

**COST SHARING AGREEMENT FOR STORM WATER FACILITIES
(PIPER/MONTAGUE SUBDISTRICT)**

This Cost Sharing Agreement ("Agreement") is entered into as of _____, 2016 ("Effective Date"), by and among Amalfi Milpitas LLC ("Amalfi"), SCS Development Co. ("SCS"), KB Home as successor in interest to SCS Development Co. ("KB"), Southside Industrial ("Southside"), Pulte Group as successor in interest to Milpitas Station, LLC ("Pulte") and the City of Milpitas ("City"). Amalfi, SCS, KB, Southside, Pulte and the City may be individually referred to herein as a "Party" and collectively referred to herein as the "Parties."

RECITALS

A. The Parties have entered into and are subject to that certain Cost Sharing and Reimbursement Agreement for the Piper/Montague Subdistrict ("Subdistrict") dated August 18, 2009 ("Master Agreement").

B. Section 7.6 of the Master Agreement requires the Parties to enter into a separate cost sharing agreement for the ongoing maintenance and repair of a project-wide Media Filter and other Storm Water Facilities and allocates the costs of such maintenance and repair obligations among the Parties in accordance with allocations set forth in Section 3.2.2.2 of the Master Agreement.

C. The Parties have determined that a project-wide Media Filter is not desirable and instead wish to substitute several smaller Media Filters placed strategically throughout the Subdistrict accompanied by several Bio-Retention Areas.

D. As a result of the foregoing revisions, the Parties also wish to amend allocations under Section 3.2.2.2 of the Master Agreement and provide for allocations through designation of eight (8) areas of responsibility as depicted in the BMP Maintenance Responsibility Exhibit, attached hereto as Exhibit "A" and incorporated herein by this reference.

E. The Parties now desire to enter into this Agreement to allocate ongoing maintenance and repair obligations for the Media Filters and other Storm Water Facilities in accordance with Section 7.6 of the Master Agreement and to amend the terms of the Master Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Parties agree as follows:

1. Incorporation. The Recitals above and the Exhibit "A" attached are hereby acknowledged as being true and correct and incorporated herein by this reference.

2. Master Agreement. All capitalized terms not otherwise defined herein shall have the same meaning assigned to those terms under the Master Agreement. Except as amended by this Agreement, all other provisions of the Master Agreement remain in full force and effect and shall govern the actions of the Parties under this Agreement. From and after the date of this

Agreement, whenever the term "Agreement" appears in the Master Agreement, it shall mean the Master Agreement as amended by this Agreement.

3. Storm Water Facilities. The Parties understand and agree that each Party shall be responsible for the installation, if applicable, and ongoing maintenance and repair of Media Filters, Bio-Retention Areas and other Storm Water Facilities in accordance with the allocation of responsibility depicted in Exhibit "A." The Parties additionally understand and agree that each of them shall be separately responsible for obtaining approval from the City of any installation of Media Filters, Bio-Retention Areas and other Storm Water Facilities within their area of control. The Parties additionally understand and agree that each of them shall be separately responsible for developing and implementing their own Operation & Maintenance Manual for facilities within their area of control. The provisions of this Section 3 shall be memorialized in a separate Operations and Maintenance Agreement to be executed by the City and each respective individual Party in perpetuity that shall be recorded against the respective Party's property that is subject to this Agreement. Each individual Party shall open a private job account with the City to allow the City to ensure continued compliance with the Operations and Maintenance Agreement.

4. Cost Sharing; Amendment. The allocation of costs for the Storm Water Facilities under Section 3.2.2.2 of the Master Agreement is hereby deleted and replaced with the allocation as depicted in Exhibit "A."

5. Adequate Consideration. The Parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Agreement.

6. Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

7. Governing Law. This Agreement shall be governed by and construed in accordance with, the laws of the State of California.

8. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties and their successors and assigns.

9. Counterparts. This Agreement may be executed in counterparts, each of which, when executed and delivered, will be deemed to be an original, and which taken together will be deemed to be one and the same instrument, and will be binding as executed.

10. Construction of Agreement. The Parties hereto acknowledge and agree that each Party has had an opportunity to review and negotiate the terms of this Agreement as well as consult with their respective legal counsel regarding the meaning of its terms. Consequently, the doctrine that ambiguities in an agreement should be resolved against the drafting party shall not be employed in connection with this Agreement, and this Agreement shall be interpreted in accordance with its fair meaning.

11. Entire Agreement. This Agreement is intended by the Parties as the final expression of their agreement with respect to the matters addressed herein, and contains the

entire agreement between and among the Parties and supersedes all prior understandings or agreements concerning the subject matter hereof. This Agreement may be amended only in a writing signed by the Parties.

IN WITNESS WHEREOF, this Agreement is executed as of the Effective Date.

CITY OF MILPITAS

By: _____
Name: _____
Its: _____

AMALFI MILPITAS LLC

By: Stephen E. Schott
Name: Stephen E. Schott
Its: Assistant Manager

SCS DEVELOPMENT CO.

By: Stephen E. Schott
Name: Stephen E. Schott
Its: Vice President

KB HOME

By: _____
Name: _____
Its: _____

SOUTHSIDE INDUSTRIAL

By: _____
Name: _____
Its: _____

PULTE GROUP

By: _____
Name: _____
Its: _____

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Its: Assistant Manager

SCS DEVELOPMENT CO.

By: Stephen E. Schott
Name: Stephen E. Schott
Its: Vice President

KB HOME

By: _____
Name: _____
Its: _____

SOUTHSIDE INDUSTRIAL

By: _____
Name: _____
Its: _____

PULTE GROUP

By: Daniel J. Carroll
Name: Daniel J. Carroll
Its: Vice President of Land

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Its: _____

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Name: Stephen E. Schott
Its: Assistant Manager

SCS DEVELOPMENT CO.

By: Stephen E. Schott
Name: Stephen E. Schott
Its: Vice President

KB HOME

By: _____
Name: _____
Its: _____

SOUTHSIDE INDUSTRIAL, By Green Valley Corp.
Its General Partner
By: David A. Gibbons
Name: DAVID A. GIBBONS
Its: Sr. V.P.

PULTE GROUP

By: _____
Name: _____
Its: _____

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Its: _____

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Name: Stephen E. Schott
Its: Assistant Manager

SCS DEVELOPMENT CO.

By: Stephen E. Schott
Name: Stephen E. Schott
Its: Vice President

KB HOME

By: Jeffrey P. McMullen
Name: Jeffrey P. McMullen
Its: SVP

SOUTHSIDE INDUSTRIAL

By: _____
Name: _____
Its: _____

PULTE GROUP

By: _____
Name: _____
Its: _____

CITY OF MILPITAS, A MUNICIPAL CORPORATION:

As to Content
By:

Director of Engineering/City Engineer

As to Form
By:

City Attorney

By:

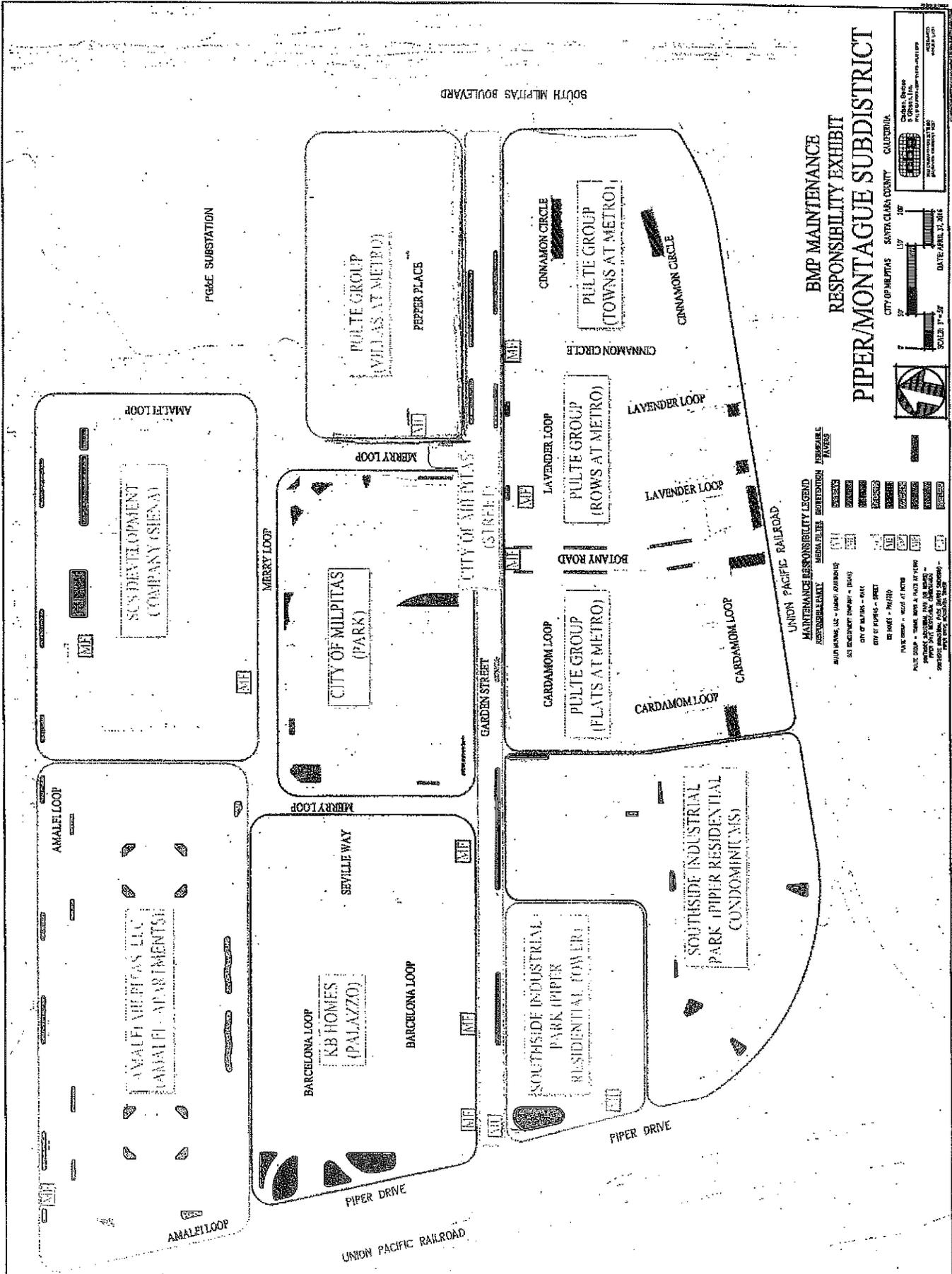
Director of Public Works

By:

City Manager

EXHIBIT "A"
BMP MAINTENANCE RESPONSIBILITY EXHIBIT
(PIPER/MONTAGUE SUBDISTRICT)

[ATTACHED BEHIND THIS PAGE]



BMP MAINTENANCE RESPONSIBILITY EXHIBIT
PIPER/MONTAGUE SUBDISTRICT
 CITY OF MILPITAS SANTA CLARA COUNTY CALIFORNIA

UNION PACIFIC RAILROAD

MAINTENANCE RESPONSIBILITY LEGEND	MAINTENANCE RESPONSIBILITY								
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DATE: APRIL 23, 2016

