



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 Creekside Milpitas 3, LLC for the McCarthy Parking Lot Project at 1207 N. McCarthy Blvd.
Category:	Consent Calendar-Community Development
Meeting Date:	8/17/2021
Staff Contact:	Steve Erickson, Engineering Director/City Engineer, 408-586-3301
Recommendation:	Approve and authorize the City Manager to execute a Stormwater Management Facilities Operation and Maintenance Agreement for Creekside Milpitas 3, LLC for the McCarthy Parking Lot Project at 1207 N. McCarthy Blvd.

Background:

On November 18, 2014, the City Council approved Site Development Permit No. SD20-0002 for the development of a parking lot on approximately 5.22 acres located at 1207 N. McCarthy Blvd.

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") (**Attachment 1**) with the City for the perpetual operation, maintenance and annual inspection of LID stormwater treatment facilities.

The McCarthy Parking Lot Project uses two different types of storm water treatment devices. These are Bio-Treatment Areas and Pervious pavement/pavers. The parking lot developer/owner will be responsible for the perpetual maintenance and operation of the bio-retention areas specified in Agreement.

The Project owner has complied with the project 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, 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 with Creekside Milpitas 3, LLC for the McCarthy Parking Lot Project at 1207 North McCarthy Blvd.

Attachments:

1. Stormwater Management Facilities Operation and Maintenance Agreement
2. Exhibit A -Legal Description McCarthy Parking Lot
3. Exhibit B – Stormwater Management Plan