



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Matt Cano

**SUBJECT:** FIRE STATION NO. 37, WATER  
SERVICE AGREEMENT

**DATE:** July 27, 2020

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Approved D. DSYL Date 7/31/20

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**COUNCIL DISTRICT: 6**

## RECOMMENDATION

Approve an agreement with San Jose Water Company for installation of water facilities to serve the new Fire Station No. 37, in the amount of \$192,501.

## OUTCOME

Approval of the agreement with San Jose Water Company will allow the water services for the new Fire Station No. 37 at 2195 Lincoln Avenue to be installed.

## BACKGROUND

The new Fire Station No. 37 is to be constructed at 2195 Lincoln Avenue, adjacent to the Willow Glen Community Center, near the intersection of Franquette Avenue, in southcentral San José. The new single-company station, two-story building of approximately 8,100 square feet, consists of two apparatus bays, an office, a kitchen with a dining area, office and equipment storages, a workout room and five dormitories on the second floor.

On July 1, 2020, the construction contract was awarded to Gonsalves and Stronck Construction, Inc. Construction will begin in September of this year and be completed in January 2022.

## ANALYSIS

New water services must be installed by San Jose Water Company to serve the station. This agreement is for the preparation of the engineering plans, street trenching, and installation of the following: a potable water line, a fire riser line, an irrigation line, the lines for the fire hydrants at the street frontage and at the rear of the site, two meters, and the associated connections valves. Public Works staff considers \$192,501 a reasonable fee for this work.

### **Project Labor Agreement Applicability**

A project labor agreement is not applicable to this project since the work is the responsibility to be accomplished and managed by a utility company.

### **Local and Small Business Outreach**

Not applicable, the work is the responsibility of San Jose Water Company.

### **Green Building Policy**

In accordance with the Green Building Policy, this project was designed and will be built to meet or exceed the equivalent of a “Certified” rating using the LEED rating system. The Project will not be registered since it does not meet the 10,000 square foot threshold, per the Green Building Policy.

### **CONCLUSION**

Based on the findings as described in the Analysis section of this memorandum, staff recommends the approval of the agreement to San Jose Water Company to allow the water facilities for the new building to be installed.

### **EVALUATION AND FOLLOW-UP**

Approval of this recommendation will enable the Project to move forward and for San Jose Water Company to install the water facilities for the new building. No subsequent Council action on this issue is expected.

### **CLIMATE SMART SAN JOSE**

The recommendation in this memorandum aligns with one or more Climate Smart San José energy, water, or mobility goals.

### **PUBLIC OUTREACH**

This memorandum will be posted on the City’s Council Agenda website for the August 11, 2020 Council Meeting.

**COORDINATION**

The project and memorandum have been coordinated with the Fire Department, Finance Department and the City Attorney’s Office.

**COMMISSION RECOMMENDATION/INPUT**

No commission recommendation or input is associated with this action.

**FISCAL/POLICY ALIGNMENT**

This project is consistent with the Council-approved Budget Strategy Economic Recovery section in that it will spur construction spending in our local economy.

**COST SUMMARY/IMPLICATIONS**

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT:

Construction	\$8,715,600
Contingency (10%)	871,560
Project Delivery*	2,273,024
<b>TOTAL PROJECT COST:</b>	<b>\$11,860,184</b>
Prior Years’ Expenditures/ Encumbrances Anticipated Through June 30, 2020:	(788,184)
*Project Delivery includes amount for agreement/contract.	
<b>TOTAL REMAINING PROJECT COSTS</b>	<b>\$11,072,000</b>

2. COST ELEMENTS OF AGREEMENT/CONTRACT: Lump Sum \$192,501

3. SOURCE OF FUNDING: 498 - Measure T - The Disaster Preparedness, Public Safety and Infrastructure Bond  
392 - Construction Tax and Property Conveyance Tax Fund: Fire Protection Purposes  
001- General Fund

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4. **FISCAL IMPACT:** The operations and maintenance (O&M) costs for Fire Station 37 is reflected below. This O&M impact was assumed as part of the 2021-2025 General Fund Five-Year Forecast. In addition, a reserve in the amount of \$1.18 million is set aside in the Construction Tax and Property Conveyance Tax Fund: Fire Protection Purposes for an Apparatus, Personal Protective Equipment for the 14 new Fire staff to be stationed at Fire Station 37, along with Furniture, Fixtures, and Equipment necessary for the new Fire Station 37.

2021-2022 - \$2,053,000 (partial year funding)

2022-2023 - \$4,175,000

2023-2024 - \$4,242,000

2024-2025 - \$4,311,000

**BUDGET REFERENCE**

The table below identifies the fund and appropriations proposed to fund the contract(s) recommended as part of this memo and remaining project costs, including project delivery, construction, and contingency costs.

<b>Fund #</b>	<b>Appn #</b>	<b>Appn Name</b>	<b>Current Total Appn</b>	<b>Amt for Contract</b>	<b>2020-2021 Proposed Capital Budget Page</b>	<b>Last Budget Action (Date, Ord. No.)</b>
<b>Remaining Project Costs</b>			<b>\$11,072,000</b>			
392	411P	Measure T – Fire Station 37	\$2,595,000	\$192,501	V-334	06/23/2020, 30437
498	411P	Measure T – Fire Station 37	\$8,477,000	N/A	V-334	06/30/2020, 30447
<b>Total Current Funding Available</b>			<b>\$11,072,000</b>			

**CEQA**

Mitigated Negative Declaration, File No. PP09-150.

/s/  
MATT CANO  
Director of Public Works

For questions please contact John Cannon, Deputy Director, at (408) 535-8340.

Attachments:

A – San Jose Water Company letter dated May 20, 2020

B – Agreement between City of San Jose and San Jose Water Company

C – Fire Station No.37 Location Map.



1265 S. Bascom Avenue  
San Jose, CA 95128-3514

Email: wanda.folk@sjwater.com  
Writer's Direct Line: (408) 279-7879

May 20, 2020

Ms. Mary Lee  
City Facilities Architectural Division  
Department of Public Works  
200 East Santa Clara Street, 6<sup>th</sup> Floor  
San Jose, CA 95113

Reference: Fire Station #37  
2191 Lincoln Avenue, San Jose  
APN 439-08-011

Dear Ms. Lee

As requested, our Engineering Department has prepared final plans and a final estimate of cost for the installation of new water facilities for this project. Our plans and cost estimate are subject to review and revision after 30 days.

The total estimated cost is \$192,501. Your \$12,000 engineering deposit will be credited against this total if you sign the enclosed documents and have us proceed with construction within six months from the date of this letter. Please review our final plans that have been enclosed for your information. The following table is a breakdown of our estimated costs.

1 – 6" Fire Hydrant & Connection	\$75,420
1 – 6" Private Fire Protection Service	66,170
1 – 3" General Metered Service	12,641
1 – 1" General Metered Service (irrigation)	6,729
CIAC Tax Gross-Up	<u>31,541</u>
<b>TOTAL</b>	<b>\$192,501</b>

We want to make you aware of the revision to the Internal Revenue Code with the passage of the 2018 Tax Cuts and Jobs Act. This act requires that all Contributions in Aid of Construction (CIAC) and Advances for Construction (AIC) received after January 1, 2018 be taxed as income to the utility. The CIAC Gross-up tax rate is 19.6% and applies to the Private Fire Protection Service, Hydrant & Connection and General Metered Service requested for this job. Information regarding this federal tax rate can be found in the modified Rule 15 indicated on Exhibit B attached to the agreement, which is also on file with the California Public Utilities Commission.

Mary Lee  
May 19, 2020  
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Attached is an agreement covering the work outlined above. If our proposal is acceptable, and you wish us to process this job further, **PLEASE SIGN THE COPY OF THE AGREEMENT, BUT LEAVE UNDATED**, return it by either email or by U.S. mail to our South Bascom Avenue address. In addition, please submit a deposit in the amount of **\$180,501** (final estimate less engineering deposit) via an ACH or Wire Transfer (a PDF copy of the instructions is attached for your information). Upon acceptance and execution of the agreement by this company, a signed copy will be returned to you electronically. In addition, **YOUR SIGNATURE ACKNOWLEDGES YOUR FURTHER OBLIGATIONS TO EFFECTIVELY COMPLETE THIS PROJECT.** Also, indicate where monthly billings should be sent.

Monthly billings for both the Private Fire Protection Service and the General Metered Service commence upon installation of the service/meter. A copy of our rate schedules are indicated on the website link <https://www.sjwater.com/customer-care/help-information/billing-schedules> for your information.

As noted on the drawing, it will be your responsibility to install an approved Reduced Pressure Principle (RPP) type backflow prevention assembly on the Private Fire Protection Service. This assembly must be installed above ground immediately following our service connection. In addition, it will also be your responsibility to install an approved Reduced Pressure Principle (RPP) type backflow prevention assembly on both the General Metered Services. These assemblies must also be installed above ground immediately following our service connections (meters). Any deviation from the locations indicated must be approved in advance by our Backflow Prevention Department. SJW requires that all backflow devices be lead free and USC Foundation for Cross Connection Control and Hydraulic Research approved. Important information about backflow requirements including a link to Foundation for Cross Connection Control and Hydraulic Research's approved device list can be found on our website at the link: [https://www.sjwater.com/for\\_your\\_business/builders\\_contractors/backflow](https://www.sjwater.com/for_your_business/builders_contractors/backflow).

*Note: If you plan to integrate your fire department connection (FDC) into the backflow prevention assembly, make sure the location is acceptable to the fire department. It may be that the required location of the FDC differs from the required location of the backflow assembly, thereby making the integration infeasible.*

The RPP assemblies must be installed before we will allow water use through the services. To initiate service you must contact our Backflow Prevention Department, at (408) 279-7872, who will perform a field inspection and test. Please provide them with 24-hour notice.

Pressure in this area could be over 80 PSI (approximate range at the meter will be 74 - 84 PSI). San Jose Water Company recommends that a pressure regulator be installed on private service lines that will prevent pressure in excess of 80 PSI from entering the structures. Please contact your plumber regarding this matter.

Finally, please submit one copy of the **APPROVED OFF-SITE IMPROVEMENT PLANS APPROVED BY THE CITY OF SAN JOSE** and one copy of the **FIRE SPRINKLER UNDERGROUND PIPING PLANS APPROVED BY THE SAN JOSE FIRE DEPARTMENT** or a **LETTER OF INDEMNIFICATION ACCEPTING FULL AND FINANCIAL RESPONSIBILITY FOR THE SIZE AND LOCATION OF THE PRIVATE FIRE PROTECTION SERVICE**. Your job will not be released for scheduling without this information. Furthermore, since our plan and estimate are based on unapproved plans, any changes made to these items due to approval requirements may result in the need for us to re-engineer our installation. You will be responsible for the cost of additional engineering and water facilities, if so required, and associated time delays.

In summary, if you would like us to proceed with the installations, please provide us with the following:

- 1) An ACH or Wire Transfer in the amount of \$180,501.
- 2) A signed and dated copy of this letter that includes the address where the monthly billings should be sent.
- 3) The attached agreement, signed, but left undated.
- 4) Off-site Civil Improvement Plans approved by the City of San Jose.
- 5) Fire Sprinkler Underground Piping Plans approved by the San Jose Fire Department or a Letter of Indemnification accepting full and financial responsibility for the size and location of the Private Fire Protection Service.

The installation work will begin approximately 8 -12 weeks after the aforementioned items are received by this company. This time is needed to secure labor, materials and the Utility Encroachment Permit from the City of San Jose. Once the permit is obtained and there are no construction delays, our Engineering Department will prepare a job release package to our Construction Department, who will set up a Pre-Construction Meeting with you prior to scheduling the installation work. Construction delays due to causes beyond our control may include halting of work to prevent threatened damage, injury or loss due to a widespread epidemic, pandemic, or other public health emergency.

As a final note, please be aware that you cannot make pressure tests of your piping against our facilities. If you are required to make pressure tests of your underground piping, please cap the piping to perform the test, and do not use our valving to test against. This notification applies to both the Private Fire Protection Services and the General Metered Service connections.

Mary Lee  
May 19, 2020  
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If you have any questions, please contact me at (408) 279-7879.

Sincerely,

*Wanda E. Folk*

Wanda E. Folk  
Water Services Representative

WF: wf  
NB19-050 (Estimate).doc  
Enclosures

cc: Raquel Fones, BKF Engineers (e-copy sent)

**ACKNOWLEDGED AND AGREED**

**MONTHLY BILLINGS TO:**

\_\_\_\_\_  
Firm Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
City

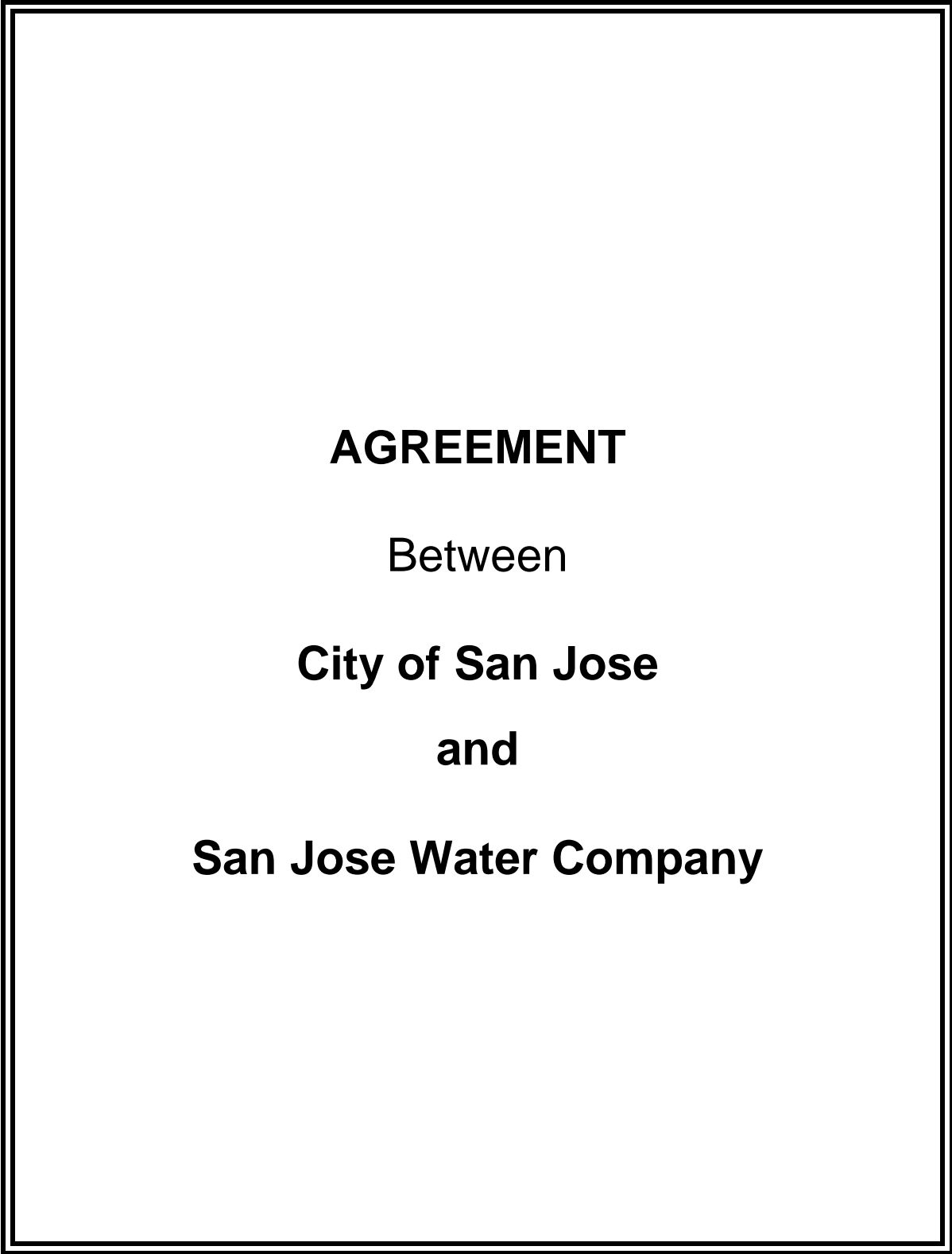
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Phone Number





Est No. \_\_\_\_\_  
Date Received \_\_\_\_\_

**SAN JOSE WATER COMPANY**  
**FIRE MAIN EXTENSION, HYDRANT**  
**AND/OR**  
**PRIVATE FIRE PROTECTION SERVICE**  
**(may include work on general metered service)**

**AGREEMENT**

THIS AGREEMENT, made and entered on \_\_\_\_\_ by and between the person or persons listed in paragraph 1 hereof, hereinafter collectively referred to as "Applicant," and SAN JOSE WATER COMPANY, a California corporation, hereinafter referred to as "Utility,"

**WITNESSETH**

WHEREAS, Applicant is the Owner of certain real property situated in the County of Santa Clara, State of California; and

WHEREAS, Utility is presently legally operating and maintaining certain water facilities owned by Utility in an area in said County of Santa Clara, as more particularly shown on that certain map attached hereto marked Exhibit "A" and by this reference made a part hereof, said facilities being hereinafter referred to as the "Old Facilities"; and

WHEREAS, Applicant desires to have made available mains and/or appurtenances needed to meet various local fire protection requirements involving the relocating, removing or abandoning of the Old Facilities and/or the installation of certain new water facilities, hereinafter referred to as the "New Facilities" substantially as shown on that certain map attached hereto, marked Exhibit A, to be installed in accordance with Utility's usual practices; and

WHEREAS, upon the terms and conditions herein set forth Utility is willing to accomplish such work upon the New and Old Facilities, said facilities being hereinafter sometimes referred to collectively as the "Total Facilities", provided that the actual total installed cost of the same shall be borne by Applicant as more particularly set forth below; and

WHEREAS, Utility is willing to furnish water service through and by means thereof at the rates and in accordance with the rules of Utility now in force, or that may from time to time hereafter be lawfully established; and

WHEREAS, such work is not covered by Utility's Rule 15, a copy of which is attached hereto as Exhibit B; and

WHEREAS, Utility will supply only such water at such pressures as may be available from time to time as a result of its normal operations of its system;

NOW, THEREFORE, for and in consideration of the mutual covenants, agreements, terms and provisions herein contained, it is agreed as follows:

1. **Applicant.** The names and addresses of the person or persons herein collectively referred to as "Applicant" are as follows:

**Name:** City of San Jose

**Address:** 200 East Santa Clara Street, 6th Floor  
San Jose, CA 95113

2. **Applicable Form.** This agreement is entered into pursuant to the requirements and in accordance with the form of agreement in effect and on file with the California Public Utilities Commission (Commission). This Agreement does not, therefore, require specific authorization of the Commission to carry out its terms and conditions.

3. **Applicant's Deposit.** The estimated total installed cost of Total Facilities, hereinafter referred to as the "Estimated Cost," is **\$192,501.00**. Applicant has advanced to Utility an amount equal to the Estimated Cost, receipt of which amount is hereby acknowledged by Utility.

The Estimated Cost shall include any income tax component authorized by the Commission at the date of execution of this agreement.

4. **Installation of Facilities.** Utility agrees that it will, as soon as necessary materials and labor are available, and necessary permits, franchises, licenses or other governmental authorizations, easements and right of way satisfactory to Utility have been executed by Applicant and delivered to Utility, commence and prosecute to completion with all reasonable diligence the work of installing the Total Facilities. Utility reserves the right to make such changes in design or materials as it may deem necessary. If such change results in a 10% or greater increase in the Estimated Cost, Utility shall give written notice to Applicant of the amount of such cost increase and will demand an additional deposit to cover the increased cost. If within ten (10) days of giving such notice of cost increase, Applicant gives Utility written notice to discontinue such work upon the Total Facilities, Utility shall discontinue the same and shall forthwith refund to Applicant the unexpended portion, if any, of Applicant's deposit. If Applicant does not give Utility written notice to discontinue such work within ten (10) days after such notice of cost increase, Utility may proceed with such work at its option. Within sixty (60) days after Utility has ascertained its actual costs of installing the Total Facilities, it will provide Applicant with a statement of the same showing in reasonable detail the costs incurred for material, labor and other direct and indirect costs, overheads and total costs, or unit costs or contract costs, whichever are appropriate. If such actual construction costs shall not have been determined within one hundred twenty (120) days after completion of construction work, a preliminary determination of actual costs shall be submitted, based upon the

best available information at that time. Upon completion of the work upon the Total Facilities, if the actual total installed cost thereof including applicable income taxes is greater or less than the total amount deposited by Applicant hereunder, the difference shall forthwith be paid by Applicant to Utility or refunded by Utility to Applicant as the case may be. It is expressly agreed that there shall be included in said actual total installed cost any sums paid for materials used in such work upon the Total Facilities by reason of price increases applicable to such materials. Subject to the provisions of this paragraph, no other refund will be made to the Applicant, for any sums deposited or to be deposited by the Applicant with the Utility hereunder.

**5. Grades.** If at the Applicant's request the New Facilities are installed in easements or rights of way where final grades have not been established or in streets whose grades have not been brought to those established by public authority, Applicant, upon written notice by Utility, shall deposit with Utility forthwith the estimated cost, including applicable income taxes, as determined by Utility, of relocating, raising or lowering the New Facilities upon establishment of final grades. Adjustment of any difference between the amount so deposited and the actual cost of relocating, raising or lowering the New Facilities shall be made within thirty (30) days after Utility has ascertained such actual cost. Utility will refund the entire deposit including applicable income taxes relating to such proposed relocation, raising or lowering when appropriate authority determines that such displacements are not required.

**6. Applicant's Agreements.** Applicant agrees to use its best efforts to assist Utility to obtain any and all permits or other governmental authorizations which may be required for the installation of the Total Facilities. If for any reason any additional easements are required for the installation of the Total Facilities, Applicant will cause the same to be procured in the name of Utility if such is located on private property, and will cause evidence of such fact to be furnished to Utility or will cause such easements to be conveyed to Utility, as the case may be. Applicant's agreement in this paragraph 6 is in no way limited to those easements and rights of way provided for in paragraph 4 hereof.

**7. Ownership.** The Total Facilities to be installed hereunder and all construction work in connection therewith shall be and remain at all times the property of Utility, and Applicant shall have no right, title or interest whatsoever in or to the same.

**8. Construction Delay.** Utility shall not be responsible for any delay in construction resulting from any cause beyond its control, including, without limiting the generality of the foregoing, any delay resulting from inability to obtain sufficient proper materials and supplies, labor disturbances or shortages, or weather conditions, or inability to obtain necessary permits, licenses, franchises or other governmental authorizations. In the event Utility is unable to obtain sufficient materials to meet all construction requirements necessary to provide adequate service to all its customers, it shall be entitled to allocate materials obtained by it to such construction projects as in its sole discretion it deems most important to service needs of its customers, and any delay in construction of the Facilities resulting from any such allocation of materials by Utility shall be deemed to be a cause beyond its control and it shall not be responsible for such delay.

9. **Notices.** Any notice which may or shall be given by either party to the other shall be deemed to have been duly given when deposited in the United States mail, registered or certified, postage prepaid and addressed to the party to whom such notice is given at the following addresses:

To Applicant: City of San Jose  
200 East Santa Clara Street, 6th Floor  
San Jose, CA 95113

To Utility: San Jose Water Company  
110 West Taylor Street  
San Jose, CA 95110

Either party, by notice, may change the address to which notice shall thereafter be addressed.

10. **Nature of Obligation of Applicant.** If more than one person is named in paragraph 1 hereof, the obligations of the persons executing this agreement as Applicant shall be joint and several obligations. Until Applicant shall notify Utility in writing to the contrary, all refunds hereunder shall be paid by Utility to:

City of San Jose  
200 East Santa Clara Street, 6th Floor  
San Jose, CA 95113

without recourse.

11. **Successors and Assigns.** This agreement shall inure to the benefit of and shall bind the respective heirs, executors, administrators, successors and assigns of the parties hereto.

12. **Utility's Right to Offset.** In the event Applicant shall become entitled to a repayment or refund under the provisions of this Agreement, Utility shall have the right at such time to offset against the amount then due Applicant hereunder the total amount of any indebtedness then due or owing by Applicant to Utility.

13. **Jurisdiction of Public Utilities Commission.** This agreement shall at all times be subject to such changes or modifications by the California Public Utilities Commission as said Commission may from time to time direct in the exercise of its jurisdiction.

IN WITNESS WHEREOF, the Parties hereto have executed this agreement in duplicate the day and year first above written.

"APPLICANT"

APPROVED AS TO FORM

CITY OF SAN JOSE, A Municipal Corporation

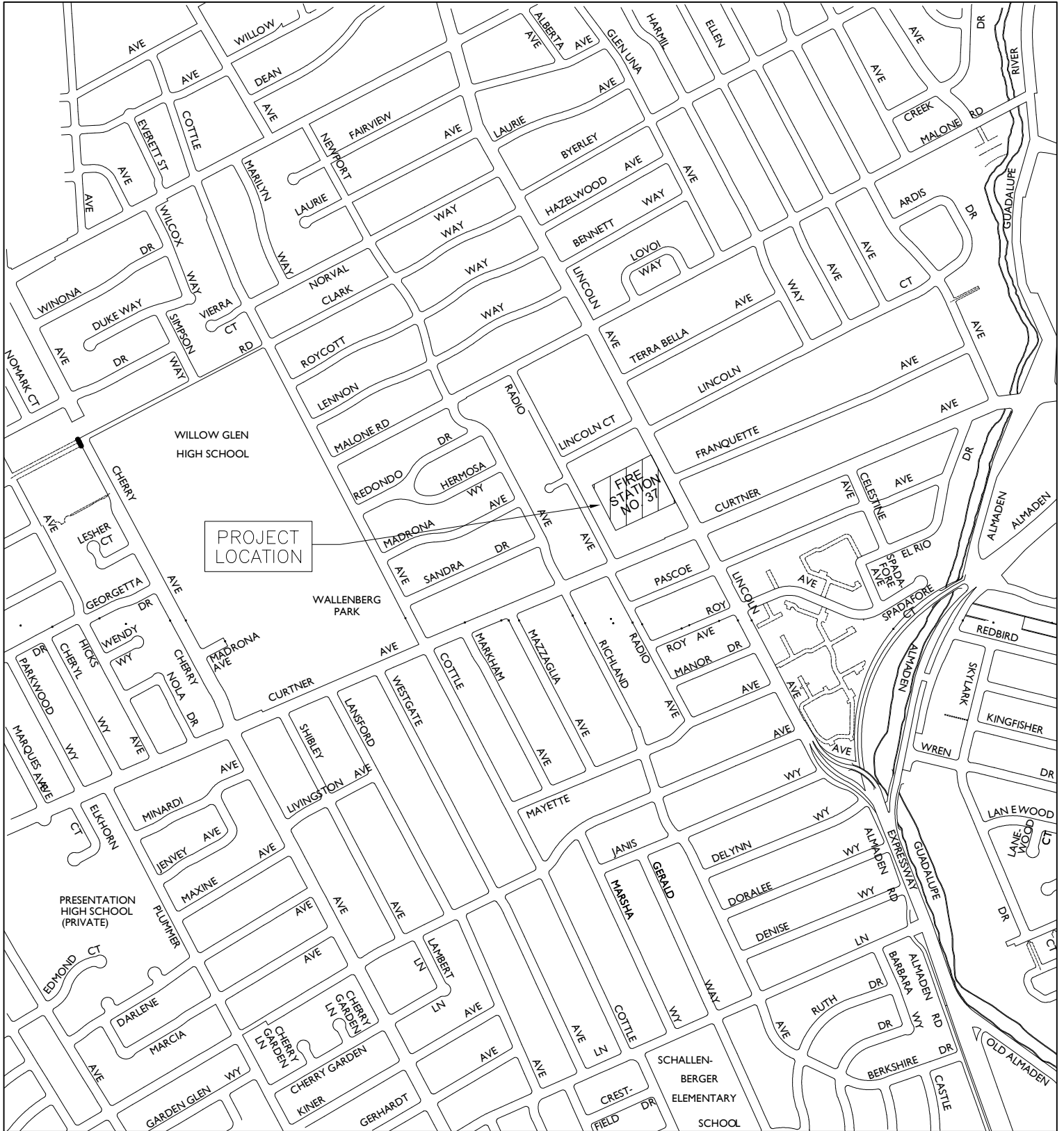
\_\_\_\_\_  
Glenn Schwarzbach  
Senior Deputy City Attorney

By:  /s/ \_\_\_\_\_  
Matt Cano  
Director of Public Works  
200 East Santa Clara Street  
San Jose, CA 95113

"UTILITY"

SAN JOSE WATER COMPANY

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



# FIRE STATION NO. 37 LOCATION MAP

NOT TO SCALE

