

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS ANNEXING CERTAIN REAL PROPERTY COMMONLY KNOWN AS TRACT 10224 (“TRAVERSE”) INTO CITY OF MILPITAS COMMUNITY FACILITIES DISTRICT NO. 2008-1, ANNEXATION NO. 6**

**WHEREAS**, Traverse Partners, LLC., a Delaware limited liability company, is the owner of certain real property commonly known as Tract 10224 (APN Nos. 086-36-003, 086-36-004, 086-36-005 and 086-36-006), more specifically described in the annexation map attached as **Exhibit 1.A** to this Resolution; and

**WHEREAS**, on June 4, 2013, the City Council approved Tentative Map No. MT13-0004, Site Development Permit No. SD13-0008, and Conditional Use Permit No. UP13-0005 for Tract 10224 (“TRAVERSE”), a residential subdivision for 206 units, consisting of 98 attached townhomes and 108 condominium units, private streets and associated common area improvements located on 12.51 acre site located within the Transit Area Trade Zone/Montague sub district; and

**WHEREAS**, on January 6, 2009, the City Council adopted Resolutions No. 7815 and No. 7816 and on January 29, 2009, adopted Ordinance No. 278 to create 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 City 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**, Traverse Partners, LLC., a Delaware limited liability company, now voluntarily seeks to annex its property to CFD 2008-1 and to be subject to the levy of a special tax thereunder.

**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. 086-36-003, 086-36-004, 086-36-005 and 086-36-006 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. 6, 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 \_\_\_\_\_, 2014 by the City Council 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

**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:

**TRAVERSE PARTNERS, L.L.C.,  
A DELAWARE 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 \_\_\_\_\_, 2014, in \_\_\_\_\_, California.

**Traverse Partners, LLC., a Delaware LLC**

\*\*By: \_\_\_\_\_  
Name: Joe Killinger  
Title: Authorized Signatory

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.

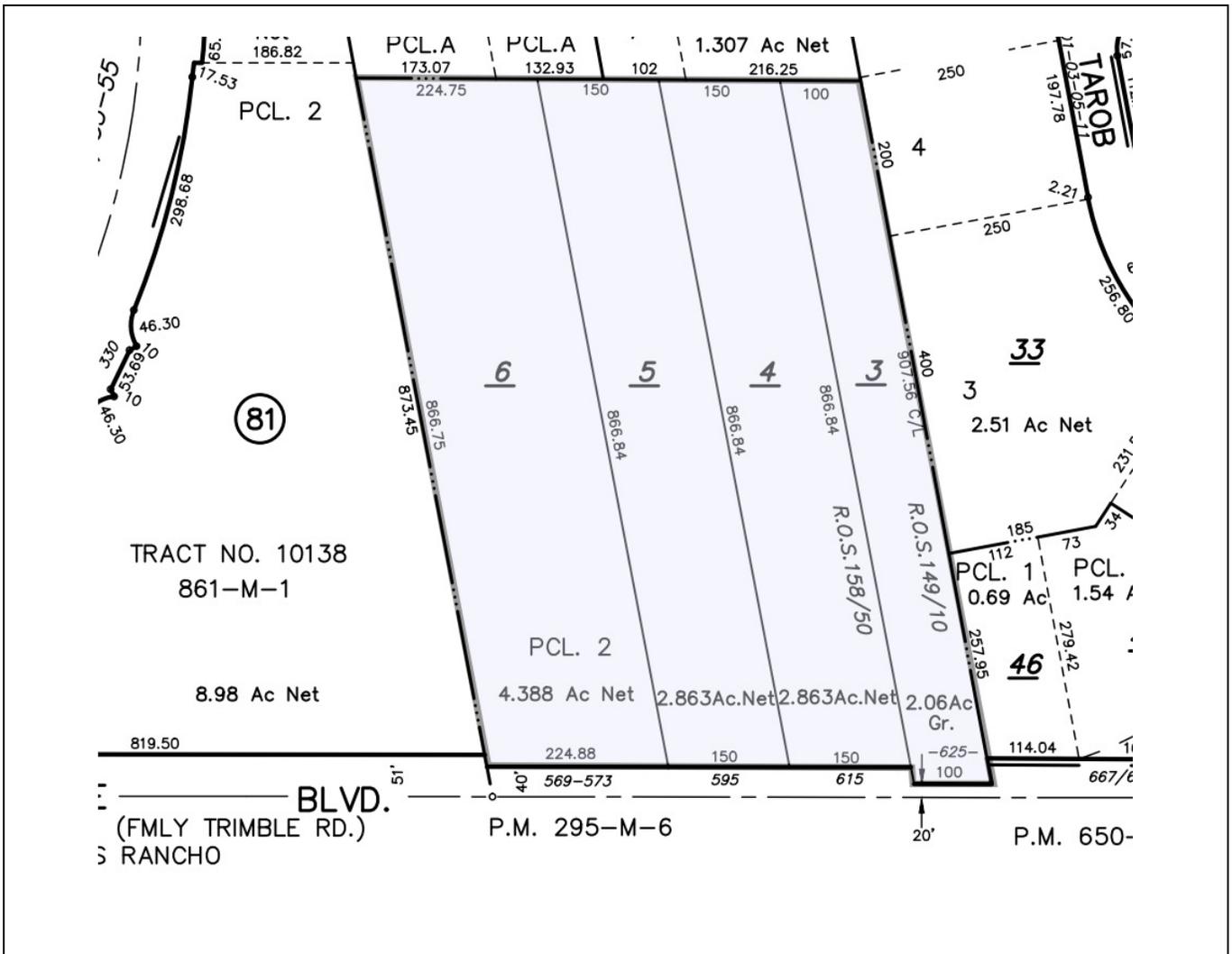
Notary Public (This area for official notary seal)

**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. 5**

Assessor Parcel No.	Owner
086-36-003, -004, -005, -006	Traverse Partners, L.L.C., a Delaware Limited Liability Company



**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**

<b>Land Use Class</b>	<b>Land Use Type</b>	<b>Maximum Special Tax Per Dwelling Unit</b>
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. 6**

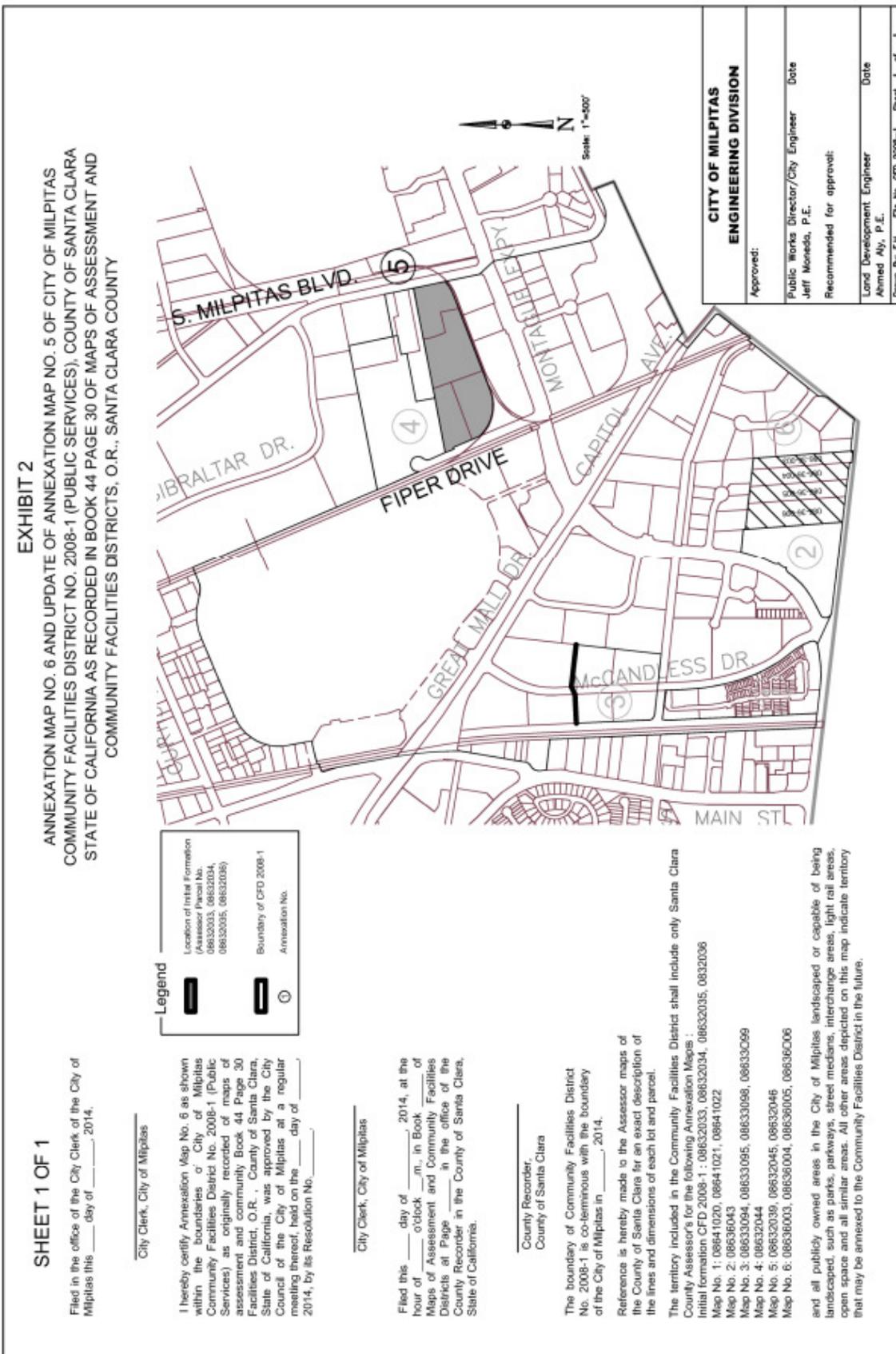
The undersigned is the duly appointed CITY CLERK for the proceedings relating to the annexation of property to the District.

On the \_\_\_\_\_ day of \_\_\_\_\_, 2014, at MILPITAS, California.

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**CITY CLERK  
CITY OF MILPITAS  
STATE OF CALIFORNIA**

EXHIBIT 2



Subdivider: Traverse Partners, LLC., a Delaware LLC

Project Name: TRAVERSE

File No. : 100.01.242

Private Job Account No.: 2874

Improvement Plan No.: 2-1184

Tract No: 10224

Council Approval Date: 10/21/2014

## CITY OF MILPITAS

### SUBDIVISION IMPROVEMENT AGREEMENT

THIS AGREEMENT, executed this \_\_\_\_ day of \_\_\_\_\_ 2014, at Milpitas, California, by and between the CITY OF MILPITAS, a municipal corporation of the State of California, (hereafter referred to as “City”) and

**Traverse Partners, LLC., a Delaware limited liability company** (hereafter referred to as “SUBDIVIDER”):

#### RECITALS

- A. SUBDIVIDER desires to develop certain land in the City in accordance with final maps filed with the Milpitas City Council, marked and designated as Tract No. 10224 (“Project”); and
- B. Said map shows certain streets, park, 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. 2-1184 consisting of approximately 50 sheets** and specifications, and including setting survey monuments and identified by Project Fund Account No. 2874 (hereby referred to and made a part hereof the same as if set forth at length herein), and as set forth in the conditions of approval for the Project.
2. Public Park: The Milpitas Transit Area Specific Plan (“TASP”) identified a 5.1 acre community park (“Park Property”) located within the Trade Zone Sub District as shown on Figure 3-1 and Figure 3-6 (“Transit Area Plan Map”) of the TASP. SUBDIVIDER currently own approximately 0.73 acres of the Park Property as depicted in Exhibit A of this Agreement and agrees to dedicate approximately 0.73 acres of the Park Property to the City as set forth herein and provided in the Conditions of Approval for the Project.
  - a. SUBDIVIDER agrees to complete each of the following to the sole satisfaction of the City:
    - i. As a condition precedent and prior to the issuance of the first Certificate of Occupancy (temporary or final) for any residential unit in the Project, SUBDIVIDER, at its sole cost and expense, shall complete a Park Master Plan for the 5.1 acre Park Property subject to approval by the City. The Park Master Plan shall include, but not be limited to the following: existing and proposed utility information, site evaluation, preliminary engineer’s cost estimates, park phasing plan, and related studies, analysis, and conceptual design and grading drawings to complete the preliminary design of 5.1 acre

Park Property. The Park Master Plan shall be reviewed and approved by the Park, Recreation and Cultural Resources Commission and the Milpitas City Council prior to issuance of any Certificate of Occupancy (temporary or final) for any residential unit in the Project.

- ii. SUBDIVIDER, at its sole cost and expense, shall complete one hundred percent (100%) construction documents for the 0.73 acre of Park Property, subject to City review and approval prior to issuance of any Certificate of Occupancy (temporary or final).
- iii. SUBDIVIDER agrees that it will construct all the park improvements on the 0.73 acre of the Park Property depicted in Exhibit A, as identified in the approved Park Master Plan and construction documents described above. SUBDIVIDER shall commence construction of the park improvements on the 0.73 acres of the Park Property depicted in Exhibit A prior to the issuance of Certificate of Occupancy (temporary or final) for the one hundred and tenth (110) residential unit in the Project. SUBDIVIDER shall complete the construction of all the park improvements on the 0.73 acre of the Park Property prior to issuance of Certificate of Occupancy (temporary or final) for the last residential unit or building in the Project.
- iv. The park improvements shall be deemed completed and accepted by the City upon the recordation of a grant deed, acceptable to City, conveying the approximate 0.73 acre of the Park Property as depicted in Exhibit A from SUBDIVIDER to the City. SUBDIVIDER shall be responsible for all costs incurred in the conveyance of the 0.73 acre Park Property to the City in accordance with the requirements in this Agreement and City policies and processes. SUBDIVIDER shall continue to own, operate, maintain and be fully responsible and liable for the 0.73 acre Park Property until a grant deed is recorded as provided in this Section.
- v. SUBDIVIDER will receive parkland fee credit for the construction of the park improvements as further set forth in Section 16 of this Agreement and a separate Fee Credit Agreement between the parties executed simultaneously with this Agreement. SUBDIVIDER acknowledges and agrees that in accordance with the City's Development Impact Fee Ordinance, if the actual cost and expense to design, develop, construct and supervise the construction of the park improvements and dedication of the 0.73 acre Park Property to the City exceeds the parkland fee credit under this Agreement, SUBDIVIDER shall not be entitled to any reimbursement of the cost differential or any additional fee credit, provided that if the actual cost of the development of the park improvements is below the parkland fee credit under this Agreement, SUBDIVIDER is entitled to the full fee credit. Notwithstanding any other provision in this Agreement, in no event shall City owe a refund to Developer or provide any additional fee credit above the fee credit set for in Section 16 of this Agreement or the separate Fee Credit Agreement between the parties. Because of the benefit SUBDIVIDER will receive from the development of the Project and the park improvements, SUBDIVIDER agrees to construct the park improvements on the 0.73 acre of the Park Property and dedicate the park site as specified in this Agreement, without any obligation on the part of City or any refund or credit other than what is explicitly specified in Section 16.C of this Agreement and the separate Fee Credit Agreement.

3. 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.
4. SUBDIVIDER agrees that said improvements will be constructed under and subject to the inspection of and to the satisfaction of the CITY.
5. 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.
6. 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, **Traverse Partners, LLC, a Delaware 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), 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 City does not, and shall not, waive any rights against SUBDIVIDER which they may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or SUBDIVIDER's deposit with City of any of the insurance policies described in this Agreement.

7. All said improvements in Section B.1 of this Agreement, except the area for the temporary sales entry from Trade Zone Boulevard, shall be completed and ready for final inspection by the CITY prior to **the issuance of the first Certificate of Occupancy for any residential unit in the Project**. All said improvements in Section B.1 of this Agreement within the area for the temporary sales entry from Trade Zone Boulevard shall be completed and ready for final inspection by the CITY prior to **the issuance of the Certificate of Occupancy for the last residential unit in the Project**. All park improvements shall be completed as set forth in Section B.2 of this Agreement. If SUBDIVIDER shall fail to complete the work required by this Agreement within the required time period, 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, or take any other action authorized under this Agreement or law.
8. Upon the execution of this Agreement, SUBDIVIDER shall file and submit security or bond to CITY as obligee in the penal sum of **THREE MILLION ONE HUNDRED AND FIVE THOUSAND DOLLAR (\$3,105,000.00)** for public improvements 2-1184 and .73 acre public park 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.

9. 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.
10. Upon the execution of this Agreement, SUBDIVIDER shall file and submit security or bond to CITY, as obligee, in the penal sum of **THREE MILLION ONE HUNDRED AND FIVE THOUSAND DOLLAR (\$3,105,000.00)** for public improvements 2-1184 and .73 acre public park improvements, insuring 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.
11. SUBDIVIDER agrees to pay all costs for labor or materials in connection with the work of improvement hereunder.
12. Any faithful performance security required hereunder shall be reduced to ten percent (10%) of the security's or bond 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.
13. 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.
14. 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.

15. 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.
16. SUBDIVIDER agrees to comply with all conditions and notes of approval for this Project, 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. 2874 for this purpose with additional deposits as required by CITY.

A. Estimated 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)	P2874-xx-xxxx	\$310,500.00
2	Improvement Reimbursement Fee	310-3614-xx70	N/A
3	Other Fees/Deposits	xxxx-xx-xxx	N/A
		<b>Total =</b>	<b>\$310,500.00</b>

B. Estimated fees to be paid at the time of building permit issuance:

	Type of Fee	City Account No.	Calculated Fee
1	Water Connection Fee: <i>(based on 206 units @ \$1,164 per unit)</i>	402-3715	\$239,784.00
2	Potable Water Meter Fee	400-3662	N/A
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	N/A
5	Sewer Connection Fee <i>(based on 206 units @ \$1,406 per unit)</i>	452-3715	\$289,636.00
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	Sewer Treatment Plant Fee (TPF)	452-3714	N/A
9	Storm Drain Connection Fee <i>(based on 12.51 acres @ \$16,771 per acre)</i>	340-3711	\$209,805.00
10	Transit Area Specific Plan Impact Fees <i>(206 units @ \$32,781.00 per unit)</i>	350-3718	\$6,752,886.00
11	Park site Fee 1. Park Dedication In-Lieu Fee 2. PUD Park Fee	320-3712	N/A
12	Permit Automation Fee (2.5% of B1-B10)	505-3601	\$187,303.00
		<b>Total =</b>	<b>\$7,679,414.00</b>

C. Credits and/or Reimbursements due to SUBDIVIDER\*:

TASP Credits	Credit
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1	Park Land Dedication credit. (.73 acre calculated at \$59/sf)	\$1,876,200.00
2	Park Improvements	\$447,000.00
	<b>Total =</b>	<b>\$2,323,200.00</b>

The above fees set forth in Section 16.A and Section 16.B are estimates only. The amount of fee to be paid in Section 16.A and Section 16.B shall be the amount in effect as approved by the City Council, at the time that full payment is made to the City at time of building permit issuance.

\* Details of the fee credit for the parkland dedication and park improvements are set forth in a separate Fee Credit Agreement between the parties executed simultaneously with this Agreement. Any conflict between the terms or conditions relating to any fee credit in this Agreement and in the separate Fee Credit Agreement, the terms and conditions in the separate Fee Credit shall prevail.

17. 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.
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 "B" (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 \_\_\_\_\_, 2014.

CITY OF MILPITAS

SUBDIVIDER:

By: \_\_\_\_\_  
Thomas C. Williams, City Manager

**Traverse Partners, LLC., a Delaware LLC**

\*\*By: \_\_\_\_\_  
Name: Joe Killinger  
Title: Authorized Signatory

APPROVED AS TO FORM THIS

\_\_\_\_\_ day of \_\_\_\_\_, 2014

By: \_\_\_\_\_  
Michael J. Ogaz, City Attorney

APPROVED AS TO SUFFICIENCY THIS

\_\_\_\_\_ day of \_\_\_\_\_, 2014

By: \_\_\_\_\_  
Jeff Moneda, Public Works Director / City Engineer

\* 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"

### PRELIMINARY CONSTRUCTION COST ESTIMATE

Traverse 0.73 Acre Public Park, Milpitas, CA

9/29/2014

Prepared by: Thomas Baak and Associates, LLP

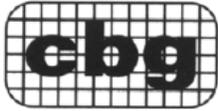
Description	Quantity	Unit	Unit Price	Cost
SOIL PREPARATION/FINE GRADING	26,206	S.F.	\$ 0.60	\$ 15,723.60
CONCRETE PAVING	3,465	S.F.	\$ 9.00	\$ 31,185.00
CHILDREN'S PLAY EQUIP./AREAS	2	ALLOW	\$ 65,000.00	\$ 130,000.00
PICNIC TABLES / BENCHES / FURN.		ALLOW	\$ 35,000.00	\$ 35,000.00
DRAINAGE		ALLOW	\$ 35,000.00	\$ 35,000.00
DECORATIVE BARK	2,612	S.F.	\$ 0.33	\$ 861.96
24" BOX TREES	15	EA.	\$ 350.00	\$ 5,250.00
SHRUBS/GROUND COVER AREAS	2,612	S.F.	\$ 7.00	\$ 18,284.00
TURF - HYDROSEED	23,594	S.F.	\$ 0.20	\$ 4,718.80
IRRIGATION W/CONTROLLER	26,206	EA.	\$ 2.00	\$ 52,412.00
MONUMENT SIGN	1	EA.	\$ 15,000.00	\$ 15,000.00
DESIGN CONSULTANT FEES *		ALLOW	\$ 45,000.00	\$ 45,000.00

\* (Civil and Landscape Architect fees)

<b>SUBTOTAL</b>	\$ 372,711.76
<b>10% PLAN CHK/STAKING/INSPECTION</b>	\$ 37,271.18
<b>10% CONTINGENCY</b>	\$ 37,271.18
<b>TOTAL</b>	<b>\$ 447,254.11</b>







# Carlson, Barbee & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS

## EXHIBIT "A"

### ENGINEER'S BOND ESTIMATE TRAVERSE PUBLIC IMPROVEMENTS MILPITAS, CALIFORNIA

March 14, 2014  
Job No.: 2076-010

Item	Description	Quantity	Unit	Unit Price	Amount
<b><u>STREET WORK</u></b>					
1	Saw Cut (1' offset from existing top of curb)	710	LF	\$ 2.00	\$ 1,420.00
2	Remove Existing Curb (Ex Momentum Dr.)	710	LF	\$ 5.00	\$ 3,550.00
3	Remove Existing AC / AB	1,065	SF	\$ 5.00	\$ 5,325.00
4	Fine Grade (Right-of-Way)	91,600	SF	\$ 0.35	\$ 32,060.00
5	5" AC Pavement (Momentum Dr., Jubilee Dr., and Journey St.)	37,700	SF	\$ 2.00	\$ 75,400.00
6	4" AC Pavement (Ex Momentum Dr.)	3,530	SF	\$ 1.60	\$ 5,648.00
7	10" Aggregate Base (Momentum Dr., Jubilee Dr., and Journey St.)	37,700	SF	\$ 1.50	\$ 56,550.00
8	13" Aggregate Base (Ex Momentum Dr.)	3,530	SF	\$ 1.95	\$ 6,883.50
9	6" Concrete Band (at Parking Bays, Includes cushion)	500	LF	\$ 8.00	\$ 4,000.00
10	6" Decorative Concrete (At Parking Bays and Crosswalks)	12,510	SF	\$ 12.00	\$ 150,120.00
11	6" Aggregate Base (For Decorative Concrete)	12,510	SF	\$ 0.90	\$ 11,259.00
12	6" Vertical Curb and Gutter (Includes cushion)	1,800	LF	\$ 25.00	\$ 45,000.00
13	6" Vertical Curb (Includes cushion)	1,780	LF	\$ 20.00	\$ 35,600.00
14	3' Concrete Valley Gutter (At Parking Bays, Includes cushion)	900	LF	\$ 20.00	\$ 18,000.00
15	5' Concrete Sidewalk (Includes cushion)	19,720	SF	\$ 10.00	\$ 197,200.00
16	Curb Ramps	12	EA	\$ 2,500.00	\$ 30,000.00
17	Monuments	5	EA	\$ 600.00	\$ 3,000.00
18	Traffic Striping	1	LS	\$ 15,000.00	\$ 15,000.00
Subtotal Street Work					\$ 696,015.50
<b><u>STORM DRAIN</u></b>					
19	Connect to Existing Storm Drain	4	EA	\$ 5,000.00	\$ 20,000.00
20	Catch Basins	8	EA	\$ 3,000.00	\$ 24,000.00
21	Manholes	12	EA	\$ 4,000.00	\$ 48,000.00
22	12" Storm Drain Pipe (RCP)	55	LF	\$ 60.00	\$ 3,300.00
23	18" Storm Drain Pipe (RCP)	525	LF	\$ 80.00	\$ 42,000.00
24	30" Storm Drain Pipe (RCP)	105	LF	\$ 120.00	\$ 12,600.00
25	Bioretention Planter (For Public C.3 Treatment)	2,850	SF	\$ 30.00	\$ 85,500.00
26	30" Storm Drain Pipe (RCP) (165 LF upsized by Toll Brothers)	1	LS	\$ 25,000.00	\$ 25,000.00
Subtotal Storm Drain					\$ 260,400.00
<b><u>SANITARY SEWER</u></b>					
27	Connect to Existing Sanitary Sewer	1	EA	\$ 5,000.00	\$ 5,000.00
25	6" Sanitary Sewer Pipe	370	LF	\$ 26.00	\$ 9,620.00
26	Manholes	4	EA	\$ 4,000.00	\$ 16,000.00
27	4" Sanitary Sewer Lateral (Public Park)	1	EA	\$ 800.00	\$ 800.00
Subtotal Sanitary Sewer					\$ 31,420.00

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

<b>Item</b>	<b>Description</b>	<b>Quantity</b>	<b>Unit</b>	<b>Unit Price</b>	<b>Amount</b>
<b><u>WATER SUPPLY</u></b>					
28	Connect to Domestic Water	2	EA	\$ 3,500.00	\$ 7,000.00
29	10" Domestic Water Line <i>(Including all appurtenances)</i>	1,350	LF	\$ 50.00	\$ 67,500.00
30	1.5" Domestic Water Service Lateral <i>(For Public Park)</i>	1	EA	\$ 400.00	\$ 400.00
31	Fire Hydrants	3	EA	\$ 4,000.00	\$ 12,000.00
32	Blow-Off / Air Release Valve Combination Assemblies	2	EA	\$ 2,000.00	\$ 4,000.00
33	Blow-Off Assemblies	2	EA	\$ 1,000.00	\$ 2,000.00
34	Water Valves <i>(In Public Right of Way)</i>	17	EA	\$ 1,000.00	\$ 17,000.00
Subtotal Water Supply					\$ 109,900.00
<b><u>RECYCLED WATER SUPPLY</u></b>					
35	Connect to Recycled Water	1	EA	\$ 3,500.00	\$ 3,500.00
36	8" Recycled Water Line <i>(Including all appurtenances)</i>	650	LF	\$ 45.00	\$ 29,250.00
37	1.5" Recycled Water Irrigation Service <i>(For Landscape Frontage)</i>	1	EA	\$ 1,500.00	\$ 1,500.00
38	1.5" Recycled Water Irrigation Service <i>(For Public Park)</i>	1	EA	\$ 1,500.00	\$ 1,500.00
39	1.5" Recycled Water Meter <i>and Box (For Landscape Frontage)</i>	1	EA	\$ 1,000.00	\$ 1,000.00
40	Blow-Off / Air Release Valve Combination Assemblies	2	EA	\$ 2,000.00	\$ 4,000.00
41	Blow-Off Assemblies	2	EA	\$ 1,000.00	\$ 2,000.00
42	Recycled Water Valves <i>(In Public Right of Way)</i>	4	EA	\$ 1,000.00	\$ 4,000.00
Subtotal Recycled Water Supply					\$ 46,750.00
<b><u>ELECTRICAL</u></b>					
43	Electroliers <i>(Decorative per TASP)</i>	23	EA	\$ 8,000.00	\$ 184,000.00
44	Joint Trench Mainline	1,950	LF	\$ 100.00	\$ 195,000.00
Subtotal Electrical					\$ 379,000.00
<b><u>LANDSCAPE</u></b>					
45	Landscape Areas <i>(Includes irrigation and planting)</i>	21,150	SF	\$ 10.00	\$ 211,500.00
46	Irrigation Controller <i>(Frontage Landscaping)</i>	1	EA	\$ 20,000.00	\$ 20,000.00
47	Irrigation Controller <i>(Park Irrigation)</i>	1	EA	\$ 20,000.00	\$ 20,000.00
48	Park Landscaping <i>(Includes bollard lighting, paseos, etc.)</i>	32,700	SF	\$ 10.00	\$ 327,000.00
49	Park Amenities <i>(Includes play structure, benches, etc.)</i>	1	LS	\$ 100,000.00	\$ 100,000.00
Subtotal Landscape					\$ 678,500.00

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

Item	Description	Quantity	Unit	Unit Price	Amount
<b><u>TRADE ZONE BLVD</u></b>					
50	Saw Cut	720	LF	\$ 2.00	\$ 1,440.00
51	Remove Existing Curb and Gutter	100	LF	\$ 5.00	\$ 500.00
52	Remove Existing AC / AB	2,030	SF	\$ 5.00	\$ 10,150.00
53	Fine Grade <i>(Right-of-Way, Including Landscape Areas and Sidewalks)</i>	36,860	SF	\$ 0.35	\$ 12,901.00
54	Connect to Existing Storm Drain	2	EA	\$ 5,000.00	\$ 10,000.00
55	12" Storm Drain Pipe <i>(RCP)</i>	50	LF	\$ 60.00	\$ 3,000.00
56	Storm Drain Manhole	1	EA	\$ 4,000.00	\$ 4,000.00
57	Bioretention Planter	1,200	SF	\$ 30.00	\$ 36,000.00
58	8' Concrete Sidewalk <i>(Includes cushion)</i>	4,010	SF	\$ 10.00	\$ 40,100.00
59	6" Vertical Curb and Gutter <i>(Includes cushion)</i>	650	LF	\$ 25.00	\$ 16,250.00
60	Curb Ramp	3	EA	\$ 2,500.00	\$ 7,500.00
61	Edge Grind AC <i>(8' wide section)</i>	6,210	SF	\$ 1.50	\$ 9,315.00
62	Overlay Fabric	6,210	SF	\$ 0.50	\$ 3,105.00
63	Minimum 2" AC Overlay	6,210	SF	\$ 3.00	\$ 18,630.00
64	Street Conforms	2	EA	\$ 7,500.00	\$ 15,000.00
65	6" AC Pavement	20,350	SF	\$ 2.40	\$ 48,840.00
66	8" Aggregate Base	20,350	SF	\$ 1.20	\$ 24,420.00
67	Adjust Existing Utility Valve Covers and Lids to Grade	1	LS	\$ 2,000.00	\$ 2,000.00
68	Traffic Striping	1	LS	\$ 35,000.00	\$ 35,000.00
69	Fire Hydrant	2	EA	\$ 4,000.00	\$ 8,000.00
70	Electrolier	3	EA	\$ 8,000.00	\$ 24,000.00
71	Landscape Areas <i>(Includes irrigation and planting)</i>	5,000	SF	\$ 10.00	\$ 50,000.00
72	Traffic Control Budget	1	LS	\$ 30,000.00	\$ 30,000.00
Subtotal Trade Zone Blvd					\$ 410,151.00
<b>SUBTOTAL PUBLIC CONSTRUCTION COST</b>					<b>\$ 2,612,136.50</b>
<b>CONTINGENCY</b>					<b>\$ 492,427.30</b>
<b>TOTAL PUBLIC CONSTRUCTION COST (to the nearest \$1,000)</b>					<b>\$ 3,105,000.00</b>

**Note:**

- This estimate is based on the Traverse Public Improvement Plans dated March 14, 2014.



## **EXHIBIT “B”**

1. The Subdivider agrees to complete the construction of all public improvements listed in the Improvement Plan No. 2-1184 except the area for the temporary sales entry from Trade Zone Boulevard, and settings of all Survey Monuments before the City issuance of the Occupancy Permit/Final Inspection of the first residential building.
2. Subdivider agrees to execute all necessary and City required Water Service Agreements and pay the connection fees prior to any Building Permit issuance.
3. 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. Subdivider agrees to pay the City 2.5% Permit Automation Fee for the applicable fees.
5. Subdivider agrees to comply with all conditions and notes of approval for this Subdivision.

**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 \_\_\_\_\_ **(\$XXXXXXXXXX)**, 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 \_\_\_\_\_, 2014.

NOTE: BE SURE BOND DATE DOES NOT PRE-DATE CONTRACT.

SUBDIVIDER: \_\_\_\_\_

SURETY: \_\_\_\_\_

BY: \_\_\_\_\_  
(write name)

BY: \_\_\_\_\_  
(write name)

BY: \_\_\_\_\_  
(type name and office)

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 \_\_\_\_\_, 2014.

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Type Name)

Address: \_\_\_\_\_  
\_\_\_\_\_

Subscribed and sworn to before me, a )  
Notary Public, this \_\_\_\_\_ day of )  
\_\_\_\_\_, 2014. )  
)  
)  
)  
)  
)

**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:  
\_\_\_\_\_

**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 \_\_\_\_\_ (**\$XXXXXXXX**), 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 \_\_\_\_\_, 2014.

NOTE: BE SURE BOND DATE DOES NOT PRE-DATE CONTRACT.

SUBDIVIDER: \_\_\_\_\_

SURETY: \_\_\_\_\_

BY: \_\_\_\_\_  
(write name)

BY: \_\_\_\_\_  
(write name)

BY: \_\_\_\_\_  
(type name and office)

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 \_\_\_\_\_, 2014.

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Type Name)

Address: \_\_\_\_\_  
\_\_\_\_\_

Subscribed and sworn to before me, a )  
Notary Public, this \_\_\_\_\_ day of )  
\_\_\_\_\_, 2014. )  
)  
)  
)  
)  
)

**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: Traverse Partners, LLC., a Delaware LLC  
Project Name: TRAVERSE

Project No. PJ2874  
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 **TEN THOUSAND Dollars (\$10,000.00)**, 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 \_\_\_\_\_, 2014.

NOTE: BE SURE BOND DATE DOES NOT PRE-DATE CONTRACT.

SUBDIVIDER: \_\_\_\_\_

SURETY: \_\_\_\_\_

BY: \_\_\_\_\_  
(write name)

BY: \_\_\_\_\_  
(write name)

BY: \_\_\_\_\_  
(type name and office)

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 \_\_\_\_\_, 2014.

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Type Name)

Address: \_\_\_\_\_  
\_\_\_\_\_

Subscribed and sworn to before me, a )  
Notary Public, this \_\_\_\_\_ day of )  
\_\_\_\_\_, 2014. )

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:  
\_\_\_\_\_

**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.

**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

\_\_\_\_\_  
AUTHORIZED REPRESENTATIVE (Signature)

Address: \_\_\_\_\_

\_\_\_\_\_  
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 \_\_\_\_\_, 2014. \*\*

\_\_\_\_\_  
Authorized Signatory (Sign)

\_\_\_\_\_  
(Type Name)

SUBSCRIBED AND SWORN TO BEFORE ME, a  
Notary Public, this \_\_\_\_\_ day of  
\_\_\_\_\_, 2014.

\_\_\_\_\_  
(Sign)

\_\_\_\_\_  
(Type Name)

**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:

<u>COVERAGE</u>	<u>POLICY NUMBER</u>	<u>POLICY PERIOD</u>	<u>MINIMUM LIMITS OF LIABILITY</u>
(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 \_\_\_\_\_, 2014. \*\*

\_\_\_\_\_

Authorized Signatory (Sign)

\_\_\_\_\_

(Type Name)

SUBSCRIBED AND SWORN TO BEFORE ME, a  
Notary Public, this \_\_\_\_\_ day of  
\_\_\_\_\_, 2014.

\_\_\_\_\_

(Sign)

\*\* If this certificate is executed outside of California, it must be sworn to before a Notary Public.

FORM APPROVED: \_\_\_\_\_, 2014, by \_\_\_\_\_

**CITY OF MILPITAS  
FEE CREDIT AGREEMENT  
FOR TRANSIT AREA SPECIFIC PLAN PUBLIC FACILITIES AND PUBLIC  
IMPROVEMENTS**

This Fee Credit Agreement for Public Facilities and Public Improvements (“**Agreement**”), dated as of October 21, 2014, is by and between the **City of Milpitas**, a municipal corporation of the State of California (“**City**”), and **Traverse Partners, LLC., a Delaware Limited Liability Company** (“**Developer**”).

**WITNESSETH:**

**WHEREAS**, Developer is the owner of that certain real property (APN Nos. 086-36-003, 086-36-004, 086-36-005 and 086-36-006) located in the Transit Area Specific Plan area, in the City of Milpitas, State of California, as more commonly referred to as the Traverse Residential, located at 569-625 Trade Zone Boulevard in Milpitas, California, consisting of 206 units and described in further detail below (“**Project**”); and

**WHEREAS**, on June 4, 2013, the City Council approved Major Tentative Map (MT13-0004), Site Development Permit (SD13-0008), Conditional Use Permit (UP13-0005), and Environmental Impact Assessment (EA13-0002) to allow the subdivision of four parcels that could accommodate up to Two Hundred Six (206) dwelling units along with ancillary lots for private streets, public streets, and a public park on 12.51 acres located at 569-625 Trade Zone Boulevard (“**Tentative Map**”); and

**WHEREAS**, City has adopted a Transit Area Specific Plan (“**TASP**”) and a Transit Area Specific Plan Development Impact Fee (“**TASP Fee**”) to provide funds to finance improvements and facilities within the City’s TASP area (the “**TASP Area**”); and

**WHEREAS**, City has adopted a Financing Plan (EPS no. 17107), as amended, for the TASP Area outlining the improvements and facilities that are to be constructed with the TASP fees (“**Financing Plan**”); and

**WHEREAS**, the total TASP Fee for the entire Traverse Residential Project for Two Hundred and Six (206) dwelling units is currently estimated to be Six Million Seven Hundred Fifty-Two Thousand Eight Hundred Eighty-Six Dollars (\$6,752,886.00) (206 units x \$32,781), provided the exact amount of TASP Fee to be paid shall be the amount in effect, as approved by the City Council, at the time that full payment is made to the City at the time of issuance of the applicable building permit, and

**WHEREAS**, pursuant to the conditions of approval for the Project set forth in City Council Resolution No. 8267 approving the Tentative Map on June 4, 2013, Developer is required to pay the TASP Fee, subject to fee credits against the TASP Fee for the Improvements constructed by Developer. Developer has constructed, or will construct, certain improvements and facilities in the TASP Area identified in **Exhibit A** attached hereto (the “**Improvements**”) that are included in the Financing Plan and would otherwise be financed by the TASP Fee, and which Improvements will serve more than the Developer’s properties within the TASP Area. The TASP Fee Credit agreed upon for the Improvements is Four Hundred Forty-Seven Thousand Dollars (\$447,000) (the “**Improvements Fee Credit**”) based on the Estimated Cost of the Improvements in the Financing Plan and more particularly depicted in **Exhibit B** attached hereto and incorporated herein; and

**WHEREAS**, in addition to the Improvements, Developer has also recorded an irrevocable offer of dedication of land on the final map for park purposes that is included in the Financing Plan and would otherwise be financed by the TASP Fee, and which park facility will serve more than the Developer's properties within the TASP Area. Developer shall be entitled to a Fee Credit against TASP Fees, in the amount of One Million Eight Hundred Seventy-Six Thousand Two Hundred Dollars (\$1,876,200) ("**Park Land Fee Credit**") based on the Estimated Cost of Land in the Financing Plan; and

**WHEREAS**, the TASP fee credits for the Improvements and the Park Land Fee Credit are referred to herein as the "**Fee Credits**". Therefore, provided Developer satisfy each and every term, obligation, and condition herein, the total TASP Fee Credits due to Developer hereunder will be Two Million Three Hundred Twenty-Three Thousand Two Hundred Dollars (\$2,323,200); and

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

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

## **SECTION 1. Allowable Credits**

### **1.1 Fee Credits**

Subject to the terms, conditions, and obligations of this Agreement, the City will provide TASP Fee Credits to the Developer for the Improvement Costs (defined in Section 1.2 below) for acquisition and installation of the Improvements described in **Exhibit A** and for the parkland dedication depicted in **Exhibit C**.

### **1.2 Improvement Costs**

The Improvements, with estimated quantities and prices are shown in **Exhibit B** attached hereto based on the Financing Plan in the amount of Four Hundred Forty-Seven Thousand Dollars (\$447,000) (the "**Estimated Costs**"). Provided Developer completes the Improvements in accordance with this Agreement and all other applicable agreements and approvals, Developer will be entitled to TASP Fee Credits up to the Estimated Costs of Four Hundred Forty-Seven Thousand Dollars (\$447,000) as set forth in **Exhibit B**. The Estimated Costs includes all costs and expenses anticipated to be incurred for the design, permitting and construction of the Improvements, including, without limitation, any and all design fees and costs, bond costs, land acquisition costs, hard and soft construction costs, consulting fees and costs, engineering fees and costs, inspection costs, and fees and expenses payable to the City or other governmental or public utility that, with respect to each of the above items, are incurred for the permitting, plan check, inspection and construction of the Improvements ("**Improvement Costs**").

Developer acknowledges and agrees that in accordance with the City's Development Impact Fee Ordinance, if the actual cost of the development of the Improvements exceeds the Estimated Costs of Four Hundred Forty-Seven Thousand Dollars (\$447,000), Developer shall not be entitled to any reimbursement of the cost differential or any additional fee credit, provided that if the actual cost of the development of the Improvements is below the Estimated Costs of Four Hundred Forty-Seven Thousand Dollars (\$447,000), Developer is entitled to the full fee credit up to the Estimated Costs. Notwithstanding any other provision in this Agreement, in no event shall City owe a refund to Developer or provide any additional fee credit above the Estimated Costs.

### **1.3 Park Land Dedication**

The Developer has made an irrevocable offer of dedication to the City for 0.73 acres of park land located within the Project site as described and depicted in **Exhibit C** and as identified by the TASP financing plan that would otherwise be financed by the TASP Fee. The park land will serve more than the Developer's properties within the TASP Area. Developer shall receive a fee credit of One Million Eight Hundred Seventy-Six Thousand Two Hundred Dollars (\$1,876,200) (\$59.00 per square feet) for the parkland dedication to be applied against projected TASP Fees.

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

### **2.1 Credit Issuance Timing**

Upon the execution of this Agreement by the City and provided Developer is in compliance with each term, condition, and obligation herein, the Park Land Fee Credit shall be deemed issued and available for use against TASP Fees due at the time of building permit issuance for each residential unit to be constructed on the Project. Once the fee credit of One Million Eight Hundred Seventy-Six Thousand Two Hundred Dollars (\$1,876,200) has been exhausted Developer shall be required to pay the City the full applicable TASP fee for each residential unit at time of building permit issuance at the rate in effect at that time.

Provided Developer is in compliance with each term, condition, and obligation herein, Improvement Fee Credits will be only issued and available for use against the applicable TASP FEE due at the time of building permit issuance for each residential unit to be constructed on the Project when the Improvements have been completed (*i.e.*, improvements to public park has been completed and accepted by City Council). Once the fee credit of Four Hundred Forty-Seven Thousand Dollars (\$447,000) has been exhausted Developer shall be required to pay the City the full applicable TASP fee for each residential unit at time of building permit issuance at the rate in effect at that time.

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

Developer shall complete construction of the Improvements in accordance with the plans and specifications approved by City and in accordance with City standard construction specifications and this Agreement. All Improvements shall be completed (determined by filing of a notice of completion) prior to issuance of the certificate of occupancy for the final residential unit or building in Tract No. 10224, unless City determines in its sole discretion to waive such condition. In the event the Improvements are not fully constructed and accepted by City as set forth herein, Developer shall be in breach of this Agreement and in addition to all other legal remedies available at law or equity, City may seek reimbursement from Developer for all credits provided under this Agreement including interest at the legal rate. Additionally, City may withhold any and all certificate of occupancy, building permit, map approval, or any other City approval or permit relating to the Project.

## **SECTION 4. Inspection**

City shall at all times have access to the construction site during construction and the Developer shall furnish City with all reasonable information necessary for ascertaining full knowledge of the Improvements with respect to the progress, workmanship and character of materials and equipment used and employed in the work.

Neither observation of the work by City nor failure of City to inspect the Improvements or to discover defects in material or workmanship shall relieve Developer from its obligations to complete construction in accordance with the plans and specifications approved by City and to insure that the Improvements are free of defects in materials and workmanship.

**SECTION 5. Limited City Obligation**

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

**SECTION 6. Acceptance of Improvements**

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

**Conveyance of the Improvements**

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

**SECTION 7. Delivery of Plans and Specifications**

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

**SECTION 8. Liens, Claims, and Encumbrances**

Prior to acceptance of the Improvements by the City, the Developer shall provide a written guarantee and assurance to the City that there are no liens, claims, or monetary encumbrances on the Improvements, together with unconditional final releases from all contractors and material suppliers, and with copies of invoices and corresponding checks issued by the Developer for all items for which fee credits are requested under this Agreement for the Improvements. The City shall have no obligation to issue any Fee Credits for Improvements until the Developer has cleared any and all liens, claims and monetary encumbrances from the Improvements and provided the required documentation, guarantee and assurance in writing, to the satisfaction of the City.

**SECTION 9. No Third Party Beneficiary**

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

**SECTION 10. Warranty and Repair**

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



the venue for any legal action shall be with the appropriate court in the County of Santa Clara, State of California.

**SECTION 18. Indemnity**

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

**SECTION 19. Time of Essence**

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

**SECTION 20. Waiver**

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

**SECTION 21. Compliance with Laws**

Developer shall comply with all applicable federal, state, and local laws, regulations, policies, or guidelines.

**SECTION 22. Entire Agreement**

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

**SECTION 23. Counterparts**

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

*Remainder of Page Intentionally Left Blank*

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

**CITY OF MILPITAS:**

**DEVELOPER:**

**Traverse Partners LLC., a Delaware limited liability company**

By: \_\_\_\_\_  
City Manager

By: \_\_\_\_\_  
Name: Joe Killinger  
Title: Authorized Signatory

Dated: \_\_\_\_\_, 2014

Date of Execution: \_\_\_\_\_, 2014

Attest:

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

Approved as to form:

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



## EXHIBIT B – Park Improvements Cost Estimate

### PRELIMINARY CONSTRUCTION COST ESTIMATE

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Traverse 0.73 Acre Public Park, Milpitas, CA

9/29/2014

Prepared by: Thomas Baak and Associates, LLP

Description	Quantity	Unit	Unit Price	Cost
SOIL PREPARATION/FINE GRADING	26,206	S.F.	\$ 0.60	\$ 15,723.60
CONCRETE PAVING	3,465	S.F.	\$ 9.00	\$ 31,185.00
CHILDREN'S PLAY EQUIP./AREAS	2	ALLOW	\$ 65,000.00	\$ 130,000.00
PICNIC TABLES / BENCHES / FURN.		ALLOW	\$ 35,000.00	\$ 35,000.00
DRAINAGE		ALLOW	\$ 35,000.00	\$ 35,000.00
DECORATIVE BARK	2,612	S.F.	\$ 0.33	\$ 861.96
24" BOX TREES	15	EA.	\$ 350.00	\$ 5,250.00
SHRUBS/GROUND COVER AREAS	2,612	S.F.	\$ 7.00	\$ 18,284.00
TURF - HYDROSEED	23,594	S.F.	\$ 0.20	\$ 4,718.80
IRRIGATION W/CONTROLLER	26,206	EA.	\$ 2.00	\$ 52,412.00
MONUMENT SIGN	1	EA.	\$ 15,000.00	\$ 15,000.00
DESIGN CONSULTANT FEES *		ALLOW	\$ 45,000.00	\$ 45,000.00

\* (Civil and Landscape Architect fees)

<b>SUBTOTAL</b>	\$ 372,711.76
10% <b>PLAN CHK/STAKING/INSPECTION</b>	\$ 37,271.18
10% <b>CONTINGENCY</b>	\$ 37,271.18
<b>TOTAL</b>	<b>\$ 447,254.11</b>

**PRELIMINARY CONSTRUCTION COST ESTIMATE**

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Traverse 5.1 Acre Public Park, Milpitas, CA

29-Sep-14

Prepared by: Thomas Baak and Associates, LLP

Description	Quantity	Unit	Unit Price	Cost
SOIL PREPARATION/FINE GRADING	188,900	S.F.	\$ 0.60	\$ 113,340.00
ASPHALT PARKING LOT	16,856	S.F.	\$ 2.50	\$ 42,140.00
PARKING LOT CONCRETE CURBS	1,100	L.F.	\$ 25.00	\$ 27,500.00
CONCRETE PAVING	16,400	S.F.	\$ 9.00	\$ 147,600.00
CHILDREN'S PLAY EQUIPMENT/AREAS	2	EA.	\$ 65,000.00	\$ 130,000.00
PICNIC TABLES/BENCHES/FURN.		ALLOW	\$ 55,000.00	\$ 55,000.00
DRAINAGE		ALLOW	\$ 60,000.00	\$ 60,000.00
DECORATIVE BARK	22,900	S.F.	\$ 0.33	\$ 7,557.00
24" BOX TREES	103	EA.	\$ 350.00	\$ 36,050.00
SHRUB/GROUND COVER AREAS	22,900	S.F.	\$ 7.00	\$ 160,300.00
LAWN / HYDRO-SEEDING	166,000	EA.	\$ 0.20	\$ 33,200.00
IRRIGATION W/CONTROLLER	188,900	S.F.	\$ 1.00	\$ 188,900.00
CONCESSIONS/RESTROOMS BLDG.	1	EA.	\$ 200,000.00	\$ 200,000.00
BALLFIELD LIGHTS (ON POLES)	12	EA.	\$7,500	\$90,000
BLEACHERS	4	EA.	\$ 1,500.00	\$ 6,000.00
BICYCLE RACKS	2	EA.	\$ 1,500.00	\$ 3,000.00
DRINKING FOUNTAIN	2	EA.	\$ 3,500.00	\$ 7,000.00
PARK MONUMENT SIGNAGE	2	EA.	\$ 15,000.00	\$ 30,000.00
DESIGN CONSULTANT FEES *		ALLOW	\$ 80,000.00	\$ 80,000.00

\* (Civil and Landscape Architect fees)

<b>SUBTOTAL</b>	\$ 1,417,587.00
<b>10% PLAN CHECK/STAKING/INSPECTION</b>	\$ 141,758.70
<b>10% CONTINGENCY</b>	\$ 141,758.70

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**TOTAL** \$ 1,559,345.70



**OWNER'S 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 RECORDING OF THIS SUBDIVISION MAP AS SHOWN WITHIN THE DISTINCTIVE BOUNDARY LINE.

WE HEREBY OFFER FOR DEDICATION TO THE CITY OF MILPITAS IN FEE FOR PUBLIC USE FOR ROADWAY PURPOSES, OPERATION, ALTERATION, RELOCATION, MAINTENANCE, REPAIR AND REPLACEMENT OF ALL PUBLIC SERVICE FACILITIES AND THEIR APPURTENANCES, OVER, UNDER, ALONG AND ACROSS THE FOLLOWING:

1. TRADE ZONE BOULEVARD, JOURNEY STREET, JUBILEE DRIVE, EXPEDITION DRIVE & MOMENTUM DRIVE

WE HEREBY OFFER FOR DEDICATION TO THE CITY OF MILPITAS IN FEE FOR PUBLIC USE FOR PARK AND LANDSCAPING PURPOSES ALONG AND ACROSS THE FOLLOWING:

1. PARCEL A

WE HEREBY OFFER FOR DEDICATION TO THE CITY OF MILPITAS AN EASEMENT FOR PUBLIC USE 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 "A" FOR PUBLIC SERVICE AND UTILITY EASEMENT PURPOSES (PSUE).
2. EASEMENTS "B" FOR EMERGENCY VEHICLE ACCESS PURPOSES (EAE).

THE ABOVE MENTIONED EASEMENTS (PSUE & EAE) SHALL REMAIN OPEN AND FREE FROM BUILDINGS AND STRUCTURES OF ANY KIND EXCEPT PUBLIC SERVICE AND PUBLIC UTILITY STRUCTURES AND THEIR APPURTENANCES, IRRIGATION SYSTEMS AND THEIR APPURTENANCES AND LAWFUL FENCES. UNOBSTRUCTED CONTINUOUS ACCESS SHALL BE MAINTAINED AT ALL TIMES.

THE UNDERSIGNED HEREBY DECLARES THAT ALL OF THE PRIVATE STREETS (PARCELS B, C, D, E, F, AND G) ARE ESTABLISHED AS ACCESS WAYS FOR THE BENEFIT OF ALL THE CONDOMINIUM OWNERS WITHIN THIS SUBDIVISION, THEIR LICENSES, VISITORS AND TENANTS, BUT ARE NOT OFFERED FOR DEDICATION FOR PUBLIC USE. MAINTENANCE OF SAID PRIVATE STREETS IS TO BE THE RESPONSIBILITY OF THE HOMEOWNER'S ASSOCIATION OF TRACT 10224, ALL IN ACCORDANCE WITH THE SUBDIVISION RESTRICTIONS GOVERNING THIS PROJECT. THE DESIGNATED PRIVATE STREETS ON THIS MAP ARE NOT PART OF THE CITY OF MILPITAS STREET SYSTEM AND ARE NOT ACCEPTED FOR PUBLIC MAINTENANCE.

OWNER:

TRAVERSE PARTNERS, L.L.C., A DELAWARE LIMITED LIABILITY COMPANY

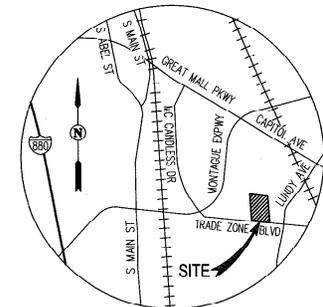
BY: *Joseph N. Killinger*  
 NAME: Joseph N. Killinger  
 TITLE: Division President

**TRACT 10224  
TRAVERSE**

FOR CONDOMINIUM PURPOSES  
 BEING A SUBDIVISION OF THAT CERTAIN GRANT DEED RECORDED  
 JULY 15, 2014 IN DOCUMENT NO. 22645824 OF OFFICIAL RECORDS OF  
 SANTA CLARA COUNTY  
 CITY OF MILPITAS, COUNTY OF SANTA CLARA, CALIFORNIA

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

CIVIL ENGINEERS • SURVEYORS • PLANNERS  
 SAN RAMON, CALIFORNIA  
 AUGUST 2014



**VICINITY MAP**  
NOT TO SCALE

**ACKNOWLEDGMENT CERTIFICATE (OWNER'S)**

STATE OF California )  
 COUNTY OF Sacramento )

ON 8/25, 2014, BEFORE ME, Colin C. Elnick, A NOTARY PUBLIC, PERSONALLY APPEARED Joseph Killinger, 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 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:

SIGNATURE: *Colin C. Elnick*  
 NAME (PRINT): Colin C. Elnick  
 PRINCIPAL COUNTY OF BUSINESS: Sacramento  
 MY COMMISSION NUMBER: 1972924  
 MY COMMISSION EXPIRES: 3/23/2016

**SURVEYOR'S STATEMENT**

I CHRISTOPHER S. HARMISON, HEREBY CERTIFY THAT I AM A LICENSED LAND SURVEYOR IN THE STATE OF CALIFORNIA, THAT THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION IN MAY 2014 AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF TRAVERSE PARTNERS, L.L.C., A DELAWARE LIMITED LIABILITY COMPANY, IN MAY 2014 AND IS TRUE AND COMPLETE AS SHOWN. I HEREBY STATE THAT THIS FINAL MAP COMPLIES WITH FINAL MAP PROCEDURES OF THE CITY OF MILPITAS AND THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE APPROVED TENTATIVE MAP AND THE CONDITIONS OF APPROVAL THEREOF WHICH WERE REQUIRED TO BE FULFILLED PRIOR TO THE FILING OF THE FINAL MAP, AND IT IS TECHNICALLY CORRECT. I HEREBY STATE THAT THE MONUMENTS WILL OCCUPY THE POSITIONS INDICATED BY JUNE 2016, AND ARE OF THE CHARACTER INDICATED, AND ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

DATED: 8-21-2014



Christopher S. Harmison  
 CHRISTOPHER S. HARMISON P.L.S.  
 P.L.S. NO. 7176

**RECORDER'S STATEMENT**

FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, AT \_\_\_\_\_, IN BOOK OF MAPS \_\_\_\_\_, AT PAGES \_\_\_\_\_, SERIES NUMBER \_\_\_\_\_ AT THE REQUEST OF FIRST AMERICAN TITLE COMPANY

SEE \_\_\_\_\_

REGINA ALCOMENDRAS  
 SANTA CLARA COUNTY RECORDER

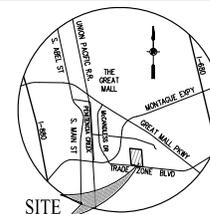
BY: \_\_\_\_\_  
 DEPUTY

# TRACT 10224

## TRAVERSE - PUBLIC IMPROVEMENTS

### IMPROVEMENT PLANS

#### CITY OF MILPITAS, SANTA CLARA COUNTY, CALIFORNIA



SITE VICINITY MAP  
(NTS)

**GENERAL NOTES:**

1. OWNER/DEVELOPER: TRAVERSE PARTNERS, LLC, A DELAWARE LLC  
1375 EXPOSITION BLVD, SUITE 300  
SACRAMENTO, CA 95815  
(916) 920-0200  
CONTACT: JIM IMMER
2. CIVIL ENGINEER: CARLSON, BARBEE & GIBSON, INC.  
2633 CAMINO RAMON, SUITE 350  
SAN RAMON, CA 94583  
(925) 866-0322  
CONTACT: JASON NERI, ROC 59136
3. SOILS ENGINEER: ENGEO INCORPORATED  
6399 SAN IGNACIO AVE, SUITE 150  
SAN JOSE, CA 95191  
(408) 574-6000  
CONTACT: ANDREW FRIMIN
4. BENCHMARK: CITY OF MILPITAS BENCHMARK "CSD-MILP" A BRASS DISK IN MONUMENT WELL AT THE INTERSECTION OF CEDAR WAY AND SOUTH MAIN STREET.  
ELEVATION = 33.940 (NOV 29).  
CITY OF MILPITAS LEVEL GPS SURVEY (12/1999 TO 2/2000).
5. THE BASIS OF BEARING IS DETERMINED BY FOUND MONUMENTS ON THE CENTERLINE OF MCANDLESS DRIVE PER PARCEL MAP FIELD IN BOOK 536 OF MAP AT PAGE 41 SANTA CLARA COUNTY RECORDS.
6. THE CIVIL ENGINEER ASSUMES NO RESPONSIBILITY BEYOND THE ADEQUACY OF HIS DESIGN CONTAINED HEREIN.
7. UNLESS OTHERWISE NOTED, ALL WORK AND MATERIALS SHALL COMPLY WITH STANDARD SPECIFICATIONS, CONSTRUCTION DETAILS, AND STANDARD DRAWINGS (LISTED ON SHEET B) OF THE CITY OF MILPITAS AVAILABLE IN THE CITY ENGINEER'S OFFICE. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO OBTAIN PERMITS NECESSARY TO PERFORM THE IMPROVEMENTS IN THESE PLANS FROM THE APPROPRIATE AGENCIES AND TO COMPLY WITH THE AGENCIES' REQUIREMENTS. THE CONTRACTOR MUST COMPLY WITH ALL APPLICABLE NATIONAL, STATE AND LOCAL LAWS.
8. PLANS USED FOR CONSTRUCTION OF PUBLIC FACILITIES PURPOSES MUST BE SIGNED BY THE CITY ENGINEER OR HIS REPRESENTATIVE. ANY SUBSEQUENT CHANGES SHALL BE APPROVED BY THE CITY ENGINEER OR HIS REPRESENTATIVE PRIOR TO CONSTRUCTION.
9. CONSTRUCTION CONTRACTOR AGREES THAT IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, CONSTRUCTION CONTRACTOR SHALL BE REQUIRED TO ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THE PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY. THAT THIS REQUIREMENT SHALL BE MADE TO APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND CONSTRUCTION CONTRACTOR FURTHER AGREES TO DEFEND, INDEMNIFY AND HOLD OWNER AND DESIGN CIVIL ENGINEER HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPTING LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF CIVIL ENGINEER.
10. CONTRACTOR SHALL POST EMERGENCY TELEPHONE NUMBERS AT THE JOB SITE FOR PUBLIC WORKS, AMBULANCE, POLICE, AND FIRE DEPARTMENTS, AND THOSE AGENCIES RESPONSIBLE FOR MAINTENANCE OF UTILITIES IN THE VICINITY OF THE JOB SITE.
11. DURING CONSTRUCTION IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO PROVIDE FOR SAFE TRAFFIC CONTROL IN AND AROUND THE SITE, TO PROTECT THE GENERAL PUBLIC, AND TO PREVENT UNCONTROLLED ACCESS TO THE SITE AT ALL TIMES. THIS MAY INCLUDE BUT NOT BE LIMITED TO SIGNS, FLASHING LIGHTS, BARRICADES AND FLAG PERSONS.
12. SHOULD IT APPEAR THAT THE WORK TO BE DONE, OR ANY MATTER RELATIVE THERETO, IS NOT SUFFICIENTLY DETAILED OR EXPLAINED ON THESE PLANS, THE CONTRACTOR SHALL CONTACT CARLSON, BARBEE & GIBSON, INC. AT (925) 866-0322 FOR SUCH FURTHER EXPLANATIONS AS MAY BE NECESSARY.
13. CONTRACTOR SHALL PROVIDE PROPER SHORING IN ALL TRENCHES DEEPER THAN FIVE (5) FEET. ANY DAMAGE RESULTING FROM LACK OF SHORING SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR. THE CONTRACTOR SHALL COMPLY WITH ALL OSHA REQUIREMENTS.
14. THE CONTRACTOR SHALL COMPLY WITH THE RULES AND REGULATIONS OF THE STATE CONSTRUCTION SAFETY ORDER.
15. THE CONTRACTOR'S ATTENTION IS DIRECTED TO THE REQUIREMENTS OF THE DIVISION OF INDUSTRIAL SAFETY PERTAINING TO "CONFINED SPACES". ANY MANHOLE, CULVERT, DROP INLET OR TRENCH (WHICH COULD CONTAIN AIR), THAT IS NOT READILY VENTILATED, MAY BE CONSIDERED A "CONFINED SPACE".
16. ENCROACHMENT PERMITS REQUIRED FOR WORK WITHIN EXISTING PUBLIC RIGHTS OF WAY SHALL BE OBTAINED BY THE CONTRACTOR.
17. ALL PUBLIC UTILITIES AND IMPROVEMENTS THAT BECOME DAMAGED DURING CONSTRUCTION SHALL BE COMPLETELY RESTORED TO THE SATISFACTION OF THE CITY ENGINEER.
18. THE CONTRACTOR SHALL CALL CITY OF MILPITAS PUBLIC WORKS FACILITIES INSPECTION AT (408) 586-2797 TO SCHEDULE INSPECTIONS, 48 HOURS PRIOR TO START OF CONSTRUCTION.
19. PRIOR TO COMMENCEMENT OF ANY WORK ON ADJACENT PROPERTY, THE OWNER SHALL OBTAIN WRITTEN PERMISSION FROM AFFECTED PROPERTY OWNERS.
20. EXISTING CURB, GUTTER AND SIDEWALK THAT ARE DAMAGED OR DISPLACED, EVEN THOUGH THEY WERE NOT TO BE REMOVED, SHALL BE REPAIRED OR REPLACED BY THE CONTRACTOR.

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13	13 OF 57	PLAN & PROFILE - TRADE ZONE BLVD (STA 8+00 - 11+00)	JT7
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16	16 OF 57	PLAN & PROFILE - EXPEDITION DRIVE (STA 1+00 - STA 5+00)	
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22	22 OF 57	STORM DRAIN CROSSINGS	SL3
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24	24 OF 57	SIGNING & STRIPING - TRADE ZONE BLVD	SL5
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**LANDSCAPE**

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L7	33 OF 57	IRRIGATION NOTES AND DETAILS	

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L9	35 OF 57	PLANTING PLAN
L10	36 OF 57	PLANTING PLAN
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JT4	43 OF 57	JOINT TRENCH SECTIONS AND DETAILS
JT5	44 OF 57	JOINT TRENCH COMPOSITE PLAN
JT6	45 OF 57	JOINT TRENCH COMPOSITE PLAN
JT7	46 OF 57	JOINT TRENCH COMPOSITE PLAN
JT8	47 OF 57	JOINT TRENCH COMPOSITE PLAN
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SL3	51 OF 57	STREET LIGHTING GENERAL NOTES AND DETAILS
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SL6	54 OF 57	STREET LIGHTING SITE PLAN
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SL8	56 OF 57	STREET LIGHTING SITE PLAN
PE	57 OF 57	PHOTOMETRIC EXHIBIT

**MINOR STREET IMPROVEMENTS FOR  
TRADE ZONE BLVD**

**DEPARTMENT OF PUBLIC WORKS**

PERMIT # 14-026012 IP  
PROJECT # 3-18879

PROJECT INSPECTOR: PAUL KRUKAR  
VOICE MAIL: (408) 975-7402

APPROVED BY DAVID SYKES  
DIRECTOR OF PUBLIC WORKS

**CITY OF  
SAN JOSE**  
CAPITAL OF SILICON VALLEY

**SCOPE OF WORK:**

1. "TRACT 10224 - TRAVERSE - PUBLIC IMPROVEMENT PLANS" ARE FOR THE CONSTRUCTION OF THE:
  - A. PUBLIC RECYCLED WATER LINE
  - B. PUBLIC STORM DRAINAGE IMPROVEMENTS
  - C. TRADE ZONE WIDENING STREET IMPROVEMENTS
  - D. MOMENTUM DRIVE WIDENING STREET IMPROVEMENTS
  - E. PUBLIC LANDSCAPE IMPROVEMENTS
  - F. PUBLIC JOINT TRENCH IMPROVEMENTS
  - G. PUBLIC STREET LIGHTING

RECOMMENDED FOR APPROVAL:	RECORD DRAWINGS	REVISIONS	CITY OF MILPITAS ENGINEERING DIVISION																														
PLANNING _____ DATE _____	TO BE COMPLETED PRIOR TO ACCEPTANCE OF WORK BY THE CITY	<table border="1" style="width: 100%;"> <thead> <tr> <th>NUM.</th> <th>DATE</th> <th>BY</th> <th>DESCRIPTION</th> <th>CITY ENGR. APPR.</th> <th>DATE</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>	NUM.	DATE	BY	DESCRIPTION	CITY ENGR. APPR.	DATE																									<b>SHEET NUMBER</b> <b>1</b>
NUM.			DATE	BY	DESCRIPTION	CITY ENGR. APPR.	DATE																										
FIRE _____ DATE _____	<table border="1" style="width: 100%;"> <tr> <td>SIGNATURE &amp; SEAL _____ DATE _____</td> <td>P.E. NO. _____ EXP. _____</td> </tr> <tr> <td colspan="2">PUBLIC WORKS INSPECTOR _____</td> </tr> </table>	SIGNATURE & SEAL _____ DATE _____	P.E. NO. _____ EXP. _____	PUBLIC WORKS INSPECTOR _____		<table border="1" style="width: 100%;"> <tr> <td>APPROVER _____</td> <td>PROJECT NO. P4-2874</td> </tr> <tr> <td>ENGINEERING DATE _____</td> <td>CWG NO. 2-1184</td> </tr> <tr> <td colspan="2">ANY CHANGES TO THE PLAN SHALL BE APPROVED BY THE CITY ENGINEER</td> </tr> </table>	APPROVER _____	PROJECT NO. P4-2874	ENGINEERING DATE _____	CWG NO. 2-1184	ANY CHANGES TO THE PLAN SHALL BE APPROVED BY THE CITY ENGINEER		<b>OF</b> <b>57</b>																				
SIGNATURE & SEAL _____ DATE _____	P.E. NO. _____ EXP. _____																																
PUBLIC WORKS INSPECTOR _____																																	
APPROVER _____	PROJECT NO. P4-2874																																
ENGINEERING DATE _____	CWG NO. 2-1184																																
ANY CHANGES TO THE PLAN SHALL BE APPROVED BY THE CITY ENGINEER																																	
BUILDING _____ DATE _____			<b>JOB NUMBER</b> <b>2076-20</b>																														
TRAFFIC ENGINEER _____ DATE _____			<b>ENCROACHMENT PERMIT NO.</b>																														

DATE: 5/7/14	DRAWN BY: ADAM	PROJECT NO: P4-2874	PROJ. MGR: JIM	NO. BY DATE	REVISIONS
<b>Carlson, Barbee &amp; Gibson, Inc.</b> CIVIL ENGINEERS - SURVEYORS - PLANNERS 2830 Camino Ramon, Suite 350 - San Ramon, CA 94583 Phone: 925-866-0322 www.cbgi.com					

TRACT 10224

**PUBLIC IMPROVEMENT PLANS**  
TITLE, NOTES, SHEET INDEX & VICINITY MAP

PUBLIC IMPROVEMENTS

CITY OF MILPITAS

SANTA CLARA COUNTY CALIFORNIA

ADDRESS: 569 TRADE ZONE BLVD.