

IMPACT FEE FREEZE AGREEMENT

BY AND BETWEEN

THE CITY OF MORGAN HILL

AND

MERSHO INVESTMENTS LLC, AND

CLAYTON PLAZA LLC

**IMPACT FEE FREEZE AGREEMENT
BY AND BETWEEN
THE CITY OF MORGAN HILL
AND
MERSHO INVESTMENTS LLC, AND
CLAYTON PLAZA, LLC**

This Impact Fee Freeze Agreement (the "Agreement") is entered into as of June 21, 2023, by and between Mersho Investments LLC, a California Limited Liability Corporation and Clayton Plaza LLC, a California Limited Liability Corporation (the "Developer") and the City of Morgan Hill, a municipal corporation duly organized and existing under the laws of the State of California (the "City"), with reference to the following facts and purposes:

RECITALS

The following recitals are a substantive portion of this Agreement:

- A. Pursuant to the authority of Morgan Hill Municipal Code Sections 3.56.095, 12.02.115, and Resolution Numbers 17-052 and 18-013, and as amended by City Council action on May 18, 2022, the City has established an Impact Fee Freeze Program (the "Program") to freeze Development Impact Fees to the time of the executed agreement for up to three years for new commercial/industrial construction.
- B. Developer owns or leases certain real property in the City described in the attached Exhibit A (the "Subject Property") upon which improvements are to be made for new industrial/commercial projects (the "Projects").
- C. The purpose of this Agreement is to lock in the Development Impact Fees for the Project. The Project's Development Impact Fees will be locked in at the rate set in the Fiscal Year 2022-23 Impact Fee Schedule (dated 05-15-2023) attached hereto and incorporated herein as Exhibit B.
- D. Developer and City have determined that the Project is the type of development for which this Agreement is appropriate. This Agreement will help to eliminate uncertainty in annual changes to Development Impact Fees, provide for the orderly development of the Projects consistent with the planning goals, policies, and other provisions of the City's General Plan and City's Municipal Code, and otherwise achieve the goals and purposes for which the Development Impact Fee Program was adopted.
- E. When constructed and open the Projects will generate Property Tax and Sales Tax for the City creating a public benefit which is required in order to enter into this Agreement.

ARTICLE 1

ADMINISTRATION

1.01 Definitions.

(a) The following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section:

(1) "**Impact Fees**" shall mean those fees imposed so that developments bear a proportionate share of the cost of public facilities and service improvements that are reasonably related to the impacts and burdens of the Project, adopted pursuant to Morgan Hill Municipal Code Chapter 3.56 and California Government Code Section 66001 et seq.

(2) "**Legal Effect**" shall mean the ordinance, resolution, permit, license or other grant of approval has been adopted by City and has not been overturned or otherwise rendered without legal and/or equitable force and effect by a court of competent jurisdiction, and all applicable administrative appeal periods and statutes of limitations have expired.

(3) "**New City Laws**" shall mean any and all City ordinances, resolutions, orders, rules, official policies, standards, specifications and other regulations, whether adopted or enacted by City, its staff or its electorate (through their powers of initiative, referendum, recall or otherwise) that is not a Subsequent Approval, that takes "**Legal Effect**" after the Effective Date of this Agreement, and that applies City wide. "**Effective Date**" shall mean the date this Agreement is fully executed by both parties following approval of the Agreement by the City Council.

(4) "**Project Approvals**" mean, collectively, the Project's Existing Approvals and the Subsequent Approvals.

(5) "**Property**" shall mean that certain real property consisting of approximately 22.54 acres located within the City, as more particularly described and shown on **Exhibit A** to this Agreement with Assessor Parcel Numbers (APN) 72631038, APN 72631025, APN 72633026, APN 72633025, APN 72625026, and APN 72632025.

(6) "**Subsequent Approvals**" and "**Subsequent Approval**" mean those City permits, entitlements, approvals or other grants of authority (and all text, terms and conditions of approval related thereto), that may be necessary or desirable for the development of the Project, that are sought by Developer, and that are granted by City.

(b) To the extent that any defined terms contained in this Agreement are not defined above, then such terms shall have the meaning otherwise ascribed to them elsewhere in this Agreement, or if not in this Agreement, by controlling law.

1.02 Term.

The term ("Term") of this Agreement shall commence on the Effective Date, and then shall continue until June 30, 2026, or the issuance of all building permits and commencement of construction for the Project, whichever occurs first.

ARTICLE 2

APPLICABLE LAW

2.01 Project Impacts and Costs.

(a) Agreement Subject to Project Mitigation Requirements. Notwithstanding any other express or implied term or condition of this Agreement (or the Approvals) to the contrary, throughout the Term of this Agreement, the full and complete mitigation of all environmental (including any mitigation measure adopted pursuant to CEQA), physical, fiscal and other impacts of the Project and the Property on the community and on the City of Morgan Hill and its services, facilities, operations and maintenance (collectively, "**Project Mitigation**") shall be borne by and shall be the sole and exclusive responsibility of the Project (and the Developer who is the owner of same). Such Project Mitigation may be conditions of any Applicable Law or Project Approval and may include a mix of different approaches, including without limitation, Developer construction of and/or financing of such services, facilities, operations and maintenance through the payment of impact fees or other fees, taxes, levies, assessments, or other financing mechanisms including without limitation, reimbursement agreements, Landscaping and Lighting Districts, Mello-Roos Districts, Community Facilities Districts, Assessment Districts, Tax-Exempt and Taxable Financing Mechanisms, Maintenance Districts and participation in the Statewide Communities Infrastructure Program (collectively, "**Financing Mechanisms**"). The necessary scope and extent of such Project Mitigation, and which combination of Financing Mechanisms should be employed relating to such Project Mitigation to assure success of the Project Mitigation, shall be determined by City, in its sole and exclusive discretion, pursuant to appropriate City ordinance, resolution, regulations or procedures, taking into account and guided by the pre-existing rights of others in the existing and future public services and facilities (including their operations and maintenance) that Developer may seek to use.

(b) Impact Fees. As part of the Project's exclusive obligation (and the Developer's as the owner of same) to cover Project Mitigation, Developer shall pay all Impact Fees as described in Exhibit B at the time any such Impact Fees become due and payable as provided for in the City's Municipal Code, except as otherwise described and reduced by this Agreement. The Project's Impact Fees are frozen at the level set in the Impact Fee Schedule for Fiscal Year 2022-23 (dated 05-15-2023) Impact Fee Schedule in the attached Exhibit B, as long as all the building permits are obtained, and construction commenced on or before June 30, 2026 on each of the proposed sites.

(c) Processing Fees. The Project (including Developer as owner of same) shall be responsible for the costs to City of processing any and all Developer-requested land use approvals, including without limitation, building permits, plan checks, environmental studies

required under CEQA and other similar requests for City permits and entitlements, when such costs are incurred by City. City shall impose those funding requirements needed to ensure that the processing costs to the City are fully covered by the Project (including Developer as owner of same). Further, if additional, accelerated, or more frequent inspections are requested by Developer of City than would otherwise take place in City's ordinary course of business, then City may either hire additional contract inspectors, plan checkers, engineers or planners, or City may hire a full or part time employee. If City hires additional contractors, then Developer shall reimburse City, on a monthly basis in arrears, the cost to City of hiring such additional contract inspectors, plus Developer shall pay to City an additional ten percent (10%) of such cost to City on the same payment schedule. City shall use an additional 10% to defray administrative costs. If City hires a full or part time employee, then Developer shall reimburse City, on a monthly basis, in arrears, for a pro rata share of the total cost to the City of such employee, plus ten percent (10%) for administrative costs, for the period from hire to the end of the Term of this Agreement.

2.02 Construction Codes.

With respect to the development of any or all of the Project or the Property, Developer shall be subject to the California Building Code and all those other State-adopted construction, fire and other codes applicable to improvements, structures, and development, and the applicable version or revision of said codes by local City action (collectively referred to as "**Construction Codes**") in place at that time that a plan check application for a building, grading or other permit subject to such Construction Codes is submitted to City for approval, provided that such Construction Codes have been adopted by City and are in effect on a City-wide basis.

2.03 Timing of Development.

Developer agrees to secure building permits and to begin construction of the Project in accordance with the time requirements set forth in the Construction Codes, as these exist on the Effective Date. In the event Developer fails to comply with the above permit issuance and commence construction no later than June 30, 2026 this Agreement shall expire. The deadline may be extended at the sole discretion of the City Manager should Developer face unreasonable delays beyond its control.

2.04 New City Laws.

(a) City shall not be precluded from adopting and applying New City Laws to the Project to the extent that such New City Laws are specifically required to be applied by State or Federal laws or regulations, and implemented through the Federal, State, regional and/or local level), or that such New City Laws are necessitated by or arise from a declaration of City, local, state or federal declaration of a state of emergency.

(b) City shall not be precluded from adopting new Impact or Development Fees that are not included in the Fiscal Year 2022-23 Impact Fee Schedule. These fees include but are not limited to those fees which were adopted or implemented after the 2022-23 Impact Fee Schedule up to the date of building permit issuance for the Project.

ARTICLE 3

PROCESSING

3.01 Processing.

(a) This Agreement does not provide Developer with any right to the approval of Subsequent Approvals nor to develop or construct the Project beyond that which is authorized in the Existing Approvals. For any Subsequent Approvals necessary for the Project, this Agreement simply provides a process by which such Subsequent Approvals may be processed by Developer, if and only if such Subsequent Approvals are compliant with all controlling California law (including proper Planning and Zoning Law and CEQA compliance), have secured approval of the Parties, and are adopted/approved by City, which shall retain all lawful discretion in this regard. Nothing in this Agreement shall be construed to limit the authority or obligation of City to hold necessary public hearings, or to limit the discretion of City or any of its officers or officials with regard to the Project Approvals that legally require the exercise of discretion by City. City's discretion as to the granting of Subsequent Approvals shall be the discretion afforded by the Applicable Law.

3.02 Significant Actions by Third Parties Necessary to Implement the Approvals.

(a) At Developer's sole discretion, Developer shall apply for such other permits, grants of authority, agreements, and other approvals from other private and/or public and quasi-public agencies, organizations, associations or other entities ("**Other Entity**") as may be necessary to the development of, or the provision of services and facilities to, the Project ("**Other Permits**").

ARTICLE 4

DEFAULT, VALIDITY PROVISIONS, ASSIGNMENT

4.01 Resolution of Disputes.

(a) In the event either Party is in default under the terms of this Agreement, the other Party may elect, in its sole and absolute discretion, to pursue any of the following courses of action: (i) waive such default; (ii) pursue administrative remedies as provided herein; (iii) pursue judicial remedies as provided for herein; and/or (iv) terminate this Agreement.

(b) Except as otherwise specifically stated in this Agreement, either Party may, in addition to any other rights or remedies, institute legal action to cure, correct, or remedy any default by another Party to this Agreement, to enforce any covenant or agreement herein, to enjoin any threatened or attempted violation hereunder, or to seek specific performance. It is expressly understood and agreed that the sole legal remedy available to Developer for a breach or violation of this Agreement by City shall be a legal action in mandamus, specific performance, and/or other injunctive or declaratory relief to enforce the provisions of this Agreement, and that Developer shall not be entitled to bring an action for damages including, but not limited to, lost profits, consequential damages or other economic damages. For purposes of instituting a legal action

under this Agreement, any City Council determination under this Agreement shall be deemed a final agency action.

(c) The Parties agree to meet and confer regarding any dispute, in an effort to agree on utilizing Judicial Arbitration Mediation Services ("JAMS") for Alternative Dispute Resolution ("ADR"). However, no party shall be required to use JAMS or ADR.

4.02 Force Majeure Delay, Extension of Times of Performance.

(a) Performance by any Party hereunder shall be excused, waived or deemed not to be in default where delays or defaults are due to acts beyond a Party's control such as war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, unexpected acts of governmental entities other than City, including revisions to capacity ratings of the wastewater plant by the Regional Water Quality Control Board, the State Water Resources Board, enactment of conflicting State or Federal laws or regulations, or litigation (including without limitation litigation contesting the validity, or seeking the enforcement or clarification of this Agreement whether instituted by the Developer, City, or any other person or entity) (each a "Force Majeure Event").

(b) Any Party claiming a delay as a result of a Force Majeure Event shall provide the other Party with written notice of such delay and an estimated length of delay. Upon the other Party's receipt of such notice, an extension of time shall be granted in writing for the period of the Force Majeure Event, or longer as may be mutually agreed upon by the Parties, unless the other Party objects in writing within ten (10) days after receiving the notice. In the event of such objection, the Parties shall meet and confer within thirty (30) days after the date of objection to arrive at a mutually acceptable solution to the disagreement regarding the delay. If no mutually acceptable solution is reached, any Party may take action as permitted in this Agreement.

4.03 Third Party Legal Actions.

(a) In the event of any administrative, legal or equitable action or other proceeding instituted by any person, entity or organization (that is not a Party to this Agreement) challenging the validity of this Agreement, any Project Approvals, or the sufficiency of any environmental review under CEQA ("Third Party Challenge"), the Parties shall cooperate with each other in good faith in the defense of any such challenge. Third Party Challenge shall include all City legal fees, costs including but not limited to staff costs should a local initiative which results in blocking or slowing the Project be approved by the voters and City in its reasonable discretion determines that a judicial action should be filed concerning the initiative or City is sued concerning the initiative.

(b) City shall have the option to defend such Third Party Challenge or to tender the complete defense of such Third Party Challenge to the Developer ("Tender"). If City chooses to defend the Third Party Challenge or Developer refuses City's Tender, City shall control all aspects of the defense and Developer shall pay City's attorneys' fees and costs (including related court costs).

(c) If Developer accepts City's Tender, Developer shall control all aspects of the defense and shall pay its own attorneys' fees and costs (including related court costs) and shall indemnify and hold harmless City against any and all third-party fees and costs arising out of such Third Party Challenge. If City wishes to assist Developer when Developer has accepted the Tender, Developer shall accept that assistance and City shall pay City's own attorneys' fees and costs (including related court costs) ("**City Costs**"), and Developer shall pay its own attorneys' fees and costs (including related court costs), and shall indemnify and hold harmless City against any and all third-party fees and costs arising out of such Third Party Challenge (such third party fees and costs shall not include City Costs).

(d) If any part of this Agreement or any Project Approval is held by a court of competent jurisdiction to be invalid, the City shall: (1) use its best efforts to sustain and/or re-enact that part of this Agreement and/or Project Approval; and (2) take all steps possible to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express and implied intent of this Agreement, and then adopting or re-enacting such part of this Agreement and/or Project Approval as necessary or desirable to permit execution of this Agreement and/or Project Approval.

4.04 Estoppel Certificate.

(a) Any Party may, at any time, and from time to time, deliver written notice to any other Party, and/or to the Developer's lender, requesting such Party to certify in writing that, to the knowledge of the certifying Party:

(1) This Agreement has not been amended or modified either orally or in writing or if so amended, identifying the amendments.

(2) The Agreement is in effect and the requesting Party is not known to be in default of the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of any such defaults.

(b) This written certification shall be known as an "**Estoppel Certificate**." A Party receiving a request hereunder shall execute and return such Estoppel Certificate within thirty(30) days following the receipt of the request, unless the Party, in order to determine the appropriateness of the Estoppel Certificate, promptly commences and proceeds to conclude an Annual Review. The Parties acknowledge that an Estoppel Certificate may be relied upon by Assignees and other persons having an interest in the Project, including holders of mortgages and deeds of trust. The City Manager shall be authorized to execute an Estoppel Certificate for City.

(c) If a Party fails to deliver an Estoppel Certificate within the thirty (30) day period, as provided for in Section 4.04(b) above, the Party requesting the Estoppel Certificate may deliver a second notice (the "**Second Notice**") to the other Party stating that the failure to deliver the Estoppel Certificate within ten (10) working days following the receipt of the Second Notice shall constitute conclusive evidence that this Agreement is without modification and there are no unexcused defaults in the performance of the requesting Party. Failure to deliver the requested Estoppel Certificate within the ten (10) working day period shall then constitute

conclusive evidence that this Agreement is in full force and effect without modification and there are no unexcused defaults in the performance of the requesting Party.

4.05 Termination.

This Agreement shall terminate upon the expiration of the Term, as set forth in Section 1.02, or at such other time as this Agreement is terminated in accordance with the terms hereof, whichever occurs first.

ARTICLE 5

GENERAL PROVISIONS

5.01 Miscellaneous.

(a) Preamble, Recitals, Exhibits. References herein to "this Agreement" shall include the Preamble, Recitals and all of the exhibits of this Agreement.

(b) Governing Law and Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of California and legal actions commenced under or pursuant to this Agreement shall be brought in Santa Clara Superior Court. Should any legal action be brought by a Party for breach of this Agreement or to enforce any provision herein, the prevailing party of such action shall be entitled to reasonable attorneys' fees, court costs, and such other costs as may be fixed by the court.

(c) Project as a Private Undertaking. No partnership, joint venture, or other association of any kind between Developer, on the one hand, and City on the other hand, is formed by this Agreement. The development of the Property is a separately undertaken private development. The only relationship between City and Developer is that of a governmental entity regulating the development of private property and the owners of such private property.

(d) Indemnification. Developer shall hold City, its elective and appointive boards, commissions, officers, agents, and employees, harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage which may arise from Developer's contractors, subcontractors', agents' or employees' operations on the Project, whether such operations be by Developer or by any Developer's contractors, subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for Developer or any of Developer's contractors or subcontractors. Developer shall indemnify and defend City and its elective and appointive boards, commissions, officers, agents and employees from any suits or actions at law or in equity for damages caused, or alleged to have been caused, by reason of any of the aforesaid operations and Developer shall pay all reasonable attorney's fees and costs that the City may incur. City does not, and shall not, waive any rights against Developer which it may have by reason of the aforesaid hold-harmless requirement of Developer because of the acceptance of improvements by City, or the deposit of security with City by Developer. The aforesaid hold-harmless requirement of Developer shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the aforesaid operations referred to in this subsection, regardless of

whether or not City has prepared, supplied or approved of, plans and/or specifications for the Project. Notwithstanding anything herein to the contrary, Developer's indemnification of City shall not apply to the extent that such action, proceedings, demands, claims, damages, injuries or liability is based upon the active negligence of the City.

(e) Interpretation/Construction. This Agreement has been reviewed and revised by legal counsel for both Developer and City, and any rule or presumption that ambiguities shall be construed against the drafting Party shall not apply to the interpretation or enforcement of this Agreement. The standard of review of the validity and meaning of this Agreement shall be that accorded legislative acts of City. As used in this Agreement, and as the context may require, the singular includes the plural and vice versa, and the masculine gender includes the feminine and neuter and vice versa.

(f) Notices.

(1) All notices, demands, or other communications that this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the respective Party as follows:

If to City: City Clerk
17575 Peak Avenue
Morgan Hill, CA 95037
Tel: (408) 779-7259
Fax: (408) 779-3117

With a Copy To: City Attorney
17575 Peak Avenue
Morgan Hill, CA 95037
Tel: (408) 779-7271
Fax: (408) 779-1592

If to Developer: Mersho Investments LLC
5752 Country Club Pkwy
San Jose, CA 95138

Clayton Plaza LLC
5752 Country Club Pkwy
San Jose, CA 95138

With a Copy To:

(2) Any Party may change the address stated herein by giving notice in writing to the other Parties, and thereafter notices shall be addressed and transmitted to the new address. Any notice given to the Developer as required by this Agreement shall also be given to any lender which requests that such notice be provided. Any lender requesting receipt of such notice shall furnish in writing its address to the Parties to this Agreement.

(g) Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a specific situation, is found to be invalid, void, or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect.

(h) Jurisdiction. The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California.

(i) Entire Agreement. This Agreement, including these pages and all the exhibits (set forth below) inclusive, and all documents incorporated by reference herein, constitute the entire understanding and agreement of the Parties.

(j) Signatures. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of Developer and City. This Agreement may be executed in multiple originals, each of which is deemed to be an original.

(k) Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts shall together constitute one and the same instrument.

(l) Exhibits. The following exhibits are attached to this Agreement and are hereby incorporated herein by this reference for all purposes as if set forth herein in full:

Exhibit A Legal Description of Lots on Which Projects are to be Located.

Exhibit B 2022-23 Impact Fee Schedule (dated 05-15-2023)

IN WITNESS WHEREOF, City and Developer have executed this Agreement as of the date first hereinabove written.

CITY OF MORGAN HILL:

s/ _____

Christina J. Turner
City Manager

Date: _____

Attest:

DEVELOPER:

s/ _____

George Mersho
Managing Member

Corporate entities must provide a second signature:

s/ _____

Ralph Mersho
Managing Member

s/ _____

Date: _____

Deputy City Clerk

Approved as to Form:

s/ _____

Donald A. Larkin
City Attorney

Date: _____

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY ON WHICH

PROJECT IS BE LOCATED

APN: 726-31-038

Real property in the City of Morgan Hill, County of Santa Clara, State of California, described as follows:

PARCEL ONE:.

PARCEL 2 AS SHOWN ON THAT CERTAIN PARCEL MAP FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON JULY 29, 1997, IN BOOK 691 OF MAPS, PAGE 46 AND 47.

PARCEL TWO:.

RECIPROCAL RIGHTS OF INGRESS AND EGRESS, AS AN APPURTEINANCE TO PARCEL ONE ABOVE, OVER THOSE PORTIONS OF PARCEL 3 AS SHOWN ON THAT CERTAIN PARCEL MAP FILED JULY 29, 1997, IN BOOK 691 OF MAPS, PAGES 46 AND 47, SHOWN AS "30' PRIVATE ACCESS ESMT".

APN: 726-31-025

Real property in the City of Morgan Hill, County of Santa Clara, State of California, described as follows:

PARCEL 2, AS SHOWN ON THAT CERTAIN PARCEL MAP FILED FOR RECORD IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON FEBRUARY 7, 1997, IN BOOK 686 OF MAPS AT PAGES 1 AND 2.

APN: 726-33-026

Real property in the City of Morgan Hill, County of Santa Clara, State of California, described as follows:

PARCEL O, AS SHOWN ON THAT CERTAIN PARCEL MAP FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA RECORDED ON OCTOBER 13, 2000, IN BOOK 733 OF MAPS PAGES 11 AND 12.

APN: 726-33-025

Real property in the City of Morgan Hill, County of Santa Clara, State of California, described as follows:

PARCEL N, AS SHOWN ON THAT CERTAIN PARCEL MAP ENTITLED, "PARCEL MAP", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON OCTOBER 13, 2000 IN BOOK 733 OF MAPS, AT PAGES 11 AND 12.

APN: 726-25-026

Real property in the City of Morgan Hill, County of Santa Clara, State of California, described as follows:

PARCEL 3 AS SHOWN ON THAT CERTAIN PARCEL MAP FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON APRIL 3, 1998, IN BOOK 700 OF MAPS, PAGES 30, 31 AND 32.

APN: 726-32-025

Real property in the City of Morgan Hill, County of Santa Clara, State of California, described as follows:

PARCEL ONE: PARCEL 2 AS SHOWN ON THAT CERTAIN PARCEL MAP FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON MAY 4, 1998, IN BOOK 701 OF MAPS, PAGE(S) 39 AND 40.

PARCEL TWO:

A NON-EXCLUSIVE EASEMENT, APPURTENANT TO PARCEL ONE ABOVE, FOR VEHICULAR AND PEDESTRIAN ACCESS, INGRESS AND EGRESS OVER THE DRIVEWAY PORTION OF SAID LAND BEING THE SOUTHEASTERLY 17 FEET OF PARCEL 1, AS SHOWN ON THAT CERTAIN MAP ENTITLED, "PARCEL MAP BEING A SUBDIVISION OF PARCEL 3-A AS SHOWN ON THAT CERTAIN PARCEL MAP FILED IN BOOK 584 OF MAPS, PAGES 5 AND 6, SANTA CLARA COUNTY RECORDS," WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON MAY 4, 1998 IN BOOK 701 OF MAPS, PAGES 39 AND 40, AS GRANTED IN THAT CERTAIN INSTRUMENT ENTITLED "RECIPROCAL EASEMENT AND OPERATION AGREEMENT RECORDED MAY 15, 1998 UNDER SERIES NO. 14185906, OFFICIAL RECORDS.

EXHIBIT B
2022-23 (05-15-2023) Impact Fee Schedule



CITY OF MORGAN HILL PUBLIC WORKS DEPARTMENT

17575 Peak Avenue Morgan Hill CA 95037 - Office (408) 778-6480 Fax (408) 779-7236

FEE SCHEDULE: 05.15.2023

PROJECT INFO

TRACT # / APN: _____

DATE PREPARED: _____

ADDRESS / LOT: _____

EXPIRATION DATE: _____

PROJECT DESC: _____

CALCULATED BY: _____

APPLICANT INFO

APPLICANT NAME: _____

CHECKED BY: _____

MAILING ADDRESS: _____

BUILDING PERMIT #: _____

CITY, STATE, ZIP: _____

BLD PERMIT DATE: _____

PHONE NUMBER: _____

THIS FEE SCHEDULE IS ESTIMATE ONLY

MULTI-FAMILY IS DEFINED AS ANY UNIT WITH TWO BEDROOMS OR LESS.
SINGLE FAMILY IS DEFINED AS ANY UNIT WITH 3 BEDROOMS OR MORE.

1. METER DEPOSIT (149):

650-37672 Subtotal: \$0

1"	\$573	x	0	=	\$0
1 1/2"	\$1,782	x	0	=	\$0
2"	\$2,010	x	0	=	\$0
				=	
* 4"	\$3,999	x	0	=	\$0
* 6"	\$12,218	x	0	=	\$0
* 8"	\$18,163	x	0	=	\$0

* For meters 3" and greater, arrangements shall be made for the meters to be picked up at the City Corporation Yard located at 100 Edes Court.

** 5/8"	-\$277	x	0	=	\$0
** 3/4"	-\$322	x	0	=	\$0

** Credit for 5/8" and 3/4" existing meter (if applicable)

2. BACKFLOW CONST. INSPECTION (154):

650-37859 Subtotal: \$0

\$76 x 0 Each = \$0

3a. WATER FRONTAGE CHARGE (146):

650-37663 Subtotal: \$0

1 Side	\$82	x	0	LF	=	\$0
2 Sides	\$45	x	0	LF	=	\$0

3b. SEWER FRONTAGE CHARGE (146):

640-37663 Subtotal: \$0

1 Side	\$82	x	0	LF	=	\$0
2 Sides	\$45	x	0	LF	=	\$0

3c. STORM FRONTAGE CHARGE (135):

304-37663 Subtotal: \$0

1 Side	\$134	x	0	LF	=	\$0
2 Sides	\$65	x	0	LF	=	\$0

3d. UNDERGROUNDING UTILITIES (145):

350-37649 Subtotal: \$0

1 Side	\$845	x	0	LF	=	\$0
2 Sides	\$427	x	0	LF	=	\$0

4. WATER CAPACITY FEE:						651-37648	Subtotal: <u>\$0</u>
5/8-1 inch meter	\$11,692	/DU	x	0	=	\$0	
1.5-inch meter	\$23,385	/DU	x	0	=	\$0	
2-inch meter	\$37,415	/DU	x	0	=	\$0	
3-inch meter	\$74,830	/DU	x	0	=	\$0	
4-inch meter	\$116,923	/DU	x	0	=	\$0	
6-inch meter	\$233,845	/DU	x	0	=	\$0	
8-inch meter	\$374,152	/DU	x	0	=	\$0	
WATER CREDITS	<u>\$0</u>	/	x	<u>0</u>	/	=	<u>\$0</u>
5. SEWER IMPACT FEE:						641-37648	Subtotal: <u>\$0.00</u>
Single Family	\$19,206	/DU	x	0	DU	=	\$0
Multi Family	\$16,255	/DU	x	0	DU	=	\$0
Senior/Downtown	\$16,255	/DU	x	0	DU	=	\$0
Commercial	\$63.25	/GPD	x	0	GPD	=	\$0
Industrial	\$63.25	/GPD	x	0	GPD	=	\$0
Office	\$63.25	/GPD	x	0	GPD	=	\$0
Auto Dealership	\$63.25	/GPD	x	0	GPD	=	\$0
Hotel	\$63.25	/GPD	x	0	GPD	=	\$0
Secondary DU	TBD	/DU	x	0	DU	=	\$0
SEWER CREDITS	<u>\$0</u>	/	x	<u>0</u>	/	=	<u>\$0</u>
6. STORM DRAIN IMPACT FEE:						303-37648	Subtotal: <u>\$0</u>
Single Family	\$2,434	/DU	x	0	DU	=	\$0
>1,200 SF Multi Family	\$1,386	/DU	x	0	DU	=	\$0
< 1,200 SF Multi Family	\$645	/DU	x	0	DU	=	\$0
>1,200 SF Senior/Downtown	\$1,386	/DU	x	0	DU	=	\$0
< 1,200 SF Senior/Downtown	\$645	/DU	x	0	DU	=	\$0
Commercial	\$26,359	/ACRE	x	0	AC	=	\$0
Industrial	\$19,407	/ACRE	x	0	AC	=	\$0
Office	\$26,359	/ACRE	x	0	AC	=	\$0
Auto Dealership	\$26,359	/ACRE	x	0	AC	=	\$0
Hotel	\$390	/ROOM	x	0	RM	=	\$0
Secondary DU	TBD	/DU	x	0	DU	=	\$0
STORM CREDITS	<u>\$0</u>	/	x	<u>0</u>	/	=	<u>\$0</u>
7. TRAFFIC IMPACT FEE:						309-37648	Subtotal: <u>\$0.00</u>
Single Family	\$4,230	/DU	x	0	DU	=	\$0
>1,200 SF Multi Family	\$2,621	/DU	x	0	DU	=	\$0
< 1,200 SF Multi Family	\$1,650	/DU	x	0	DU	=	\$0
>1,200 SF Senior/Downtown	\$2,621	/DU	x	0	DU	=	\$0
< 1,200 SF Senior/Downtown	\$1,650	/DU	x	0	DU	=	\$0
Secondary DU	TBD	/DU	x	0	DU	=	\$0
Commercial	\$4,230	/PHT	x	0	PHT	=	\$0
Industrial	\$4,230	/PHT	x	0	PHT	=	\$0
Office	\$4,230	/PHT	x	0	PHT	=	\$0
Auto Dealership	\$4,230	/PHT	x	0	PHT	=	\$0
Hotel	\$4,230	/PHT	x	0	PHT	=	\$0
TRAFFIC CREDITS	<u>\$0</u>	/PHT	x	<u>0</u>	PHT	=	<u>\$0</u>
8a. PARK IMPACT FEE:						301-37648	Subtotal: <u>\$0</u>
Subdivision: Single Family	\$7,283	/DU	x	0	DU	=	\$0
Subdivision: Multi Family	\$7,017	/DU	x	0	DU	=	\$0
Subdivision: Senior/Downtown	\$4,806	/DU	x	0	DU	=	\$0
Subdivision: Secondary DU	TBD	/DU	x	0	DU	=	\$0
No Subdivision Single Family	\$5,295	/DU	x	0	DU	=	\$0
No Subdivision Multi Family	\$5,107	/DU	x	0	DU	=	\$0
No Subdivision Senior/Downtown	\$3,495	/DU	x	0	DU	=	\$0
No Subdivision Secondary DU	TBD	/DU	x	0	DU	=	\$0
PARK CREDITS	<u>\$0</u>	/	x	<u>0</u>	/	=	<u>\$0</u>
8b. QUIMBY / PARKLAND IN-LIEU FEE						375-37648	Subtotal: <u>\$0.00</u>
	<u>\$0</u>	/	x	<u>0</u>	EA	=	<u>\$0</u>
8c. PARK MAINTENANCE DEV. FEE:						302-37649	Subtotal: <u>\$0</u>
	<u>\$0</u>	/	x	<u>0</u>	EAC	=	<u>\$0</u>

9. PUBLIC FACILITIES IMPACT FEE:							347-37648	Subtotal: <u>\$0</u>
Single Family	\$693	/DU	x 0	DU	=	\$0		
Multi Family	\$667	/DU	x 0	DU	=	\$0		
Senior/Downtown	\$458	/DU	x 0	DU	=	\$0		
Secondary DU	TBD	/DU	x 0	DU	=	\$0		
Commercial	\$1,527	/ACRE	x 0	AC	=	\$0		
Industrial	\$2,138	/ACRE	x 0	AC	=	\$0		
Office	\$1,815	/ACRE	x 0	AC	=	\$0		
Auto Dealership	\$612	/ACRE	x 0	AC	=	\$0		
Hotel	\$18	/ROOM	x 0	RM	=	\$0		
PUBLIC FACILITIES CREDITS	<u>\$0</u>	/	x 0	/	=	<u>\$0</u>		
10. LIBRARY IMPACT FEE:							348-37648	Subtotal: <u>\$0</u>
Single Family	\$2,674	/DU	x 0	DU	=	\$0		
Multi Family	\$2,576	/DU	x 0	DU	=	\$0		
Senior/Downtown/SDU	\$1,764	/DU	x 0	DU	=	\$0		
Secondary DU	TBD	/DU	x 0	DU	=	\$0		
LIBRARY CREDITS	<u>\$0</u>	/	x 0	/	=	<u>\$0</u>		
11. COMMNTY/REC CNTRS IMPACT FEE:							360-37648	Subtotal: <u>\$0</u>
Single Family	\$4,960	/DU	x 0	DU	=	\$0		
Multi Family	\$4,352	/DU	x 0	DU	=	\$0		
Senior/Downtown	\$3,284	/DU	x 0	DU	=	\$0		
Secondary DU	TBD	/DU	x 0	DU	=	\$0		
COMMNTY/REC CNTRS CREDITS	<u>\$0</u>	/	x 0	/	=	<u>\$0</u>		
12. PUBLIC SAFETY FACILITIES IMPACT FEE:							315-37648	Subtotal: <u>\$0</u>
Single Family	\$2,434	/DU	x 0	DU	=	\$0		
>1,200 SF	Multi Family	\$2,152	/DU	x 0	DU	=	\$0	
< 1,200 SF	Multi Family	\$1,612	/DU	x 0	DU	=	\$0	
>1,200 SF	Senior/Downtown	\$2,152	/DU	x 0	DU	=	\$0	
< 1,200 SF	Senior/Downtown	\$1,612	/DU	x 0	DU	=	\$0	
Secondary DU	TBD	/DU	x 0	DU	=	\$0		
Commercial	\$13,602	/ACRE	x 0	AC	=	\$0		
Industrial	\$16,326	/ACRE	x 0	AC	=	\$0		
Office	\$16,307	/ACRE	x 0	AC	=	\$0		
Auto Dealership	\$6,524	/ACRE	x 0	AC	=	\$0		
Hotel	\$75	/ROOM	x 0	RM	=	\$0		
PUBLIC SAFETY FACILITIES CREDITS	<u>\$0</u>	/	x 0	/	=	<u>\$0</u>		
13. ENGINEERING & INSPECTION FEE (112):							206-38734	Subtotal: <u>\$0</u>
ENGR ESTIMATE:	<u>\$0</u>	35.29%	\$1	to	\$100,000	=	\$0	
ENGR EST. DATE:		18.16%	\$100,001	to	\$200,000	=	\$0	
		13.74%	\$200,001	to	\$500,000	=	\$0	
		11.56%	\$500,001	to	\$1,000,000	=	\$0	
		1.98%	\$1,000,001	to	\$5,000,000	=	\$0	
		4.63%	over		\$5,000,000	=	\$0	
DEPOSIT PAID								<u>\$0</u>
14. LONG RANGE PLANNING FEE (127):							207-37912	Subtotal: <u>\$0</u>
LONG RANGE PLANNING FEE (15% of E&I)							=	<u>\$0</u>
15. GIS/TECHNOLOGY FEE (128):							206-37913	Subtotal: <u>\$0</u>
GIS/TECHNOLOGY FEE (5% of E&I)							=	<u>\$0</u>
16. MAP CHECKING FEE (101):							206-38716	Subtotal: <u>\$0</u>
PARCEL MAP: <u>\$8,725</u>							=	<u>\$0</u>
TRACT/SUBD. MAP: <u>\$10,309</u>							=	<u>\$0</u>

17. OTHER FEES:Subtotal: \$0

Cert. of Compliance - LLA /Merger (94)	\$ 6,875	206-38712	= <u><u>\$0</u></u>
Parcel Map - LLA /Merger (100)	\$ 7,396	206-38712	= <u><u>\$0</u></u>

Additional Plan Review (105)	\$ 230 /hr	206-38734	= <u><u>\$0</u></u>
- 4th submittal and up, at \$230/hr with 2-hour min. charge, OT at \$265/hr			

Plan Revisions (114)	\$ 230 /hr	206-38719	= <u><u>\$0</u></u>
- Revision after approval of public improvement plans, at \$230/hr with 2-hour min. charge, OT at \$265/hr			

Engineering Services:

- Consultation (102)	\$ 230 /hr	206-38719	= <u><u>\$0</u></u>
* Consultation at fully burdened rate at \$230/hr, OT at \$265/hr			
- Preliminary Review (103)	\$ 2,300	206-38719	= <u><u>\$0</u></u>
- Preliminary Fee Estimate (104)	\$ 345	206-38719	= <u><u>\$0</u></u>
- Complexity Fee (106)	\$ 2,760	206-38719	= <u><u>\$0</u></u>
- Re-inspection Fee (107)	\$ 230 /hr	206-38734	= <u><u>\$0</u></u>
* Re-inspection fee at \$230/hr with 4-hour min. charge, OT at \$265/hr			

Public Easement Review (113)	\$ 3,106	206-38737	= <u><u>\$0</u></u>
Street Vacation Review (115)	\$ 8,972	206-38737	= <u><u>\$0</u></u>
Easement Abandonment (116)	\$ 8,972	206-38737	= <u><u>\$0</u></u>

Reimbursement Agreement (119)	\$ 4,946	206-38741	= <u><u>\$0</u></u>
-------------------------------	----------	-----------	---------------------

FEMA Compliance (110)

New Structure Application	\$ 965	206-38725	= <u><u>\$0</u></u>
New Acc. Struct. or ADU Application	\$ 735	206-38725	= <u><u>\$0</u></u>
Improvement of Existing Structure			
Non-substantial Imp w/o detailed revie	\$ 549 /structure	206-38725	= <u><u>\$0</u></u>
Non-substantial Imp w/ detailed review	\$ 779 /structure	206-38725	= <u><u>\$0</u></u>
Substantial Imp (except Acc. Struct.)	\$ 1,252 /structure	206-38725	= <u><u>\$0</u></u>
Substantial Imp of Acc. Struct.	\$ 850 /structure	206-38725	= <u><u>\$0</u></u>
FEMA Elevation Certificate Review	\$ 633 /structure	206-38725	= <u><u>\$0</u></u>
FEMA Flood Field Inspection	\$ 575	206-38725	= <u><u>\$0</u></u>
FEMA Flood Study Valley Water Coord.	\$ 1,495	206-38725	= <u><u>\$0</u></u>
Review of CLOMR/F, LOMR/F	\$ 920	206-38725	= <u><u>\$0</u></u>
FEMA Pub. Outreach LOMR/F	\$ 1,380	206-38725	= <u><u>\$0</u></u>
BFE Determination (Zone A w/o BFE or Zone D)	\$ 460	206-38725	= <u><u>\$0</u></u>

Stormwater Runoff Management Plan (SWRMP) Review (111)

Tier 1 Project	\$ 2,645	206-38734	= <u><u>\$0</u></u>
Tier 2 Project	\$ 6,901	206-38734	= <u><u>\$0</u></u>
Tier 3 Project	\$ 9,892	206-38734	= <u><u>\$0</u></u>
Tier 4 Project	\$ 11,962	206-38734	= <u><u>\$0</u></u>

Erosion & Sediment Control/SWP/PP Document Review (129)

Type 1 & 2 Projects: <1 Acre Soil Dist	\$ 518	206-37687	= <u><u>\$0</u></u>
Type 1 & 2 Projects: >1 Acre Soil Dist	\$ 863	206-37687	= <u><u>\$0</u></u>
Type 3 Projects	\$ 403	206-37687	= <u><u>\$0</u></u>
Type 4 Projects	\$ 288	206-37687	= <u><u>\$0</u></u>

Stormwater Construction Inspections (130)

Type 1 & 2 Projects: <1 Acre Soil Dist	\$ 9,179	206-37688	= <u><u>\$0</u></u>
Type 1 & 2 Projects: >1 Acre Soil Dist	\$ 16,367	206-37688	= <u><u>\$0</u></u>
Type 3 & 4 Projects	\$ 93	206-37688	= <u><u>\$0</u></u>

Stormwater Post-Construction BMP Initial Setup (140)

Base Fee & 1st BMP	\$ 660	206-38734	= <u><u>\$0</u></u>
Each Additional BMP	\$ 132 /BMP	206-38734	= <u><u>\$0</u></u>

Assessment District Reapportionment (137)	see separate appl. with fee	206-38719	= <u><u>\$0</u></u>
Private Sanitary Agreement (138)	\$ 2,645	206-38719	= <u><u>\$0</u></u>
Stormwater O&M Agreement (139)	\$ 2,070	206-38719	= <u><u>\$0</u></u>

Agreement Extensions/Amendments (143)

With City Manager Approval	\$ 2,876	206-38719	= <u><u>\$0</u></u>
With City Council Approval	\$ 4,371	206-38719	= <u><u>\$0</u></u>

RDCS School Pedestrian Safety	\$	355-37655	= <u><u>\$0</u></u>
RDCS Public Facilities	\$	346-37649	= <u><u>\$0</u></u>
RDCS Park Development	\$	302-37649	= <u><u>\$0</u></u>
RDCS Public Facilities Circulation	\$	346-37649	= <u><u>\$0</u></u>
RDCS LED Streetlight Fund	\$	010-37722	= <u><u>\$0</u></u>

TOTAL FEES DUE: **\$0.00**TOTAL FEES DUE: **\$0.00**
(with 2% Credit Card Fee)