September 3, 2014

TO: Santa Clara County Board of Education

FROM: Micaela Ochoa Mgr.
Chief Business Officer

VIA: Jon R. Gundry Chair
County Superintendent of Schools

SUBJECT: Morgan Hill Successor Agency Compensation and Government Dedication

Associated Goals

Provide support to districts, communities, schools and students

Background

Effective February 1, 2012, all redevelopment agencies statewide were dissolved. Successor Agencies to the former redevelopment agencies were established to wind-down the activities of the now dissolved agencies. In order to effectively wind-down all former redevelopment activities, Successor Agencies are required to dispose of all Agency-owned properties and distribute the proceeds to the taxing entities. Health and Safety Code Section 34191.5(b) requires the Successor Agency to submit for approval to the Oversight Board and the Department of Finance (DOE) a Long-Range Property Management Plan (LRPMP) that addresses the disposition and use of the real properties of the former redevelopment agency.

The Successor Agency received its Finding of Completion on June 4, 2013. Therefore, Successor Agency had to submit the LRPMP to the Oversight Board for approval by December 4, 2013. According to the Dissolution Law, the Successor Agency is required to dispose of all Agency-owned properties and distribute the proceeds to the taxing entities. An exception is made if the Successor Agency wishes to transfer the property to the city or county that created the redevelopment agency. Health and Safety Code section 34180(f) allows for the city to retain properties for future development activities or government purpose if the city is able to reach a compensation agreement with the other taxing entities.

The Successor Agency to the City of Morgan Hill (Successor Agency) has in its possession several former Redevelopment Agency properties. After discussions between County and City staff, it was agreed that compensation agreements with the taxing entities were needed for two of the properties. The City of Morgan Hill desires to retain the property located at 17295 Butterfield Boulevard (Site 5) for use as a future fire station site. In addition, the City wishes to retain the property located at 55...
East Fourth Street (Site 4A) for use as a portion of planned development for a 275-space public parking garage to serve Downtown Morgan Hill.

The future fire station site (Site 5) is currently used as a park and community garden. The Government Use Dedication Agreement requires that the City complete construction of the fire station on the property no later than 10 years from the date the deed is recorded. If the City fails to construct a fire station on the property or if the City diverts the property from the dedicated government purpose during a period of 30 years, the property will revert to the Successor Agency to be liquidated for the benefit of the affected taxing entities.

The future parking garage (Site 4A) will be free to the public and therefore will not generate parking revenue for City or Successor Agency. Ordinarily, this lot would be eligible for transfer as a government use asset under Health and Safety Code, but because the parking lot is open to individuals other than governmental employees, it does not meet specific Code requirement for such a transfer. Thus, a compensation agreement is required with the affected taxing agencies.

The Santa Clara County, on behalf of the taxing entities including SCCOE, County and City staff worked cooperatively on the Compensation Agreements (Agreements) to ensure that they would benefit all parties’ interests in a fair and equitable manner. The Agreements allow for the properties to be transferred to the City for $0. Under the agreement for Site 4A, if the City generates any revenue from the property, including operation, transfer, or sale of the property during a period of 30 years, it would be distributed to the taxing entities. The revenue interest is determined by the proportion of the parking garage footprint contained on Site 4A, which is approximately 25 percent.

The Morgan Hill Successor Agency and the Morgan Hill City Council approved both Agreements on July 16, 2014. Subsequently, the Morgan Hill Oversight Board unanimously approved both agreements on July 23, 2014. The Director of District Business and Advisory Services (DBAS) is SCCOE’s representative on the Morgan Hill Oversight Board.

Fiscal Implications

There is a potential positive fiscal impact related to approving these Compensation Agreements depending on the use and revenue generated from the properties.

Requested Action

Approve the compensation agreements under Health and Safety Code Section 34180 related to the conveyance of the Morgan Hill Successor Agency owned parcels located at 55 East Fourth Street (Site 4A) and 17295 Butterfield Boulevard (Site 5), providing for the transfer of said properties to the City of Morgan Hill (City) for use as a part of the site for a downtown public parking garage and a future fire station.
COMPENSATION AGREEMENT

THIS COMPENSATION AGREEMENT (this "Agreement") is made and entered into as of _____________ 2014 (the "Effective Date"), by and among the Successor Agency to the former Morgan Hill Redevelopment Agency, a public entity established under Health and Safety Code section 34173 (the "Successor Agency"), the City of Morgan Hill, a California municipal corporation (the "City"), and each of the undersigned local agencies and school districts, each a taxing entity as defined by Health and Safety Code section 34171(k) (the "Taxing Entities"), with the consent of the Oversight Board to the Successor Agency, a local entity established under Health and Safety Code section 34179 (the "Oversight Board"). The Successor Agency, City, and the Taxing Entities are collectively the "Parties" and each a "Party."

RECITALS

WHEREAS, pursuant to Health and Safety Code section 34191.5, the Successor Agency prepared a long-range property management plan (the "Plan") to dispose of the real property of the former Morgan Hill Redevelopment Agency (the "RDA"), including the real property located 55 East 4th Street in the City of Morgan Hill, commonly known by Assessor’s Parcel No. 726-13-033 located in the County of Santa Clara, California, and more particularly described in the attached Exhibit A (the "Property"); and

WHEREAS, the Oversight Board and the Department of Finance approved the Plan and pursuant to Health and Safety Code section 34191.4(a), the Property transferred to the Community Redevelopment Property Trust Fund for administration by the Successor Agency; and

WHEREAS, in accordance with Health and Safety Code section 34180(f), the City desires to develop the Property as a portion of a larger site for a municipal parking garage (the "Garage") as described in Exhibit B; and

WHEREAS, under the Plan, the Successor Agency shall convey the Property to the City in the manner provided by Health and Safety Code section 34180(f) and in consideration the Taxing Entities shall be compensated as provided herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereby agree as follows:

AGREEMENT

1. CONVEYANCE OF PROPERTY. The Successor Agency shall convey, and City shall accept, all of the interest in and to the Property, subject to the terms, conditions, and covenants of this Agreement. Successor Agency shall convey the Property by deed. As a condition precedent to the passing of the estate, the deed shall require the concurrent filing of an executed copy of this Agreement with the deed in the Santa Clara County Office of the Clerk-Recorder. The City shall promptly provide the Taxing Entities copies of the recorded documents.
2. COMPENSATION.

a. Revenue Interest. In consideration for the conveyance of the Property to City, the City hereby assigns and conveys to the Taxing Entities for a period of thirty (30) years beginning on the date that the Property transfers to City, the revenues, if any, less reasonable operating and maintenance expenses incurred by City, generated from any operation, use, or transfer or sale of the Property, beginning the date the Property transfers to City; provided, that if (A) the Property is developed as the site for the Garage, and (B) the Garage generates revenues, if any, during said thirty (30)-year term, then the Taxing Entities shall be entitled to a share of the Garage revenues, less reasonable operating and maintenance expenses incurred by City, calculated as follows (collectively “Revenue Interest”):

\[
\frac{\text{Footprint of Property that serves a site for Garage}}{\text{Total footprint of Garage}} \times \text{Total Revenue}
\]

b. The City shall annually pay to the Taxing Entities the Revenue Interest for the preceding fiscal year, if any. Within 90 days following the conclusion of the then-preceding fiscal year, the City shall submit to the Santa Clara County Auditor-Controller (“Auditor-Controller”) the Revenue Interest and provide a statement prepared in accordance with sound accounting practice that provides the City’s calculation of the Revenue Interest; provided, however, that the Parties acknowledge and agree that City does not intend or plan to charge for parking at the Garage in the reasonably foreseeable future such that no Revenue Interest is anticipated to be generated in the near term and, in light of this representation by City, the Parties agree that City is not required to provide such statement setting forth Revenue Interest until such time that Revenue Interest begins to be generated. Upon the generation of any Revenue Interest, City shall keep complete, accurate and appropriate books and records of its calculation of Revenue Interest. The Auditor-Controller shall have the right, on behalf of the Taxing Entities and upon reasonable written notice to City, to audit and examine such books, records and documents and other relevant items in the possession of City, but only to the extent necessary for a proper determination of Revenue Interest.

c. Distribution of Revenue Interest. Within 30 days following payment by the City, the Auditor-Controller shall distribute the Revenue Interest among the Taxing Entities in proportion to their shares of the base property tax, as determined pursuant to Health and Safety Code section 34188.

3. TERM. The term of this Agreement shall be commence at the Effective Date and shall continue for a period of thirty (30) years after the date that the Property transfers to the City, unless sooner terminated by the Parties.

4. LIMITATION OF LIABILITY AND INDEMNIFICATION.

a. Liability of Taxing Entities. The Taxing Entities shall not be liable to the City Parties, and the City Parties hereby waive and discharge all claims against the Taxing Entities, for any and all liability, demands, claims, costs, losses, injuries, damages, recoveries,
settlements, and expenses (collectively, "Claims") resulting from or in any way in connection with or incidental to the transfer of title of the Property to the City or the City’s use of the Property during the term of this Agreement, no matter how caused, except that the Taxing Entities shall be liable to the City Parties for Claims arising solely from the Taxing Entities’ active negligent acts or omissions or willful misconduct. The Parties further agree that the Taxing Entities’ liability of any kind with respect to the Property or otherwise arising from the obligations under this Agreement shall be limited to the amount of a Revenue Interest payable for the fiscal year in which such Claim arises. This provision shall survive any termination of the Agreement.

b. Indemnity. In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the Parties pursuant to Government Code Section 895.6, the Parties agree that all losses or liabilities incurred by a Party shall not be shared pro rata but instead the Parties agree that pursuant to Government Code Section 895.4, each of the Parties shall fully indemnify and hold each of the other Parties, their officers, board members, employees and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying Party, its officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such Party under this Agreement. No party, nor any officer, board member, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of other Parties hereto, their officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such other Parties under this Agreement.

5. MISCELLANEOUS PROVISIONS.

a. Non-Waiver. No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement will be effective unless it is in writing and signed by the waiving Parties.

b. No Partnership. Nothing contained in this Agreement shall be construed to constitute any Party as a partner, employee, joint venturer, or agent of any other Party.

c. Covenants Run With Land. The agreements, covenants and conditions contained in this Agreement are and shall be deemed to be covenants running with the land and shall be binding upon and shall inure to the benefit of City and the Taxing Entities and their respective successors and assigns.

d. Notices. All deliveries, notices, requests, demands or other communications provided for or required by this Agreement shall be in writing and shall be deemed to have been given when sent by registered or certified mail, return receipt requested; when sent by overnight carrier; or upon email confirmation to sender of receipt of a facsimile communication which is followed by a mailed hard copy from sender. Notices shall be addressed as specified in each Party’s signature block.

e. Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal, or unenforceable provisions had not been contained herein.

Compensation Agreement
Site 4A

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f. Time is of the Essence. Time is of the essence of each and all of the agreements, covenants, and conditions of this Agreement.

g. Ambiguities. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party does not apply in interpreting this Agreement.

h. Integration. This instrument constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior offers and negotiations, oral or written.

i. Amendment. This Agreement may be modified only in writing and only if signed by the Taxing Entities and the City at the time of the modification. Following the execution of this Agreement, the Successor Agency’s consent shall not be required for any modification of the Agreement.

j. Governing Law. This Agreement shall be construed and interpreted according to the laws of the State of California, excluding its conflict of law principles. Proper venue for legal actions will be exclusively vested in a state court in the County of Santa Clara. The Parties agree that subject matter and personal jurisdiction are proper in state court in the County of Santa Clara and waive all venue objections.

k. Counterparts. This Agreement may be executed in one or more counterparts, each of which will be considered an original, but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

SUCCESSOR AGENCY

By: ____________________________________________
Name: ____________________________________________
Title: ____________________________________________
Address: ____________________________________________
Date: ____________________________________________

CITY OF MORGAN HILL

By: ____________________________________________
Name: ____________________________________________
Title: ____________________________________________
Address: ____________________________________________
Date: ____________________________________________

APPROVED AS TO FORM

By: ____________________________________________
Name: ____________________________________________
Title: Agency Counsel

APPROVED AS TO FORM

By: ____________________________________________
Name: ____________________________________________
Title: City Attorney

[Signature Page Continues]
SANTA CLARA COUNTY
AUDITOR-CONTROLLER

By: ____________________________
Name: Emily Harrison
Title: Finance Director
Address: 70 W. Hedding Street,
East Wing, 2nd Floor
San Jose, CA 95110
Date: ____________

CONSENT OF OVERSIGHT BOARD

By: ____________________________
Name:
Title:
Address: 17575 Peak Avenue
Morgan Hill, CA 95037
Date: ____________

APPROVED AS TO FORM AND LEGALITY

By: ____________________________
Name: E. Ray Ruiz
Title: Deputy County Counsel

[Signature Page Continues]

Compensation Agreement
Site 4A

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071114
TAXING ENTITIES

COUNTY OF SANTA CLARA

By: ____________________________
Name: Mike Wasserman
Title: President, Board of Supervisors
Address: 70 W. Hedding Street,
    East Wing, 10th Floor
    San Jose, CA 95110
    Attn: Clerk of the Board
Date: ____________

MORGAN HILL UNIFIED SCHOOL DISTRICT

By: ____________________________
Name: __________________________
Title: __________________________
Address: ________________________
Date: ____________

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT

By: ____________________________
Name: __________________________
Title: __________________________
Address: ________________________
Date: ____________

SANTA CLARA COUNTY OFFICE OF EDUCATION

By: ____________________________
Name: __________________________
Title: __________________________
Address: ________________________
Date: ____________

[Signature Page Continues]

Compensation Agreement
Site 4A

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DESCRIPTION.

CITY OF MORGAN HILL.

ALL OF THOSE CERTAIN LOTS FIXED ON MAPS OF PARCELS OF LAND, SITUATE, LYING AND BEING IN THE TOWN OF MORGAN HILL, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA AND BOUNDED AND PARTICULARLY DESCRIBED AS FOLLOWS TO WIT:

LOTS NO. NINETEEN (19) AND TWENTY (20) (BLOCk NO. TWENTY (20) AS EIGHTH AND DEPICTED ON THE MAP ENTITLED MORGAN HILL RANCH MAP NO. 2, THE TOWN OF MORGAN HILL...HARRIS & J. PHILLIPS-SURVEYOR OF PART OF THE MORGAN HILL RANCH, SANTA CLARA COUNTY CALIFORNIA SURVEYED AND FILED BY RICHARD BROWN, SURVEYOR'72, R. B. BAY, ASSESSOR IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY OF SANTA CLARA AND NOW ON RECORD THEREIN IN BOOK "E" OF MAPS AT PAGE 12, AND TO WHICH MAP THIS AND THE FOLLOWING THEREAFTER REFERENCE. IN HEREBE MADE THE FURTHER OR NOSE PARTICULAR DESCRIPTION.

EXCEPTING THEREAFTER ALL OF REAL PROPERTY DESCRIBED AS FOLLOWS:

BEGINNING AT THE COMMON CORNER OF LOTS 19, 20, 21, 22, 23 (IN BLOCK 19, 22, 23, 24) LOTS AND BLOCK AND SHOWN ON THE MAP REHEARING REFERRED TO, THEREBY AGGREGATELY ALONG THE DIVIDING LINE BETWEEN SAID LOTS 19 AND 20, 25.00 FEET THENCE SOUTHWESTERLY AND PARALLEL WITH THE DIVIDING LINE BETWEEN LOTS 18 AND 19 AND BETWEEN LOTS 18 AND 20 IN SAID BLOCK 19, 60.00 FEET TO THE DIVIDING LINE BETWEEN LOTS 20 AND 21 IN SAID BLOCK 19, AS SHOWN ON SAID MAP THEREBY AGGREGATELY ALONG SAID LAST MENIONED-LINE, 35.00 FEET TO THE COMMON CORNER FOR LOTS 19, 21 AND 22, IN SAID BLOCK 22, THEREBY SOUTHEASTERLY ALONG DIVIDING LINE BETWEEN SAID LOTS 21 AND 22 AND BETWEEN LOTS 21 AND 22, 100.00 FEET TO THE POINT OF BEGINNING AND HAVING THE BOUNDARY 93.00 FEET OF LOTS 18 AND 20, IN BLOCK 18, AS SHOWN LOTS AND BLOCK AND SHOWN UPON THE MAP OF MORGAN HILL RANCH NO. 2, THE TOWN OF MORGAN HILL,系FOR SAID MAP TO BE RECORD IN BOOK "E" OF MAPS, PAGE 18, SANTA CLARA COUNTY RECORDS.

APR: 720-13-033
EXHIBIT B
GARAGE PROPERTY
GOVERNMENT USE DEDICATION AGREEMENT

THIS GOVERNMENT USE DEDICATION AGREEMENT (this “Agreement”) is made and entered into as of __________ (the “Effective Date”), by and among the Successor Agency to the former Morgan Hill Redevelopment Agency, a public entity established under Health and Safety Code section 34173 (the “Successor Agency”), the City of Morgan Hill, a California municipal corporation (the “City”), and each of the undersigned local agencies and school districts, each a taxing entity as defined by Health and Safety Code section 34171(k) (the “Taxing Entities”), with the consent of the Oversight Board to the Successor Agency, a local entity established under Health and Safety Code section 34179 (the “Oversight Board”). The Successor Agency, City, and the Taxing Entities are collectively the “Parties” and each a “Party.”

RECITALS

WHEREAS, pursuant to Health and Safety Code section 34191.5, the Successor Agency prepared a long-range property management plan (the “Plan”) to dispose of the real property of the former Morgan Hill Redevelopment Agency (the “RDA”), including the real property commonly known as 17295 Butterfield Boulevard located in the City of Morgan Hill, County of Santa Clara, California, and more particularly described in the attached Exhibit A (the “Property”), incorporated by reference herein; and

WHEREAS, the Oversight Board and the Department of Finance approved the Plan and pursuant to Health and Safety Code section 34191.4(a), the Property transferred to the Community Redevelopment Property Trust Fund for administration by the Successor Agency; and

WHEREAS, in accordance with the Plan, the Parties desire to dedicate the Property to the City for government use under the terms and conditions of this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereby agree as follows:

AGREEMENT

1. Dedication for Government Use. The Parties agree to dedicate and transfer their interests in and to the Property to the City subject to the terms and conditions of this Agreement. In consideration of the Parties’ conveyance of the Property, the City agrees to accept the Property subject to the following conditions: (i) the City shall hold the Property in trust to be used as a community plaza and as the site for a future fire station for the benefit of the health, safety, comfort, and recreation of the citizens of the Parties (“Dedicated Purposes”); (ii) the City agrees to complete the construction of a fire station on the Property no later than 10 years from the date the Deed (as defined in Section 3 of this Agreement) is recorded; and (iii) this conveyance shall be subject to an express condition subsequent that if the City diverts the Property from the Dedicated Purposes during a period of 30 years from the date the Deed is recorded or fails to construct the fire station within the time specified in this Agreement, the Property shall revert to the Successor Agency, its successors or assigns to be held in trust for the
benefit of the Taxing Entities for liquidation pursuant to Section 2 of this Agreement. The Taxing Entities are express beneficiaries of this grant of real property with the right to enforce the terms and conditions of this grant. After said 30 year period, City may use the Property for any lawful purpose and free from all conditions set forth in this Agreement.

2. Liquidation. If the Property reverts to the Successor Agency pursuant to Section 1(iii) of this Agreement, the Successor Agency shall promptly liquidate the Property for fair market value; provided the Successor Agency shall offer, and City may purchase, the Property for fair market value in lieu of such liquidation. The Successor Agency shall within 30 days of such liquidation or purchase by the City remit the proceeds to the Santa Clara County Auditor-Controller ("Auditor-Controller") for distribution to the Taxing Entities in proportion to their shares of the base property tax in effect on the date of distribution pursuant to Health and Safety Code section 34188.

3. Timing of Dedication; Closing. The conveyance described in Section 1 above shall occur by deed ("Deed") in substantially the form attached hereto as Exhibit B. Within 30 days after the execution of this Agreement, the Successor Agency and the City shall close this transaction by recording the duly executed and acknowledged copies of the Deed and the Agreement with the Santa Clara County Office of the Clerk-Recorder; the Successor Agency shall promptly provide copies of the recorded documents to the Taxing Entities. Any costs of escrow and title associated with the conveyance of the Property shall be borne by the City.

4. Condition of Property. City acknowledges and agrees that except as expressly set forth in this Agreement, the Parties are not making any representations or warranties regarding the Property, whether express or implied. City takes the Property "AS-IS" "WHERE IS" AND "WITH ALL FAULTS" and no patent or latent defect or deficiency in the condition of the Property whether or not known or discovered, shall affect the rights of either of the Parties. In the City's discretion, City shall examine the legal, environmental, land use, seismic, title, survey, and physical characteristics and condition of the Property. By accepting this dedication, City shall be deemed to have approved of all such characteristics and condition of the Property.

5. Release. City agrees that, upon the closing of this transaction, City shall fully and forever release and discharge the Successor Agency and the Taxing Entities and their respective elected and appointed officers, officials, employees, agents, and representatives (collectively, the "Indemnitees") from any and all liabilities, losses, claims (including third-party claims), demands, damages (of any nature whatsoever), causes of action, costs, penalties, fines, judgments, attorneys' fees, consultants' fees, and costs and experts' fees, orders, decrees and administrative actions (collectively, "Claims"), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way connected to the Property, including without limitation, (i) the physical, environmental, and seismic condition of the Property or any law or regulation applicable thereto, (ii) any patent or latent defects or deficiencies of the Property, and (iii) any and all matters related to the Property or any portion thereof, including without limitation, the condition and/or operation of the Property and each part thereof; provided, however, that Indemnitees shall not be released from any Claim involving fraud or intentional misrepresentation of any Indemnitee or Claims that arise from the gross negligence or willful misconduct acts or omissions of the Indemnitees.

City expressly waives the provisions of section 1542 of the California Civil Code, which provides:

Government Use Dedication Agreement

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ERR020514
A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH DEBTOR.

The provisions of this Section shall survive the closing and shall not be deemed merged into any instrument or conveyance delivered at closing.

City's Initials: _____

6. **Indemnity.** In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the Parties pursuant to Government Code section 895.6, the Parties agree that all losses or liabilities incurred by a Party shall not be shared pro rata but instead the Parties agree that pursuant to Government Code section 895.4, each of the Parties shall fully indemnify and hold harmless each of the other Parties, their officers, board members, employees and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying Party, its officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such Party under this Agreement. No Party, nor any officer, board member, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of other Parties hereto, their officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such other Parties under this Agreement. This Section shall survive any termination of the Agreement.

7. **Non-Waiver.** No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement will be effective unless it is in writing and signed by the waiving Parties.

8. **No Third Party Beneficiaries.** The Parties intend that the rights, obligations and covenants in this Agreement shall be exclusively enforceable by the Parties. There are no third party beneficiaries to this Agreement.

9. **No Partnership.** Nothing contained in this Agreement shall be construed to constitute any Party as a partner, employee, joint venturer, or agent of any other Party.

10. **Covenants Run With Land.** The agreements, covenants and conditions contained in this Agreement are and shall be deemed to be covenants running with the land and shall be binding upon and shall inure to the benefit of City, Successor Agency, and the Taxing Entities and their respective successors and assigns.

11. **Notices.** All deliveries, notices, requests, demands or other communications provided for or required by this Agreement shall be in writing and shall be deemed to have been given when sent by registered or certified mail, return receipt requested; when sent by overnight carrier; or upon email confirmation to sender of receipt of a facsimile communication which is
followed by a mailed hard copy from sender. Notices shall be addressed as specified in each Party’s signature block.

12. **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal, or unenforceable provisions had not been contained herein.

13. **Time is of the Essence.** Time is of the essence of each and all of the agreements, covenants, and conditions of this Agreement.

14. **Ambiguities.** Any rule of construction to the effect that ambiguities are to be resolved against the drafting party does not apply in interpreting this Agreement.

15. **Integration.** This instrument constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior offers and negotiations, oral or written.

16. **Amendment.** This Agreement may be modified only in writing and only if signed by the Taxing Entities and the City at the time of the modification. Following the execution of this Agreement, the Successor Agency’s consent shall not be required for any modification of the Agreement.

17. **Governing Law.** This Agreement shall be construed and interpreted according to the laws of the State of California, excluding its conflict of law principles. Proper venue for legal actions will be exclusively vested in a state court in the County of Santa Clara. The Parties agree that subject matter and personal jurisdiction are proper in state court in the County of Santa Clara, and waive all venue objections.

18. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be considered an original, but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**SUCCESSOR AGENCY**

By: ____________________________
Name: __________________________
Title: ___________________________
Address: 17575 Peak Avenue
Morgan Hill, CA 95037
Date: _______________

**CITY OF MORGAN HILL**

By: ____________________________
Name: __________________________
Title: ___________________________
Address: 17575 Peak Avenue
Morgan Hill, CA 95037
Date: _______________

[Signature Page Continues]
APPROVED AS TO FORM

By: __________________________
Name: ________________________
Title: Agency Counsel

APPROVED AS TO FORM

By: __________________________
Name: ________________________
Title: City Attorney

SANTA CLARA COUNTY
AUDITOR-CONTROLLER

By: __________________________
Name: Emily Harrison
Title: Finance Director
Address: 70 W. Hedding Street,
          East Wing, 2nd Floor
          San Jose, CA 95110
Date: _______________

CONSENT OF OVERSIGHT BOARD

By: __________________________
Name: ________________________
Title: ________________________
Address: 17575 Peak Avenue
         Morgan Hill, CA 95037
Date: _______________

[Signature Page Continues]
TAXING ENTITIES

COUNTY OF SANTA CLARA

By: ____________________________
Name: Mike Wasserman
Title: President, Board of Supervisors
Address: 70 W. Hedding Street,
East Wing, 10th Floor
San Jose, CA 95110
Attn: Clerk of the Board
Date: ________________

MORGAN HILL UNIFIED SCHOOL DISTRICT

By: ____________________________
Name: 
Title: 
Address: 
Date: ________________

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT

By: ____________________________
Name: 
Title: 
Address: 
Date: ________________

SANTA CLARA COUNTY OFFICE OF EDUCATION

By: ____________________________
Name: 
Title: 
Address: 
Date: ________________

[Signature Page Continues]
EXHIBIT A

The land referred to herein is situated in the State of CALIFORNIA, County of Santa Clara, City of Morgan Hill, and is described as follows:

Parcel A, as said parcel is shown on the certain Lot Line Adjustment Parcel Map filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on December 18, 2003, in Book 786 of Maps, as Pages 39 and 40.

APN: 726-15-072

ADDRESS: 17390 BUTTERFIELD BLVD.
MORGAN HILL, CA 95037
QUITCLAIM DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the Successor Agency ("Grantee") to the former Morgan Hill Redevelopment Agency, a public entity established under California Health and Safety Code section 34173, as Trustee of the Community Redevelopment Property Trust Fund, hereby conveys, releases, remises, and quitclaims to the City of Morgan Hill, a California municipal corporation ("Grantee"), the real property ("Property") in the County of Santa Clara, State of California, described in Exhibit A attached hereto and incorporated herein by this reference, subject to all liens, encumbrances, easements, covenants, conditions and restrictions of record.

Reference is hereby made to that certain Government Use Dedication Agreement ("Agreement"), dated July 15, 2014, by and among Grantor, Grantee, and each of the taxing entities ("Taxing Entities") signatory thereto (as defined by Health and Safety Code section 34171(k)), and such Agreement is incorporated by this reference as if fully set forth herein. Terms not otherwise defined herein shall have the meanings set forth in the Agreement.

In accordance with section 1 of the Agreement, this conveyance is made subject to the following conditions, each of which the Grantee covenants and agrees by accepting the delivery of this grant:

1. The Grantee shall hold the Property in trust to be used as a community plaza and as the site for a future fire station for the benefit of the health, safety, comfort, and recreation of the citizens of the Parties ("Dedicated Purposes");

2. The Grantee agrees to complete the construction of a fire station on the Property no later than 10 years from the date this Quitclaim Deed is recorded;

3. This conveyance shall be subject to an express condition subsequent that if the Grantee diverts the Property from the Dedicated Purposes for a period of 30 years from the recording of this Quitclaim Deed or fails to construct the fire station within the time specified by this Quitclaim Deed, the Property shall revert to the Grantor, its successors or assigns to be held
in trust for the benefit of the Taxing Entities for liquidation pursuant to section 2 of the Agreement. The Taxing Entities are express beneficiaries of this grant of real property with the right to enforce the terms and conditions of this grant. After said 30 year period, Grantee may use the Property for any lawful purpose and free from all conditions set forth in this Quitclaim Deed or otherwise specified in the Agreement.

IN WITNESS WHEREOF, the Grantor has executed this Quitclaim Deed on ____ day of ________, 2014.

Successor Agency
ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA
COUNTY OF SANTA CLARA } SS

On this ___ day of ____________, in the year 20__, before me ____________________________,
Notary Public, personally appeared ____________________________
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

______________________________
Notary Public in and for said County and State

CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the
document.

[ ] Individual
[ ] Corporate Officer(s):
[ ] Partner(s)  [ ] Limited  [ ] General
[ ] Attorney-In-Fact
[ ] Trustee(s)
[ ] Guardian/Conservator
[ ] Other: _____

______________________________
Signer is Representing (Name of Person(s) or Entity(ies)