CITY OF MORGAN HILL

17575 Peak Avenue Morgan Hill CA 95037

APPROVAL CERTIFICATE NO. 20-012

PROJECT: Administrative Subdivision Map Amendment, AAE2020-0001: Llagas-Strolata

PROJECT DESCRIPTION/LOCATION: A map amendment to a previously approved four lot subdivision (SD2017-0002) to include the fourth lot as a buildable single-family lot located in the west hills of the City near the Santa Clara County border at 1110 Llagas Avenue. The proposed division would create four minimum one-acre lots (APN: 773-32-013)

RECITALS

1. On January 10, 2017, the Planning Commission adopted Resolution No. 17-01, awarding the project three Fiscal Year 2018/2019 three building allotments.

2. On November 7, 2018, a Subdivision Map (SD2017-0002) was approved for a for the division of a 4.48-acre parcel into four one-acre minimum lots with the fourth lot identified as a remainder lot.

3. Senate Bill 330 went into effect on January 1, 2020 in response to the "The Housing Crisis Act of 2019". While the Housing Crisis Act is in effect, it preempts and precludes the enforcement of the Residential Development Control System (RDCS).

4. May 6, 2020 the Community Development Department received a parcel map amendment application to amend the map that labeled the fourth lot as a "remainder lot", to a single family home buildable lot. The subject property is located off of Llagas Road, at the end of Sabini Court.

5. Said application was deemed complete for processing and was considered by the Development Review Committee (DRC) at its regular meeting of May 27, 2020, at which time the Committee recommended conditional approval of administrative subdivision application, AAE2020-0001: Llagas - Strolata.

6. The subdivision map was publicly noticed by mailing to property owners within 300 feet of the project, an ad in the newspaper, and the site was posted for the administrative hearing on June 16, 2020.

7. Comments received from the public and from the applicant, along with exhibits and drawings and other materials have been considered in the review process;

FINDINGS

SECTION 1. The proposed project, together with its provisions for its design and improvements, is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. The proposed project will not result in a violation of the requirements established by the Regional Water Quality Control Board.

SECTION 3. An initial study was completed, and a mitigated negative declaration prepared in accordance with Section 21157.5 of the California Environmental Quality Act (CEQA). Although the project, as proposed, could have a significant effect on the environment, there will not be a significant effect in this case because mitigation measures will be included as part of the approval of the project.

SECTION 4. The tentative parcel map intitled "Lands of Strolata Properties, LLC" submitted by Rugger-Jensen-Azar complies with the parcel map requirements set forth under Section 17.24 of the Morgan Hill Municipal Code.

SECTION 5. Pursuant to the authority set forth under Section 17.24.060 of the Morgan Hill Municipal Code, the Community Development Director hereby approves the project application subject to the attached conditions of approval outlined in Exhibit A.

APPROVED THIS 16th DAY OF JUNE 2020.

Jennifer Carman, Development Services Director

AFFIDAVIT

I, Paul Catalos, applicant, hereby agree to accept and abide by the terms and conditions specified in this approval certificate.

(Applicant Signature)

7/14/20

Date

EXHIBIT A
CONDITIONS OF APPROVAL

A. The Tentative Parcel Map approval granted under this Approval Certificate shall supersede the conditions of approval for SD2017-0002 and remain in effect for two years from date of approval. Failure to apply for Final Map approval with the City Engineer within this term shall result in expiration of approval unless an extension of time is granted by the Community Development Department prior to the expiration date (MHMC 17.20.170; 17.24.110).

B. Project requires gridding/looping of water to increase pressure/redundancy of existing and proposed water extension, by extending water line to tie into the dead-end water stub of Rose Orchard Court. The required waterline easement shall be obtained prior to approval of the Final/Parcel Map and public improvement plan. **ALTERNATELY: Project has obtained a Public Service Easement from the adjacent property to the north at 1092 Llagas Road (APN 773-32-012) to grid the pubic water mains. Project will grid water from the project's public street through APN 773-32-012 to the public water main on Llagas Road, which will meet the standards of Public Works.**

C. Project requires an Emergency Vehicle Access (EVA) easement for Fire and Police access for secondary ingress and egress to subdivision and neighboring lots. EVA easement shall loop back to Rose Orchard Court. The required EVA easement shall be obtained prior to approval of the Final/Parcel Map and public improvement plans. **ALTERNATELY: Project has obtained an Emergency Vehicle Access easement from the adjacent property to the north at 1092 Llagas Road (APN 773-32-012) which will allow secondary access to the proposed subdivision for Emergency Vehicles. Project will provide an all-weather access road as required by the Fire Department, which will run from the project's pubic streets through Lot 2 and APN 773-32-012 to LLagas Road.**

D. The project's public street fronting lots 1-4 shall include a 4 feet wide paved shoulder with a 6" concrete curb, or as approved by City Engineer. Language in the PSE shall include street pavement and curb that would provide a paved AC street 36 feet wide from curb face to curb face, or as approved by City Engineer.

E. Sabini Court's existing road width (20') from Teresa Lane to the project most northerly boundary shall be improved per the flowing requirements:
1) remove and replace damage portions of pavement with too much alligator cracking,
2) crack seal the existing pavement, and
3) provide 2" AC min. overlay along Sabini following the completion of 1 and 2 above, to the satisfaction of the City Engineer.

F. Prior to approval of the Final/Parcel Map and improvement plans, project shall obtain any necessary SWRCB, Army Corp, and Fish and Game permits for construction within the limits of the ephemeral stream which runs along the westerly boundary and along Sabini Court.

G. Overhead utility lines along the project frontage shall be undergrounded.

H. The site cannot release stormwater into the City storm drain system. Onsite retention for 100-year storm will be required.

I. Map recordation fees are due prior to recordation of the Parcel/Final Map.

J. Public Works impact fees are due prior to occupancy of each unit. NOTE: Each unit's impact fees will be based on the most current fee schedule at the time of the unit's Building Permit issuance.

K. The applicant shall cause the construction of all public and private improvements in accordance with the latest City Standard Drawings and Specifications. **(MHMC 12.02.090 A; 17.32.010 A)**

L. The applicant shall have a Final Map prepared by a registered engineer (licensed prior to 01/01/1982: registration number 33,965 or lower) or licensed land surveyor delineating all parcels and easements created. There shall be concurrence in writing by PG & E, Telephone, Cable TV and any other affected agencies to all improvements and easements which are applicable to them. The number and locations of monuments shall be set as required by the Public Works Department. **(MHMC 17.20.200 A; 17.20.290; 17.24.010)**

M. The applicant shall submit as part of the improvement drawings for the project, profiles of all improvements in the subdivision and typical cross-sections of all streets and details of curbs, gutters, and sidewalks, to be accomplished to the satisfaction of the Director of Public Works prior to submittal of Final Map. **(MHMC Sec 17.32.060 B; 17.32.070; 17.32.080 A)**

Obtain necessary encroachment permits from:

☒ City of Morgan Hill

and provide guarantee covering off-site improvements. **(MHMC 12.08.040 A; 12.08.090)**

N. Improvement plans are to show water lines, sanitary sewer, storm drain system, pavement widths, curve radius, and existing utilities.

Enter into a

☒ Subdivision Improvement Agreement (SIA)

with the City of Morgan Hill to cover required improvements. **(MHMC 12.02.150; 17.32.010 B; 17.32.160)**

O. If necessary, reciprocal access easements and maintenance agreements ensuring access to all parcels and joint maintenance of all common roads, drives or parking areas shall be provided by CC&R's and by deed and shall be recorded concurrent with the map, or prior to issuance of building permit where no map is involved. **(MHMC 17.20.350 H)**

P. IMPACT **FEE INCREASE**-The City of Morgan Hill, pursuant to City Code Chapter 3.56 has established impact fees to finance the cost of improvements required by new development. City Code Chapter 3.56.050 provides for automatic annual (July 1st) adjustment of those fees in existence utilizing the Engineering News Record Index for the preceding twelve months. The City Public Works Department maintains historical records on the Engineering News Record

Index. These records are available for inspection during normal business hours. **(MHMC 3.56.010; 3.56.030; 3.56.050)**

Q. The applicant shall cause the design and construction of all new public and private streets serving the project. The design of all new public and private streets shall be consistent with the General Plan Land Use and Circulation Element as well as the Street Standard Details as contained within the Public Works Standards Details. The construction of the streets shall be undertaken to the lines and grades and in a manner satisfactory to the Director of Public Works. All street improvements shall be constructed to the satisfaction of the Director of Public Works. The timing of the improvements will be determined by the City. **(MHMC 12.02.010; 12.02.090; 17.32.060 B; CMH General Plan; CMH Design Standards and Standard Details for Construction)**

R. The project shall install and dedicate street improvement including, but not limited to, curb and gutter, sidewalk, compaction, street paving, oiling, storm drainage facilities, sewer and water, fire protection, undergrounding of utilities and street lighting in conformance with City of Morgan Hill requirements. **(MHMC 12.02.010; 12.02.50; 12.02.080; 12.02.100; 17.28.010; 17.32.060)**

S. Underground existing utilities: all existing overhead utilities adjacent to any site boundary or along any street frontage of site shall be placed underground in accordance with City standards and affected utility company guidelines. **(MHMC 12.02.090 B; 17.32.020 E.1)**

T. The applicant shall cause to be undertaken the design and construction of sanitary sewer improvements including, but not limited to installation of sewer line extension on the proposed public street(s) or private street(s)/drive aisle(s). The sanitary collection system shall include, but not be limited to manholes with manhole frames and covers, cleanouts, wye-branches and laterals, and separate sewer taps to each lot. These are to be installed by the developer. **(MHMC 13.20.355; 17.32.020 C; CMH Sewer System Master Plan; CMH Design Standards and Standard Details for Construction)**

U. All existing and future sewer lines shall be tied into the City's system and existing septic systems shall be abandoned in accordance with City requirements. **(MHMC 13.24.060; 17.32.20 C)**

V. A complete storm drainage study of the proposed development must be submitted showing amount of run-off, and existing and proposed drainage structure capacities. This study shall be subject to review and approval by the Director of Public Works. All needed improvements will be made by the applicant. No overloading of the existing system will be permitted. **(MHMC 17.32.020 B;17.32.090; CMH Design Standards and Standard Details for Construction)**

W. The applicant shall cause the design and construction to be undertaken for a storm drainage collection system shown on the Tentative Map/Site Review plans. All storm drain improvements shall be constructed to the satisfaction of the Director of Public Works. **(MHMC 17.32.020 A & B)**

X. Collection system shall be designed to be capable of handling a 10-year storm without local flooding. On-site detention facilities shall be designed to a 100-year storm capacity. Streets shall be designed to carry a 100-year storm. Items of construction shall include, but not be limited to installation of storm line extension on proposed public street(s), surface and

subsurface storm drain facilities, manholes with manhole frames and covers, catch basins and laterals. Note: the project may be required to **retain** stormwater runoff as part of resolution R3-2013-0032 prior to releasing discharge rates at pre development flows. **(MHMC 17.32.020 B; 18.74.440; CMH Design Standards and Standard Details for Construction; CMH Storm Drainage System Master Plan)**

Y. Prior to final map approval or issuance of a grading permit the applicant shall complete the following to the satisfaction of the Director of Public Works.

1. Storm drain calculations to determine detention/retention pond sizing and operations.
2. Plan describing how material excavated during construction will be controlled to prevent this material from entering the storm drain system.
3. Water Pollution Control Drawings (WPCD) for Sediment and Erosion Control.

(**CMH Design Standards and Standard Details for Construction)**

Z. As required by the State Water Resources Control Board (SWRCB), construction activity resulting in a land disturbance of one (1) acre or more of soil, or whose projects are part of a larger common plan of development that in total disturbs more than one (1) acre, are required to obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 for Discharges of Storm Water Associated with Construction Activity (General Permit). To be permitted with the SWRCB under the General Permit, owners must file a complete Notice of Intent (NOI) ONLINE at: http://smarts.waterboards.ca.gov/smarts/faces/SwSmartsLogin.jsp and develop a Storm Water Pollution Prevention Plan (SWPPP) Manual in accordance with the General Permit. The SWPPP Manual shall follow the CASQA SWPPP template/format at https://www.casqa.org/store/products/tabid/154/p-167-construction-handbookportal-initial-subscription.aspx and shall be approved by Public Works Engineering. A Waste Discharger Identification (WDID) number to will be issued to the construction site after the SWRCB receives and verifies the submitted ONLINE NOI information. The WDID number and approved SWPPP Manual shall be provided to Public Works and the Building Department prior to any approval of grading activities **(SWRCB NPDES General Permit CA000002).**

AA. NPDES GENERAL PERMIT SITE SWPPP INSPECTIONS AND COMPLIANCE:

a. ALL project onsite and offsite construction activity shall have the site inspected by a **qualified third party SWPPP Inspector (QSD or QSP or RCE).**

b. SWPPP Inspections shall occur weekly during the rainy season (September 15th thru May 1st).

c. SWPPP Inspections shall occur bi-weekly during the non-rainy season.

d. 48 hours prior to and following a forecasted rain event, SWPPP Inspections shall occur in addition to those of items 2 or 3 above.

e. Per each of the inspection conditions 2, 3, or 4, the NPDES SWPPP Inspector shall certify in writing to the Building and Public Works Department if the site is in compliance or

non-compliance with the NPDES General Permit for Stormwater, site SWPPP Manual, and Water Pollution Control Drawings (per the CMH-SWPPP Inspection Check List to be provided by Public Works). QSD/QSP SWPPP Inspectors shall forward onsite and offsite information/certification to the Building (on-site private property issues) and Public Works (public right-of-way issues) inspectors respectively.

f. Prior to rain events, BMPs not in compliance will need to be corrected immediately.

g. Illicit discharges per the NPDES General Permit, non-compliance of tracking control, and inlet protection within the public right of way shall be address immediately.

h. Other non-compliance issues need to be addressed within a 24-hour period.

i. Non-compliance issues which have been corrected shall be verified by NPDES SWPPP Inspector by a follow up inspection.

BB. The applicant shall cause the design and construction to be undertaken of a domestic water system to the satisfaction of the Director of Public Works. The water system improvements shall be constructed within public easements or street rights-of-way to the satisfaction of the Director of Public Works and dedicated to the City. **(MHMC 17.32.020 A & D; CMH Design Standards and Standard Details for Construction; CMH Water System Master Plan)**

CC. Abandonment of any existing water well shall be in conformance with Santa Clara Valley Water District (SCVWD) Ordinance 90-1. Location and disposition to be shown on the plan. Well(s) shall be properly registered with the SCVWD and either be maintained or abandoned in accordance with SCVWD standards.

DD. Installation of water line extension on the proposed public streets and/or private streets. **(MHMC 17.32.020 A & D; CMH Water System Master Plan)**

EE. Provide separate water services and meters for each lot. These are to be installed by developer. **(MHMC 17.32.020 D)**

a. The owner shall dedicate all necessary utility easements. **(MHMC 12.02.080 D; 17.28.010 A)**

b. The applicant shall cause the design and construction required to underground all electric, gas, Cable TV and communication lines within the development. Such design and construction shall be to the satisfaction of the affected utilities and the Director of Public Works. **(MHMC 17.32.020 E.1)**

c. The final map on all major subdivision (5 or more lots) shall be approved by the City Council prior to issuance of a grading permit. For minor subdivision (4 lots or less), the final map shall be signed by the City Engineer and the Planning Commission Secretary prior to issuance of a grading permit. **(MHMC 17.20.390; 17.24.210)**

d. Landscaping and irrigation systems serving common areas that are required to be installed in the public right-of-way on the perimeter of this tract area shall be continuously maintained by the Homeowner's Association.

e. Final landscape plans shall be submitted with and included as part of the improvement plans for the subdivision. **(MHMC 17.08.090)**

f. Prior to the approval of any Building Permit for grading activity, the developer shall schedule a preconstruction meeting with the Public Works Inspection Division with the following project team members:

i. Civil Engineer of record.

ii. Geotechnical Engineer of record.

iii. Third Party QSD/QSP SWPPP Inspector.

iv. General Contractor.

v. Sub-Contractors.

FF. State Water Resources Control Board Post Construction Requirements (PCRs): Project shall comply with the California Regional Water Quality Control Board Central Coast Region Resolution No. R3-2013-0032 as documented by the **Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements** (developed from Resolution No. R-2013-0032 Attachment 1 and 2 at: http://www.waterboards.ca.gov/centralcoast/water_issues/programs/stormwater/docs/lid/lid_hydromod_charette_index.shtml). A copy of the guidance manual can be obtained through the Department of Public Works internet site. Project shall provide Stormwater Control Plan Checklist and applicable calculations per the Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements. Project shall meet the applicable requirements of the Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements:

1. Performance Requirement 1: Site Design and Runoff Reduction
2. Performance Requirement 2: Water Quality Treatment
3. Performance Requirement 3: Runoff Retention
4. Performance Requirement 4: Peak Management

GG. Peak **Storm Water Runoff Discharge Rates** - Post-development peak storm water runoff discharge rates shall not exceed the estimated pre development rate for developments where the increased peak storm water discharge rate will result in increased potential for downstream erosion. Note: the project may be required to **retain** stormwater runoff as part of resolution R3-2013-0032 prior to releasing discharge rates at pre development flows.

HH. Conserve **Natural Areas** - If applicable, the following items are required and must be implemented in the site layout during the subdivision design and approval process, consistent with applicable General Plan and Local Area Plan policies:

1. Concentrate or cluster Development on portions of a site while leaving the remaining land in a natural undisturbed condition.

2. Limit clearing and grading of native vegetation at a site to the minimum amount needed to build lots, allow access, and provide fire protection.

3. Maximize trees and other vegetation at each site by planting additional vegetation, clustering tree areas, and promoting the use of native and/or drought tolerant plants.

4. Promote natural vegetation by using parking lot islands and other landscaped areas. Preserve riparian areas and wetlands.

II. **Minimize Storm Water Pollutants of Concern** - Storm water runoff from a site has the potential to contribute oil and grease, suspended solids, metals, gasoline, pesticides, and pathogens to the storm water conveyance system. The development must be designed so as to minimize, to the maximum extent practicable, the introduction of pollutants of concern that may result in significant impacts, generated from site runoff of directly connected impervious areas (DCIA), to the storm water conveyance system as approved by the building official. Pollutants of concern consist of any pollutants that exhibit one or more of the following characteristics: current loadings or historic deposits of the pollutant are impacting the beneficial uses of a receiving water, elevated levels of the pollutant are found in sediments of a receiving water and/or have the potential to bio-accumulate in organisms therein, or the detectable inputs of the pollutant are at concentrations or loads considered potentially toxic to humans and/or flora and fauna.

In meeting this specific requirement, "minimization of the pollutants of concern" will require the incorporation of a BMP or combination of BMPs best suited to maximize the reduction of pollutant loadings in that runoff to the Maximum Extent Practicable. Those BMPs best suited for that purpose are those listed in:

1. *California Stormwater Quality Association (CASQA) Handbook: BMPs for New Development and Redevelopment*

2. *Bay Area Stormwater Management Agencies Association (BASMAA) Design Guidance Manual for Stormwater Quality Protection: Start at the Source 1999*

3. *California Storm Water Best Management Practices Handbooks*

4. *Caltrans Storm Water Quality Handbook: Planning and Design Staff Guide*

JJ. **Protect Slopes and Channels** - Project plans must include BMPs per the *Santa Clara Valley Water Resource Protection Collaborative: Guidelines and Standards for Land Use Near Streams* to decrease the potential of slopes and/or channels from eroding and impacting storm water runoff; at a minimum the following shall be addressed:

5. Convey runoff safely from the tops of slopes and stabilize disturbed slopes.

6. Utilize natural drainage systems to the maximum extent practicable.

7. Stabilize permanent channel crossings.

8. Vegetate slopes with native or drought tolerant vegetation, as appropriate.

9. Install energy dissipaters, such as riprap, at the outlets of new storm drains, culverts, conduits, or channels that enter unlined channels in accordance with applicable specifications to minimize erosion, with the approval of all agencies with jurisdiction, e.g., Santa Clara Valley Water District, the U.S. Army Corps of Engineers, and the California Department of Fish and Game.

10. Project shall not grade within 30 feet of a perennial or intermittent stream (top of bank) or within 30 feet of riparian habitat.

KK. **Provide Storm Drain System Stenciling and Signage** - Storm drain stencils are highly visible source controls that are typically placed directly adjacent to storm drain inlets. The stencil contains a brief statement that prohibits the dumping of improper materials into the storm water conveyance system. Graphical icons, either illustrating anti-dumping symbols or images of receiving water fauna, are effective supplements to the anti-dumping message. All storm drain inlets and catch basins within the project area must be stenciled with prohibitive language (such as: "NO DUMPING – DRAINS TO CREEK") and/or graphical icons to discourage illegal dumping. Signs and prohibitive language and/or graphical icons, which prohibit illegal dumping, must be posted at public access points along channels and creeks within the project area.· Legibility of stencils and signs must be maintained.

LL. **Design Standards for Structural or Treatment Control BMPs** - The post-construction treatment control BMPs shall incorporate, at a minimum, either a volumetric or flow based treatment control design standard, or both, as identified below to mitigate (infiltrate, filter or treat) storm water runoff:

1. Volumetric Treatment Control BMP

    a. The 85th percentile 24-hour runoff event determined as the maximized capture storm water volume for the area, from the formula recommended in Urban Runoff Quality Management, WEF Manual of Practice No. 23/ASCE Manual of Practice No. 87, (1998); or

    b. The volume of annual runoff based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment by the method recommended in California Stormwater Best Management Practices Handbook – Industrial/ Commercial, (2003); or

    c. The volume of runoff produced from a historical-record based reference 24-hour rainfall criterion for "treatment" that achieves approximately the same reduction in pollutant loads achieved by the 85th percentile 24-hour runoff event.

2. Flow Based Treatment Control BMP

    a. The flow of runoff produced from a rain event equal to at least two times the 85th percentile hourly rainfall intensity for the area; or

    b. The flow of runoff produced from a rain event that will result in treatment of the same portion of runoff as treated using volumetric standards above.

MM. **Stormwater Runoff Management Plan (SWRMP) required -** The stormwater runoff management plan shall include sufficient information to evaluate the environmental characteristics of affected areas, the potential impacts of the proposed development on water resources, and the effectiveness and acceptability of measures (post construction BMPs) proposed for managing stormwater runoff.

3. The stormwater runoff management plan shall be prepared under the direction of a professional civil engineer registered in the State of California. The responsible professional civil engineer shall stamp and sign the approved stormwater runoff management plan.

4. The chief engineer or designee may require a developer to provide a signed certification from the civil engineer responsible for preparing the stormwater runoff management plan that all stormwater best management practices have been designed to meet the requirements of this chapter.

5. Each certifying civil engineer shall establish to the city's satisfaction that such person has been trained on the design of stormwater quality best management practices not more than three years prior to the certification signature date.

6. Qualifying training shall be conducted by an organization with stormwater quality management expertise, such as a university, the Bay Area Stormwater Management Agencies Association, the American Society of Civil Engineers, the American Public Works Association, or the California Water Environment Association.

NN. **Stormwater BMP operation, maintenance, and replacement responsibility**

1. All on-site stormwater management facilities shall be operated and maintained in good condition and promptly repaired/replaced by the property owner(s), an owners' or homeowners' association or other legal entity approved by the city.

2. Any repairs or restoration/replacement and maintenance shall be in accordance with city-approved plans.

3. The property owner(s) shall develop a maintenance schedule for the life of any stormwater management facility and shall describe the maintenance to be completed, the time period for completion, and who shall perform the maintenance. This maintenance schedule shall be included with the approved stormwater runoff management plan.

OO. **Stormwater BMP operation and Maintenance Agreement (SWBOMA) required -** Improper maintenance is one of the most common reasons why water quality controls will not function as designed or which may cause the system to fail entirely. It is important to consider who will be responsible for maintenance of a permanent BMP, and what equipment is required to perform the maintenance properly.

1. Prior to the issuance of any building permit requiring stormwater management BMPs, the owner(s) of the site shall enter into a formal written stormwater BMP operation and maintenance agreement with the city. The city shall record this agreement, against the property or properties involved, with the County of Santa Clara and it shall be binding on all subsequent owners of land served by the storm water management treatment BMPs (City

standard STORMWATER BMP OPERATION AND MAINTENANCE AGREEMENT to be provided by Public Works Engineering).

2. The stormwater BMP operation and maintenance agreement shall require that the BMPs not be modified and BMP maintenance activities not alter the designed function of the facility from its original design unless approved by the city prior to the commencement of the proposed modification or maintenance activity.

3. The stormwater BMP operation and maintenance agreement shall provide that in the event that maintenance or repair is neglected, or the stormwater management facility becomes a danger to public health or safety, the city shall have the authority to perform maintenance and/or repair work and to recover the costs from the owner.

PP. **Stormwater BMP inspection responsibility**

1. The property owner(s) shall be responsible for having all stormwater management facilities inspected for condition and function by a **Register Civil Engineer (RCE)**.

2. Unless otherwise required by the chief engineer or designee, stormwater facility inspections shall be done at least twice per year (April 15th and September 15th) by the RCE. Written records shall be kept of all inspections and shall include, at minimum, the following information:

   a. Site address;

   b. Date and time of inspection;

   c. Name of the person conducting the inspection;

   d. List of stormwater facilities inspected;

   e. Condition of each stormwater facility inspected;

   f. Description of any needed maintenance or repairs; and

   g. As applicable, the need for site re-inspection.

3. Upon completion of each inspection, an inspection report shall be submitted to Public Works Engineering.

QQ. **Records of maintenance and inspection activities -** On or before April 15th and September 15th of each year, the party responsible for the operation and maintenance of on-site stormwater management facilities under the BMP operation and maintenance agreement shall provide the chief engineer or designee with records of all inspections, maintenance and repairs.

RR. **Annual Certification of SWRMP** – On or before September 30th of each year a Registered Civil Engineer (RCE) shall provide written certification that the developments stormwater quality design standards are properly maintained and functioning as required by the SWRMP.

SS. Submit two (2) signed copies of Approval Certificate to the Planning Division prior to Final Parcel Map approval and recordation.

TT. **DEFENSE AND INDEMNITY**: Applicant agrees to defend and indemnify and hold City, its officers, agents, employees, officials and representatives free and harmless from and against any and all claims, losses, damages, injuries, costs and liabilities arising from any suit for damages or for equitable or injunctive relief which is filed against City by reason of its approval of this parcel map application. In addition, applicant shall pay all pre-tender litigation costs incurred on behalf of the City including City's attorney's fees and all other litigation costs and expenses, including expert witnesses, required to defend against any lawsuit brought as a result of City's approval or approvals, but shall not be required to pay any litigation from the City. However, applicant shall continue to pay reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted. The undersigned hereby represents that they are fully empowered by the applicant as their agent to agree to provide the indemnification, defense and hold harmless obligations, and the signature below represents the unconditional agreement by applicant to be bound by such conditions.

UU. MITIGATION FEE ACT: Notice is hereby given that, pursuant to the Mitigation Fee Act, the City of Morgan Hill charges certain fees (as such term is defined in Government Code Section 66000) in connection with approval of your development project for the purpose of defraying all or a portion of the cost of public facilities related to your development project (Mitigation Fee Act Fees). These fees do not include fees for processing applications for governmental regulatory actions or approvals, or fees collected (a) under development agreements, or (b)as a part of your application for development allocations under the City's Residential Development Control System. The Mitigation Fee Act Fees applying to your project are listed in the schedule of fees provide. Notice is also hereby given that you have the opportunity to protest the imposition of the Mitigation Fee Act Fees within 90 days of the approval of the approval or conditional approval of your development project and that the 90-day approval period in which you may protest has begun.

VV. This parcel map shall record prior to the recordation of Final Map.