

## AGREEMENT FOR SERVICES

This Agreement, dated \_\_\_\_\_, is by and between the City of Morgan Hill, hereinafter referred to as the “City,” and Visit Morgan Hill, hereinafter referred to as “Contractor,” collectively referred to as the “Parties.”

### RECITALS

A. On January 23, 2019, the City Council adopted Resolution No. 19-004, hereinafter the “Resolution,” creating the Morgan Hill Tourism Business Improvement District, hereinafter “MHTBID,” in accordance with the provisions of the Property and Business Improvement District Law of 1994, Streets and Highways Code section 36600 et seq., hereinafter the “1994 Law.”

B. Contractor was designated in the Resolution and MHTBID Management District Plan as the Owners’ Association in accordance with Streets and Highways Code section 36612.

C. Streets and Highways Code section 36651 requires a contract between the City and the Owners’ Association.

D. Each Party is willing to provide services to the other Party on the terms and conditions set forth in this Agreement, and in accordance with the MHTBID Management District Plan.

### AGREEMENT

**Now, therefore,** the parties agree as follows:

1. Engagement. Each Party hereby retains the other Party to provide the services described in Exhibit A, and each Party accepts such engagement.

2. Term. The term of this Agreement shall begin on the last date signed by all Parties, and end on February 29, 2024 or, if the MHTBID is disestablished prior to February 29, 2024, the effective date of MHTBID disestablishment.

3. Independent Contractor. No relationship of employer and employee is created by this Agreement; it being understood and agreed that Contractor is an Independent Contractor. Contractor is not the agent or employee of the City in any capacity whatsoever, and the City shall not be liable for any acts or omissions by Contractor nor for any obligations or liabilities incurred by Contractor.

A. Contractor shall have no claim under this Agreement or otherwise, for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance, medical care, hospital care, retirement benefits, social security, disability, Workers’ Compensation, unemployment insurance benefits, civil service protection, or employee benefits of any kind.

B. Contractor shall be solely liable for and obligated to pay directly all applicable payroll taxes (including federal and state income taxes) or contributions for unemployment insurance or old age pensions or annuities which are imposed by any governmental entity in connection with labor used or which are measured by wages, salaries or other remuneration paid to its officers,

agents or employees and agrees to indemnify and hold City harmless from any and all liability which City may incur because of Contractor's failure to pay such amounts.

C. In carrying out the work contemplated herein, Contractor shall comply with all applicable federal and state Workers' Compensation and liability laws and regulations with respect to the officers, agents and/or employees conducting and participating in the work; and agrees that such officers, agents, and/or employees will be considered Independent Contractors and shall not be treated or considered in any way as officers, agents and/or employees of City.

D. Contractor agrees to perform its work and functions at all times in strict accordance with all applicable federal, state, county and city laws, resolutions, regulations, titles, departmental procedures and currently approved methods and practices in the field; and that the sole interest of City is to ensure that said service shall be performed and rendered in a competent, efficient, timely and satisfactory manner and in accordance with standards required by the City.

E. Notwithstanding the foregoing, if the City determines that pursuant to state and federal law Contractor is an employee for purposes of income tax withholding, City may upon two (2) week's written notice to Contractor, withhold from payments to Contractor hereunder federal and state income taxes and pay said sums to the federal and state governments.

4. Indemnification.

A. To the fullest extent permitted by law, Contractor shall hold harmless, defend and indemnify the City, its City Council, employees and agents from and against any and all claims, losses, damages, liabilities and expenses, including but not limited to reasonable attorneys' fees, arising out of or resulting from the performance of services under this Agreement, provided that any such claim, loss, damage, liability or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of property, including the loss therefrom, or to any violation of federal, state or municipal law or regulation, and (2) is caused by any negligent act, omission or willful misconduct of Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by any party indemnified hereunder. The City may participate in the defense of any such claim without relieving Contractor of any obligation hereunder.

B. To the fullest extent permitted by law, the City shall hold harmless, defend and indemnify Contractor, its Board of Directors, employees and agents from and against any and all claims, losses, damages, liabilities and expenses, including but not limited to reasonable attorneys' fees, arising out of or resulting from the performance of services under this Agreement, provided that any such claim, loss, damage, liability or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of property, including the loss therefrom, or to any violation of federal, state or municipal law or regulation, and (2) is caused by any negligent act, omission or willful misconduct of City, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by any party indemnified hereunder. The Contractor may participate in the defense of any such claim without relieving City of any obligation hereunder.

5. Insurance. Insurance coverage in a minimum amount set forth herein shall not be construed to relieve Contractor for liability in excess of such coverage, nor shall it preclude City from taking such other action as is available to it under any other provisions of this Agreement or otherwise in law. All insurance required pursuant to this Agreement must be issued by a company licensed and admitted, or otherwise legally authorized to carry out insurance business in the State of California, and each insurer must have a current A.M. Best's financial strength rating of "A" or better and an financial size rating of "VII" or better. Contractor shall furnish CITY of Morgan Hill with copies of all policies or certificates as outlined herein, whether new or modified, promptly upon receipt. Certificates may be mailed electronically to [riskmgmt@morganhill.ca.gov](mailto:riskmgmt@morganhill.ca.gov), or delivered at City of Morgan Hill, Attn: Risk Management, 17575 Peak Avenue, Morgan Hill, CA 95037.

A. Contractor affirms that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of the Code and Contractor further assures that it will comply with such provisions before commencing the performance of work under this Agreement. Contractor shall maintain Workers Compensation coverage, as required by law, in the minimum amount of: (i) one million dollars (\$1,000,000.00) for any one accident or occurrence, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT's combined insurance policies (including any excess or "umbrella" policies), whichever is greater. If Contractor is self-insured, Contractor shall provide its Certificate of Permission to Self-Insure, duly authorized by the Department of Industrial Relations. Contractor shall require all subcontractors similarly to provide Workers' Compensation Insurance as required by the Labor Code of the State of California for all of Contractor's and subcontractors' employees. Contractor shall provide Workers' Compensation insurance, as applicable, at Contractor's own cost and expense. Neither Contractor nor its carrier shall be entitled to recover from City any costs, settlements, or expenses of Workers' Compensation claims arising out of this Agreement.

B. Commercial General Liability (CGL). Contractor shall maintain CGL against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) one million dollars (\$1,000,000.00) for bodily injury or death to any one person for any one accident or occurrence and at least one million dollars (\$1,000,000.00) for property damage, or (ii) the maximum amount of such insurance available to Contractor under CONSULTANT's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

C. Automobile Liability. Contractor shall maintain Automobile Liability covering all owned, non-owned and hired automobiles (if Contractor does not own automobiles, then Contractor shall maintain Hired/Non-owned Automobile Liability) against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) one million dollars (\$1,000,000.00) for bodily injury or death to any one person for any one accident or occurrence and at least one million dollars (\$1,000,000.00) for property damage, or (ii) the maximum amount of such insurance available to Contractor under Contractor's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

D. Professional Liability.

1) If the performance of Contractor's work or service under this Agreement involves professional and/or technical services (examples include, but are not limited to, architects, engineers, land surveyors, and appraisers), Contractor shall procure and maintain either a claims made or occurrence Errors and Omission liability insurance in the minimum amount of: (i) one million dollars (\$1,000,000.00) each claim, or (ii) the maximum amount of such insurance available to Contractor under Contractor's combined insurance policies (including any excess or "umbrella" policies), whichever is greater. Further, if Contractor maintains a claims-made policy, Contractor shall provide written evidence of such insurance to the CITY for at least five (5) years after the completion of work performed under this Agreement.

2.) If the performance of Contractor's work or service under this Agreement relates to Information Technology or related services (examples include, but are not limited to computer programmers, hardware engineers, or other systems consultants), CONSULTANT shall procure and maintain a claims made Errors and Omission liability insurance, including Cyber Liability and Data Breach, in the minimum amount of: (i) one million dollars (\$1,000,000.00) each claim, or (ii) the maximum amount of such insurance available to Contractor under Contractor's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

3.) If the performance of Contractor's work or service under this Agreement involves contact with minors, Contractor shall procure and maintain Sexual Abuse and Molestation insurance in the minimum amount of: (i) one million dollars (\$1,000,000.00) each claim, or (ii) the maximum amount of such insurance available to Contractor under Contractor's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

E. Endorsements. Contractor shall provide proof of the following endorsements, listed for each policy for which endorsements are required, as outlined below:

1.) General Liability.

a.) The City of Morgan Hill, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers are named as additional insureds;

b.) the insurer waives the right of subrogation against the City of Morgan Hill and the CITY's elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers; and,

c.) insurance shall be primary non-contributing.

2.) Worker's Compensation. The insurer waives the right of subrogation against the City of Morgan Hill and the CITY's elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers.

6. Conformity with Law.

A. In performing services under this Agreement, Contractor shall observe and comply with all applicable laws, resolutions, codes and regulations of governmental agencies, including federal, state, municipal, and local governing bodies, having jurisdiction over the scope of services, including all applicable provisions of the California Occupational Safety and Health Act. Contractor shall indemnify and hold City harmless from any and all liability, fines, penalties and consequences from any of Contractor's failures to comply with such laws, resolutions, codes and regulations.

B. If a death, serious personal injury or substantial property damage occurs in connection with Contractor's performance of this Agreement, Contractor shall immediately notify the City. Contractor shall promptly submit to City a written report, in such form as may be required by City of all accidents which occur in connection with this Agreement. This report must include the following information:

- (1) Name and address of the injured or deceased person(s);
- (2) Name and address of Contractor's sub-contractor, if any;
- (3) Name and address of Contractor's liability insurance carrier; and
- (4) A detailed description of the accident and whether any of City's equipment, tools, material, or staff were involved.

C. Contractor further agrees to take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and to grant to the City the opportunity to review and inspect such evidence, including the scene of the accident.

7. Payment. City shall forward to Contractor all MHTBID assessment funds collected within thirty (30) days of collection, less any City administrative fees as authorized in the MHTBID Management District Plan. In addition to the City administrative fees, the City shall deduct the amount outlined in Exhibit B for the costs incurred by the City in establishing the MHTBID and costs for 2018 & 2019 Amgen tour, from the MHTBID assessment funds, until fully repaid. Repayment plan is outlined in Exhibit B.

8. Taxes. Payment of all applicable federal, state and local taxes shall be Contractor's sole responsibility.

9. Ownership of Documents.

A. In the event the TBID is dissolved, Contractor hereby agrees to provide to a private, not-for-profit, successor and if there is none then assigns the City and its assignees all copyright and other use rights in any and all proposals, plans, specifications, designs, drawings, sketches, renderings, models, reports and related documents (including computerized or electronic copies) respecting in any way the subject matter of this Agreement, whether prepared by the City, the

Contractor, the Contractor's subcontractors or third parties at the request of the Contractor (collectively, "Documents and Materials"). This explicitly includes electronic copies of all above stated documentation.

B. Contractor shall be permitted to retain copies, including reproducible copies and computerized copies, of Documents and Materials. Contractor agrees to take such further steps as may be reasonably requested by City to implement the aforesaid assignment. If for any reason said assignment is not effective, Contractor hereby grants the City and any assignee of the City an express royalty-free license to retain and use said Documents and Materials. The City's rights under this paragraph shall apply regardless of the degree of completion of the Documents and Materials and whether or not Contractor's services set forth in Exhibit "A" of this Agreement have been fully performed or paid for.

C. Contractor shall pay all royalties and license fees which may be due for any patented or copyrighted materials, methods or systems selected by Contractor and incorporated into the work as set forth in Exhibit "A", and shall defend, indemnify and hold the City harmless from any claims for infringement of patent or copyright arising out of such selection.

D. The City's rights under this Section shall not extend to any computer software used to create such Documents and Materials.

E. Contractor shall maintain all documents and records in accordance with the California Public Records Act, Government Code section 6250 et seq.

10. Conflicts of Interest. Contractor covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with performance of services required under this Agreement.

11. Notices. All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be given for all purposes as follows:

A. Personal delivery: When personally delivered to the recipient, notices are effective on delivery.

B. First Class Mail: When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three (3) mail delivery days after deposit in a United States Postal Service office or mailbox. Certified Mail: When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

C. Overnight Delivery: When delivered by overnight delivery with charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service.

D. Addresses for purpose of giving notice are as follows:

To City:	To Contractor:
City Manager	Chair of the Board

City of Morgan Hill 17575 Peak Avenue Morgan Hill, CA 95037	Visit Morgan Hill 17575 Peak Avenue Morgan Hill, CA 95037
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E. Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

F. Any party may change its address by giving the other party notice of the change in any manner permitted by this Agreement.

12. Use of City Property. Contractor shall not use City property, including equipment, instruments and supplies, or personnel for any purpose other than in the performance of its obligations under this Agreement.

13. Equal Employment Opportunity Practices Provisions. Contractor certifies that it is in compliance with the Equal Employment Opportunity Requirement of Executive Order 11246, as amended by Executive Order 11375 and supplemented I 45CFR, Part 60, Title VII of the Civil Rights Act and any other federal or state laws pertaining to equal employment opportunity and that it shall not discriminate against any employee or applicant for employment on the basis of race, color, religion, age, sex, national origin, ancestry, marital status, political affiliation or physical or mental condition, in matters pertaining to recruitment, hiring, training, upgrading, transfer, compensation or termination.

A. Contractor shall, in all solicitations or advertisements for applicants for employment placed as a result of this Agreement, state that it is an “Equal Opportunity Employer” or that all qualified applicants will receive consideration for employment without regard to their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran’s status, political affiliation, or any other non-merit factor.

B. Contractor shall, if requested to so do by the City, certify that it has not, in the performance of this Agreement, discriminated against applicants or employees because of their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran’s status, political affiliation, or any other non-merit factor.

C. If requested by the City, Contractor shall provide the City with access to copies of all of its records pertaining or relating to its employment practices, except to the extent such records or portions of such records are confidential or privileged under state or federal law.

D. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act which is prohibited by law.

E. Contractor shall include the provisions set forth in this Section in each of its subcontracts.

14. Compliance with Licensing Requirements. Contractor shall comply with all necessary licensing requirements and shall obtain appropriate licenses and display the same in a location that is reasonably conspicuous, and file copies of same with the City.

15. Audits and Records Access.

A. Contractor shall make available to the City, its authorized agents, officers, or employees, for examination any and all ledgers, books of accounts, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to the expenditures and disbursement of MHTBID assessment funds, and shall furnish to the City, within sixty (60) days after examination, its authorized agents, officers or employees such other evidence or information as the City may require with regard to any such expenditure or disbursement charged by Contractor.

B. Contractor shall maintain full and adequate records in accordance with City requirements to show the actual costs incurred by the Contractor in the performance of this Agreement. If such books and records are not kept and maintained by Contractor within the City, Contractor shall, upon request of the City, make such books and records available to the City for inspection at a location within the City or Contractor shall pay to the City the reasonable and necessary costs incurred by the City in inspecting Contractor's books and records, including, but not limited to, travel, lodging and subsistence costs. Contractor shall provide such assistance as may be reasonably required in the course of such inspection. The City further reserves the right to examine and re-examine said books, records and data during the four (4) year period following termination of this Agreement or completion of all work hereunder, as evidenced in writing by the City, and Contractor shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatsoever for four (4) years after the City makes the final or last payment or within four (4) years after any pending issues between the City and Contractor with respect to this Agreement are closed, whichever is later.

C. Contractor shall not be required to conduct an annual audit. However, if the City has a reasonable basis to believe that expenditures have not been consistent with the MHTBID Management District Plan, the 1994 Law, or any other applicable laws, the City may request an audit of expenditures for the period in question.

16. Documents and Materials. Contractor shall maintain and make available to City for its inspection and use during the term of this Agreement, all Documents and Materials, defined as any and all documents, contracts, subcontracts, receipts, invoices, plans, collateral, advertisements and other paper or electronic writings and other materials used for the provision of services under this Agreement. Contractor's obligations shall continue for four (4) years following termination or expiration of this Agreement, and Contractor shall in no event dispose of, destroy, alter or mutilate said Documents and Materials, for four (4) years following the City's last payment to Contractor under this Agreement.

17. Time of Essence. Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.

18. Termination/Disestablishment. The City has and reserves the right to suspend, terminate or abandon the execution of any work by Contractor upon adoption of a resolution disestablishing the MHTBID pursuant to the 1994 Law. Per the 1994 Law, such a resolution may only be adopted if (1) the City Council finds there has been misappropriation of funds, malfeasance, or a violation of law in connection with the management of the district and a noticed hearing on disestablishment is held, or (2) in



the thirty (30) day period following the anniversary of the district's formation, businesses owners paying fifty percent (50%) or more of the assessment file a written protest with the City and a hearing on disestablishment is held. In the event the City disestablishes the MHTBID, Contractor shall be entitled to retain MHTBID revenues only for paying the Contractor's current liabilities of the MHTBID. Pursuant to the 1994 Law, Contractor shall refund to City any remaining MHTBID revenues or any revenues derived from the sale of assets acquired with MHTBID revenues to enable distribution of the revenues to the businesses owners which paid the assessment. Contractor agrees that City has and reserves the right to deny the transfer of MHTBID revenues and/or suspend, terminate or abandon the execution of any work by the Contractor in accordance with this agreement or misfeasance, nonfeasance, or gross malfeasance, or criminal conduct as determined by a court of competent jurisdiction. Any retention of MHTBID revenues by Contractor shall comply with the 1994 Law.

19. Choice of Law. This Agreement, and any dispute arising from the relationship between the parties hereto, shall be governed by the laws of the State of California. Any litigation arising out of or in connection to this Agreement shall be venued in the County of Santa Clara.

20. Advertising or Publicity. Contractor shall not use, reproduce or copy the seal of the City and shall not represent the City in an official capacity as spokesperson or officer or agent or use the name City of Morgan Hill, or the names of the City's officers, directors, employees or agents, in advertising or publicity releases or otherwise without securing the prior written consent of the City in each instance unless set forth in this Agreement. Nothing in this section prohibits Contractor from using the name Morgan Hill Tourism Business Improvement District or City of Morgan Hill for regional identification for promotion and marketing of the MHTBID.

21. Entire Agreement. This Agreement, including all attachments, exhibits, and any other documents specifically incorporated into this Agreement, shall constitute the entire agreement between City and Contractor relating to the subject matter of this Agreement. As used herein, Agreement refers to and includes any documents incorporated herein by reference and any exhibits or attachments. This Agreement supersedes and merges all previous understandings, and all other agreements, written or oral, between the parties and sets forth the entire understanding of the parties regarding the subject matter thereof. This Agreement may not be modified except by a written document signed by both parties.

22. Modification of Agreement. This Agreement may be supplemented, amended or modified only by mutual agreement of the parties; however, this Agreement shall be subject to any amendments to the MHTBID Management District Plan adopted by the City Council pursuant to the 1994 Law. No supplement, amendment or modification of this Agreement, except for a duly adopted amendment to the MHTBID Management District Plan, shall be binding unless it is in writing and signed by authorized representatives of both parties.

23. Assurance of Performance. If at any time the City has good objective cause to believe Contractor may not be adequately performing its obligations under this Agreement or that Contractor may fail to complete services as required by this Agreement, City may request from Contractor prompt written assurances of performance and a written plan acceptable to City, to correct the observed deficiencies in Contractor's performance. Contractor shall provide such written assurances and written plan within thirty (30) calendar days of its receipt of City's request and shall thereafter diligently commence and fully perform

such written plan. Contractor acknowledges and agrees that any failure to provide such written assurances and written plan within the required time is a material breach under this Agreement.

24. Subcontracting/Assignment. Contractor shall not subcontract, assign or delegate any portion of this Agreement or any duties or obligations hereunder without the City's prior written approval.

A. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. Any agreement that violates this Section shall confer no rights on any party and shall be null and void.

B. Contractor may use subcontractors to provide any portions of the service identified in Exhibit A without prior written consent of the City.

C. Contractor shall remain fully responsible for compliance by its subcontractors with all the terms of this Agreement, regardless of the terms of any agreement between Contractor and its subcontractors.

25. Survival. The obligations of this Agreement, which by their nature would continue beyond the termination or expiration of the Agreement, including without limitation obligations regarding indemnification, ownership of documents, and conflict of interest, shall survive termination or expiration for two (2) years.

26. Severability. If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.

(Signatures on next page)

IN WITNESS THEREOF, the parties hereto have executed or approved this AGREEMENT on the dates below their signatures.

City of Morgan Hill

Visit Morgan Hill

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
(print name)

\_\_\_\_\_  
(print name)

Title: City Manager \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to Form

By: \_\_\_\_\_

\_\_\_\_\_  
(print name)

Title: City Attorney \_\_\_\_\_

Date: \_\_\_\_\_

## **EXHIBIT A**

### **Scope of Services**

Contractor shall provide the following services:

1. Contractor shall cooperate with City and City staff in the performance of all work hereunder.
2. Contractor will provide projects, programs and activities that benefit businesses within the MHTBID in accordance with the MHTBID Management District Plan attached hereto and any subsequent amendments thereto, and expressly incorporated herein.
3. Contractor shall perform responsibilities under the Property and Business Improvement District Law of 1994 (the “Law”) including but not limited to:
  - a. Preparation of the Annual Report required by the Law, which shall include:
    1. Any recommended changes to boundaries;
    2. The improvements and activities to be provided for that fiscal year;
    3. An estimate of cost for providing the improvements and activities;
    4. The method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his/her business for that fiscal year;
    5. The amount of any surplus or deficit revenues to be carried over from a previous fiscal year; and
    6. The amount of any contributions to be made from sources other than assessments.
  - b. Delivering the Annual Report within ninety (90) days following March 1 of each year of the MHTBID’s term.
4. Contractor shall develop and maintain financial records related to receipt and/or expenditure of all funds received from City.

City shall provide the following services:

1. City shall collect assessments from all lodging businesses, existing and in the future, within the MHTBID in the same manner and at the same time as Transient Occupancy Taxes are collected, and remit the assessments to Contractor (minus City’s administrative fee).
2. If City undertakes collection actions for unpaid assessments (including costs associated with providing notices of assessments and appeals of the assessment) at the same time collection actions are taken for unpaid Transient Occupancy Taxes for the same business and for the same timeframe, Contractor shall be liable for its proportional cost (12% of the total) of the collection actions. If City undertakes collection actions for unpaid assessments (including costs associated with providing notices of assessments and appeals of the assessment) alone, Contractor shall be liable for the entire cost of the collection action.

3. The City shall establish the MHTBID and the “Visit Morgan Hill” Owner’s association. Contractor shall reimburse the City for costs borne by the City in establishing the MHTBID, the owner’s association, plus \$55,000 as contribution for the 2018 & 2019 Amgen tour. These amounts are outlined with a repayment plan in Exhibit B. The repayment amounts shall be deducted from the MHTBID assessment collections, in addition to the City’s administrative fees, prior to remittance to the Contractor.

**Exhibit B**

**COSTS**

\$45,000.00 – Costs for establishing the MHTBID and Owner’s association (Civitas)

\$27,500.00 – 2018 Amgen Tour Contribution

\$27,500.00 – 2019 Amgen Tour Contribution

**\$100,000.00 = Total**

**REPAYMENT**

To be deducted monthly, in addition to the City administrative fees, until fully repaid.

**Name:**

<b>Pmt No.</b>	<b>Payment Date</b>	<b>Beginning Balance</b>	<b>Scheduled Payment</b>	<b>Total Payment</b>	<b>Ending Balance</b>
1	5/30/2019	\$ 100,000.00	\$ 8,333.33	\$ 8,333.33	\$ 91,666.67
2	6/30/2019	91,666.67	8,333.33	8,333.33	83,333.33
3	7/30/2019	83,333.33	8,333.33	8,333.33	75,000.00
4	8/30/2019	75,000.00	8,333.33	8,333.33	66,666.67
5	9/30/2019	66,666.67	8,333.33	8,333.33	58,333.33
6	10/30/2019	58,333.33	8,333.33	8,333.33	50,000.00
7	11/30/2019	50,000.00	8,333.33	8,333.33	41,666.67
8	12/30/2019	41,666.67	8,333.33	8,333.33	33,333.33
9	1/30/2020	33,333.33	8,333.33	8,333.33	25,000.00
10	2/29/2020	25,000.00	8,333.33	8,333.33	16,666.67
11	3/30/2020	16,666.67	8,333.33	8,333.33	8,333.33
12	4/30/2020	8,333.33	8,333.33	8,333.33	0.00