



## CITY OF MILPITAS AGENDA REPORT (AR)

<b>Item Title:</b>	<b>Approve and Authorize the Interim City Manager to Execute an Improvement Agreement for a Commercial Development at 521 Alder Drive (Staff Contact: Steve Erickson, 408-586-3301)</b>
<b>Category:</b>	Consent Calendar-Community Development
<b>Meeting Date:</b>	9/3/2019
<b>Staff Contact:</b>	Steve Erickson, 408-586-3301
<b>Recommendation:</b>	Approve and Authorize the Interim City Manager to Execute the Improvement Agreement between the City of Milpitas and LD Milpitas Property, LLC, subject to any revisions deemed legally necessary by the City Attorney.

### **Background:**

On April 25, 2018, the Planning Commission conditionally approved a Site Development Permit (SD17-0005), Conditional Use Permit (UP17-0004), Variance (VA17-0001) and Environmental Assessment (EA17-0002) for the development of a 194-room, five story hotel with site improvements on a 3.34 acre site located at the northwest corner of Alder Drive and Barber Lane. This project is known as Element Hotel (Project), and the developer is LD Milpitas Property, LLC.

### **Analysis:**

Project conditions of approval require the permittee to obtain public improvement design and to bond for all public improvements to be constructed prior to building permit issuance. The City Engineer has reviewed the public improvement plans (E-EN18-0081 and E-EN18-0154) and is recommending the City Council approve the Improvement Agreement for the Project to allow for the construction of public improvements that will be accepted by the City upon completion.

Public improvements to be constructed include curb and gutter, sidewalk, driveways, curb ramp, asphalt concrete pavement, street median modifications, signing and striping, utility services, landscaping and other miscellaneous items of work identified on the improvement plans. The permittee has executed the Improvement Agreement and also provided improvement securities in the amount of \$353,433 to guarantee completion of the public improvements.

### **Policy Alternative:**

**Alternative:** Deny approval of Improvement Agreement.

**Pros:** None

**Cons:** The approval and execution of an Improvement Agreement is a requirement to allow the Project to proceed, and will provide for the construction of public improvements. A denial of the Project Improvement Agreement will delay the project in proceeding and would prevent construction of public improvements.

**Reason not recommended:** To allow the Project to move forward in compliance with the Conditions of Approval, and to provide installation of public improvements for this Project, Staff recommends Council approval of the Improvement Agreement.

**Fiscal Impact:**

The Improvement Agreement provides construction of specified public improvements as shown on the plans, to be paid for by the Developer. The Developer has opened a Private Jobs Account (PJ Account) with the City for the reimbursement of City Staff time related to Engineering Department review and approval of the Project public improvement plans including inspection during the construction phase.

**California Environmental Quality Act:**

Execution of the Improvement Agreement is not considered a project under CEQA as there will be no direct or reasonably foreseeable indirect physical change in the environment.

**Recommendation:**

Approve and Authorize the Interim City Manager to Execute the Improvement Agreement between the City of Milpitas and LD Milpitas Property, LLC, subject to any revisions deemed legally necessary by the City Attorney

**Attachment:**

Improvement Agreement