responsible for securing a substitute instructor meeting the requirements of this contract.
    - If contractor cancels a class more than 3 times a month without a substitute instructor, 10% of payment will be deducted from the current invoice.
- Contractor shall maintain current and valid certification and training for fitness class instruction and personal training.

AGREEMENT FOR CITY OF MILPITAS RECREATION SERVICES

Instructor Name: Irene Saxe
Address:
241 Barbara Dr
Los Gatos, CA 95032
Phone Number: (408) 813-3043

Tax ID Number: -
Social Security Number: - -

This Agreement for Recreation Services is made by and between the City of Milpitas ("City") and Irene Saxe, ("Contractor") this agreement will be in effect from **July 1, 2013, through June 30, 2014**, in Milpitas, California.

1. Independent Contractor. At all times during the term of this Agreement, Contractor shall be an independent Contractor and shall not be an employee of City. City shall have the right to control Contractor only insofar as the results of Contractor's services rendered pursuant to this Agreement. Otherwise, City shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System(PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

2. Contractor No Agent. Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

3. Services. Subject to the terms and conditions set forth in this Agreement, Contractor shall provide the City with the following services: Music Together and Ukulele Classes **(see attached list)**

   A. Contractor shall supply and furnish all necessary work, labor, and materials in carrying out this Agreement at Contractor's sole cost and expense.

   B. Contractor agrees to contact Recreation Services three (3) days prior to the first class meeting to verify class enrollment. If fewer than the minimum students have enrolled for the course, class status will be determined by the Contractor and the designated Recreation Services Representative.

4. Compensation. It is agreed that payment to Contractor for work rendered hereunder shall be made within (30) days of completion of terms as herein indicated:

   Payment Rate**: 70% of receipts (resident rate only).

   A. Contractor shall be compensated based on enrollment totals at the end of the session. Recreation Services is not responsible for compensating Contractors participants who withdraw from the program due to dissatisfaction as stated in the Recreation Services Customer Satisfaction Policy.

      # of class meetings 7 and 10
      Minimum Participants 6
      Maximum Participants 12

   B. Should Contractor modify dates, times, or are tardy to a class more than two (2) times in a given session, resulting in changes to the schedule as listed in the Activity Guide, Contractors final compensation shall be reduced by 10%.

   C. In the event of a class cancellation by the Contractor resulting in a make-up class, the Contractor payment shall be reduced by any necessary refunds distributed to participants who are unable to attend the make-up class.

   D. Should Recreation Services be the cause of any class cancellation (i.e. scheduling conflict of facility or lack of building accessibility) the Contractor shall be compensated for missed or re-scheduled class(es).

   E. In the case that the class does not reach the stated minimum prior to the first class meeting and the class has not been previously canceled, the Contractor agrees that he/she will attend the first class meeting without compensation. If, after the first class meeting the stated minimum enrollment is still not reached, Recreation Services may, at its discretion cancel the class or if said class is not canceled, Contractor may elect to cancel the

class or conduct the class with a reduced class minimum. In the later case, compensation will be adjusted by Recreation Services.

F. Payment is for professional services and not as an hourly wage. City will not withhold such sum any amount for federal or state income taxes. All instructors must complete a W-9 form.

5. Licenses and Permits; Compliance with Laws. Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to provide services pursuant to this agreement. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement a valid business license from City and a copy of the license be included with the original signed contract.

6. Insurance. Should Contractor employ any party or person in connection with Contractor's operations under this contract, Contractor shall obtain Worker's Compensation Insurance and will provide the City with proof thereof. The Labor Code of the Workers' compensation laws of California states that an employer must cover employees for work-related injury and illness. As an Independent Contractor, and not an agent or employee of City and therefore will not be covered under the City's Compensation Fund. Additionally, City will not obtain unemployment insurance for the Independent Contractor. Therefore, CITY's insurance company will not defend or pay out claims brought against an Independent contractor of City. Contractor understands that as an Independent Contractor, he/she is responsible for his/her own insurance and liability coverage. _____Contractor initials

7. No Assignment. Contractor has agreed that the services called for under this Agreement are personal services, and Contractor shall not, under any circumstances, assign this contract. Any attempt to do so shall render this contract void and of no further effect.

8. Contractor grants full permission to the City of Milpitas for use of his/her name and photographs, videographs, motion pictures or recordings for any publicity and promotion purposes without obligation or liability to contractor.

9. Background Checks. If class/program is open to youth under the age of 18 years, Contractor and any assistant instructors/subcontractors agrees to fulfill all fingerprint/background checks prior to first class. Independent Contractor/assistant instructor/subcontractor is not eligible to work until the clearance is received from the Department of Justice and notified by a Recreation Services representative. The Independent Contractor attests that they have never been convicted of a crime, including military offenses, other than minor traffic offenses, which resulted in conviction and/or imprisonment.

10. Entire Agreement. This Agreement represents the entire and integrated agreement between the City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral.

11. Indemnification. Contractor hereby indemnifies and holds harmless and releases and discharges the City of Milpitas, its officers, agents, employees, and volunteers from any and all liability for any injuries to persons or property suffered by any persons(including but not limited to contractor, contractor's employees or students) arising from or connected with this Agreement or Contractor's activities pursuant to this Agreement. Therefore, Contractor evaluated the inherent risks involved in operating his/her activity and has sufficient insurance coverage. _____ Contractor initials

12. Governing Law. The laws of the State of California shall govern this Agreement.

Compliance with Applicable Laws. Contractor shall comply with all laws applicable to the performance of the work hereunder.

Noncompliance and Equal Opportunity. Contractor shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any participant in, recipient of, or applicant for any services or programs provided by Contractor under this Agreement. Contractor shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in the provision or any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Contractor thereby.

_____	_____
CONTRACTOR SIGNATURE	RECREATION SERVICES REPRESENTATIVE
DATE _____	DATE_____

AGREEMENT FOR CITY OF MILPITAS RECREATION SERVICES

Instructor Name: Jensen Performing Arts,
Attn: Patty Jensen
Address:

1491 N Milpitas Blvd

Milpitas, CA 95035
Phone Number: (408) 262-770

Tax ID Number: -
Social Security Number: - -

This Agreement for Recreation Services is made by and between the City of Milpitas ("City") and Jensen Performing Arts, ("Contractor") this agreement will be in effect from **July 1, 2013, through June 30, 2014**, in Milpitas, California.

1. Independent Contractor. At all times during the term of this Agreement, Contractor shall be an independent Contractor and shall not be an employee of City. City shall have the right to control Contractor only insofar as the results of Contractor's services rendered pursuant to this Agreement. Otherwise, City shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System(PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

2. Contractor No Agent. Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

3. Services. Subject to the terms and conditions set forth in this Agreement, Contractor shall provide the City with the following services: Talented Tots, Ballet & Tap, Floor Gym, Tumbling, Hip Hop & Ballroom **(see attached list)**

   A. Contractor shall supply and furnish all necessary work, labor, and materials in carrying out this Agreement at Contractor's sole cost and expense.

   B. Contractor agrees to contact Recreation Services three (3) days prior to the first class meeting to verify class enrollment. If fewer than the minimum students have enrolled for the course, class status will be determined by the Contractor and the designated Recreation Services Representative.

4. Compensation. It is agreed that payment to Contractor for work rendered hereunder shall be made within (30) days of completion of terms as herein indicated:

   Payment Rate**: 75% of receipts (resident rate only).

   A. Contractor shall be compensated based on enrollment totals at the end of the session. Recreation Services is not responsible for compensating Contractors participants who withdraw from the program due to dissatisfaction as stated in the Recreation Services Customer Satisfaction Policy.

      # of class meetings 4, 5, and 6
      Minimum Participants 10
      Maximum Participants 20

   B. Should Contractor modify dates, times, or are tardy to a class more than two (2) times in a given session, resulting in changes to the schedule as listed in the Activity Guide, Contractors final compensation shall be reduced by 10%.

   C. In the event of a class cancellation by the Contractor resulting in a make-up class, the Contractor payment shall be reduced by any necessary refunds distributed to participants who are unable to attend the make-up class.

   D. Should Recreation Services be the cause of any class cancellation (i.e. scheduling conflict of facility or lack of building accessibility) the Contractor shall be compensated for missed or re-scheduled class(es).

   E. In the case that the class does not reach the stated minimum prior to the first class meeting and the class has not been previously canceled, the Contractor agrees that he/she will attend the first class meeting without compensation. If, after the first class meeting the stated minimum enrollment is still not reached, Recreation

Services may, at its discretion cancel the class or if said class is not canceled, Contractor may elect to cancel the class or conduct the class with a reduced class minimum. In the later case, compensation will be adjusted by Recreation Services.

F. Payment is for professional services and not as an hourly wage. City will not withhold such sum any amount for federal or state income taxes. All instructors must complete a W-9 form.

5. Licenses and Permits; Compliance with Laws. Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to provide services pursuant to this agreement. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement a valid business license from City and a copy of the license be included with the original signed contract.

6. Insurance. Should Contractor employ any party or person in connection with Contractor's operations under this contract, Contractor shall obtain Worker's Compensation Insurance and will provide the City with proof thereof. The Labor Code of the Workers' compensation laws of California states that an employer must cover employees for work-related injury and illness. As an Independent Contractor, and not an agent or employee of City and therefore will not be covered under the City's Compensation Fund. Additionally, City will not obtain unemployment insurance for the Independent Contractor. Therefore, CITY's insurance company will not defend or pay out claims brought against an Independent contractor of City. Contractor understands that as an Independent Contractor, he/she is responsible for his/her own insurance and liability coverage. _____Contractor initials

7. No Assignment. Contractor has agreed that the services called for under this Agreement are personal services, and Contractor shall not, under any circumstances, assign this contract. Any attempt to do so shall render this contract void and of no further effect.

8. Contractor grants full permission to the City of Milpitas for use of his/her name and photographs, videographs, motion pictures or recordings for any publicity and promotion purposes without obligation or liability to contractor.

9. Background Checks. If class/program is open to youth under the age of 18 years, Contractor and any assistant instructors/subcontractors agrees to fulfill all fingerprint/background checks prior to first class. Independent Contractor/assistant instructor/subcontractor is not eligible to work until the clearance is received from the Department of Justice and notified by a Recreation Services representative. The Independent Contractor attests that they have never been convicted of a crime, including military offenses, other than minor traffic offenses, which resulted in conviction and/or imprisonment.

10. Entire Agreement. This Agreement represents the entire and integrated agreement between the City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral.

11. Indemnification. Contractor hereby indemnifies and holds harmless and releases and discharges the City of Milpitas, its officers, agents, employees, and volunteers from any and all liability for any injuries to persons or property suffered by any persons(including but not limited to contractor, contractor's employees or students) arising from or connected with this Agreement or Contractor's activities pursuant to this Agreement. Therefore, Contractor evaluated the inherent risks involved in operating his/her activity and has sufficient insurance coverage. _____ Contractor initials

12. Governing Law. The laws of the State of California shall govern this Agreement.

Compliance with Applicable Laws. Contractor shall comply with all laws applicable to the performance of the work hereunder.

Noncompliance and Equal Opportunity. Contractor shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any participant in, recipient of, or applicant for any services or programs provided by Contractor under this Agreement. Contractor shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in the provision or any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Contractor thereby.

_____	_____
CONTRACTOR SIGNATURE	RECREATION SERVICES REPRESENTATIVE
DATE _____	DATE_____

AGREEMENT FOR CITY OF MILPITAS RECREATION SERVICES

Instructor Name: Mad Science of the Bay Area,
Attn: Susan Crawford

Tax ID Number: -

Address: 41324 Christy Street
Fremont, CA 94538
Phone Number: (510) 792-2795

Social Security Number: - -

This Agreement for Recreation Services is made by and between the City of Milpitas ("City") and **Mad Science of the Bay Area**, ("Contractor") this agreement will be in effect from **July 1, 2013 through June 30, 2014**, in Milpitas, California.

1. Independent Contractor. At all times during the term of this Agreement, Contractor shall be an independent Contractor and shall not be an employee of City. City shall have the right to control Contractor only insofar as the results of Contractor's services rendered pursuant to this Agreement. Otherwise, City shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System(PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

2. Contractor No Agent. Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

3. Services. Subject to the terms and conditions set forth in this Agreement, Contractor shall provide the City with the following services: Nature's Anatomy, Jet Cadets, Wacky Robots & Widgets, "Fizz"ical Phenomena & Che-Mystery, Little Green Thumbs, Camp Inventionation, NASA: Journey into Outer Space, Spy Academy Camps **(see attached list)**

A. Contractor shall supply and furnish all necessary work, labor, and materials in carrying out this Agreement at Contractor's sole cost and expense.

B. Contractor agrees to contact Recreation Services three (3) days prior to the first class meeting to verify class enrollment. If fewer than the minimum students have enrolled for the course, class status will be determined by the Contractor and the designated Recreation Services Representative.

4. Compensation. It is agreed that payment to Contractor for work rendered hereunder shall be made within (30) days of completion of terms as herein indicated:

Payment Rate**: **70**% of receipts (resident rate only).

A. Contractor shall be compensated based on enrollment totals at the end of the session. Recreation Services is not responsible for compensating Contractors participants who withdraw from the program due to dissatisfaction as stated in the Recreation Services Customer Satisfaction Policy.

# of class meetings **5**
Minimum Participants **8 and 10**
Maximum Participants **15 and 20**

B. Should Contractor modify dates, times, or are tardy to a class more than two (2) times in a given session, resulting in changes to the schedule as listed in the Activity Guide, Contractors final compensation shall be reduced by 10%.

C. In the event of a class cancellation by the Contractor resulting in a make-up class, the Contractor payment shall be reduced by any necessary refunds distributed to participants who are unable to attend the make-up class.

D. Should Recreation Services be the cause of any class cancellation (i.e. scheduling conflict of facility or lack of building accessibility) the Contractor shall be compensated for missed or re-scheduled class(es).

E. In the case that the class does not reach the stated minimum prior to the first class meeting and the class has not been previously canceled, the Contractor agrees that he/she will attend the first class meeting without compensation. If, after the first class meeting the stated minimum enrollment is still not reached, Recreation Services may, at its discretion cancel the class or if said class is not canceled, Contractor may elect to cancel the

class or conduct the class with a reduced class minimum. In the later case, compensation will be adjusted by Recreation Services.

F. Payment is for professional services and not as an hourly wage. City will not withhold such sum any amount for federal or state income taxes. All instructors must complete a W-9 form.

5. Licenses and Permits; Compliance with Laws. Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to provide services pursuant to this agreement. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement a valid business license from City and a copy of the license be included with the original signed contract.

6. Insurance. Should Contractor employ any party or person in connection with Contractor's operations under this contract, Contractor shall obtain Worker's Compensation Insurance and will provide the City with proof thereof. The Labor Code of the Workers' compensation laws of California states that an employer must cover employees for work-related injury and illness. As an Independent Contractor, and not an agent or employee of City and therefore will not be covered under the City's Compensation Fund. Additionally, City will not obtain unemployment insurance for the Independent Contractor. Therefore, CITY's insurance company will not defend or pay out claims brought against an Independent contractor of City. Contractor understands that as an Independent Contractor, he/she is responsible for his/her own insurance and liability coverage._____Contractor initials

7. No Assignment. Contractor has agreed that the services called for under this Agreement are personal services, and Contractor shall not, under any circumstances, assign this contract. Any attempt to do so shall render this contract void and of no further effect.

8. Contractor grants full permission to the City of Milpitas for use of his/her name and photographs, videographs, motion pictures or recordings for any publicity and promotion purposes without obligation or liability to contractor.

9. Background Checks. If class/program is open to youth under the age of 18 years, Contractor and any assistant instructors/subcontractors agrees to fulfill all fingerprint/background checks prior to first class. Independent Contractor/assistant instructor/subcontractor is not eligible to work until the clearance is received from the Department of Justice and notified by a Recreation Services representative. The Independent Contractor attests that they have never been convicted of a crime, including military offenses, other than minor traffic offenses, which resulted in conviction and/or imprisonment.

10. Entire Agreement. This Agreement represents the entire and integrated agreement between the City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral.

11. Indemnification. Contractor hereby indemnifies and holds harmless and releases and discharges the City of Milpitas, its officers, agents, employees, and volunteers from any and all liability for any injuries to persons or property suffered by any persons(including but not limited to contractor, contractor's employees or students) arising from or connected with this Agreement or Contractor's activities pursuant to this Agreement. Therefore, Contractor evaluated the inherent risks involved in operating his/her activity and has sufficient insurance coverage._____Contractor initials

12. Governing Law. The laws of the State of California shall govern this Agreement.

Compliance with Applicable Laws. Contractor shall comply with all laws applicable to the performance of the work hereunder.

Noncompliance and Equal Opportunity. Contractor shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any participant in, recipient of, or applicant for any services or programs provided by Contractor under this Agreement. Contractor shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in the provision or any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Contractor thereby.

_____	_____
CONTRACTOR SIGNATURE	RECREATION SERVICES REPRESENTATIVE
DATE _____	DATE _____

AGREEMENT FOR CITY OF MILPITAS RECREATION SERVICES

Instructor Name: Noteworthy Music
Address:
1220 Tasman Drive, #457
Sunnyvale**,** CA 94089
Phone Number: (408) 734-4211

Tax ID Number: -
Social Security Number: - -

This Agreement for Recreation Services is made by and between the City of Milpitas ("City") and Noteworthy Music, ("Contractor") this agreement will be in effect from **July 1, 2013, through June 30, 2014**, in Milpitas, California.

1. Independent Contractor. At all times during the term of this Agreement, Contractor shall be an independent Contractor and shall not be an employee of City. City shall have the right to control Contractor only insofar as the results of Contractor's services rendered pursuant to this Agreement. Otherwise, City shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System(PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

2. Contractor No Agent. Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

3. Services. Subject to the terms and conditions set forth in this Agreement, Contractor shall provide the City with the following services: Keyboards, Guitar, Semi-Private Lessons, Vocals, & Anime **(see attached list)**

   A. Contractor shall supply and furnish all necessary work, labor, and materials in carrying out this Agreement at Contractor's sole cost and expense.

   B. Contractor agrees to contact Recreation Services three (3) days prior to the first class meeting to verify class enrollment. If fewer than the minimum students have enrolled for the course, class status will be determined by the Contractor and the designated Recreation Services Representative.

4. Compensation. It is agreed that payment to Contractor for work rendered hereunder shall be made within (30) days of completion of terms as herein indicated:

   Payment Rate**: 72% of receipts (resident rate only).

   A. Contractor shall be compensated based on enrollment totals at the end of the session. Recreation Services is not responsible for compensating Contractors participants who withdraw from the program due to dissatisfaction as stated in the Recreation Services Customer Satisfaction Policy.

      # of class meetings 13
      Minimum Participants 6
      Maximum Participants 8

   B. Should Contractor modify dates, times, or are tardy to a class more than two (2) times in a given session, resulting in changes to the schedule as listed in the Activity Guide, Contractors final compensation shall be reduced by 10%.

   C. In the event of a class cancellation by the Contractor resulting in a make-up class, the Contractor payment shall be reduced by any necessary refunds distributed to participants who are unable to attend the make-up class.

   D. Should Recreation Services be the cause of any class cancellation (i.e. scheduling conflict of facility or lack of building accessibility) the Contractor shall be compensated for missed or re-scheduled class(es).

   E. In the case that the class does not reach the stated minimum prior to the first class meeting and the class has not been previously canceled, the Contractor agrees that he/she will attend the first class meeting without compensation. If, after the first class meeting the stated minimum enrollment is still not reached, Recreation Services may, at its discretion cancel the class or if said class is not canceled, Contractor may elect to cancel the

class or conduct the class with a reduced class minimum. In the later case, compensation will be adjusted by Recreation Services.

F. Payment is for professional services and not as an hourly wage. City will not withhold such sum any amount for federal or state income taxes. All instructors must complete a W-9 form.

5. Licenses and Permits; Compliance with Laws. Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to provide services pursuant to this agreement. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement a valid business license from City and a copy of the license be included with the original signed contract.

6. Insurance. Should Contractor employ any party or person in connection with Contractor's operations under this contract, Contractor shall obtain Worker's Compensation Insurance and will provide the City with proof thereof. The Labor Code of the Workers' compensation laws of California states that an employer must cover employees for work-related injury and illness. As an Independent Contractor, and not an agent or employee of City and therefore will not be covered under the City's Compensation Fund. Additionally, City will not obtain unemployment insurance for the Independent Contractor. Therefore, CITY's insurance company will not defend or pay out claims brought against an Independent contractor of City. Contractor understands that as an Independent Contractor, he/she is responsible for his/her own insurance and liability coverage. _____Contractor initials

7. No Assignment. Contractor has agreed that the services called for under this Agreement are personal services, and Contractor shall not, under any circumstances, assign this contract. Any attempt to do so shall render this contract void and of no further effect.

8. Contractor grants full permission to the City of Milpitas for use of his/her name and photographs, videographs, motion pictures or recordings for any publicity and promotion purposes without obligation or liability to contractor.

9. Background Checks. If class/program is open to youth under the age of 18 years, Contractor and any assistant instructors/subcontractors agrees to fulfill all fingerprint/background checks prior to first class. Independent Contractor/assistant instructor/subcontractor is not eligible to work until the clearance is received from the Department of Justice and notified by a Recreation Services representative. The Independent Contractor attests that they have never been convicted of a crime, including military offenses, other than minor traffic offenses, which resulted in conviction and/or imprisonment.

10. Entire Agreement. This Agreement represents the entire and integrated agreement between the City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral.

11. Indemnification. Contractor hereby indemnifies and holds harmless and releases and discharges the City of Milpitas, its officers, agents, employees, and volunteers from any and all liability for any injuries to persons or property suffered by any persons(including but not limited to contractor, contractor's employees or students) arising from or connected with this Agreement or Contractor's activities pursuant to this Agreement. Therefore, Contractor evaluated the inherent risks involved in operating his/her activity and has sufficient insurance coverage. _____ Contractor initials

12. Governing Law. The laws of the State of California shall govern this Agreement.

Compliance with Applicable Laws. Contractor shall comply with all laws applicable to the performance of the work hereunder.

Noncompliance and Equal Opportunity. Contractor shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any participant in, recipient of, or applicant for any services or programs provided by Contractor under this Agreement. Contractor shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in the provision or any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Contractor thereby.

_____	_____
CONTRACTOR SIGNATURE	RECREATION SERVICES REPRESENTATIVE
DATE _____	DATE_____

AGREEMENT FOR CITY OF MILPITAS RECREATION SERVICES

Instructor Name: South Bay Scholars,
Attention Jeannette Bumagat
Address:

296 N. Abbott Avenue

Milpitas**,** CA 95035
Phone Number: (408) 688-1995

Tax ID Number: -
Social Security Number: - -

This Agreement for Recreation Services is made by and between the City of Milpitas ("City") and South Bay Scholars, ("Contractor") this agreement will be in effect from **July1, 2013, through June 30, 2014**, in Milpitas, California.

1. Independent Contractor. At all times during the term of this Agreement, Contractor shall be an independent Contractor and shall not be an employee of City. City shall have the right to control Contractor only insofar as the results of Contractor's services rendered pursuant to this Agreement. Otherwise, City shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System(PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

2. Contractor No Agent. Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

3. Services. Subject to the terms and conditions set forth in this Agreement, Contractor shall provide the City with the following services: Summer Basketball Camps **(see attached list)**

   A. Contractor shall supply and furnish all necessary work, labor, and materials in carrying out this Agreement at Contractor's sole cost and expense.

   B. Contractor agrees to contact Recreation Services three (3) days prior to the first class meeting to verify class enrollment. If fewer than the minimum students have enrolled for the course, class status will be determined by the Contractor and the designated Recreation Services Representative.

4. Compensation. It is agreed that payment to Contractor for work rendered hereunder shall be made within (30) days of completion of terms as herein indicated:

   Payment Rate**: 65% of receipts (resident rate only).

   A. Contractor shall be compensated based on enrollment totals at the end of the session. Recreation Services is not responsible for compensating Contractors participants who withdraw from the program due to dissatisfaction as stated in the Recreation Services Customer Satisfaction Policy.

      # of class meetings 5
      Minimum Participants 60
      Maximum Participants 200

   B. Should Contractor modify dates, times, or are tardy to a class more than two (2) times in a given session, resulting in changes to the schedule as listed in the Activity Guide, Contractors final compensation shall be reduced by 10%.

   C. In the event of a class cancellation by the Contractor resulting in a make-up class, the Contractor payment shall be reduced by any necessary refunds distributed to participants who are unable to attend the make-up class.

   D. Should Recreation Services be the cause of any class cancellation (i.e. scheduling conflict of facility or lack of building accessibility) the Contractor shall be compensated for missed or re-scheduled class(es).

   E. In the case that the class does not reach the stated minimum prior to the first class meeting and the class has not been previously canceled, the Contractor agrees that he/she will attend the first class meeting without compensation. If, after the first class meeting the stated minimum enrollment is still not reached, Recreation

Services may, at its discretion cancel the class or if said class is not canceled, Contractor may elect to cancel the class or conduct the class with a reduced class minimum. In the later case, compensation will be adjusted by Recreation Services.

F. Payment is for professional services and not as an hourly wage. City will not withhold such sum any amount for federal or state income taxes. All instructors must complete a W-9 form.

5. Licenses and Permits; Compliance with Laws. Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to provide services pursuant to this agreement. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement a valid business license from City and a copy of the license be included with the original signed contract.

6. Insurance. Should Contractor employ any party or person in connection with Contractor's operations under this contract, Contractor shall obtain Worker's Compensation Insurance and will provide the City with proof thereof. The Labor Code of the Workers' compensation laws of California states that an employer must cover employees for work-related injury and illness. As an Independent Contractor, and not an agent or employee of City and therefore will not be covered under the City's Compensation Fund. Additionally, City will not obtain unemployment insurance for the Independent Contractor. Therefore, CITY's insurance company will not defend or pay out claims brought against an Independent contractor of City. Contractor understands that as an Independent Contractor, he/she is responsible for his/her own insurance and liability coverage. _____Contractor initials

7. No Assignment. Contractor has agreed that the services called for under this Agreement are personal services, and Contractor shall not, under any circumstances, assign this contract. Any attempt to do so shall render this contract void and of no further effect.

8. Contractor grants full permission to the City of Milpitas for use of his/her name and photographs, videographs, motion pictures or recordings for any publicity and promotion purposes without obligation or liability to contractor.

9. Background Checks. If class/program is open to youth under the age of 18 years, Contractor and any assistant instructors/subcontractors agrees to fulfill all fingerprint/background checks prior to first class. Independent Contractor/assistant instructor/subcontractor is not eligible to work until the clearance is received from the Department of Justice and notified by a Recreation Services representative. The Independent Contractor attests that they have never been convicted of a crime, including military offenses, other than minor traffic offenses, which resulted in conviction and/or imprisonment.

10. Entire Agreement. This Agreement represents the entire and integrated agreement between the City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral.

11. Indemnification. Contractor hereby indemnifies and holds harmless and releases and discharges the City of Milpitas, its officers, agents, employees, and volunteers from any and all liability for any injuries to persons or property suffered by any persons(including but not limited to contractor, contractor's employees or students) arising from or connected with this Agreement or Contractor's activities pursuant to this Agreement. Therefore, Contractor evaluated the inherent risks involved in operating his/her activity and has sufficient insurance coverage. _____ Contractor initials

12. Governing Law. The laws of the State of California shall govern this Agreement.

Compliance with Applicable Laws. Contractor shall comply with all laws applicable to the performance of the work hereunder.

Noncompliance and Equal Opportunity. Contractor shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any participant in, recipient of, or applicant for any services or programs provided by Contractor under this Agreement. Contractor shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in the provision or any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Contractor thereby.

_____	_____
CONTRACTOR SIGNATURE	RECREATION SERVICES REPRESENTATIVE
DATE _____	DATE_____

City of Milpitas, California

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BUDGET CHANGE FORM

Type of Change	From		To	
	Account	Amount	Account	Amount
Check one:				
☒ Budget Appropriation	100-3215 100-3601	$ 9,247 2,473	100-531-4237 100-2940	$ 9,247 2,473
☐ Budget Transfer				

Explain the reason for the budget change:

Background: Lyon Communities developer has requested to extend employment of dedicated full time building inspector for one more month for Lyon Milpitas Apartments project to provide continuous and uninterrupted inspection services for the remaining duration of construction. This service was provided to the developer since December 1, 2011, by the City of Milpitas and proved to be beneficial to both sides. It allows City to continue to provide high level of customer service by considerably reducing the number of re-inspections, streamlining and maintaining construction schedule and minimizing the number of construction revisions. Existing workload does not allow us to provide dedicated building inspector from our current staff to the project and necessitate extending employment of a temporary inspector for the month of July, 2013, for $11,720. Previously, developer has paid the full cost of the inspection services, which included salary for the dedicated building inspector and an administrative fee.

Fiscal Impact: None.

Recommendation:

1. Approve developer's request to continue with employment of dedicated building inspector for an additional month ending July 31, 2013.
2. Approve budget appropriation of $11,720, less the administrative fee, into the Building and Safety Department's budget.

☒ **Check if City Council Approval required.** **Meeting Date:** June 18, 2013

Requested by:	**Department Head:** Keyvan Irannejad	**Date:** June 7, 2013
Reviewed by:	**Finance Director:**	**Date:**
Approved by:	**City Manager:**	**Date:**
Date approved by City Council, if required:		**Confirmed by:**

FI/24786/V

Form 30-222 (Rev. 1/92)

SECOND AMENDMENT TO THE AGREEMENT FOR CONSULTATION AND OTHER SERVICES

This Amendment is entered into this 18th day of June, 2013, by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "CITY") and HF&H Consultants, LLC, a California Limited Liability Company (hereafter referred to as "CONSULTANT").

RECITALS

A. WHEREAS, the parties entered into an Agreement on August 4, 2009 entitled "Consultant Services Agreement between the City of Milpitas and HF&H Consultants, LLC for Solid Waste Services ("Agreement"); and

B. WHEREAS, the parties desire to amend the Agreement to increase the scope of work and compensation by $28,446 for a total amount not to exceed $236,696;

NOW THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties agree to amend the Agreement as follows:

1. Section 1, entitled "Services", is amended to read as follows:

"Services. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in the Scope of Work attached as Exhibit A, A-1 and A-2 at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, A-1 and A-2, the Agreement shall prevail."

2. Section 2, entitled "Compensation", is amended to read as follows:

"Compensation. City hereby agrees to pay Consultant a guaranteed maximum price not to exceed $236,696 for all services to be performed and reimbursable costs incurred under this Agreement. City shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Hourly rates for personnel performing services shall be as shown in Exhibits B, B-1 and B-2. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement."

3. Section 2.5, entitled "Reimbursable Expenses", is amended to read as follows:

"Reimbursable expenses are shown on Exhibit B, B-1 and B-2, and shall not exceed six hundred and thirty-five dollars ($635). Expenses not listed in Exhibit B, B-1 and B-2 are not chargeable to City. Reimbursable expenses are included in the total not-to-exceed amount of compensation provided under this Agreement."

4. Section 4.1, entitled, "Workers' Compensation", the second paragraph is amended to read as follows:

"Consultant shall provide the City with thirty (30) days prior written notice for any planned reduction in coverage or planned non-payment of premium."

5. Subsection e of Section 4.2.3, entitled "Additional requirements", is amended to read as follows:

"Consultant shall provide the City with thirty (30) days prior written notice for any planned reduction in coverage or planned non-payment of premium."

6. Subsection 4.3.2 of Section 4.3, entitled "Professional Liability Insurance", is amended to read as follows:

"Consultant shall provide the City with thirty (30) days prior written notice for any planned reduction in coverage or planned non-payment of premium."

7. CONSULTANT agrees to continue maintain and pay for all insurance policies as stated in Section 4, entitled "Insurance Requirements" of the Agreement. CONSULTANT shall provide CITY with renewal certificates of the current policies upon the expiration of the current policy.

8. Exhibit A-2 attached to this Amendment No. 2 is fully incorporated by reference to the Agreement.

9. Exhibit B-2 attached to this Amendment No. 2 is fully incorporated by reference to the Agreement.

10. All other provisions of the Agreement not amended by this Second Amendment shall remain in full force and effect.

This Amendment is executed as of the date written on page 1.

APPROVED BY:

CITY OF MILPITAS

Thomas C. Williams, City Manager

CONSULTANT

Marva M. Sheehan, Vice President

APPROVE AS TO CONTENT:

Jeff Moneda, Public Works Director/City Engineer

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

EXHIBIT A - 2
SCOPE OF WORK

The work consists of reviewing the proposed rate proforma submitted by Allied Waste Services of North America, Inc dba Republic Services of Santa Clara County (Republic).

Task 1: Prepare for and Attend Kick-Off Meeting (via Conference Call)

We have assumed preparing for, facilitating and documenting the kick-off meeting to discuss the City's goals and objectives with Republic.

Task 2: Review Republic's Rate Adjustment Statement

Subtask 2a: Mathematical Accuracy and Logical Consistency

HF&H shall review the mathematical accuracy and logical consistency of Republic's Rate Adjustment Statement in which it calculates the rate adjustment, as well as to confirm its compliance with the terms of the existing agreement.

Subtask 2b: Indices

We will verify the calculation of the indices used to adjust the collection rates, ensuring compliance with the current contractual requirements. We understand that the calculated indices are applied to the current rates, not to individual cost components. Thus, we do not anticipate performing tasks normally associated with a detailed rate review, such as verifying the reasonableness of Republic's costs of service, unless Republic submits a claim for extraordinary costs (see Subtask 2d below).

Subtask 2c: Non-Recurring or Fully Amortized Costs

HF&H will identify any non-recurring or fully amortized costs (e.g., household dump day overage reimbursement) that should be deleted prior to applying the applicable CPI adjustment.

Subtask 2d: Extraordinary Cost Review

We will review Republic's claim, if any, for reimbursement of any extraordinary cost increases for appropriateness and reasonableness. We understand that, in past rate adjustments, these claims have included adjustments to the per ton disposal rate, unanticipated increases in liability insurance costs, and extraordinary increases to workers compensation premiums and fuel expenses. We will review Republic's supporting documentation in light of our industry knowledge and experience in reviewing other Republic divisions in the last year. Often, the hauler will have other costs that are less than anticipated and offset the extraordinary increases in these costs.

Subtask 2e: Subtitle D Costs

We will review Republic's calculation of the annual Subtitle D costs related to the landfill, including verifying the proper calculation of interest expense.

Subtask 2f: City Fees

We understand the City is not planning on changing its fees. We will review the current model to ensure the existing fees are calculated properly.

Subtask 2g: Calculate Adjusted Solid Waste Rates

We will recalculate the necessary rates (by service type and service level), based on our findings and recommended adjustments from the subtasks described above.

Subtask 2h: Communicate Preliminary Results of Analysis

The engagement director and engagement manager will communicate the preliminary results to Republic and City staff.

Task 3: Communicate Results

Subtask 3a: Prepare Preliminary Letter Report

Based on the completion of each of the above tasks, we will develop a preliminary draft letter report for staff review. Our report will contain the recommended rate schedule tables. We will present this report in person to ensure adequate understanding of our findings and staff comments. This report basically functions as a working document intended to illicit staff comments and direction.

Subtask 3b: Prepare Final Letter Report

As appropriate, we will incorporate staff comments and submit a draft report for review by City staff and Republic staff. Upon receipt of final comments, we will finalize the draft and issue a final engagement report.

Subtask 3c: Prepare for and Attend Council Meeting (Optional)

At the request of City staff, we will present our recommendations to the City Council at one public hearing and be available at that meeting to answer questions of the Council and member of the public. If additional public hearings or Council workshops are necessary, we will be pleased to participate on a time-and-materials basis.

Task 4: Engagement Management

We will prepare and amend detailed work plans; monitor engagement progress and provide sufficient resources to ensure timely completion of the engagement; review analytical results and interim findings; review the draft and final reports; and, respond to questions regarding the progress of the engagement and other issues.

Schedule

Recognizing that we rely upon Republic for the timely preparation of documents and response to our questions, we plan to perform this engagement in accordance with the following schedule:

	Task Description	Deliverable	Dates
1.	Kick-off Meeting with City and Republic (Conference Call)	Agenda	Early July
2.	Review Republic's Rate Adjustment Statement		July - August
3.	Communicate Findings:	Letter Report	
	• Issue Draft Letter Report		August 16, 2013
	• Issue Final Letter Report		August 30, 2013
	• Council Presentation (Optional)		TBD

Our ability to achieve this schedule is dependent upon the cooperation of both City and Republic staff. We will look to City staff to effectively represent the objectives of the engagement. Additionally, we anticipate that staff will provide complete and timely responses to our requests for documents and information. Finally, we expect staff to review material sent in a timely manner and to actively participate in engagement meetings.

Similarly, we will look to Republic staff to effectively represent their company. Additionally, we anticipate that they will provide complete and timely responses to our requests for documents, information and answers to our questions. Finally, we expect them to review material sent to them and actively participate in engagement meetings.

Staffing

I will be the engagement director and principal contact for the City as I was during the conduct of the last biennial review. I have over 30 years of auditing and accounting experience of which more than 20 years have been in the solid waste industry. I will be responsible for the overall satisfaction of the City with the performance of this review. I will attend all meetings with the City and Republic throughout the engagement.

Sima Mostafaei will serve as the engagement manager and will participate in kick-off meeting with the City and Republic staff. Ms. Mostafaei was intricately involved during the last biennial review and she will provide a continuity and efficiency for establishing any goals and objectives that were discussed during the previous review that the City may want to revisit. Ms. Mostafaei has over ten years of accounting and auditing experience, with over four years in the solid waste industry.

Ms. Sheehan and Ms. Mostafaei may be assisted by less senior staff that will perform more routine tasks under their supervision.

Budget

We bill for our services based on our standard hourly rates and out-of-pocket expenses for local travel. Attached is a fee estimate (Exhibit B-2) showing the hours by staff member assigned to perform each task. Our not to exceed budget for this engagement to review and evaluate Republic's 2014 and 2015 rate application is $28,446.

EXHIBIT B-2
COMPENSATION SCHEDULE

		Sheehan	Mostafaei	Erwin	Total	Proposed
		$235	$170	$98	Hours	Cost
Task 1	**Kick-off Meeting**					
1a	Prepare for and attend kick-off meeting (Conference Call)	1	2	0	3	$575
	Task 1	**1**	**2**	**0**	**3**	**$575**
Task 2	**Review Republic's Rate Adjustment Statement**					
2a	Mathematical Accuracy and Logistical Consistency	6	18	0	24	$4,470
2b	Indices	0	2	0	2	$340
2c	Non-Recurring or Fully-Amortized Costs	4	8	0	12	$2,300
2d	Extraordinary Cost Review	2	8	0	10	$1,830
2e	Subtitle D Costs	2	12	0	14	$2,510
2f	City Fees	1	2	0	3	$575
2g	Calculate Adjusted Solid Waste Rates	2	8	0	10	$1,830
2h	Communicate Preliminary Results of Analysis	4	8	0	12	$2,300
	Task 3	**21**	**66**	**0**	**87**	**$16,155**
Task 3	**Communicate Results**					
3a	Prepare Preliminary Letter Report	8	16	0	24	$4,600
3b	Prepare Final Letter Report	4	6	2	12	$2,156
3c	Prepare for and Attend Council Meeting (optional)	8	4	0	12	$2,560
	Task 4	**20**	**26**	**2**	**48**	**$9,316**
Task 4	**Engagement Management**					
		4	8	0	12	$2,300
Total Costs						
	Labor	46	102	2	150	$28,346
	Out-of-Pocket Expenses					$100
	Total Budget					**$28,446**

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AMENDMENT NO 3 TO THE AGREEMENT WITH HMH ENGINEERS FOR CONSULTATION AND OTHER SERVICES

This Amendment is entered into this 19th day of June, 2013, by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "CITY") and **HMH Engineers**, a California Corporation (hereafter referred to as "CONSULTANT").

RECITALS

WHEREAS, the CITY and CONSULTANT entered into a Consulting Services Agreement on April 7, 2009, which was approved by City Council on April 7, 2009; for professional engineering services for Capital Improvement Project ("CIP") No. 4047, Dixon Landing Road/I-880 Interchange Right of Way close out, and

WHEREAS, the parties entered into Amendment No.1 to the Agreement on December 27, 2010 to extend the contract until December 31, 2012; and

WHEREAS, the parties entered into Amendment No. 2 to the Agreement on December 27, 2012 to extended contract until June 30, 2013; and

WHEREAS, the parties now desire to extend the term of the agreement for an additional year to allow coordination with Caltrans to transfer land title to the State of California for CIP No. 4047, Dixon Landing Road/I-880 Interchange Right of Way close out.

NOW THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties agree to amend the Agreement as follows:

1. Section 1.1 entitled "Term of Services" is amended to read: "The term of the Agreement shall begin on April 7, 2009 and shall end on June 30, 2014."

2. CONSULTANT agrees to maintain and pay for all insurance policies as stated in Section 4, entitled "Insurance Requirements" of the Agreement, between CONSULTANT and the CITY. CONSULTANT shall provide the CITY with renewal certificates of the current policies upon expiration of the current policy.

3. All other provisions of the Agreement not amended by this Amendment No. 3 shall remain in full force and effect.

This Amendment is executed as of the date written on page one.

APPROVED BY:

CITY OF MILPITAS

Thomas C. Williams, City Manager

HMH ENGINEERS

William J. Wagner, PE, Vice President

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

APPROVED AS TO CONTENT:

Steve Chan, City Project Manager

CONSULTING SERVICES AGREEMENT BETWEEN
THE CITY OF MILPITAS AND
BAE URBAN ECONOMICS, Inc.

THIS AGREEMENT for consulting services is made by and between the City of Milpitas, a municipal corporation of the State of California ("City") and BAE Urban Economics, Inc., a California corporation ("Consultant") as of June 19, 2013.

AGREEMENT

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in the Scope of Work attached as Addendum A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Addendum A, the Agreement shall prevail.

1.1 Term of Services. The term of this Agreement shall begin on the date first noted above and shall end on January 31, 2015 the date of completion specified in Addendum A, and Consultant shall complete all the work described in Addendum A prior to that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the City's right to terminate the Agreement, as provided for in Section 8.

1.2 Standard of Performance. Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices its profession. Consultant shall prepare all work products required by this Agreement in a substantial, first-class manner and shall conform to the standards of quality normally observed by a person practicing in Consultant's profession.

1.3 Assignment of Personnel. Consultant shall assign only competent personnel to perform services pursuant to this Agreement. Addendum A shall name any specific personnel who shall be performing services. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.

1.4 Time. Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 1.1 above and to complete Consultant's obligations hereunder.

Section 2. COMPENSATION. City hereby agrees to pay Consultant a guaranteed maximum price not to exceed One Hundred Thirteen Thousand Seven Hundred Nineteen Dollars ($113,719.00) for all services to be performed and reimbursable costs incurred under this Agreement. City shall pay Consultant

for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Hourly rates for personnel performing services shall be as shown in Addendum B. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 **Invoices.** Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred during the billing period. Invoices shall contain the following information:

- Serial identification of bills;
- The beginning and ending dates of the billing period;
- A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion, if applicable;
- At City's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
- The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder, as well as a separate notice when the total number of hours of work by Consultant and any individual employee, agent, or subcontractor of Consultant reaches or exceeds 800 hours, which shall include an estimate of the time necessary to complete the work described in Addendum B;
- The Consultant's signature.

2.2 **Monthly Payment.** City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above and is otherwise acceptable to the City to pay Consultant. In the event that an invoice is not acceptable to the City, said invoice shall be returned to Consultant within thirty (30) days of the City's receipt of the invoice with a detailed explanation of the deficiency. City's obligation to pay a returned invoice shall not arise earlier than thirty (30) days after resubmission of the corrected invoice.

2.3 **Total Payment.** City shall pay for the services to be rendered by Consultant pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.

In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment. In the event that Consultant identifies additional work outside the scope of services specified in Addendum A that may be required to complete the work required under this Agreement, Consultant shall immediately notify the City and shall provide a written not-to-exceed price for performing this additional work.

2.4 **Hourly Fees.** Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on Addendum B.

2.5 **Reimbursable Expenses.** Reimbursable expenses are shown on Addendum B, and shall not exceed One Hundred Twenty Two Thousand Thirty Eight Dollars ($122,038.00). Expenses not listed in Addendum B are not chargeable to City. Reimbursable expenses are included in the total not-to-exceed amount of compensation provided under this Agreement.

2.6 **Payment of Taxes.** Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any other applicable federal or state taxes.

2.7 **Payment upon Termination.** In the event that the City or Consultant terminates this Agreement pursuant to Section 8, the City shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets in order to verify costs incurred to that date. The City shall have no obligation to compensate Consultant for work not verified by logs or timesheets.

2.8 **Authorization to Perform Services.** The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of a written Notice to Proceed from the City.

Section 3. **FACILITIES AND EQUIPMENT.** Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

City shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of the City. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of City. In no event shall City be obligated to furnish any facility that may involve

incurring any direct expense, including but not limited to computer, cellular telephone, long-distance telephone, or other communication charges, vehicles, and reproduction facilities.
If the performance of the work specified in Addendum A requires destructive testing or other work within the City's public right-of-way, Consultant, or Consultant's subconsultant, shall obtain an encroachment permit from the City.

Section 4. INSURANCE REQUIREMENTS. Consultant shall procure and maintain for the duration of this Agreement insurance policies against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Consultant, his or her agents, representatives, employees or subcontractors, as set forth in Addendum A. attached hereto, which is incorporated herein by reference.

4.1 Remedies. In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
- Declare Consultant in material breach of the Agreement and terminate the Agreement.

4.2 Waiver. The Risk Manager of the City has the authority to waive or vary any provision of Sections 4, including Addendum A. Any such waiver or variation shall not be effective unless made in writing.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES. Consultant shall indemnify, defend with counsel reasonably acceptable to the City, and hold harmless the City and its officials, officers, employees, agents, contractors, consultants, and volunteers from and against any and all losses, liability, claims, suits, actions, damages, and causes of action, including but not limited to those for personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, arising from any acts or omissions of Consultant or his or her employees, subcontractors, or agents in performing services under this Agreement. The foregoing obligation of Consultant shall not apply when the injury, loss of life, damage to property, or violation of law arises solely from the negligence or willful misconduct of the City or its officers, employees, agents, contractors, consultants, or volunteers. For purposes of Section 2782 of the Civil Code, the parties hereto recognize and agree that this Agreement is not a construction contract. For purposes of Section 2782.8 of the Civil Code, the parties hereto recognize and agree that this Agreement is not for design professional services.

Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Section 6. STATUS OF CONSULTANT.

6.1 **Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3. Otherwise, City shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

6.2 **Consultant Not Agent.** Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 7. LEGAL REQUIREMENTS.

7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.

7.2 **Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.

7.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors

shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.

7.4 **Licenses and Permits.** Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that is legally required to practice their respective professions. Consultant represents and warrants to City that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions and to perform this Agreement. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement a valid business license from City.

7.5 **Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the City or this Agreement.

Section 8. TERMINATION AND MODIFICATION.

8.1 **Termination.** City may terminate this Agreement at any time and without cause upon written notification to Consultant.

In the event of termination, Consultant shall be entitled to compensation for services performed prior to the effective date of termination as provided in Section 2. City, however, may condition payment of such compensation upon Consultant delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or the City in connection with this Agreement.

8.2 **Extension.** City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the City, City shall have no obligation to

reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.

8.3 **Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.

8.4 **Assignment and Subcontracting.** City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the City. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors listed in the Consultant's proposal, without prior written approval of the City.

8.5 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant shall survive the termination of this Agreement.

8.6 **Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, City's remedies shall include, but not be limited to, any or all of the following:

8.6.1 Immediate cancellation of the Agreement;

8.6.2 Retention of the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement prior to cancellation; and

8.6.3 Retention of a different consultant at Consultant's cost to complete the work described in Addendum A not finished by Consultant.

Section 9. KEEPING AND STATUS OF RECORDS.

9.1 **Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Consultant hereby agrees to deliver those documents to the City at any time upon demand of the City. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. Failure by Consultant to deliver these documents to the City within the time period specified by the City shall be a material

breach of this Agreement. City and Consultant agree that, until final approval by City, all data, plans, specifications, reports and other documents are preliminary drafts not kept by the City in the ordinary course of business and will not be disclosed to third parties without prior written consent of both parties.

9.2 **Consultant's Books and Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.

9.3 **Inspection and Audit of Records.** Any records or documents that Section 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds TEN THOUSAND DOLLARS ($10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of three (3) years after final payment under the Agreement.

Section 10 MISCELLANEOUS PROVISIONS.

10.1 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. Reasonable attorney's fees of the City Attorney's Office, private counsel is not used, shall be based on comparable fees of private attorneys practicing in Santa Clara County. The court may set such fees in the same action or in a separate action brought for that purpose.

10.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Santa Clara or in the United States District Court for the Northern District of California.

10.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

10.4 **No Implied Waiver of Breach.** The waiver of performance or any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

10.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.

10.6 **Use of Recycled Products.** Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.

10.7 **Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

Consultant hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Consultant were an employee, agent, appointee, or official of the City in the previous twelve months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code §1090 *et.seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, may be disqualified from holding public office in the State of California.

Consultant certifies that it has not paid any direct or contingent fee, contribution, donation or consideration of any kind to any firm, organization, or person (other than a bona fide employee of Consultant) in connection with procuring this Agreement, nor has Consultant agreed to employ or retain any firm, organization, or person in connection with the performance of this Agreement as a condition for obtaining this Agreement.

10.8 **Solicitation.** Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

10.9 **Contract Administration.** This Agreement shall be administered by Felix J. Reliford, Principal Housing Planner who is authorized to act for, and on behalf of, City. All correspondence shall be directed to or through the Contract Administrator or his or her designee.

10.10 **Notices.** Any written notice to Consultant shall be sent to:
Paul Peninger-Principal
BAE Urban Economics-1285 66th Street/Second Floor

Emeryville, CA 94602
(510) 547-9380/ppeninger@bae1.com

Any written notice to City shall be sent to:
Thomas C. Williams, City Manager
City of Milpitas-City Hall
455 East Calaveras Boulevard
Milpitas, California 95035

10.11 **Professional Seal.** Where applicable in the determination of the City, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.

10.12 **Integration.** This Agreement, including the addendums, represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

10.13 **Addendums.** All addendums referenced in this Agreement are incorporated by reference herein.

10.14 **Counterparts.** This Agreement may be executed in counterparts and each counterpart will have the same force and effect as an original

CITY OF MILPITAS

_____
Thomas C. Williams, City Manager

_____
Date

APPROVED AS TO FORM:

_____
Michael J. Ogaz, City Attorney

ATTEST:

_____
Mary Lavelle, City Clerk

CONSULTANT

_____
[NAME, TITLE]

_____
Date

_____
Taxpayer Identification Number

_____
City of Milpitas Business License Number

ADDENDUM A

SCOPE OF WORK

Consultant shall provide the following services subject to applicable State Laws and City review and approval:

1. **Task 1:**

   Initial meeting with Planning and Neighborhood Services Department staff to gain a comprehensive understanding of the Housing Element Update and CEQA clearance required for the Housing Element update and related actions.

   Deliverable: Meeting with Planning and Neighborhood Services Department staff.

2. **Task 2:**

   Review Streamlined Update Process: Review of the Streamlined Update Review Process including completion of Housing Element Completeness Checklist Review and other requirements to determine if the Housing Element is eligible to meet this criterion.

   Recommendations of appropriate General Plan and other text amendments to update the General Plan Housing Element for eligibility for Streamlined Update Process.

   Preparation of necessary environmental review documents (negative declaration, supplemental environmental impact report, etc.) to meet California Environmental Quality Act requirements.

   Deliverables: Prepare General Plan and Zoning Ordinance Amendments to address eligibility requirements for Streamlined Update Process and CEQA Documents.

3. **Task 3:**

   Prepare the Housing Element update pursuant to State of California Housing Element Law, Article 10.6 and Sections 65580-65589.9 and State CEQA requirements. The update shall include the following components:

   a. Population and Household Profile: This section shall use the latest information and data from DOF, County of Santa Clara Consolidated Plan, the 2010 census data, and other available sources.

   b. Housing Needs: This Section shall incorporate the Cities share of the Regional Housing Needs as developed and adopted by ABAG to reflect the 8-year planning period of the Housing Element.

c. Housing Characteristics: This section must use the most recent housing data and information from DOF 2010, Census, and ABAG. Information should also be gathered from the City's Housing Rehabilitation Program, the Local Board of Realtors and any other relevant sources.

d. Adequate Site Inventory: This section must evaluate the City's existing inventory of available land and infrastructure, which could accommodate future housing developments. Discuss the use of mixed-use development to increase the housing supply. Create an adequate sites map and database.

e. Housing Goals, Policies and Programs: This section shall describe the City's anticipated housing goals for the next five-year period and shall discuss specific housing programs and list quantifiable objectives by income group.

f. Housing Constraints: In addition to identifying governmental and market constraints to housing, this section of the Housing Element shall include a description of local efforts to remove barriers to housing.

g. Analysis of the City's Homeless Population: This section shall address the City's strategies and efforts to identify and assist the homeless population with programs and housing opportunities.

h. Preservation of Assisted Housing Units At-Risk: Analysis of existing assisted rental housing developments that are eligible to change to market rate units including estimated total cost of producing new replacements of housing units, and cost of preserving the assisted housing developments. Name, location of projects, earliest possible date of conversion to market rate and total number of elderly and non-elderly units to be lost from low-income housing stock. Discuss the government code requirements related to financial resources available for housing and conversions of at-risk residential units.

i. Review of Existing Housing Element: This section shall evaluate the progress made in implementing the goals, objectives and programs from the 2009-2014 Housing Element. This review should include the following:

   (i). Progress in the implementation;

   (ii). Effectiveness of the element; and

   (iii) Effectiveness in meeting goals, objectives, and polices.

Deliverable: Draft Housing Element Update report for City review and comments
Final Housing Element Update report incorporating all City comments

4. **Task 4:**

Housing Implementation Plan: Provide a comprehensive 5-year plan of action to implement policies that achieve the goals and objectives outlined within the Housing Element. Topics to be included are: administration of land use and development controls, provision of regulatory concessions and incentives, utilization of appropriate federal, and state financing, subsidy of low and moderate-income housing, identification of adequate housing sites, analysis of ABAG projections of housing needs, and discussion of local housing programs and activities.

Deliverable: Draft Housing Implementation Plan for City review and comments
Final Housing Implementation Plan incorporating all City comments

5. **Task 5:**

Additional Topics: Address any additional topics, which may not be included in this proposal to comply with state laws governing preparation of Housing Elements and that aid the City in meeting its housing goals.

Deliverable: As required by City in writing.

6. **Task 6:**

A listing of affordable housing partners working within the community, such as the Santa Clara County Housing Authority and other local non-profits housing providers. All of these groups should be contacted as part of the process of preparing the housing element.

Deliverable: Contact all applicable partners as part of update process.

7. **Task 7:**

Attendance at public meetings. The budget should assume attendance at a minimum of four (4) public meetings: Two Planning Commission meetings, Two Council meetings, and three public participation meetings. The budget should reference the cost for additional meetings beyond four on a per-meeting basis.

Outline a public participation process to obtain public input and comments on preparing the Milpitas General Plan Housing Element

Deliverables: Outline public participation process and attend Planning Commission, City Council and Community Meetings to receive public input, comments, feedback to prepare Housing Element, Seismic Safety Element and other General Plan and Zoning Ordinance Amendments and respond to questions.

8. **Task 8:**

Preparation of charts, graphics, tables, maps, statistical and geo-data, etc. to meet the Housing Element Requirements.

Deliverables: Draft charts, graphics, tables, maps and other required documents for City review and comments. Final charts, graphics, tables, maps, and other required documents incorporating all City comments.

Resources

Information where consultants can find the following documents on-line (www.ci.milpitas.ca.gov)

-General Plan
-Housing Element Update (2009-2014)
-Zoning Ordinance
-Midtown Specific Plan
-Transit Area Specific Plan
-Climate Action Plan
-Housing Market Study

Other documents will be provided by the City of Milpitas upon request.

ADDENDUM B

COMPENSATION SCHEDULE

The total amount of compensation for the scope of work stated in Addendum A shall not exceed the amount of One Hundred Thirteen Thousand Seven Hundred Nineteen Dollars ($113,719.00). Payments for the scope of work to be provided in this contractual agreement shall include the following:

Tasks No. 1 and 2

50% of Tasks 1 and 2 Completed	$14,215
100% of Tasks 1 and 2 Completed	$14,215
Total:	**$28,430**

Estimated Completion Date: By December 1, 2013

Tasks No. 3, 4 and 5

50% of Tasks 3, 4, and 5 Completed	$28,430
100% of Tasks 3, 4 and 5 Completed	$28,430
Total:	**$56,860**

Estimated Completion Date: By September 1, 2014

Tasks No. 6, 7 and 8

50% of Tasks 6, 7 and 8 Completed	$8,529
100% of Tasks 6, 7 and 8 Completed	$8,528
Total:	**$17,058**

Estimated Completion Date: By November 1, 2014

Contingency (10% of the Total Contract): $11,371.00

City of Milpitas, California

BUDGET CHANGE FORM

Type of Change	From		To	
	Account	Amount	Account	Amount
Check one:				
☒ Budget Appropriation	295-2938	$ 113,719	295-910-4237	$ 113,719
☐ Budget Transfer				

Explain the reason for the budget change:

Background: Pursuant to California Government Code 65580-65589, each city and county are required to prepare and implement a General Plan Housing Element every eight years toward obtain the state and regional housing goals.

Milpitas previous Housing Element was adopted by City Council in June 2010 and was found by State of California, Department of Housing and Community Development (HCD) to be in conformance with the state housing element law. As required by Housing Element Law, a series of community meetings will be held to obtain the public input and comments during the preparation process. The proposed Housing Element will be due by December 31, 2014.

Since the adoption of the previous housing element in 2010, several new state housing element laws has been adopted. Upon the selection of the Housing Element Consultant, staff and consultant will be addressing these amendments and will be bring them forward to the Planning Commission and City Council for review and approval.

During the selection process, staff sent out ten (10) Request for Proposals, received five (5) responses and interviewed four (4) planning consulting firms. Staff recommends the consultant firm of BAE Urban Economics to prepare and update the Milpitas General Plan Housing Element (2014-2022). BAE has over 25 years of local government planning experience and has prepared numerous housing elements throughout the state and bay area. BAE prepared Milpitas previous Housing Element in 2004-2009 which HCD presented the City with its Local Government Leadership Award for it housing element. The cost of the General Plan Housing Element is $113,719. There are sufficient funds in the Milpitas Housing Authority to funds the preparation of the state-mandated housing element. Budget appropriation is part of the request and recommendation. Included in the Council agenda packet is the contract agreement.

Fiscal Impact: $113,719. Budget appropriation from the Milpitas Housing Authority will be required to allocate funding for this project.

Recommendation:

1. Approve the budget appropriation request of $113,719 from the Milpitas Housing Authority to fund the General Plan Housing Element Update
2. Authorize City Manager to execute contract agreement with BAE Urban Economics to prepare the General Plan Housing Element in an amount not to exceed $113,719.

☒ **Check if City Council Approval required.** **Meeting Date**: June 18, 2013

Requested by:	**Felix Reliford, Planning & Neighborhood Services**	**Date:** June 7, 2013
Reviewed by:	**Finance Director:**	**Date:** 6/10/13
Approved by:	**City Manager:**	**Date:**

Date approved by City Council, if required: **Confirmed by:**

*22

AMENDMENT NO. 2 TO THE AGREEMENT WITH TIBURON INC. FOR MAINTENANCE AND SOFTWARE SUPPORT SERVICES

This Amendment is entered into this 19th day of June 2013, by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "CITY") and **Tiburon, Inc.,** a Virginia Corporation registered in the State of California (hereafter referred to as "VENDOR").

RECITALS

WHEREAS, the CITY and VENDOR entered into an agreement for maintenance and software support for the Police Records Management System, which was approved by Council on March 28, 2000, and

WHEREAS, VENDOR is the developer of the software and there is no other source for support and maintenance of the application, and

WHEREAS, on January 4, 2011 Council approved the designation of Tiburon, Inc. as a Sole Source pursuant to Municipal Code Section I-2-3.09 “Sole Source Procurement” for a period of five years, and

WHEREAS, the parties desire to amend the Agreement to extend the term from July 1, 2013 to June 30, 2014 and to increase the annual value of the contract to $52,828.

NOW THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties agree to amend the Agreement as follows:

1. The term of the Agreement shall extend from July 1, 2013 to June 30, 2014 unless earlier terminated.

2. Revised Exhibits A and B dated 7/1/13 attached hereto are incorporated by reference and made a part of the Agreement and shall become effective July 1 2013.

3. All other provisions of the Agreement not modified by this Amendment No. 2 shall remain in full force and effect.

This Amendment is executed as of the date first written above.

APPROVED BY:

CITY OF MILPITAS	TIBURON, INC.
_____	_____
Thomas C. Williams, City Manager	Authorized Representative Name & Title
APPROVED AS TO FORM:	APPROVED AS TO CONTENT:
_____	_____
Michael J. Ogaz, City Attorney	Mike Luu, IS Operations Manager

EXHIBIT A

TO THE AGREEMENT FOR EXTENDED SERVICES

SOFTWARE SUPPORT AND MAINTENANCE FEES

CLIENT
City of Milpitas
1265 North Milpitas Blvd.
Milpitas, CA 95035

CONTACT – Mary Gossman
CLIENT # M810-13

Support and Maintenance provided to the CLIENT listed above shall be pursuant to the terms and conditions of the Agreement for Extended Service dated March 28, 2000 (the "Agreement").

The term of the Agreement shall commence on the effective date and shall continue until termination in accordance with the terms thereof. This exhibit sets forth the current annual maintenance fee for the software applications and software modules listed below. Upon payment of the amount set forth below, this Exhibit A shall be attached to and become part of the Agreement. Except as provided below, annual maintenance fees are payable in advance of each anniversary of the effective date of the Agreement. Tiburon, Inc. reserves the right to increase the annual maintenance fee on an annual basis upon ninety (90) days prior written notice to the CLIENT, which adjustments shall become effective on the anniversary of the effective date of the Agreement. The annual maintenance fee will be adjusted as necessary to reflect changes in the software applications and software modules listed below or changes in the level of support provided under the Agreement. Such adjustments will be charged or credited as incurred on a pro rata basis and will be reflected in a new Exhibit A, which, upon delivery to the CLIENT, shall be attached to, and become part of, the Agreement.

Payments for all technical services outside the scope of Basic Services and Options included in the CLIENT's annual maintenance fee shall be invoiced to the CLIENT as incurred. All such invoices shall be due and payable within thirty (30) days of CLIENT's receipt thereof.

Tiburon reserves the right to charge an administrative fee of 10% of the annual maintenance fees for semi-annual or quarterly invoices.

Software Model	Months	CPU Make	Start	End	Total Fees
PRMS	12		7/1/13	6/30/14	$45,022.00
Oracle	12		7/1/13	6/30/14	$7,806.00
				Total	**$52,828.00**

Failure to pay when due the annual maintenance fee, any adjustment thereto, any invoice or any other amounts owing under the Agreement shall constitute a default under the Agreement and could result in the termination of support services under the Agreement, additional administrative charges for reinstating lapsed support services, as well as collection fees (including reasonable attorneys' fees and expenses).

EXHIBIT B

TO THE AGREEMENT FOR EXTENDED SERVICE

SCHEDULE OF SERVICES AND CHARGES

Support and Maintenance provided to the CLIENT listed in Exhibit A shall be pursuant to the terms and conditions of the Agreement for Extended Service dated March 28, 2000 (the "Agreement").

Upon CLIENT's payment of the amount set forth on Exhibit A to the Agreement, this Exhibit B shall be attached to, and become part of the Agreement. Any changes to the services options selected in this Exhibit B shall be reflected in a new Exhibit B which, upon payment of any additional amounts due, shall be attached to, and become part of, the Agreement.

BASIC SERVICES

Tiburon will provide basic services as defined in the Statement of Work contained in Section 2 of the Extended Service Agreement for the software systems as defined in Exhibit A.

Support for Computer Aided Dispatch, Message Switch and Corrections Management Systems is 24 hours per day, 7 days per week. Support for other products is from 8:00 a.m. to 5:30 p.m. Pacific Time, excluding weekends and normal Tiburon holidays, unless the "24/7" Service Option is selected. In all cases, call-out charges will apply as described below.

The following is paraphrased from the recently adopted Bylaws.

> Voting membership in the Tiburon User Group, as set forth herein, is included in the Basic Service. The quantity of voting members is based on the number of Tiburon products installed, with the appropriate software licenses, at the CLIENT. For purposes of establishing voting memberships, a product is defined as SS/2000 – Computer Aided Dispatch, Police Records Management, Fire Records Management, Correction Management System, and Mobile Data System. The Tiburon User Group Conference is held annually at a location to be determined.

"24/7" SERVICE OPTION $7,000 per year/per system

_____
(initial)

Products not normally covered by 24-hour support may optionally be supported with 24-hour coverage (including Tiburon holidays). Applicable call-out charges continue to apply. If this option is not in force, technical support requests outside of covered hours are charged at technical service rates as defined below.

NEW PRODUCTS

Additional Tiburon software systems, subsystems and Tiburon provided third-party products, such as hardware, and networking software may be acquired under this Agreement. Tiburon installation, special tailoring, license fees and third-party peripherals required shall be charged at the then current Technical Services Rate or as quoted by Tiburon or the third party.

TECHNICAL SERVICE RATES

1. Technical Service Rates

Technical Services Rates shall be invoiced to CLIENT as incurred at the rates then in effect.

A minimum of four (4) hours per occurrence will be charged for work conducted at Tiburon facilities and a minimum of eight (8) hours at CLIENT site for Technical Services not covered under Basic Services or "24/7" Service Option as described previously.

2. Materials, Travel and Per Diem Expenses

When applicable, all special materials, plus travel and per diem expenses shall be charged to CLIENT at cost.

3. Call-Out Charges

Systems not covered under 24/7 support, call-outs will be billed at $250 per call. After the first hour, the rate is $250 per hour with a two-hour minimum.

If CLIENT's systems are covered under the 24/7 support, the off-hour call-out fee is $50.

4. Remote Access

All charges in this Agreement are predicated on CLIENT providing the required hardware, software, and operating environment for dial-in service. If CLIENT does not provide this support for dial-in service, the following additional charge will apply:

$500 per month per system supported

In addition, travel and per diem expenses for on-site support required due to lack of remote access will be charged as defined in Exhibit B, page 2, item 1.