



17575 Peak Avenue Morgan Hill CA 95037

APPROVAL CERTIFICATE NO. 20-020

APPLICATION NUMBER: Site Review application: Railroad-Goyal

LOCATION: 16500 Railroad Avenue, east side of Railroad Avenue, approximately 800 ft. south of San Pedro Avenue. (APN 817-58-002)

SITE AREA: 2.66-acres (115,870 SF)

GENERAL PLAN: Industrial

ZONING: General Industrial

DESCRIPTION: A Design Permit approval for a 21,000 square foot industrial development on a 2.66-acre site located at 16500 Railroad Avenue. AU Energy is proposing to construct a 13,000 square foot truck terminal building (Phase 1-Building A) and an 8,000 square foot industrial office building (Phase 2-Building B).

RECITALS

1. On May 26, 2020, the Planning Commission pursuant to the findings and conditions contained in Resolution 20-06, approved Conditional Use Permit Application: UP2020-0005: Railroad-Goyal allowing for a truck (freight) terminal use to locate and construct a 13,000 square foot truck terminal building and an 8,000 square foot industrial office building on the 2.66 acre site, located at 16500 Railroad Avenue, east side of Railroad Avenue, approximately 800 ft. south of San Pedro Avenue (APN 817-58-002), within the General Industrial zoning district.
2. On June 29, 2020, the Community Development Department received an application for a Design Permit to construct a 13,000 square foot truck terminal building and an 8,000 square foot industrial office building on the 2.66 acre site, located at 16500 Railroad Avenue, east side of Railroad Avenue, approximately 800 ft. south of San Pedro Avenue (APN 817-58-002), within the General Industrial zoning district.
3. Said application was deemed complete for processing and was considered by the Development Review Committee (DRC) at its regular meeting of July 15, 2020, at which time the Committee recommended conditional approval of application SR2020-0012: Railroad-Goyal; and

4. Comments received from the public and from the applicant, along with exhibits and drawings and other materials have been considered in the review process; and
5. On October 26, 2020, the Community Development Department considered said application at the close of a duly noticed 10-day public comment period; and
6. The Design Permit has been found in substantial compliance with the site plan contained with the plan set titled "Conceptual Design, CUP Application, AU Energy" dated April 16, 2020, on file with the Planning Division, in application UP2019-0005: Railroad-Goyal.
7. Pursuant to the authority set forth under Section 18.108.040 (Design Permit) of the Morgan Hill Municipal Code, the Community Development Director hereby approves the project application subject to the following conditions incorporated herein and as attached as exhibit "A".

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.** The Community Development Director hereby finds that, on the basis of the whole record before it (including the General Plan EIR, a program EIR and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and the proposed project can be considered exempt from CEQA under Section 15332, In-Fill Development Projects, of the CEQA Guidelines. The project is consistent with the applicable general plan designation and all applicable general plan polices as well as with applicable zoning designation and regulations. The project is a permitted use within the General Industrial zoning district. The custodian of the documents or other material which constitute the record shall be the Community Development Department.
- SECTION 4.** The approved project shall be subject to the following conditions incorporated herein and as attached as exhibit "A".

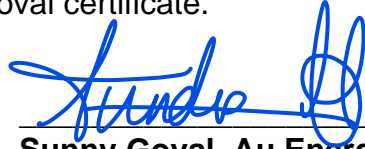
APPROVED THIS 26, DAY OF OCTOBER 2020.



Jennifer Carman
Community Development Director

AFFIDAVIT

I, Sunny Goyal hereby agree to accept and abide by the terms and conditions specified in this approval certificate.



Sunny Goyal, Au Energy-LLC

10/30/2020

Date

EXHIBIT "A"

STANDARD CONDITIONS

APPLICATION: SR2020-0012: Railroad-Goyal

THE FOLLOWING ARE STANDARD CONDITIONS OF APPROVAL THAT MUST-BE MET PRIOR TO THE ISSUANCE OF BUILDING PERMITS AND/OR SITE DEVELOPMENT PERMITS EXCEPT AS MAY BE SPECIFIED IN THE CONDITIONS. THE APPROVAL REQUIREMENTS INCLUDE THESE REQUIREMENTS AND ANY SPECIAL CONDITIONS THAT ARE APPLIED THROUGH THE DEVELOPMENT APPROVAL PROCESS. APPLICANTS ARE REQUIRED TO SIGN THE APPROVAL CERTIFICATE FORM INDICATING THEY UNDERSTAND AND AGREE TO IMPLEMENT THESE STANDARD CONDITIONS AND ANY SPECIAL CONDITIONS APPLIED TO THEIR PERMIT APPROVAL.

ACRONYMS:

MHMC – Morgan Hill Municipal Code

MHARH – Morgan Hill Architectural Review Handbook

PLANNING DIVISION

I. TIME LIMITS

The Design Review approval granted under this Resolution shall remain in effect for two years to October 26, 2022. Failure to obtain building permits within this term shall result in termination of approval unless an extension of time is granted with a showing of just cause prior to expiration date. **(MHMC 18.108.040)**

II. SITE DEVELOPMENT

A. **TREE PROTECTION:** Unless tree removal has been previously approved, all trees located within the project shall be protected using the following minimum protection measures (these guidelines shall be included with all site development plans):

Of the 18 trees to be removed, 14 are considered Ordinance Sized Trees, (including 13 indigenous trees and one non-indigenous tree). For all Ordinance-Sized Trees to be removed, replacement plantings would be required in accordance with Code Section 12.32.080. The remaining seven Ordinance Sized Trees would require preservation and/or protection measures. Should additional Ordinance Sized Trees require trimming or removal, the project applicant would be required to comply with Section 12.32.030 of the City's Municipal Code related to replanting.

1. Mark all trees to be saved with a survey flag or ribbon. Do not nail or staple directly to the tree.
2. Erect a temporary fence enclosing an area equal to at least the dripline of the tree (or as far from the trunk as possible). This tree protection zone shall not be used for parking, storage of building materials, or other equipment or the placement of temporary or permanent fill. Signs should be posted identifying the restriction of uses in the tree protection zone.

3. Locate structures, grade changes, and other ground or surface disturbances (e.g. concrete pours) as far as feasible from the “dripline” area of the tree.
 4. Avoid root damage through grading, trenching, compaction, etc at least within an area 1.5 times the dripline area of the tree. Where root damage cannot be avoided, roots encountered over 1” in diameter should be exposed approximately 12” beyond the area to be disturbed (towards the tree stem), by hand excavation, or with specialized hydraulic or pneumatic equipment, cut cleanly with hand pruners or power saw and immediately back-filled with soil. Avoid tearing or otherwise disturbing that portion of the roots to remain.
 5. The addition of plant or other landscaping materials shall remain outside of the dripline of all trees.
 6. Any tree subject to Chapter 12.32 Restrictions On Removal Of Significant Trees of the Morgan Hill Municipal Code requires approval from the Planning Division. The applicant shall request approval prior to removing any significant trees.
- B. FINAL SITE DEVELOPMENT PLANS: Final site development plans shall be reviewed for conformance with Morgan Hill Municipal Code Section 18.108.040 and approved by the Community Development Department prior to issuance of a building permit. All such plans shall include:
1. Detail depicting all concrete curbs as full formed.
 2. Provision of catalogue drawings depicting the proposed parking area lighting fixtures. Exterior lighting of the building and site shall be designed so that lighting is not directed onto adjacent properties and light source is shielded from direct off-site viewing.
 3. Ramps, special parking spaces, signing and other physical features for the disabled, shall be provided throughout the site for all publicly used facilities.
 4. Trash enclosures shall be constructed of a sturdy, opaque material, minimum 6 feet in height with solid view obstructing gates and shall be designed in harmony with the architecture of the building(s). Sizing and design shall conform to the Morgan Hill Architectural Review Handbook.
 5. All mechanical equipment, including electrical and gas meters, post indicator valve, backflow prevention devices, etc., shall be architecturally screened from view or located interior to the building. All ground mounted utility appurtenances such as transformers shall not be visible from any public right-of-way and shall be adequately screened through the use or combination of concrete or masonry walls, berming, and landscaping. **(MHARH p.20, 45, 79)** For additional screening, backflow preventers shall be painted dark green, except the fire connection which shall be painted yellow.
- C. DUST, NOISE, VIBRATION, AND MATERIALS MANAGEMENT PLAN: A management plan detailing strategies for control of noise, dust and vibration, and storage of hazardous materials during construction of the project shall be on all site development and grading plans. The intent of this condition is to minimize construction related disturbance of residents of the nearby or adjacent properties. **(MHMC 18.76)**

The plan must include the following “Basic Construction Mitigation Measures” per Bay Area Air Quality Management District’s guidelines:

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
4. All vehicle speeds on unpaved roads shall be limited to 15 mph.
5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified visible emissions evaluator.
8. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District’s phone number shall also be visible to ensure compliance with applicable regulations.
9. All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.
10. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
11. Wind breaks (e.g., trees, fences) shall be installed on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity.
12. Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.
13. The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.

14. All trucks and equipment, including their tires, shall be washed off prior to leaving the site.
15. Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12-inch compacted layer of wood chips, mulch, or gravel.
16. Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.
17. Minimizing the idling time of diesel-powered construction equipment to two minutes.
18. The project shall develop a plan demonstrating that the off-road equipment (more than 50 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a project wide fleet-average 20 percent NOX reduction and 45 percent PM reduction compared to the most recent ARB fleet average. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available.
19. Use low VOC (i.e., ROG) coatings beyond the local requirements (i.e., Regulation 8, Rule 3: Architectural Coatings).
20. Requiring that all construction equipment, diesel trucks, and generators be equipped with Best Available Control Technology for emission reductions of NOx and PM.
21. Requiring all contractors use equipment that meets CARB's most recent certification standard for off-road heavy-duty diesel engines.

D. HAZARDOUS MATERIALS:

1. All on site fuel tanks shall be constructed in accordance with all State and County laws.
2. Prior to occupancy a Hazardous Materials Management Plan (HMMP) to be uploaded to the California Environmental Reporting System (CERS). The HMMP shall list the quantities of any chemicals to be held on-site, as well as spill prevention materials and training documents.
3. All hazardous materials stored on site shall be in accordance with, Chapter 8.40 of the City's Municipal Code. Section 8.40.750 establishes regulations related to the types and quantities of hazardous materials that may be stored or used within the City. Based on the allowances within Section 8.40.750, should operation of the proposed project require the use or storage of hazardous materials in excess of the excepted limits, a formal request must be made to the City, including a declaration of information regarding the type and quantities of hazardous materials to be used or stored within the project site.

E. CONSTRUCTION NOISE: Section 8.28.040.D of the Morgan Hill Municipal Code, limits construction activity noise as follows:

"Construction activities" are defined as including but not limited to excavation, grading, paving, demolition, construction, alteration or repair of any building, site, street or highway, delivery or removal of construction material to a site, or movement of construction materials on a site. Construction activities are prohibited other than between the hours of seven a.m. and eight p.m., Monday through Friday and between the hours of nine a.m. to six p.m. on Saturday. Construction activities may not occur on Sundays or federal holidays. No third person, including but not limited to landowners, construction company owners, contractors, subcontractors, or employers, shall permit or allow any person working on construction activities which are under their ownership, control or direction to violate this provision.

Construction activities may occur in the following cases without violation of this provision:

1. In the event of urgent necessity in the interests of the public health and safety, and then only with a permit from the Chief Building Official, which permit may be granted for a period of not to exceed three days or less while the emergency continues and which permit may be renewed for periods of three days or less while the emergency continues.
2. If the chief building official determines that the public health and safety will not be impaired by the construction activities between the hours of eight p.m. and seven a.m., and that loss or inconvenience would result to any party in interest, the chief building official may grant permission for such work to be done between the hours of eight p.m. and seven a.m. upon an application being made at the time the permit for the work is issued or during the progress of the work.
3. The city council finds that construction by the resident of a single residence does not have the same magnitude or frequency of noise impacts as a larger construction project. Therefore, the resident of a single residence may perform construction activities on that home during the hours in this subsection, as well as on Sundays and federal holidays from nine a.m. to six p.m., provided that such activities are limited to the improvement or maintenance undertaken by the resident on a personal basis.
4. Public work projects are exempt from this section and the public works director shall determine the hours of construction for public works projects.

III. BUILDING DESIGN

- A. ROOF MOUNTED MECHANICAL EQUIPMENT: All roof mounted mechanical equipment shall be placed within a screened roof top enclosure depicted on the elevation drawings or located below the parapet level and shall not be visible from the ground at any distance from the building. Cross section roof drawings shall be provided at the building permit stage indicating the relative height of the screen wall or parapet. Minimum screen height or parapet depth shall be 5 ft. or greater to match the height of any proposed equipment. **(MHARH p.48, 65, 87, 106)**
- B. BUILDING MOUNTED LIGHTING: Lighting fixtures shall not project above the fascia or roofline of the building. Any ground mounted lighting projecting onto the building or site will be subject to the review and approval of the Director of Community Development. Adjustment to the lighting intensity may be required after the commencement of the use. **(MHARH p. 67, 109)**
- C. ARCHITECTURAL ELEMENTS:
1. All vents, gutters, downspouts, flashing, electrical conduits, etc. shall be painted to match the color of the adjacent surface or otherwise designed in harmony with the building exterior. **(MHMC 18.74.360)**
 2. Soffits and other architectural elements visible from view but not detailed on the plans shall be finished in a material in harmony with the exterior of the building. **(MHMC 18.74.340)**

IV. PARKING & VEHICULAR ACCESS

PARKING AREA LANDSCAPING: The interior of any parking area shall be landscaped with planter areas measuring a minimum five feet in width, minimum inside dimension. Additional planters shall be provided at both ends of a row of spaces with the planter area length equal to the adjoining parking spaces. The landscape planter shall contain a 12" strip extension (created as an integral pour) of concrete inside the 6" curb of the planter.

V. LANDSCAPING

- A. PLANTING AND IRRIGATION WORKING DRAWINGS: Detailed landscape planting and irrigation working drawings shall be submitted as part of the master building site and improvement plans. Landscape plans for streets and landscape easements shall be part of any improvement plan submittal.
- B. TREES AND SHRUBS MINIMUM SIZE: All trees within approved landscape plans shall be of a minimum fifteen-gallon size. All shrubs shall be minimum 5-gallon size unless otherwise approved by the Community Development Director.
- C. MAINTENANCE OF LANDSCAPING: The landscaping installed and accepted with this project shall be maintained on the site as per the approved plans. Any alteration or

modification to the landscaping shall not be permitted unless otherwise approved by the Community Development Director.

- D. WATER CONSERVING LANDSCAPE ORDINANCE: The landscape plans shall be in conformance with the City's Water Conserving Landscape Ordinance that was developed in accordance with California law. This Ordinance restricts landscaping turf to certain areas, specifies plant selection, requires certain types of irrigation equipment, and calls for the development of comprehensive water use calculations as an aspect of the submitted landscape plans. It is strongly suggested that the project's landscape designer refer to the City's Ordinance prior to beginning development of the project's landscape plans. **(MHMC 18.64)**

VI. SIGNS

SEPARATE APPLICATION REQUIRED FOR SIGN APPROVAL: The signs indicated on the plan set drawings are not approved with the subject site review application. Signs proposed for this development shall be designed in conformance with the Sign Ordinance and shall require separate application and approval by the Planning prior to installation of any signs.

VII. HABITAT PLAN

- A. The approved project is covered under the Santa Clara Valley Habitat Plan (Habitat Plan) and subject to fees and conditions contained in the Habitat Plan.
- B. Prior to issuance of building permits or grading permits the project shall complete and submit a Habitat Plan Application Package. All fees must be paid prior to issuance building permits or grading permits. **(MHMC 18.132)**
- C. Any additional conditions or mitigations required by the Habitat Plan shall be clearly stated on all plans that involve any ground disturbing activity (i.e. grading plans, improvement plans, paving plans, demolition plans or other plans for site clearing or temporary stockpile of dirt). **(MHMC 18.132)**

Condition 1. Avoid Direct Impacts on Legally Protected Plant and Wildlife Species. This condition applies to all projects covered under the Habitat Plan and helps to protect species for which environmental permits cannot be granted: Contra Costa goldfields, bald eagle, American peregrine falcon, southern bald eagle, white-tailed kite, California condor, and Ring-tailed cat (= ringtail); also requires compliance with the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act. For detailed information, see Habitat Plan pages 6-7 to 6-8.

Condition 3. Maintain Hydrologic Conditions and Protect Water Quality. This condition applies to all projects covered by the Habitat Plan and helps protect watershed health, primarily through reducing stormwater discharge and pollutant runoff from project sites. Work with the building or planning staff to determine if NPDES compliance is sufficient for the project or if additional measures are required. For detailed information, see Habitat Plan pages 6-12 to 6-13.

VIII. OTHER CONDITIONS

- A. This Design Review approval is limited to the plan set dated 09/17/2020 on file (File Number SR2020-0012: Railroad-Goyal) with the Community Development Department. The approved building plans and landscape plans must be in substantial conformance with these plans as determined by the Community Development Director.
- B. USE OF STRUCTURE: It is recognized that building B is proposed as speculative and the ultimate use is unknown at this time. Future users of this site are subject to the City's performance standards and may require use permit approval.
- C. RELATED APPLICATIONS: The project shall comply with the conditions of approval of the related applications or planning division files UP2019-0005: Railroad-Goyal.
- D. 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 Design Permit approval. 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.
- E. 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, fees collected under development agreements, or 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.
- F. SIGNED COPIES OF APPROVAL CERTIFICATE: Submit two (2) signed copies of APPROVAL CERTIFICATE NO. 20-016 to the Planning Division prior to issuance of building permits.

G. CULTURAL RESOURCES:

Significant historic or archaeological materials: This project has been determined not to be in a site identified as archaeologically sensitive by the City's adopted archaeological sensitivity map, but nonetheless could adversely impact undocumented human remains or unintentionally discover significant historic or archaeological materials. The following policies and procedures for treatment and disposition of inadvertently discovered human remains or archaeological materials shall apply and should be provided as standard conditions on the building permit, grading permit, or improvement plans. If human remains are discovered, it is probable they are the remains of Native Americans.

1. If human remains are encountered, they shall be treated with dignity and respect as due to them. Discovery of Native American remains is a very sensitive issue and serious concern. Information about such a discovery shall be held in confidence by all project personnel on a need to know basis. The rights of Native Americans to practice ceremonial observances on sites, in labs and around artifacts shall be upheld. Remains should not be held by human hands. Surgical gloves should be worn if remains need to be handled. Surgical mask should also be worn to prevent exposure to pathogens that may be associated with the remains.
2. In the event that known or suspected Native American remains are encountered, or significant historic or archaeological materials are discovered, ground-disturbing activities shall be immediately stopped. Examples of significant historic or archaeological materials include, but are not limited to, concentrations of historic artifacts (e.g., bottles, ceramics) or prehistoric artifacts (chipped chert or obsidian, arrow points, groundstone mortars and pestles), culturally altered ash-stained midden soils associated with pre-contact Native American habitation sites, concentrations of fire-altered rock and/or burned or charred organic materials, and historic structure remains such as stone-lined building foundations, wells or privy pits. Ground-disturbing project activities may continue in other areas that are outside the discovery locale.
3. An "exclusion zone" where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) around the discovery area plus a reasonable buffer zone by the Contractor Foreman or authorized representative, or party who made the discovery and initiated these protocols, or if on-site at the time of discovery, by the Monitoring Archaeologist (typically 25-50ft for single burial or archaeological find).
4. The discovery locale shall be secured (e.g., 24-hour surveillance) as directed by the City or County if considered prudent to avoid further disturbances.
5. The Contractor Foreman or authorized representative, or party who made the discovery and initiated these protocols shall be responsible for immediately contacting by telephone the parties listed below to report the find and initiate the consultation process for treatment and disposition:

- The City of Morgan Hill Community Development Director (408) 778-6480
 - The Contractor's Point(s) of Contact
 - The Coroner of the County of Santa Clara (if human remains found) (408) 793-1900
 - The Native American Heritage Commission (NAHC) in Sacramento (916) 653-4082
 - The Amah Mutsun Tribal Band (916) 481-5785 (H) or (916) 743-5833 (C)
6. The Coroner has two working days to examine the remains after being notified of the discovery. If the remains are Native American, the Coroner has 24 hours to notify the NAHC.
 7. The NAHC is responsible for identifying and immediately notifying the Most Likely Descendant (MLD) from the Amah Mutsun Tribal Band. (Note: NAHC policy holds that the Native American Monitor will not be designated the MLD.)
 8. Within 24 hours of their notification by the NAHC, the MLD will be granted permission to inspect the discovery site if they so choose.
 9. Within 24 hours of their notification by the NAHC, the MLD may recommend to the City's Community Development Director the recommended means for treating or disposing, with appropriate dignity, the human remains and any associated grave goods. The recommendation may include the scientific removal and non-destructive or destructive analysis of human remains and items associated with Native American burials. Only those osteological analyses or DNA analyses recommended by the Amah Mutsun Tribal Band may be considered and carried out.
 10. If the MLD recommendation is rejected by the City of Morgan Hill the parties will attempt to mediate the disagreement with the NAHC. If mediation fails then the remains and all associated grave offerings shall be reburied with appropriate dignity on the property in a location not subject to further subsurface disturbance.

BUILDING DIVISION

1. Project shall be designed to comply with the 2019 California Codes of Regulations as amended by the Morgan Hill Municipal Code Title 15.
2. Project shall comply with the Morgan Hill Municipal Code (MHMC) including but not limited to:
 - A. MHMC 15.65 Sustainable Building Regulations.
 - B. MHMC 18.72.040 C. Electric Vehicle Charging.
 1. When Required. Electric vehicle charging stations shall be provided:
 - a. For new structures or uses required to provide at least twenty-five parking

spaces; and

- b. Additions or remodels that increase an existing parking lot of fifty or more spaces by ten percent or more.
2. Number of Charging Stations. The number of required charging stations shall be as follows:
 - a. Twenty-five to forty-nine parking spaces: One charging station.
 - b. Fifty to one hundred parking spaces: Two charging stations, plus one for each additional fifty parking spaces.

C. MHMC 15.40 Building Security

D. MHMC 15.38 Wage Theft Preventions

E. MHMC 18.148 Water Conservation

F. MHMC 15.63 Prohibition of Natural Gas Infrastructure in New Buildings
(Applies to all Building Permit Applications Received on or after March 1, 2020)
15.63.040 Prohibited Natural Gas Infrastructure in Newly Constructed Buildings.

1. Natural Gas Infrastructure shall be prohibited in Newly Constructed Buildings.
 - a. Exception: Natural Gas Infrastructure may be permitted in a Newly Constructed Building if the Applicant establishes that it is not physically feasible to construct the building without Natural Gas Infrastructure. For purposes of this exception, “physically feasible” to construct the building means either an all-electric prescriptive compliance approach is available for the building under the Energy Code or the building is able to achieve the performance compliance standards under the Energy Code using commercially available technology and an approved calculation method.
 - b. To the extent that Natural Gas Infrastructure is permitted, it shall be permitted to extend to any system, device, or appliance within a building for which an equivalent all-electric system or design is not available.
 - c. Newly Constructed Buildings shall nonetheless be required at a minimum to have sufficient electric capacity, wiring and conduit to facilitate future full building electrification.
 - d. The requirements of this section shall be deemed objective planning standards under Government Code section 65913.4 and objective development standards under Government Code section 65589.5.
3. A separate Building Permit will be required for demolition of existing structures.
4. A separate Building Permit will be required for grading and on-site development.
5. A separate submittal and fee will be required for Santa Clara County Health Department Hazards Materials Division permit and plan review of the fuel tank.

6. A separate submittal to the Building Department will be required to obtain building permits. The project will be reviewed for compliance with the California Code of Regulations and City of Morgan Hill Municipal Code during the building permit review process.

POLICE DEPARTMENT

The Police Department shall review and approve a safety and security plan for the facility including a security camera plan prior to the issuance of a building permit or site development permit, whichever one is issued first.

PRETREATMENT

1. Prior to the issuance of a building permit, the project plans shall include:
 - a. Sand/oil interceptor for the truck wash. The installation location of the sand/oil interceptor and how it will be connected to the sanitary sewer shall be shown on the site plan or plumbing plan.
 - b. A cut sheet shall be provided for interceptor.
 - c. The location of the sewer test manholes for each of the buildings.
 - d. Covered trash enclosure(s) equipped with a 40 lb grease trap servicing the plumbing drain. The drain must have a vandal proof cover.

Inspections by a Pretreatment Inspector are required prior to final building/TI. Call 408-846-0438 or email to Jennifer.Rojero@cityofgilroy.org at least 48 hours in advance to schedule an inspection.

LAND DEVELOPMENT ENGINEERING

I. PROJECT ENGINEERING CONDITIONS

- A. Upon approval of Planning site review (SR), concurrent with the Building Permit submittal for onsite development and grading, developer shall submit a separate set of public improvement plans for the Encroachment Permit/Engineering Review for all work within the public right-of-way. Plans shall be in the format of 36"x24" (D size) with the City's Public Works title block; contact Public Works Engineering Tech John Henry (John.Henry@morganhill.ca.gov) for standard title block and cover sheet. Prior to submitting plans for Encroachment Permit/Engineering Review contact Charlie Ha of Engineering (charlie.ha@morganhill.ca.gov) for submittal plan requirements and review fee.
- B. Along Railroad Avenue, a total of 60 feet street right of way shall be dedicated to the City of Morgan Hill in FEE title, with a 10 feet public service easement (PSE) along the new property line frontage. This street dedication shall supersede the existing easement in place.

- C. Provide a plat(s) and legal description(s) for Grant of street right of way and PSE for the frontages with the public improvement plans submittal for review and approval. For grant of easement template language, request from City Engineering Division.
- D. Provide soils for private and public improvements with Building/Encroachment Permit submittal. Soils report shall include the required public street pavement design per the minimum City Standards for a collector street based on the actual soils condition of Railroad Avenue. For the purpose of the stormwater quality development standards, the necessary percolation test at the location of the stormwater BMPs shall also be performed and provided in the soils report.
- E. Project at a minimum provide a 2" AC grind and overlay along the project frontage provided the existing pavement section and overlay provides an adequate pavement section that meets the current city standard pavement section for a collector street, based on the findings of the soils report per item D above.
- F. Street trees along project frontages shall meet the requirements of the Street Trees Master Plan.
- G. Public streetlight heads shall be 50 LEDs with the heads facing towards the street.
- H. Project shall underground all overhead services to primary overhead lines along the westside of Railroad Avenue.
- I. Project shall pay the in-lieu underground fee for overhead utilities (on west side of Railroad) along the Union Pacific Railroad frontage.
- J. Storm Water Runoff Management Plan (SWRMP) shall follow the format of the SWRMP template (contact Engineering for Word Document template).
- K. Engineering impact fees are due prior to issuance of Building (grading) or Encroachment Permit.
- L. If necessary, project shall enter into an Improvement Agreement (IA) with the City of Morgan Hill to provided surety bonds and insurance to cover required public improvements. **(MHMC 12.02.150; 17.32.010 B; 17.32.160)**
- M. Obtain necessary encroachment permit for work within the public right of way. **(MHMC 12.08.040 A; 12.08.090)**
- N. Prior to any grading activity all construction BMPs shall be in place and inspected by a Third Party SWPPP inspector; inspection report shall be approved by Building and Engineering prior to allowing construction activities to start.
- O. Improvement Agreement (IA) for public improvements will require City Council approval before any Building or Encroachment permit shall be issued.

P. Acceptance of the public improvements will require City Council approval.

II. GENERAL

- A. 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)**
- B. 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 City Engineer prior to submittal of Final Map. **(MHMC Sec 17.32.060 B; 17.32.070; 17.32.080 A)**
- C. Obtain necessary encroachment permits from the City of Morgan Hill and provide guarantee covering off-site improvements. **(MHMC 12.08.040 A; 12.08.090)**
- D. Improvement plans are to show water lines, sanitary Sewer, storm drain system, pavement widths, curve radius, and existing utilities.
- E. **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 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)**

III. STREET IMPROVEMENTS

- A. 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 City Engineer. All street improvements shall be constructed to the satisfaction of the City Engineer. 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)**
- B. 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)**
- C. Dedication of a total of 60 feet of public right-of-way on Railroad. **(MHMC 12.02.010; 12.02.50; 12.02.080; 12.02.90; 12.02.100; 17.28.010)**

- D. 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)**

IV. SANITARY SEWER SYSTEM

- A. 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)**
- B. 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. STORM DRAIN SYSTEM

- A. Collection system shall be designed to be capable of handling a 10-year storm without local flooding. On-site retention 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)**
- B. Prior to final map approval or issuance of a grading permit the applicant shall complete the following to the satisfaction of the City Engineer.
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)
- C. BMP Tree protection shall be part of the SWPPP inspections.
- D. As required by the State Water Resources Control Board (SWRCB) Order No. 2009-0009-DWQ, 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 Land Development Engineering. A Waste Discharger Identification (WDID) number will be issued to the construction site after the SWRCB receives and verifies the submitted ONLINE NOI information. The WIDI number and approved SWPPP Manual shall be provided to Land Development Engineering Division and the Building Division prior to any approval of grading activities **(SWRCB NPDES General Permit CA000002)**.

E. NPDES GENERAL PERMIT SITE SWPPP INSPECTIONS AND COMPLIANCE:

1. ALL project onsite and offsite construction activity shall have the site inspected by a **qualified third party SWPPP Inspector (QSD or QSP or RCE)**.
2. SWPPP Inspections shall occur weekly during the rainy season (September 15th thru May 1st).
3. SWPPP Inspections shall occur bi-weekly during the non-rainy season.
4. 48 hours prior to and following a forecasted rain event, SWPPP Inspections shall occur in addition to those of items 2 or 3 above.
5. Per each of the inspection conditions 2, 3, or 4, the NPDES SWPPP Inspector shall certify in writing to the Building Division and Land Development Engineering Division 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 Land Development Engineering). 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.
6. Prior to rain events, BMPs not in compliance will need to be corrected immediately.
7. 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.
8. Other non-compliance issues need to be addressed within a 24-hour period.
9. Non-compliance issues which have been corrected shall be verified by NPDES SWPPP Inspector by a follow up inspection.

*BMPs maintenance/inspections shall include tree protection if applicable

VI. WATER SYSTEM

- A. The applicant shall cause the design and construction to be undertaken of a domestic water system to the satisfaction of the City Engineer. The water system improvements shall be constructed within public easements or street rights-of-way to the satisfaction of the City Engineer and dedicated to the City. **(MHMC 17.32.020 A & D; CMH Design Standards and Standard Details for Construction; CMH Water System Master Plan)**
- B. 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.
- C. 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)**
- D. Provide separate water services and meters for each service (domestic and irrigation).

VII. OTHER CONDITIONS

- 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 City Engineer. **(MHMC 17.32.020 E.1)**
- C. 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 owner.
- D. 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:
 - 1. Civil Engineer of record.
 - 2. Geotechnical Engineer of record.
 - 3. Third Party QSD/QSP SWPPP Inspector.
 - 4. General Contractor.
 - 5. Sub-Contractors.

VIII. NPDES WATER QUALITY STORMWATER MANAGEMENT DEVELOPMENT STANDARDS FOR ALL PROJECTS

- A. 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 Land Development Engineering's 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

B. 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.

C. 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.

D. 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](#)

E. 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.

F. Properly Design Outdoor Material Storage Areas - Outdoor material storage areas refer to storage areas or storage facilities solely for the storage of materials. Improper storage of materials outdoors may provide an opportunity for toxic compounds, oil and grease, heavy metals, nutrients, suspended solids, and other pollutants to enter the storm water conveyance system. Where proposed project plans include outdoor areas for storage of materials that may contribute pollutants to the storm water conveyance system, the following Structural or Treatment BMPs are required:

1. Materials with the potential to contaminate storm water must be: (1) placed in an enclosure such as, but not limited to, a cabinet, shed, or similar structure that prevents contact with runoff or spillage to the storm water conveyance system; or (2) protected by secondary containment structures such as berms, dikes, or curbs.
2. The storage area must be paved and sufficiently impervious to contain leaks and spills.
3. The storage area must have a roof or awning to minimize collection of storm water within the secondary containment area.

G. Properly Design Trash Enclosure Areas - All trash enclosure areas must meet the following Structural or Treatment Control BMP requirements (individual single-family residences are exempt from these requirements):

1. Roof Required: Trash enclosure areas shall have an all-weather noncombustible solid roof to prevent rainwater from mixing with the enclosure's contents
2. Walls Required: Trash enclosure shall have structural walls to prevent unauthorized off-site transport of trash.
3. Doors: Trash enclosure shall have door(s) which can be secured when closed.
4. Grades: The pad for the enclosure shall be designed to not drain outward, and the grade surrounding the enclosure shall be designed to not drain into the enclosure.
5. Drain Inlet: Within the enclosure, an area drain with an approved (Zurn) vandal proof drain shall be installed and shall be plumbed to the sanitary sewer system with grease trap. Grease trap shall be located within the trash enclosure footprint.

H. 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.

I. 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.

1. 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.
2. 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.
3. 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.
4. 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.

J. 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.

K. Stormwater BMP operation and Maintenance Agreement (SWBOMA) required -

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 Land Development 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.

L. 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 **Registered 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 Land Development Engineering.

M. 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.

N. 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.