



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve and Authorize the City Manager to Execute a Stormwater Management Facilities Operation and Maintenance Agreement for Pulte Home Corporation for the Metro Project at 1401 South Milpitas Boulevard.
Category:	Consent Calendar-Community Development
Meeting Date:	4/6/2021
Staff Contact:	Steve Erickson, 408-586-3301
Recommendation:	Approve and Authorize the City Manager to Execute a Stormwater Management Facilities Operation and Maintenance Agreement for Pulte Home Corporation for the Metro Project at 1401 South Milpitas Boulevard.

Background:

On October 5, 2010, the City Council conditionally approved a Vesting Tentative Map (VTM) to allow for 303 new dwelling units on four lots located at 1401 South Milpitas Boulevard just north of Montague Expressway within the Transit Area Specific Plan area.

The initial developer, Milpitas Station (San Jose) Venture L.L.P., completed 46 dwelling units on Lot 1 (Tract 10218) and sold the remaining project (Lots 2 to 4, Tract 10349) to Pulte Home Corporation (the "Developer") on April 28, 2015.

In accordance with State Law and the City's Municipal Regional Stormwater NPDES Permit ("MRP") issued by the Regional Water Quality Control Board ("RWQCB"), new development and redevelopment projects that create and/or replace 10,000 square feet or more of impervious surface are required to incorporate Low Impact Development ("LID") post construction stormwater control measures into the project. LID control measures include, for example, bioretention areas, flow-through planters, permeable pavement, infiltration trenches and tree well filters.

Analysis:

MRP section C.3.h.ii.(1)(a) and Milpitas Municipal Code Title XI Chapter 16 require development project property owners meeting the 10,000 square foot threshold to execute and record a Stormwater Management Facilities Operation and Maintenance Agreement ("Agreement") with the City for the perpetual operation, maintenance and annual inspection of LID stormwater treatment facilities.

The Pulte Home development uses two different types of storm water bio-retention treatment devices and areas. These are Media Filtration Devices and Bio-Treatment Areas. The Developer and the subsequent Homeowners Association (HOA) will be responsible for the perpetual maintenance and operation of bio-retention treatment devices and areas specified in the Agreement, some of these located within the Public Right-of-way.

The Project has now been completed and the owner has complied with the LID requirements and has executed the required Agreement, which has been reviewed by the City Attorney as to form and by the City Engineer as to content.

Policy Alternatives:**Alternative 1:**

Not approve the Agreement with the City for operation, maintenance and annual inspection of stormwater treatment facilities.

Pros: None

Cons: Not approving the Agreement would cause the project to be not in compliance with the conditions of development and the City's Municipal Code and would be prohibitive by federal and state law.

Reason not recommended: To be in compliance with federal and state law, including the MRP, and to allow for the on-going maintenance and annual City Inspection of the installed stormwater treatment devices and areas, staff recommends approval of the Agreement.

Fiscal Impact:

The developer will pay for the required annual maintenance and inspection of the stormwater facilities.

California Environmental Quality Act:

This Agreement ensures the continuation of an administrative or maintenance activity. Execution of the Agreement is not considered a project under CEQA Guidelines section 15378(b)(4) as there will be no direct or reasonably foreseeable indirect physical change in the environment from this action to ensure continuing administrative and maintenance activities.

Recommendation:

Approve and Authorize the City Manager to Execute a Stormwater Management Facilities Operation and Maintenance Agreement for Pulte Home Corporation for the Metro Project at 1401 South Milpitas Boulevard.

Attachments:

Stormwater Management Facilities Operation and Maintenance Agreement