



JOINT MEETING OF THE MILPITAS CITY COUNCIL AND HOUSING AUTHORITY

AGENDA

TUESDAY, JUNE 20, 2023

CITY COUNCIL CHAMBERS, 455 E CALAVERAS BLVD, MILPITAS, CA

6:00 PM (CLOSED SESSION)

7:00 PM (PUBLIC BUSINESS)

For assistance in the following languages, you may call:

Đối với Việt Nam, gọi 408-586-2400

Para sa Tagalog, tumawag sa 408-586-3051

Para español, llame 408-586-3072

The City Council meeting is held in the City Council Chamber at City Hall, 455 E. Calaveras Blvd., Milpitas and via teleconference/Zoom webinar.

You may watch the Council meeting without providing public comment by accessing it via links here.

Meeting shall be livestreamed - Go to:

Facebook: <https://www.facebook.com/CityofMilpitas/>

YouTube: <https://www.milpitas.gov/youtube>

Web Streaming: <https://www.milpitas.gov/webstreaming>

PUBLIC COMMENT INSTRUCTIONS

Oral public comments may be provided live during the City Council meeting in person or by registering for the zoom meeting in advance. To register you will need to provide an email address (not disclosed) and a name. To minimize technical difficulties, please make sure that you have the latest version of the Zoom Application. Below is the link to register for this meeting only:

https://ci-milpitas-ca-gov.zoom.us/webinar/register/WN_xsT5eBTDRqquSCWg097glw

After you register a link will be sent to you to join the City Council meeting in order to give your comments. All Zoom meeting attendees who wish to speak must click on the "raise hand" icon when the Mayor calls for public comments. If participating via phone, dial *9 to use the "raise hand" feature, and when called to speak, dial *6 to unmute your phone. Your phone number will be displayed in the live meeting. The Mayor will call speakers by name to address the City Council.

All comments provided shall be limited to three minutes or less as determined by the Mayor. All members of the public will be limited to one comment per agenda item, and one comment for non-agenda items.

NOTE: If a member of the public wishes to share any presentation materials for Council consideration, they must be submitted to the Clerk's Office by email to CityClerk@milpitas.gov by 12:00 p.m. on the day of the meeting. No presentations will be accepted in person in the Council Chambers.

MILPITAS CITY COUNCIL CODE OF CONDUCT

- Be respectful and courteous (words, tone, and body language).
- Model civility.
- Avoid surprises.
- Praise publicly and criticize privately.
- Focus on the issue, not the person.
- Refrain from using electronic devices while on the Council dais.
- Disclose conflicts of interest and affiliations related to agenda items.
- Separate governing from campaigning.
- The Council speaks with one voice after making policy on issues.
- Respect the line between policy and administration.
- Council will hold one another accountable to comply with this Code of Conduct.

CALL MEETING TO ORDER by Mayor and ROLL CALL by City Clerk (6:00 PM)

ADJOURN TO CLOSED SESSION

(a) PUBLIC EMPLOYEE APPOINTMENT

Pursuant to Government Code Section 54957

Employee Position: Acting City Manager

(b) CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: 1432-1446 S. Main Street

Agency negotiator: Alex Andrade, Economic Development Director

Under negotiation: Both price and terms

CLOSED SESSION ANNOUNCEMENT:

Report on action taken in Closed Session, if required per Government Code Section 54957.1, including the vote or abstention of each member present.

PLEDGE OF ALLEGIANCE

INVOCATION (Vice Mayor Chua)

PUBLIC FORUM (7:05 PM)

Members of the public are invited to speak on any item that does not appear on today's agenda. Comments will be limited to three minutes or less at the Mayor's discretion. When called to speak, you are encouraged to state your name for the record. As an item not listed on the agenda, no action can be taken, however the City Council may instruct the City Manager to place the item on a future meeting agenda.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

READING OF THE CITY COUNCIL CODE OF CONDUCT

APPROVAL OF AGENDA

CONSENT CALENDAR (7:15 PM)

Consent calendar items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a City Councilmember, member of the audience or staff requests the Council to remove an item from (or be added to) the consent calendar. Any person desiring to speak on any item on the consent calendar should ask to have that item removed from the consent calendar.

C1. Receive City Council Calendar of Meetings for June, July, and August 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Receive City Council Calendar of Meetings for June, July, and August 2023.

C2. Approve City Council City Council Meeting Minutes of June 6, 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Approve City Council Special Meeting minutes of June 6, 2023.

C3. Receive the Preview List of Anticipated Items for the Next Regular City Council Meeting (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Receive the list of anticipated agenda items for the next regular City Council meeting.

- C4. Approve the Proposed Edits to the Commissioner Handbook, and Revisions to the Bylaws Addendum for the Science, Technology and Innovation Commission (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Recommendation: Approve the proposed edits to the Commissioner Handbook, and the revisions to the Bylaws Addendum for the Science, Technology and Innovation Commission to change meeting frequency, as recommended by the Commission.

- C5. Approve Delegation of Authority to the Acting City Manager or Designee to Approve and Execute Project Related Documents and Urgent Administrative Items During the City Council Summer Recess, from the Last City Council Meeting Held in June through August 8, 2023 (Staff Contact: Ashwini Kantak, Acting City Manager, 408-586-3053)**

Recommendation: Approve delegation of authority to the Acting City Manager, or their designee, to approve and execute project related documents, including contract documents, and urgent administrative items during the City Council summer recess from the last City Council meeting held in June through August 8, 2023.

- C6. Approve Changes to the City Council Procedures and Protocols Handbook to allow the use of Electronic Voting (Staff Contact: Ashwini Kantak, Acting City Manager, 408-586-3053; Michael Mitalipassi, City Attorney, 408-586-3041)**

Recommendation: Approve changes to the City Council Procedures and Protocols Handbook to allow the use of electronic voting, as part of the implementation of a new Agenda Management system.

- C7. Receive the January – March 2023 Report for Unhoused Services (Staff Contact: Alex Andrade, Economic Development Director, 408-586-3046)**

Recommendation: Receive the January – March 2023 report for unhoused services.

- C8. Adopt a Resolution Granting Acceptance of Public Improvements and Approve a Reduction of the Faithful Performance Bond for the Stratford School Addition and Remodel Commercial Project and Grant Authorization to the City Engineer to Release the Performance Bond after the One-Year Warranty Period;(Staff Contact: Roberto Alonzo, Principal Civil Engineer, 408-586-3316)**

Recommendation: Adopt a resolution granting acceptance of the completed public improvements for the Stratford School Addition and Remodel Commercial Project as shown on Public Improvement Plans No. 2-1357; and approve a reduction in the faithful performance bond to \$28,600.00, which is 25% of the security's original value which shall be in effect for the duration of the warranty period; and grant authorization to the City Engineer to release the performance bond after the one-year warranty period without further City Council action provided that all required warranty work is completed to the satisfaction of the City Engineer.

- C9. Approve and Authorize the City Manager to Execute a Stormwater Management Facilities Operation and Maintenance Agreement between the City of Milpitas and Parktown Plaza Pak LLC for the Park Town Plaza Modification Project at 1400 S. Park Victoria Dr. (Staff Contact: Roberto Alonzo, Principal Civil Engineer, 408-586-3316)**

Recommendation: Approve and authorize the City Manager to execute a Stormwater Management Facilities Operation and Maintenance Agreement between the City of Milpitas and Parktown Plaza Pak LLC for the Park Town Plaza Modification Project at 1400 S. Park Victoria Dr.

- C10. Authorize the Acting City Manager to Execute the Fee Reimbursement Agreement for Transit Area Specific Public Facilities and Public Improvements at the 355 Sango Court Project by**

Sango Court L.P. and Approve Budget Change Form for Fiscal Year 2023-24 (Staff Contact: Roberto Alonzo, Principal Civil Engineer, 408-586-3316)

Recommendation: Authorize the Acting City Manager to execute the Fee Reimbursement Agreement for Transit Area Specific Public Facilities and Public Improvements at the 355 Sango Court Project by Sango Court L.P.

C11. Approve Accounts Receivable Write-offs for the Fiscal Year Ending June 30, 2023 (Staff Contact: Lauren Lai, Finance Director, 408-586-3111)

Recommendation: Approve the Accounts Receivable write-offs for the Fiscal Year ending June 30, 2023.

C12. Adopt a Resolution to Approve Compensation Changes Related to Annual Performance Evaluation of the City Attorney as Directed by the City Council (Staff Contact: Nick Raisch, Human Resources Director, 408-586-3086)

Recommendation: Adopt a resolution to approve compensation changes related to Annual Performance Evaluation of the City Attorney as directed by the City Council.

C13. Adopt a Resolution Approving the Sole Source Procurement of Crossing Guard Services; and Approve and Authorize the City Manager to Enter into a 1-Year Agreement with All City Management Services, Inc. for Crossing Guard Services in a Total Amount Not-to-Exceed \$781,858.00 for Fiscal Year 2023-24 (Staff Contact: Jared Hernandez, Chief of Police, 408-586-2406)

Recommendation: Adopt a resolution approving the sole source procurement of Crossing Guard Services; and Approve and authorize the City Manager to enter into a 1-year agreement with All City Management Services, Inc. for Crossing Guard Services in a total amount not-to-exceed \$781,858.00 for Fiscal Year 2023-24.

C14. Waive the Second Reading and Adopt Ordinance No. 38.853 Amending the Zoning Map of the City of Milpitas in Accordance with the Provisions of Section 3.03 of Chapter 10 of Title XI of the Milpitas Municipal Code to Change the Zoning Classification of Two Parcels (APNs: 083-40-044 and 083-40-045) Located on the Southwest Corner of South Main Street and Montague Expressway for Consistency with New, Approved General Plan Land Use Designations. (Staff Contact: Ned Thomas, Planning Director, 408-586-3273; and Holly Pearson, Senior Special Projects Associate, 408-609-0072)

Recommendation: (1) Determine that potential environmental impacts associated with the proposed Zoning Map changes have been previously analyzed under the Environmental Impact Report (EIR) for the Milpitas 2040 General Plan certified on March 9, 2021 (per Resolution 9047) and find that since the proposed Zoning Map changes are consistent with the General Plan, no further environmental analysis is required; and (2) Move to waive the second reading and adopt Ordinance No. 38.853 amending the Zoning Map of the City of Milpitas in accordance with the provisions of Section 3.03 of Chapter 10 of Title XI of the Milpitas Municipal Code to change the zoning classification of two parcels (APNs: 083-40-044 and 083-40-045) located on the southwest corner of South Main Street and Montague Expressway for consistency with new, approved General Plan land use designations.

C15. Receive an Update on the Emergency Repairs to the HVAC System and Equipment at City Hall and at the Public Works/Information Technology/Police Department Buildings and Determine that the Condition Continues to Constitute an Emergency (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)

Recommendation: (1) Receive an update on the emergency repairs to the HVAC system and equipment at City Hall and at the Public Works/Information Technology/Police Department Buildings; and (2) Determine by a four-fifths vote that the condition continues to constitute an emergency.

PUBLIC HEARINGS (7:20 PM)

Members of the public may be allotted up to three (3) minutes or less at the Mayor's discretion, to comment on any public hearing item. Applicants/Appellants and their representatives may be allotted up to a total of ten (10) minutes for opening statements and up to a total of five (5) minutes maximum for closing statements. Items requested/recommended for continuance are subject to Council's consent at the meeting.

16. **Conduct a Public Hearing and Adopt a Resolution Confirming the Assessment and Ordering the Levy for the Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch for Fiscal Year 2023-24 (Staff Contact: Roberto Alonzo, Principal Civil Engineer, 408-586-3316)**

Recommendation: Open the public hearing, receive any comments, and move to close the hearing following any testimony, and Adopt a Resolution confirming the assessment and ordering the levy for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch for Fiscal Year 2023-24.

17. **Conduct a Public Hearing and Adopt a Resolution Confirming the Assessment and Ordering the Levy for the Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon for Fiscal Year 2023-24 (Staff Contact: Roberto Alonzo, Principal Civil Engineer, 408-586-3316)**

Recommendation: Open the public hearing, receive any comments, and move to close the hearing following any testimony, and Adopt a Resolution confirming the assessment and ordering the levy for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon for Fiscal Year 2023-24.

LEADERSHIP AND SUPPORT SERVICES (8:00 PM)

18. **Adopt a Resolution to Appoint an Acting City Manager and Consider Acting Pay Effective Upon Adoption and Continuing Until Council Takes Further Action (Staff Contact: Nick Raisch, Human Resources Director, 408-586-3086)**

Recommendation: (1) Adopt a resolution to appoint an Acting City Manager effective upon adoption and continuing until council takes further action; and (2) Consider acting pay during the assignment.

19. **Receive a Report on the Homekey Project at 1000 Hillview Court, Direct Staff to Establish a Stakeholder Group and Appoint a Council Liaison (Staff Contact: Ashwini Kantak, Acting City Manager, 408-586-3053; and Matt Cano, Deputy City Manager, 408-586-3012)**

Recommendations: Receive a report on the Homekey Project at 1000 Hillview Court, and direct staff to establish a stakeholder group and appoint a Council liaison to the stakeholder group.

20. **Review the List of Agenda Item Requests From Individual Councilmembers and Provide Direction to Staff, Through the Prioritization Process, on Groups 1 Items; Provide Additional Clarification to Staff, If Any, on Group 2 Items (Staff Contact: Ashwini Kantak, Assistant City Manager, 408-586-3053; and Matt Cano, Deputy City Manager, 408-586-3012)**

Recommendation: (1) Review list of agenda item requests from individual Councilmembers and provide direction to staff, through the prioritization process, on which Group 1 items should be advanced; (2) Provide additional input to staff, if any, on Group 1 items that received Council direction to advance and all Group 2 items; and (3) Provide additional direction on Group 3 items as needed.

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS (10:45 PM)

Members of the City Council or City Manager may make brief announcements at this time. Members of the City Council may also suggest future agenda items. For future agenda items, the City Council shall not debate the topic or engage in discussion but shall simply state a “yes” or “no” as whether to move the item forward. If a majority of the City Council agrees to move the item forward, the City Manager shall place the item on a future agenda.

ADJOURNMENT (10:50 PM)

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions and other City agencies exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and City operations are open to the people's review. For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035
e-mail: mmutalipassi@milpitas.gov / Phone: 408-586-3040

The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website www.milpitas.gov by selecting the Milpitas Municipal Code link.

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3rd floor 455 E. Calaveras Blvd., Milpitas and on City website. City Council agendas and related materials can be viewed online: www.milpitas.gov/government/council/agenda_minutes.asp (select meeting date)

APPLY TO SERVE ON A CITY COMMISSION

Commission application forms are available online at www.milpitas.gov or at Milpitas City Hall. Contact the City Clerk's Office at 408-586-3001 for more information.

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, please call the City Clerk at 408-586-3001 or send an e-mail to CityClerk@milpitas.gov prior to the meeting. You may request a larger font agenda.

May 2023						
S	M	T	W	T	F	S
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Milpitas City Council Calendar

June 2023

July 2023						
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Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
				United States Conference of Mayors, Columbus OH (CM)		
				5:30 PM -Milpitas Chamber of Commerce Board (GB) 5:30 PM -Santa Clara VTA Board of Directors (CM)		12:00 PM - Pride Flag Raising Ceremony, Cesar Chavez Plaza
4	5	6	7	8	9	10
United States Conference of Mayors, Columbus OH (CM)	7:00 PM -Parks, Recreation & Cultural Resources Commission (HL)	6:00 PM -Closed Session 7:00 PM -City Council	5:30 PM -Veterans Commission (CM) 7:00 PM -Community Advisory Commission (EC)	6:00 PM -Youth Advisory Commission (HL)		
11	12	13	14	15	16	17
		4:00 PM - Milpitas HOPE	5:45 PM -Special Meeting of Silicon Valley Clean Energy 7:00 PM -Silicon Valley Clean Energy Board of Directors (EC) (Cupertino) 7:00 PM -Planning Commission	3:00 PM -VTA Safety, Security, and Transit Planning and Operations Committee (CM) (San Jose) 5:30 PM -Measure F Oversight Committee		11:00 AM-3:00 PM -Milpitas Cultural Arts Grant Juneteenth, Sunnyhills Albert Augustine
18	19	20	21	22	23	24
	3:30 PM -City Manager Recruitment Subcommittee (CM/EC) 4:30 PM -City Council Transportation Subcommittee (CM/EC) 7:00 PM -Science, Technology, and Innovation Commission (GB)	6:00 PM -Closed Session 7:00 PM -City Council	4:00 PM -City Council Finance Subcommittee (CM/EC) 6:00 PM -Energy and Environmental Sustainability Commission (EC)	5:30 PM -State of the City Address (CM) Milpitas Council Chambers		9:00 AM -Philippine Independence Day Flag Raising [Cesar Chavez Plaza]
25	26	27	28	29	30	
		1:30 PM -Senior Advisory Commission (CM)	5:30 PM -Cities Assoc. of SCC - Recycling and Waste Reduction Commission (CM)			

Milpitas City Council Calendar

July 2023

June 2023						
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August 2023						
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Item # C1.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	INDEPENDENCE DAY City Hall Closed  RED, WHITE & BOOM! CONCERT AND FIREWORKS SHOW @ Milpitas Sports Center, 6:00 PM	5 2:00 PM -Santa Clara VTA Monthly Briefing - Northeast Group (CM) (Santa Clara)	6 5:30 PM -Santa Clara VTA Board of Directors (CM) 5:30 PM -Milpitas Chamber of Commerce Board (GB)	7	8
9	10	11	12 7:00 PM -Silicon Valley Clean Energy Board of Directors (EC) (Cupertino)	13 4:00 PM -Santa Clara VTA Policy Advisory Committee (EC) 4:00 PM -Treatment Plant Advisory Committee (CM) (San Jose) 7:00 PM -Cities Assoc of SCC (CM)	14	15
16	17	18	19	20 3:00 PM -VTA Safety, Security and Transit Planning & operations Committee (CM) (San Jose) 6:30 PM -Bay Area Water Supply Conserv Agency (CM) (Oak Room - San Mateo Main Library)	21	22
23	24	25	26	27 4:00 PM -Silicon Valley Regional Interoperability Authority (SVRIA) (GB)	28	29
30	31					

July 2023						
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Milpitas City Council Calendar

August 2023

September 2023							Item # C1.	
S	M	T	W	T			1	2
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24	25	26	27	28			29	30

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1 6:00 PM -National Night Out Citywide Neighborhoods Events	2 2:00 PM -Santa Clara VTA Monthly Briefing - Northeast Group (CM) (Santa Clara) 5:30 PM -Veterans Commission (CM) 7:00 PM -Community Advisory Commission (EC)	3 5:30 PM -Milpitas Chamber of Commerce Board (GB) 5:30 PM -Santa Clara VTA Board of Directors (CM)	4	5
6	7 7:00 PM -Parks, Recreation & Cultural Resources Commission (HL)	8 5:30 PM -Special Council Meeting	9 4:30 PM -City Council Transportation Subcommittee (CM/EC) 7:00 PM -Silicon Valley Clean Energy Board of Directors (EC) (Cupertino) 7:00 PM -Planning Commission	10 4:00 PM -Treatment Plant Advisory Committee (CM) (San Jose) 4:00 PM -Santa Clara VTA Policy Advisory Committee (EC) 6:00 PM -Youth Advisory Commission (HL) 7:00 PM -Cities Assoc of SCC (CM)	11	12
13	14 4:30 PM -Economic Development and Trade Commission (CM)	15 6:00 PM -Closed Session 7:00 PM -City Council	16 6:00 PM -Energy and Environmental Sustainability Commission (EC)	17 4:00 PM -VTA Safety, Security, and Transit Planning & Operations Committee (CM) [San Jose]	18	19
20	21 7:00 PM -Science, Technology, and Innovation Commission (GB)	22 1:30 PM -Senior Advisory Commission (CM) 6:00 PM - Zoning Update Community Workshop (Virtual)	23 5:30 PM -Cities Assoc. of SCC - Recycling and Waste Reduction Commission (CM) 7:00 PM -Planning Commission	24	25	26
27	28	29	30 6:00 PM - Planning Commission	31		



JOINT MEETING OF THE MILPITAS CITY COUNCIL, HOUSING AUTHORITY, AND PUBLIC FINANCING AUTHORITY

Item # C2.

MINUTES TUESDAY, JUNE 6, 2023

The City Council of the City of Milpitas convened in a Joint Meeting of the Milpitas City Council, Housing Authority, and Public Financing Authority on June 6, 2023, in the City Council Chamber at City Hall, 455 E. Calaveras Blvd., Milpitas, and via teleconference/ Zoom webinar.

CALL MEETING TO ORDER by Mayor and ROLL CALL by City Clerk

Mayor Montano called the Regular City Council meeting to order at 6:00 PM. Roll Call was taken by City Clerk Guzzetta.

PRESENT: Mayor Montano, Vice Mayor Chua, Councilmembers Barbadillo, Lien, and Phan (6:04p).
ABSENT: None.

City Attorney Mutalipassi announced the closed session items.

The City Council adjourned to Closed Session at 6:02 PM.

ADJOURN TO CLOSED SESSION

(a) CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

Agency designated representative: Nick Raisch, Human Resources Director

Bargaining unit: LIUNA, UPEC (Pro-Tech, MEA, MidCon), IAFF, MPOA

The City Council reconvened in open session at 7:33 PM

CLOSED SESSION ANNOUNCEMENT:

City Attorney Mutalipassi announced there was nothing to report.

Mayor Montano led a moment of silence for the 3 victims killed in the June 1, 2023 crime spree: Jiwonjot Dhariwal of Milpitas, age 26, Nguyen Pham of San Jose, age 72, and Phuc Pham of San Jose, age 71.

PLEDGE OF ALLEGIANCE

Mayor Montano led the Pledge of Allegiance.

INVOCATION

Vice Mayor Chua presented the invocation.

PRESENTATIONS

Mayor Montano presented a proclamation in recognition of Parks and Recreation Month. Rondi Murray, President of the Police Athletic League Youth Sports Group and Parks, Recreation and Cultural Resources Commissioner, accepted the proclamation and offered remarks.

Mayor Montano presented a proclamation in recognition of Telugu Pride Day. Members of Telugu community accepted the proclamation and offered remarks.

PUBLIC FORUM

There were the following public speakers:

1. Jacob Abeytia
2. Rob Means
3. Voltaire Montemayor
4. Tom Valore
5. Matthew Tinsley

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Mutalipassi asked the Mayor and City Councilmembers if they had any personal conflicts of interest. By roll call, there were no conflicts of interest. City Attorney Mutalipassi asked the Mayor and City Councilmembers if they had any reportable campaign contributions. By roll call, there were no reportable campaign contributions.

READING OF THE CITY COUNCIL CODE OF CONDUCT

Mayor Montano read the Code of Conduct.

APPROVAL OF AGENDA

Motion: to approve the June 6, 2023 Regular Meeting Agenda.

Motion/Second: Vice Mayor Chua / Councilmember Phan

Motion carried by the following:

AYES: Councilmembers Barbadillo, Lien, Phan, Vice Mayor Chua, and Mayor Montano

NOES: None

CONSENT CALENDAR

Motion: to approve the Consent Calendar, pulling Items C5 and C6

Motion/Second: Vice Mayor Chua / Councilmember Lien

Motion carried by the following:

AYES: Councilmembers Barbadillo, Lien, Phan, Vice Mayor Chua, and Mayor Montano

NOES: None

There were no public speakers.

C1. Receive City Council Calendar of Meetings for June 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Received City Council Calendar of Meetings for June 2023.

C2. Approve City Council City Council Meeting Minutes of May 9, 16, and 23, 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Approved City Council Special Meeting minutes of May 9 and 23, 2023 and Regular Meeting minutes of May 16, 2023.

- C3. Receive the Preview List of Anticipated Items for the Next Regular City Council Meeting (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Received the list of anticipated agenda items for the next regular City Council meeting.

- C4. Receive and Review the List of Agenda Items Requested by City Councilmembers (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Reviewed the list of items that have been requested by City Councilmembers and provide direction to staff as necessary.

- C5. Accept the Report for Key 2022 Approved State Laws Impacting Municipal Operations and an Update on 2023 State and Federal Earmark Requests (Staff Contact: Matt Cano, Deputy City Manager, 408-586-3012)**

Item pulled from consent calendar.

- C6. American Rescue Plan Act (ARPA) Workforce Development Program Funding (Staff Contact: Alex Andrade, Economic Development Director, 408-586-3046; and Margaret Tamisiea, Senior Special Projects Associate, 408-586-3047)**

Item pulled from consent calendar.

- C7. Adopt a Resolution Granting Acceptance of Delano Manongs Park Sports Field (Formerly known as McCandless Park Sports Field), Project No. 5102, Authorizing the City Engineer to File a Notice of Completion, and Authorize the City to Issue a Notice of Final Acceptance after the One-Year Warranty (Staff Contact: Michael Silveira, Capital Improvement Program Manager, 408-586-3303)**

Adopted **Resolution No. 9248** granting acceptance of Delano Manongs Park Sports Field (formerly known as McCandless Park Sports Field), Project No. 5102, authorizing the City Engineer to file a Notice of Completion, and authorizing the City Engineer to issue a Notice of Final Acceptance after the one-year warranty.

- C8. Adopt a Resolution to Approve Project Plans and Specifications, Award Construction Contract to Joseph J Albanese, Inc for Street Resurfacing 2023 Project No. 4283, 4303, 4304; and Approve Budget Change Form (Staff Contact: Matt Cano, Deputy City Manager, 408-586-3012)**

Adopted **Resolution No. 9249** to approve project plans & specifications; award the construction contract to the lowest responsible, and responsive bidder, Joseph J. Albanese Inc, in the amount of \$2,899,299.75 for the Street Resurfacing Project No. 4283, 4303, 4304; Authorize the City Manager to execute the construction contract with Joseph J. Albanese Inc; Authorize the Engineering Director/City Engineer to negotiate and execute Contract Change Order(s) in an aggregate amount not to exceed \$434,894.96 for the project; and Approve the Budget Change Form to appropriate funding for CP 4303 and CP 4304.

- C9. Adopt Resolutions of the Milpitas City Council and Milpitas Public Financing Authority Board Authorizing Investment of Monies in the Local Agency Investment Fund and Updating Officers' Information (Staff Contact: Lauren Lai, Finance Director, 408-586-3111)**

Adopted **Resolution No. 9250 / PFA Resolution No. 28** of the Milpitas City Council and Milpitas Public Financing Authority Board authorizing investment of monies in the Local Agency Investment Fund and updating officers' information.

- C10. Approve and Authorize the City Manager to Execute the Purchase Order with Code 3 Technology for Police Mobile Computer Replacement (Staff Contact: Daniel Nam, Information Technology Director, 408-586-2712)**

Approved and authorized the City Manager to execute the purchase order with Code 3 Technology for 32 Getac ruggedized laptop computers for a total amount not-to-exceed \$199,991.45.

- C11. Receive an Update on the Emergency Repairs to the HVAC System and Equipment at City Hall and at the Public Works/Information Technology/Police Department Buildings and Determine that the Condition Continues to Constitute an Emergency (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)**

(1) Received an update on the emergency repairs to the HVAC system and equipment at City Hall and at the Public Works/Information Technology/Police Department Buildings; and (2) Determined by a four-fifths vote that the condition continues to constitute an emergency.

- C12. Approve Parks and Recreation and Community Services Programs Donation for a Memorial Bench in Honor of Mikhaila Saso (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)**

Approved the Parks and Recreation Donation for a Memorial Bench for Mikhaila Saso.

- C13. Consider Two Fee Waiver Requests from the Samuel Ayer High School Alumni Association and the Filipino Chamber of Commerce (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)**

(1) Approved a Fee Waiver of \$1,500.00 for the Samuel Ayer High School Annual Reunion at Murphy Park on September 16, 2023; and (2) Approved a Fee Waiver of \$1,485.00 for the Filipino Chamber of Commerce Business Seminar at the Milpitas Community Center on June 24, 2023.

- C14. Adopt a Resolution Approving the Application for \$301,516.00 Land and Water Conservation Fund Grant from the State Department of Parks and Recreation and Designating the Acting City Manager or Designee as the Authorized Agent on the Grant Agreement with the State of California (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)**

Adopted **Resolution No. 9251** approving the submittal of an application for Land and Water Conservation Grant Funds from the State Department of Parks and Recreation and designating the Acting City Manager or Designee as the Authorized Agent on the Grant Agreement with the State of California.

PUBLIC HEARINGS

- 15. Open the Public Hearing and Adopt Resolutions to Approve the Fiscal Year 2023-24 Operating Budget for the City of Milpitas and the Milpitas Housing Authority, Approve the Fiscal Year 2023-24 Gann Appropriations Limit, Authorize Various Financial Actions, Fiscal Policies and Budget Guidelines, Amend the Classification Plan for Alignment with the FY 2023-24 Budget, the Minimum Wage Increase, and Salary Schedules Consistent with Previous Council Action (Staff Contact: Matt Cano, Deputy City Manager, 408-586-3012; and Lauren Lai, Finance Director, 408-586-3111)**

Assistant City Manager Kantak introduced the item. Deputy City Manager Cano and Finance Director Lai presented the report.

Mayor Montano opened the public hearing.

There were the following public speakers:

1. Tom Valore
2. Rob Means
3. Voltaire Montemayor

Mayor Montano closed the public hearing.

Staff responded to questions from the City Council.

Councilmember Phan questioned the difference between council feedback and the recommended budget. Assistant City Manager Kantak noted that the hearing today was the opportunity to provide final direction.

Councilmember Phan suggested taking a vote before the final motion and inquired on his request to consider cuts to the City Attorney's office remodel funding. Assistant City Manager responded that the remodel funding cut was presented as an option in the presentation and asked for any specific direction from the Councilmember. Councilmember Barbadillo spoke in agreement for considering a restructure of executive level in the future.

Mayor Montano suggested adding an IT technician in lieu of an IT Analyst.

Councilmember Phan continued and suggested providing direction or voting on a one City Manager / one City Attorney structure and bringing it forward at the start of the next calendar year.

Vice Mayor Chua stressed the importance of ARPA funds being used for Council related projects and noted that by removing the City Attorney office remodel from consideration, the funds allocated to that project could be reallocated to reducing the amount of ARPA funds used to balance the budget. She spoke in support of reviewing the executive structure in the future and provided direction to add language to fiscal policies regarding "instilling a culture of service", revenue generation, and revenue preservation.

Assistant City Manager Kantak summarized the change to the proposed budget and asked for confirmation on direction to bring back a review the structure of the City Manager's Office and City Attorney's Office as part of the Mid-Year Budget or in the next Calendar Year. Mayor Montano asked to include her request for adding an IT Technician in lieu of an IT Analyst. Vice Mayor Chua and Councilmember Phan agreed to bring back a review of the executive structure. Assistant City Manager Kantak asked if there was a specific time recommended to return with the review. Vice Mayor Chua stated at a future date to allow time for analysis, consider market factors such as the economy, and the appointment of a City Manager to allow time to make a better-informed decision.

Mayor Montano asked if there was Council consensus on her request for an IT Technician. Assistant City Manager Kantak noted that replacing an analyst with a technician would negatively impact the departments. Vice Mayor Chua suggested staff look at the workload for the IT Technician position and staff with an analyst if needed; Mayor Montano agreed with this suggestion. Councilmember Phan spoke in support of the IT Analyst position.

After discussion, Vice Mayor Chua made a motion to: (1) Adopt the following resolutions:

- (a) **Resolution No. 9252 / HA Resolution No. 32** Joint Resolution of the City Council and Milpitas Housing Authority to approve the Fiscal Year 2023-24 Operating Budget the City of Milpitas and the Milpitas Housing Authority, approve the Appropriations Limit, Fiscal Policies and Budget

Guidelines and authorizing various financial actions by the City Manager, including Approving and Authorizing the Execution of Various Contracts and Payments over \$100,000;

- (b) **Resolution No. 9253** Amending Resolution No. 1626, the Classification Plan, to authorize additional positions and amend budgeted allocated positions;
 - (c) **Resolution No. 9254** Amending Resolution No. 1626, the Classification Plan, to adjust the hourly rate ranges for classifications due to a minimum wage increase pursuant to Ordinance No. 292;
 - (d) **Resolution No. 9255** Amending Resolution No. 1626, the Classification Plan of Unrepresented Management Employees and Authorizing Fringe Benefits;
 - (e) **Resolution No. 9256** Amending Resolution No. 1626, the Classification Plan, to adjust the Salary Schedules for various classifications to align with the current memorandums of understandings (MOUs);
- (2) And incorporate the following direction:
- (a) Add language to fiscal policies regarding “instilling a culture of service”, revenue generation, and revenue preservation; and
 - (b) Reduce the use of ARPA Unallocated Funds to offset General Fund costs and transfer funds from General Government CIP previously proposed for the City Attorney’s Office.

Motion/Second: Vice Mayor Chua / Councilmember Lien

Motion carried by the following:

AYES: Councilmembers Barbadillo, Lien and Phan, Vice Mayor Chua, and Mayor Montano

NOES: None

Vice Mayor Chua made a Motion to: **Resolution No. 9257** Amending Resolution No. 1626, the Classification Plan, to authorize additional positions and amend budgeted allocated positions for Human Resources Manager.

Motion/Second: Vice Mayor Chua / Councilmember Barbadillo

Motion carried by the following:

AYES: Councilmembers Barbadillo and Phan, Vice Mayor Chua, and Mayor Montano

NOES: None.

ABSTAIN: Councilmember Lien.

- 16. Conduct a Public Hearing and Adopt a Resolution Approving a General Plan Amendment (GP23-0002) to Change the Land Use Designations for 168 Parcels on South Main Street, Generally Located South of Great Mall Parkway and North of Montague Expressway, for Consistency with the Boundaries of the Metro Specific Plan and the Proposed Boundaries of the Draft Gateway-Main Street Specific Plan; and Introduce an Ordinance Amending the Milpitas Zoning Map (ZA23-0001) in Accordance with the Provisions of Section 3.03 of Chapter 10 of Title XI (Zoning) of the Milpitas Municipal Code to Change the Zoning Classification of Certain Parcels (APNs: 083-40-044 and 083-40-045) for Consistency with the New General Plan Land Use Designations (Staff Contact: Ned Thomas, Planning Director, 408-586-3273; and Holly Pearson, Senior Special Projects Associate, 408-609-0072)**

Planning Director Thomas and Special Projects Associate Pearson presented the report.

Mayor Montano opened the public hearing.

There were the following public speakers:

1. Armando Gomez
2. Voltaire Montemayor

Mayor Montano closed the public hearing.

Planning Director Thomas responded to questions from the City Council.

City Attorney Mutalipassi read aloud the title of the ordinance.

After discussion, motion to: (1) Determine that potential environmental impacts associated with the proposed General Plan Map and Zoning Map changes have been previously analyzed under the Environmental Impact Report (EIR) for the Milpitas 2040 General Plan certified on March 9, 2021 (per Resolution 9047) and the Subsequent EIR for the Milpitas Metro Specific Plan certified on February 7, 2023 (per Resolution 9217), and find that since the proposed General Plan Map and Zoning Map changes are consistent with the General Plan and Metro Specific Plan, no further environmental analysis is required; (2) Determine that these actions are exempt from environmental review under the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15183 (Projects Consistent with a General Plan, Community Plan, or Zoning); (3) Adopt **Resolution No. 9258** approving General Plan Amendment GP23-0002; and (5) Waive the first reading beyond the title and introduce **Ordinance No. 38.853** amending the Zoning Map of the City of Milpitas in accordance with the provisions of Section 3.03 of Chapter 10 of Title XI (Zoning Ordinance) of the Milpitas Municipal Code to change the zoning classification of two parcels (APNs: 083-40-044 and 083-40-045) for consistency with the new General Plan land use designations.

Motion/Second: Mayor Montano / Councilmember Barbadillo

Motion carried by the following:

AYES: Councilmembers Barbadillo, Lien and Phan, Vice Mayor Chua, and Mayor Montano

NOES: None

LEADERSHIP AND SUPPORT SERVICES

17. Adopt a Resolution to Appoint Ashwini Kantak as Acting City Manager Effective Upon Adoption and Continuing Until a Permanent Appointment is Made (Staff Contact: Nick Raisch, Human Resources Director, 408-586-3086)

City Attorney Mutalipassi introduced the item and responded to questions from City Council.

There were the following public speakers:

1. Voltaire Montemayor

Councilmember Phan noted that appointment decisions are typically first heard in Closed Session. He voiced concerns that the appointment recommendation didn't follow previous standards.

Vice Mayor Chua asked to consider the item in Closed Session.

Mayor Montano suggested that it was important to have a City Manager and urged the City Council to move forward and vote.

Mayor Montano made a motion to: adopt a resolution to appoint Ashwini Kantak as Acting City Manager effective upon adoption and continuing until the council takes further action and approve acting pay (10%) commensurate with established practices. Councilmember Lien seconded the motion. Upon a call for the question, the motion failed with the following vote:

AYES: Councilmember Lien and Mayor Montano

NOES: Councilmembers Barbadillo and Phan, and Vice Mayor Chua.

Mayor Montano then made a motion to: Appoint Ashwini Kantak as Acting City Manager until council takes further action and considers the appointment and incentives in Closed Session on June 20, 2023. The motion was seconded by Councilmember Lien.

Motion/Second: Mayor Montano / Councilmember Barbadillo

Motion carried by the following:

AYES: Councilmembers Barbadillo, Lien, and Phan, Vice Mayor Chua, and Mayor Montano

NOES: None.

ITEMS PULLED FROM CONSENT CALENDAR

C6. American Rescue Plan Act (ARPA) Workforce Development Program Funding (Staff Contact: Alex Andrade, Economic Development Director, 408-586-3046; and Margaret Tamisiea, Senior Special Projects Associate, 408-586-3047)

Vice Mayor Chua asked staff to divert the remaining \$100,000.00 from the ARPA Workforce Development Grant funds remaining after the action taken on the item and combine with the unallocated ARPA funds remaining after the budget adoption to be allocated later to other ARPA programs. Councilmember Lien asked for clarification and then voice support for the direction. No member of the City Council expressed dissent with the direction.

After discussion, motion to: Approve American Rescue Plan Act (ARPA) Workforce Development grant for Milpitas Unified School District's Adult Education Career Training Center to support workforce development programming and education services in the amount of \$30,000.00.

Motion/Second: Vice Mayor Chua / Councilmember Phan

Motion carried by the following:

AYES: Councilmembers Barbadillo, Lien, and Phan, Vice Mayor Chua, and Mayor Montano

NOES: None.

C5. Accept the Report for Key 2022 Approved State Laws Impacting Municipal Operations and an Update on 2023 State and Federal Earmark Requests (Staff Contact: Matt Cano, Deputy City Manager, 408-586-3012)

Mayor Montano state that she pulled the item due to a question on grants and those grants applied to for the Main Street Lighting. Deputy City Manager Cano provided an update on possible avenues for funding.

After discussion, motion to: Accept the report for Key 2022 Approved State Laws impacting municipal operations and the 2023 State and Federal Legislative Earmark requests.

Motion/Second: Mayor Montano / Councilmember Barbadillo

Motion carried by the following:

AYES: Councilmembers Barbadillo, Lien, and Phan, Vice Mayor Chua, and Mayor Montano

NOES: None.

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

Councilmember Phan spoke on and recognized the Month of June as Pride Month.

Vice Mayor Chua reported on attending the Pride Celebration over the weekend.

ADJOURNMENT

Mayor Montano adjourned the meeting at 10:58 PM.

Draft meeting minutes submitted by City Clerk, Suzanne Guzzetta

TENTATIVE CITY COUNCIL AGENDA ITEM LIST

Item # C3.

as of 6/15/2023

August 8, 2023 – Regular Meeting

CLOSED SESSION

- Labor Relations

INVOCATION (Councilmember Lien)

PRESENTATION

- American Muslim Appreciation Month (Proclamation)

CONSENT CALENDAR

1. Receive City Council calendar for August 2023 (City Clerk)
2. Approve City Council Meeting minutes of June 20, 2023 (City Clerk)
3. Preview list of items for August 15, 2023 (City Clerk)
4. Councilmember Request List (City Clerk)
5. Commission Appointments (City Clerk)
6. Report on Emergency HVAC Repairs (Public Works)

PUBLIC HEARING

7. 2023 Weed Abatement Assessment and Resolution (Fire Prevention)

COMMUNITY DEVELOPMENT

COMMUNITY SERVICES

PUBLIC SAFETY

LEADERSHIP

8. CEDAW Recommendations (Recreation)

REPORTS



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve the Proposed Edits to the Commissioner Handbook, and Revisions to the Bylaws Addendum for the Science, Technology and Innovation Commission (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	6/20/2023
	<u>Recommendation:</u> Approve the proposed edits to the Commissioner Handbook, and the revisions to the Bylaws Addendum for the Science, Technology and Innovation Commission to change meeting frequency, as recommended by the Commission.

Background:

On April 16, 2019, Milpitas City Council approved standardized Commission Bylaws and associated addendums for City Commissions. The standardized Commission Bylaws detail a Commission's operations and afford consistency across the various bodies, allowing for efficiencies in commission management and support. Commission Bylaw addendums capture each individual Commission's advisory area, meeting date, time, and location, and any special requirements or recommended areas of interest.

Revisions and associated updates to the Commissioner Handbook, Commission Bylaws and Bylaws Addendums have been approved by City Council at various times since the Commissioner Handbook was first adopted by City Council on August 21, 2018.

At the Science, Technology and Innovation Commission Special meeting on May 15, 2023, the Commission unanimously recommended modifying their meeting frequency from bi-monthly to monthly.

Analysis:

This staff report recommends revisions to the Commissioner Handbook, and the Bylaws Addendum for the Science, Technology and Innovation Commission as outlined below.

Commissioner Handbook

The proposed edits to the Commissioner Handbook include the following:

- Welcome Letter
- Renaming Section Titles
- Clarifying Alternate Member duties and actions taken when seated
- Providing information on the City Council Liaison role
- Defining qualifications for Arts Commission non-voting student members
- Revising sections for clarity including "Terms of Service" and "California's Ralph M. Brown Act"
- Adding a section to define possible reasons a Commissioner may be removed from office
- Removing language that did not apply to all Commissions
- Defining when motions do and do not occur and removing reference to Roll Call votes.
- Including the City's Anti-Discrimination Policy as an Appendix to the handbook
- Other non-substantive grammatical and clarifying changes.

Science, Technology and Innovation Commission

The addendum to the bylaws is revised to change meeting frequency from bi-monthly to monthly.

California Environmental Quality Act:

The City Council's action in making changes to the Commissioner Handbook and Bylaws is exempt from

environmental review pursuant to CEQA Guideline 15378(b)(5) as an organizational or administrative activity of the City that will not result in any direct or indirect physical changes in the environment.

Fiscal Impact:

None.

Recommendation:

Approve the proposed edits to the Commissioner Handbook, and the revisions to the Bylaws Addendum for the Science, Technology and Innovation Commission to change the meeting frequency, as recommended by the Commission.

Attachments:

1. Revised Commissioner Handbook - Redline
2. Revised Commissioner Handbook - Clean
3. Draft Science, Technology and Innovation Commission Bylaws Addendum



CITY OF MILPITAS
COMMISSIONERS HANDBOOK
20232

Adopted by Milpitas City Council on:

August 21, 2018

Revisions Approved by Milpitas City Council on:

January 19, 2021

April 5, 2022

August 19, 2022

Welcome to City of Milpitas

Service as a Volunteer Commissioner



CITY OF MILPITAS

OFFICE OF MAYOR CARMEN MONTANO

455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479
 PHONE: 408-586-3050, FAX: 408-586-3056, www.ci.milpitas.ca.gov www.milpitas.gov

Welcome and congratulations on joining the City of Milpitas team as a City Commissioner or Alternate! I am delighted that you are joining us, as your appointment is important to your Commission's role in advising the Milpitas City Council as-on topics and initiatives important to the Milpitas community.

Included in this Commissioner Handbook is information on areas such as participating in a public meeting, attendance, and the role of Commissioners, the staff and council liaisons. I am hopeful that you will use this handbook as a guide to help you at your meetings and as you work with your Commission on your annual Work Plan and advisory areas.

I look forward to all the great work you will do on your Commission and on behalf of the Milpitas City Council, thank you for your service to the Milpitas community!

Sincerely,

Carmen Montano
 Mayor

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Introduction and Overview

CITY OVERVIEW

City of Milpitas is a California municipality of approximately 84,000 residents, and was incorporated as a General Law City in January of 1954. Elected City Officers are the Mayor (term of 2 years) and four elected City Councilmembers (terms of 4 years each). Those leaders are elected by Milpitas voters on the ballot in November elections held each even year.

City Council is the body responsible for making all major policy decisions and direction for the City of Milpitas, including adoption of the City's annual budget. The City Council votes at regular City Council meetings on all expenditures, major land use plans, infrastructure projects and facility and program activities. The Council relies on input from many sources, including the 12 Advisory Commissions [and Measure F Oversight Committee](#), along with other Task Forces, Ad Hoc Committees and residents at large.

CURRENT CITY COMMISSIONS AND COMMITTEES

As of the publication of this manual, the following are 12 City of Milpitas Commissions [and 1 Committee](#) for which residents may volunteer to serve by Mayoral appointment:

- Arts Commission
- Community Advisory Commission
- Economic Development and Trade Commission
- Energy and Environmental Sustainability Commission
- Library and Education Advisory Commission
- Parks, Recreation and Cultural Resources Commission
- Planning Commission
- Public Safety and Emergency Preparedness Commission
- Senior Advisory Commission
- Science, Technology and Innovation Commission
- Veterans Commission
- Youth Advisory Commission
- Measure F Oversight Committee

All Commissions will consist of seven (7) appointed Commissioners, except the Parks, Recreation and Cultural Resources Commission which will consist of nine (9) appointed Commissioners. All Commissions, except the Planning Commission, will also have 2 appointed Alternate Members, and all Commissions, except the Planning Commission and Youth Advisory Commission, may have one (1) Milpitas resident enrolled in grades 9-12, as a non-voting member. The Arts Commission may have two (2) Milpitas residents [enrolled in grades 9-12, one from each Milpitas area public high school](#), as non-voting members.

AD HOC ~~CITIZEN~~ TASK FORCES ~~AND COMMITTEES~~

From time to time, as needs arise, the Milpitas City Council may choose to appoint residents to serve on ad hoc advisory bodies. Examples include the HOPE (Suicide Prevention) Task Force, and the Ad-Hoc HomelessnessCEDAW Task Force,~~and Citizens Task Force on Water Rates.~~ Each body to which members are appointed by the City Council shall report back to the Council at appropriate intervals and upon conclusion of the task assigned by the Council. Members' service concludes once a final report is provided to City Council, or as City Council directs.

~~Role of Commissioners, Alternate Members, Chair & Vice Chair, City Staff and City Council~~ Commission Roles

Commissioners serve as voluntary members from the community advising the City Council on policies related to the purpose of their Commission. They are expected to attend all meetings, actively participate and deliberate, and vote on any matters that are requested for recommendation to the City Council.

Alternate Members serve only in the absence of a voting member. When a voting Commissioner is absent from a Commission meeting, alternates will be seated at the table or dais to participate in a voting role at the start of the meeting. If a regular voting Commissioner arrives subsequently, that person shall not participate as a voting member and the Alternate Commissioner will continue to serve as a voting member. Otherwise, Alternate members do not deliberate or vote when all regular members are present at the Commission meeting.

~~Alternate members are appointed by the Mayor and Council, and shall be available to be seated as voting members at a Commission meeting when a voting Commissioner is absent. Alternate members do not deliberate or vote when all regular members are present at the Commission meeting.~~

Once per year, Commissioners will vote to elect a **Chair and Vice Chair of the Commission**. The Chair is responsible for leading the regular meetings of the Commission. The Chair shall call the meeting to order, state items to be discussed on the agenda, permit all members the opportunity to be heard, allow for comments from the public, call for a vote when required and work directly with the staff liaison to ensure a successful meeting. The Vice Chair shall serve the role of Chair in the absence of the Chair. No Commissioner shall serve more than three consecutive years as the Chair or Vice Chair of any Milpitas Commission.

A **City staff liaison** to your Commission is available to provide staff support and work closely with the Chair to develop the meeting agendas and any information gathered for benefit of the Commissioners. Staff shall assist in guiding the work of the Commission, provide agendas and take meeting minutes. The City Manager shall assign appropriate staff liaison(s) to each Commission.

Volunteer City Commissioners do not direct or delegate work tasks to staff or Council liaisons. Commission annual work plan activities and assignments are to be completed by Commissioners.

Each Commission, except for the Planning Commission, will be assigned a **City Council Liaison**. City Council liaisons are non-voting participants, acting in a capacity reflecting the majority opinion of the City Council, which is defined by current or past official City Council action via City Council vote or consensus. The City Council liaison will endeavor to attend all Commission meetings of those bodies to which they are assigned.

The City Attorney may be available to provide legal advice when asked by the staff liaison regarding the Brown Act, parliamentary procedure, or on topics related to the Commission's business. Except for the Planning Commission, the City Attorney will not attend Commission meetings on a regular basis.

The **Milpitas Mayor and City Council** together serve as the ultimate deliberative body regarding all business and policy matters for the City of Milpitas. Significant work by Commissions shall result in recommendations to the City Council, which will then vote to approve any City policy or expenditure.

Joining and Leaving a Commission~~Membership—Application Process, Method of Appointment, Departure, Terms of Service and Term Limits~~

Requirement to serve: ~~the main requirement to~~ be appointed to most Commissions, ~~you must is to~~ be a current **Milpitas** resident ~~of Milpitas~~ over the age of eighteen (18). Specific requirements for select Commissions are reflected in the approved Bylaws Addendums. For example, members of the Economic Development and Trade Commission are not required to be residents, however, they shall represent various segments of the business community.

The City Council may appoint one (1) Milpitas resident enrolled in grades 9-12, as a non-voting member, to a Commission (except the Planning and Youth Advisory Commission). For the Arts Commission, the City Council may appoint two (2) Milpitas residents enrolled in grades 9-12, one from each Milpitas area public high school, as non-voting members.

APPLICATION & APPOINTMENT

To apply for service on any City of Milpitas Commission, residents or interested persons ~~shall~~must complete a Commission Application and submit the form to the City Clerk. The form may be submitted online, in person, by US postal mail or by e-mail. The form is available from the City Clerk's office or on the City website. If requested, applicants may be asked to complete a supplemental questionnaire.

Copies of applications are provided to the Mayor for ~~his/her~~their consideration. Per Government Code, the Mayor of a General Law city holds the power of appointment, upon confirmation by the City Council. The City Council must vote to affirm all appointments to Commissions by the Mayor.

Applicants may express interest in serving on more than one Commission. However, residents may only serve on one Commission at a time, except by special exception of the City Council. City employees may not be appointed to Commissions.

RE-APPOINTMENT

Appointed Commissioners may seek to be re-appointed upon the expiration of their current term. Re-appointment to a new term is not automatic, but rather must be recommended by the Mayor and confirmed by the City Council. Prior to the end of their term, The City Clerk's Office will contact Commissioners eligible for re-appointment to confirm they seek to be re-appointed. The City Clerk will transmit those requests to the Mayor.

RESIGNATION

If a Commissioner is no longer available or able to serve, they must submit a resignation in writing by sending a written communication to the City Clerk and the Mayor pursuant to City Council Resolution No. 7702. The written resignation must then be accepted by City Council via action on consent calendar at a regular meeting.

By state law, a Notice of Vacancy must then be posted by the City Clerk to invite new applicants for the vacant Commission seat.

TERMS OF SERVICE

The term for each Commission seat is a period of three years. The length of a Commissioner's term of service on a Commission is specified in the Commission by-laws and these do vary by Commission. Alternate members (non-voting) may have shorter terms than voting Commissioners, and the term of service is tied to the Commission seat, not the commissioner. When a Commission term is vacant and a new member new Commissioner is appointed to fill the a vacancy, the term of service and expiration of the term remains the same as the original appointment, i.e. the expiration and length of the term is static they are appointed to fill the remainder of the term assigned to that Commission seat. Alternate Commissioner

terms will be tied to the individual appointed for the duration of their service as an alternate.

Commission Participation

BYLAWS AND ORIENTATION BY STAFF

All City of Milpitas Commissions have written By-Laws by which Commissioners and staff abide, which are written by the City Attorney. By-laws may be viewed on the City's website and are provided to all Commissioners from their staff liaison.

A template for the basic edition of all Commission by-laws is included with this handbook, in the appendix.

Links to all Commission's By-laws can be found online on each Commission page:

<http://www.ci.milpitas.ca.gov/our-government/commission/>

<http://www.milpitas.gov/318/Commissions>

The staff liaison shall provide ~~an orientation in person~~onboarding to newly appointed Commissioners. Extensive training is provided in particular to the Planning Commission, commensurate with those duties related to land use decision making – serving as a quasi-judicial body - per the Milpitas Municipal Code. It is the commissioner's responsibility to ensure staff has up-to-date contact information ~~Staff shall ensure that contact information is provided by the Commissioner~~ allowing communication via email for distribution of agendas or other important information.

A nameplate is created for each new Commissioner. Business cards up to 50 each annually may be printed by staff, in house, on City standard format for Commissioners for City business purposes only. City of Milpitas business cards with City logo may not be printed privately or by an outside party.

ANNUAL WORKPLAN

Each Commission shall discuss and prepare its annual work plan, which shall be submitted and approved by City Council. The work plan is a list of the anticipated topics, assignments and goals that Commissioners will focus on over a 12 months' period. In turn, the Council may request an annual report listing accomplishments of each Commission based on the work plan. ~~All Annual Reports may be presented~~will be submitted at one meeting to the City Council ~~annually~~.

ANNUAL BUDGET

City Council shall allocate \$1,000 annually for each Commission. Funds are to be used towards City Council approved Work Plan tasks and projects, and administrative costs related to the Commission. Those Commissions that determine a need for additional funding shall return to City Council with a stated request for more funds and the purpose for those. City Council shall approve or deny any request for such expenditures.

REQUIRED ATTENDANCE ~~/POLICY FOR REMOVAL~~

All appointed Commissioners (and Committee or other ad hoc body members) are expected to attend all regular meetings. Meetings are scheduled at specified times each month or at regular intervals. Attendance and participation in the business of the Commission is necessary for the success of the Commission in achieving its annual work plan goals. When a Commissioner is unable to attend a meeting, it is courteous to notify the City staff liaison and Commission Chair of expected absence.

Attendance is tracked by staff and the City Clerk shall report to the City Council quarterly. If any Commissioner is absent from three or more meetings in a year, that information will be reported to the City Council and can be grounds for removal. This policy allows for another resident to be appointed to the Commission.

POLICY FOR REMOVAL

Commissioners serve at the pleasure of the Mayor and City Council. Commissioners or alternates may be removed for reasons including, but not limited to, the following:

1. Failure to Adhere to Attendance Requirements
2. Harassment of Staff
3. Racist/Sexist Remarks Towards the Public or Other Commissioners
4. Misrepresentation
5. Failure to Meet the Requirements to Serve on a Commission
6. Failure to Adhere to the Ethical Standards Expected of a Commissioner.

~~RESIGNATION~~

~~If a Commissioner is no longer available to serve, he or she must submit resignation in writing by sending a written communication to the Mayor and the City Clerk. This is per adopted City Council Resolution No. 7702. The written resignation must then be accepted by City Council via action on consent calendar at a regular meeting.~~

~~By state law, a 20-day Notice of Vacancy must then be posted by the City Clerk to invite new applicants for the vacant Commission seat.~~

PARTICIPATION

When attending Commission meetings, all voting members have the opportunity and right to participate and be heard. The Chair of the Commission holds the responsibility for decorum at the meetings, and shall permit each Commissioner to offer comments and make ~~any~~ motions on matters on the meeting agenda.

Additionally, certain Commissions expect participation outside of regularly scheduled meetings.~~some Commissions expect participation by Commissioners outside of the regular meetings.~~ For example, Planning Commissioners may attend

the annual Planners Institute offered by the League of California Cities. Several Commissions participate in various joint events throughout the year and other participation in Commission events may be required, as identified in the adopted annual work plan.

CELEBRATION

The Mayor and City Council appreciate the service of each and every Commissioner. As a way to express their appreciation, once each year in the spring, the City Council hosts an event to honor current Commissioners for their service. ~~This may be a luncheon event at the Community Center or another facility. Each~~ The Mayor and City Council ~~will determine and plan the celebration annually, as desired and budgeted~~ will allocate funding for the recognition event during the annual regular budget process cycle, ~~for the Commissioners, Alternate Members and their guests to enjoy.~~

FUNDRAISING

~~Several~~ Certain Commission work plans ~~(approved by City Council)~~ call for fundraising efforts. ~~and~~ Those funds may then be utilized for events, contributions to non-profits, or for other City services. ~~provision.~~ Money raised on behalf of the City of Milpitas will be held by the City ~~of Milpitas~~ as part of and in accordance with best practices of the city's Finance Department. ~~Any requests for~~ Disbursement of those funds ~~to be dispersed~~ will require City Council approval. City staff will work with Commissions to ensure proper accounting procedures and practices are followed to reflect compliance with City and state regulations ~~alongside ethical action.~~

Ethics and Expected Standards of Performance

City Commissioners are representatives of the City while serving in their role as volunteer Commissioners, both while in attendance at meetings and while present at City functions as a Commissioner. All Commissioners and Alternate Members shall ~~adhere to ethical behavior~~ behave ethically at all times ~~and that entails~~ in compliance with the City of Milpitas Anti-Discrimination, Harassment, and Retaliation Policy and Standard Operating Procedure 16-1 “Code of Conduct for Public Officials” (see Appendix B and C). The code requires dedicated service, equal treatment, under-standing of potential for and avoiding conflicts of interest, and ~~not~~ refraining from participating in political activity while ~~performing~~ representing the Commission ~~duties~~.

~~City officials including appointed City Commissioners shall be required to participate in state-mandated ethics training (commonly referred to as AB1234). Such training is available online from the FPPC, on YouTube, and from the City Attorney.~~

Here are links to ethics training courses available:

Fair Political Practices Commission:

<http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/ethics-training.html>

Institute for Local Government:

<http://www.ca-ilg.org/ethics-education-ab-1234-training>

~~Upon completion of the training, Commissioners shall file a signed certificate with the City Clerk, which shall remain on file in the Clerk’s office for the length of service of the Commissioner.~~

California's Ralph M. Brown Act

The Brown Act or Open Meetings law is found in the California Government Code section 54950 et seq. ~~This significant law~~The Brown Act was enacted in 1953 to promote transparency and guarantee the public's right to attend and participate in all meetings of local legislative bodies. Those bodies include temporary or permanent commissions, committees, boards or other ~~body-bodies~~ of a local agency, ~~whether permanent or temporary, acting as either a~~ decision-making body (such as Planning Commission) or advisory body (all others). Most importantly, according to this law, all meetings must be properly noticed for participants and for the public. City staff must ensure this occurs for all Commissions.

Notably, a majority of the members of any Commission may not discuss or deliberate on any business within the subject matter jurisdiction of the Commission except at a noticed meeting, and this includes in person interactions as well as serial or indirect communications.

Agendas for all meetings must be posted in advance of the meeting at the location of the meeting site and freely accessible to members of the public. In addition, agendas and minutes must also be posted to the City of Milpitas website. For meetings conducted at Milpitas City Hall, those agendas are posted on the outside noticing board for this purpose at the northwest entry to the building.

~~The agenda for a regular meeting~~Regular Meeting agendas must be posted ~~in a location at the meeting site and freely accessible to members of the public~~ at least 72 hours before the meeting. Regular meeting dates and times are established in the bylaws or bylaws addendums of those bodies.

Special Meetings are ~~A~~any meeting scheduled outside of the regularly established meeting date and time not established as a regular meeting is a "Special" meeting and a~~The agenda for a~~ special meeting ~~agenda~~ must be posted at least 24 hours prior ~~in advance to the meeting. Agendas must be posted at the building where the meeting occurs, and in Milpitas, also on the City's website. Agendas for all meetings held at Milpitas City Hall are posted on the outside board for this purpose at the northwest entry to the building.~~

Meetings that are improperly noticed will be cancelled.

~~Meetings that are not properly noticed are not permitted. That would include "serial~~Serial~~" meetings, —which would be when where~~ one Commissioner contacts another, who then contacts another Commissioner by phone, e-mail or in person, to discuss commission business and develop a majority consensus are explicitly prohibited by the Brown Act. All business of the Commission must be ~~listed on the~~detailed on an agenda, posted in advance, and discussed at a duly noticed, public meeting held in an accessible location. Therefore, care must be taken to ensure that

if a quorum (half of the members + 1) is gathered at a public or private place, no public business ~~shall~~may be discussed. For this purpose, e-mail communications between Commissioners should be avoided including the use of "Reply All" to any staff notices sent via e-mail to the entire Commission. When corresponding with Commissioners, staff should ensure that communications with all Commissioners are conducted via BCC.

City of Milpitas Open Government Ordinance

In 2005, Milpitas City Council adopted the Open Government Ordinance and amended it in 2009. This is the local version of the City's "Sunshine Law" and ensures that all public business of the city government is conducted in public. It enhances Brown Act requirements. This law is available to read and review in the City's published Milpitas Municipal Code online, as Title I Chapter 310 found here: https://library.municode.com/ca/milpitas/codes/code_of_ordinances?nodeId=TITIA_D_CH310OPGOOR.

Parliamentary Procedure at Meetings

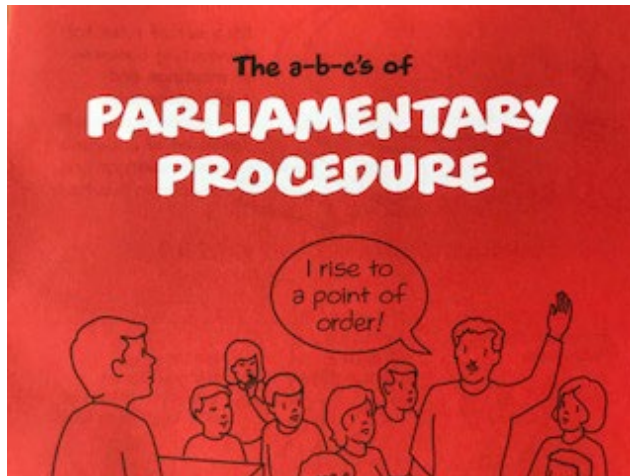
Meetings shall operate using standard parliamentary procedures following an approved meeting agenda. Most entities follow Robert's Rules of Order (or, in the alternative, Rosenberg's [Rules of Order](#)). Procedures generally include:

1. Establish and post a written agenda.
2. Agenda includes a Call to Order, Roll Call, note start and ending times.
3. Action by Motions made, seconded, discussed and voted upon.
4. Adjourn the meeting to conclude or continue the meeting.

One Commissioner can make a motion to approve an action, another member shall second the motion aloud, and then the Commission Chair shall call for a vote. Staff will record the number of votes in favor, the number opposed and any abstaining. The Chair will announce the result of the vote. Voting is most frequently done by voice, aloud, and may also be done by roll call or by a show of hands.

Motions ~~may also be voted upon to~~ are not needed to open and close a public hearing, or to adjourn (end) the meeting. ~~or other necessary actions of the Commission. Training on these technical procedures is available and staff liaisons will schedule for new members.~~ Some training resources are listed on the next page of this handbook.

The City Clerk can provide to each Commissioner one copy of the copyrighted booklet "The a-b-c's of Parliamentary Procedure" published by Channing Bete.



Resources Available for Commissioners

City of Milpitas web page for Commissions:

~~www.ci.milpitas.ca.gov/our-government/commission/commission-member-resources/~~ <http://www.milpitas.gov/318/Commissions>

League of California Cities ~~www.cacities.org~~ <http://www.cacities.org>
(Ethics, Brown Act and other training available online)

Fair Political Practices Commission ~~www.fppc.ca.gov~~ <http://www.fppc.ca.gov>
(Training available on YouTube regarding Forms)

Parliamentary Procedure video

~~www.youtube.com/watch?v=FfnBGolKmbM~~ <http://www.youtube.com/watch?v=FfnBGolKmbM>
~~<http://www.rulesonline.com/>~~

Roberts Rules of Order <http://robertsrulesmadesimple.com/>
~~<http://www.rulesonline.com/>~~

Rosenberg's Rules of Order

~~<https://www.cacities.org/UploadedFiles/LeagueInternet/77/77d4ee2b-c0bc-4ec2-881b-42ccdbbe73c9.pdf>~~

Conflict of Interest Guidelines

State of California Fair Political Practices Commission ("FPPC") regulates reporting of potential conflicts of interest, according to the Political Reform Act. It mandates the filing of annual forms, known as Form 700/Statement of Economic Interests in accordance with the City's adopted Conflict of Interest Code. City Council, specified City staff, and certain City Commissioners must file Form 700 with the City Clerk each year. Its purpose is to reveal any potential conflicts of interest, relative to any financial interests held solely within the City of Milpitas. Forms must be filed initially when first appointed (Assuming Office), annually by April 1 each year, and then once more when departing the Commission upon resignation or conclusion of the term (Leaving Office).

More information and Form 700 is online at www.fppc.ca.gov. Contact the Milpitas City Clerk with any questions.

Commissions required to file Form 700:

Arts Commission

Community Advisory Commission

Economic Development & Trade Commission

Energy & Environmental Sustainability Commission

Parks, Recreation and Cultural Resources Commission
Planning Commission
Science, Technology & Innovation Commission

APPENDICES

A. Standardized Commission By-Laws

B. Anti-Discrimination, Harassment, and Retaliation Policy

B.C. Standard Operating Procedure 16-1 “Code of Conduct for Public Officials”

C.D. FPPC Form 700 Statement of Economic Interests

D.E. City Council Resolution No. 7702 – notification upon resignation

APPENDIX A

Standardized Commission Bylaws

CITY OF MILPITAS COMMISSION BY-LAWS

Section 1. Purpose

A Commission serves as an active advisory group to the City Council on a variety of topics as directed by the City Council. These Commission By-Laws are applicable to all Commissions except for the Planning Commission, which is governed by the Municipal Code, Chapter 500. In addition to these By-Laws, each Commission shall have an addendum that is specific to the Commission and includes information about the Commission scope, member eligibility, and meeting frequency.

Section 2. Membership

A Commission is composed of seven (7) members and two (2) alternates appointed by the Mayor and approved by the City Council. All members and alternates shall be Milpitas residents, 18 years or older, unless otherwise noted in the Commission Bylaws Addendum. In addition to the seven (7) members and two (2) alternates, one (1) Milpitas resident enrolled in grades 9-12 may also be appointed as non-voting member by the Mayor and confirmed by the City Council for all Commissions except for the Youth Advisory Commission. The City Council may appoint a Council liaison to serve on the Commission in a non-voting capacity.

Section 3. Term of Office & Removal

The term of office is three years, or until the seat is filled, for every Commission and is tied to specific seats, not actual Commission members or alternates. A Commission member or alternate is appointed for the term of the seat, which can be less than three years, based on the time of appointment. A Commission member can re-apply at the end of each term.

Members and alternates are expected to attend all meetings. When any member or alternate has three or more absences in a 12-month period, the City Clerk's Office shall forward this information to the City Council for review and possible removal of the member or alternate from the Commission. Any member or alternate of the Commission may be removed from office at any time by a simple majority vote of the City Council at a regularly scheduled Council meeting, with or without cause.

Members and alternates may apply for reappointment by submitting a letter or e-mail of interest to the Mayor with a copy to the City Clerk prior to the expiration of ~~his/her~~ their term of office. Any member or alternate of the Commission who wishes to resign MUST submit a letter of resignation or email to the Mayor with a copy to the City Clerk. Resignations will be confirmed by the City Council at a regularly scheduled Council meeting.

Section 4. Vacancies

Vacancies will be filled for the unexpired portion of the term by the Mayor with the approval of the City Council.

Section 5. Officers

A Chair and Vice Chair will be selected annually at the first meeting of the calendar year from the appointed members for a term of one year. The Chair will call for meetings and preside over all sessions. In the absence of the Chair and Vice Chair, the member with longest continuous service on the Commission will preside.

Section 6. Meetings

Commissions shall hold regular meetings at a predetermined day, week, time and location. All meetings shall be open to the public. Should a scheduled meeting occur on a holiday, said meeting will be deferred to the same day of the following week or to a date agreed upon by a majority of the Commission. Special meetings may be called by majority vote, the Chair, Staff Liaison, or the City Council. No meetings will be held in the month of July. Notice of any special meeting shall be given as required by law. Except as otherwise provided by these Bylaws, the Commission shall follow the latest edition of Robert's Rules of Order for the orderly conduct of meetings.

Section 7. Quorum

A quorum is a majority of the total voting seats on the Commission. Any FOUR (4) voting members, including alternates, shall constitute a quorum for the transaction of business. Alternates count towards quorum even when not seated until after the start of a meeting.

Section 8. Voting and Seating of Alternates

Voting authority is extended to the SEVEN (7) regular members. An alternate member shall vote only if seated in the absence of a regular member. In the event that a regular member is absent, alternate members shall be seated in order of their alternate position. If a member arrives after an alternate has been seated, the alternate shall remain as the voting member until the end of the meeting.

Section 9. Duties of Commission to be Advisory Only

It is intended that the Commission shall be an advisory body to the City Council.

Section 10. Subcommittees

Other committees within the Commission will be subcommittees of the Commission. The Commission may appoint such subcommittees, with at least one Commission member on the subcommittee, but not more than three members so as not to constitute a quorum.

Section 11. Assistance of Staff

The City Manager of the City of Milpitas shall provide the Commission with such information and staff assistance as the Commission may from time to time request subject to the limitations imposed by the City Council. The staff member designated by the City Manager shall attend meetings of the Commission, meetings of the Commission subcommittee as necessary, and submit such reports as said Commission may request and as deemed necessary or desirable, subject to limitations imposed by the City Council. The role of the Staff Liaison on a Commission is defined and should be referred to in the City of Milpitas Commissioner Handbook.

Section 12. Amendments

These Bylaws are subject to change through amendments approved by the City Council.

APPENDIX B

Anti-Discrimination, Harassment, and Retaliation Policy

Available at: <http://www.milpitas.gov/DocumentCenter/View/123>

APPENDIX CB

CITY OF MILPITAS, CALIFORNIA

STANDARD OPERATING PROCEDURE 16-1

Effective: 03-02-1970

Revised: 03-17-1976

06-02-2004

SUBJECT: CODE OF CONDUCT FOR PUBLIC OFFICIALS

The proper operation of democratic government requires that public officials and employees be independent, impartial, and responsible to the people. The purpose of this Code of Conduct is to establish ethical standards of conduct for all such persons and to direct disclosure by such public officials and employees of private, financial or other interests in matters affecting the City. This Code is distinct from the Milpitas Code of Ethics, which applies solely to elected and appointed officials, campaign candidates, city management, and senior staff.

The municipal officials and employees of the City of Milpitas, whether elected or appointed, are "public officials and employees" within the meaning and intent of this Code.

1. Responsibilities of public office.

- a. Public officials and employees are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their primary concern. Their conduct in both their official and private affairs should be above reproach.
- b. Public officials and employees are bound to uphold the Constitution of the United States and the Constitution of the State of California and to carry out impartially the laws of the nation, state, and municipality.

2. Dedicated Service.

Public officials and employees should not exceed their authority or breach law or ask others to do so and they should work in full cooperation with other public officials and employees unless prohibited from doing so by law or by officially recognized confidentiality of their work.

3. Fair and Equal Treatment.

- a. **Unilateral Communications.** No public official or employee should encourage, make, or accept any application or communication from any party made out of the presence and without the knowledge of other

parties in a matter under consideration when such application or communication is designed to influence an official decision or the conduct of the official or other officials, employees, or agencies in order to obtain favored treatment or special consideration to advance the personal or private interests of himself/herself or others.

Any written unilateral communication received by a public official or employee in matters where all interested parties should have equal opportunity for a hearing should be made part of the record by the recipient. Any oral unilateral communication received under such condition should be written down in substance by the recipient and also made a part of the record.

- b. **Use of Public Property.** No public official or employee shall request, use, or permit the use of city-owned vehicles, equipment, materials, or property for personal convenience or profit, except when such services are available to the public generally or are provided as municipal policy for the use of such official or employee in the conduct of official business.

4. **Conflict of Interest.**

- a. No public official or employee, whether paid or unpaid, shall engage in any business or transaction or shall have a financial interest or other personal interest, direct or indirect, which is incompatible with the proper discharge of his/her official duties in the public interest or would tend to impair his/her independence of judgment or action in the performance of said official duties. Personal, as distinguished from financial interests, includes an interest arising from blood or marriage relationships, personal friendships, fraternal relationships or close business or political associations.
- b. Specific conflicts of interests are enumerated below for the guidance of officials. This list is merely illustrative and not exclusive:
 - (1) **Incompatible Employment.** No public official or employee shall engage in or accept private employment or render services from private interests when such employment or services is incompatible with the proper discharge of his/her official duties or would tend to impair his/her independence of judgment or action in the performance of said official duties. In the event a public official or employee should possess a financial or personal interest in any business or transaction, any presumption of conflict of interest in his/her public duties shall be removed by disclosure of the nature and extent of such investment to the proper authority for the records of said authority.

- (2) Disclosure of Confidential Information. No public official or employee shall, without proper legal authorization, disclose confidential information concerning the property, government, or affairs of the City. Nor shall they use such information to advance the financial or other private interests of themselves over others.
- (3) Gifts and Favors. No public official or employee shall accept any gift at any time, whether in the form of a service, loan, thing, or promise, from any person, firm or corporation, which to his/her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the City; nor shall any such official or employee accept a gift, favor or thing of value that may tend to influence him/her in the discharge of his/her duties, or grant in the discharge of said duties any improper favor, service, or thing of value. The following exceptions may be permitted with the approval of the City Manager:
- (a) A gift of candy or other perishable food items to the City or department, which is to be kept in the office area and shared by all employees;
 - (b) A gift justified by a personal relationship, which exists outside the realm of City business.

In situations where a public official or employee receives a gift, which is extremely embarrassing to return, the City Manager's Office has draft copies of letters, which might be enclosed to return the gift to the party who sent it. Anonymous gifts should be given to the City Manager's Office for disposal to a local charity if it has no useful purpose to the City.

- (4) Representing Private Interests Before City Agencies or Courts. No public official or employee whose salary is paid in whole or in part by the City shall appear in behalf of private interests before any agency of the City; nor shall they represent private interests in any action or proceeding against the interest of the City or in any litigation to which the City is a party.
- (5) Contracts with the City. The public has a right to assume that City employees are given no special advantages by virtue of their employment. Whether or not any special advantage exists, an employee's private involvement in any item bought or sold by the City is subject to criticism and misunderstanding and should be avoided. In accordance with Section 1090 of the Government

Code, City officers and employees are prohibited from bidding on or buying any items offered for sale by the City. This prohibition includes:

- (a) The auction and sale of bicycles, personal property, and other items confiscated or held for safekeeping by the City; and
- (b) The use of intermediaries to purchase such items for a City of Milpitas employee.

No public official or employee shall become a vendor selling any item to the City. Further, said officials and employees shall not participate in City purchases to buy anything for themselves, friends or relatives. Nor shall City purchases be used to secure personal price advantages.

Public officials and employees are cautioned from accepting "discounts" or other advantages offered by vendors to "City Employees." While these may be legitimate business promotions from ethical businesses, employees should first ensure that they are not compromising themselves or placing the City in a potentially embarrassing position through a conflict with their official duties.

- (6) Disclosure of Interest in Legislation. Any public official or employee who appears before the City Council and has a financial or private interest in any pending City legislation should disclose such interest on the record of the City Council and thereafter abstain from participating in discussions with or giving an opinion to the Council.
- (7) City officials or employees who discover lost or stolen property should immediately turn it in to the Police Department. If the property is discovered while on duty, the official or employee is not entitled to receive unclaimed property in accordance with the Civil Code. However, except for peace officers, unclaimed property discovered when off duty may be claimed in accordance with the law.

5. Political Activity.

In accordance with Title VI, Chapter 101, Section 18, of the City Ordinance Code, no public official or employee shall during hours of work or when dressed in a uniform required in any department of the City or when wearing any City insignia required or permitted in any department of the City or while identifying

themselves as an officer or employee of the City of Milpitas, participate in any City, District, County, State, Federal, or other political activity or participate in any nomination, campaign or election.

This does not prevent any officer or employee from:

- a. Becoming or continuing to be a member of a political club or organization;
- b. Attending political meetings;
- c. Enjoying entire freedom from all interference in voting;
- d. Speaking or accepting election or appointment to public office while on leave of absence;
- e. Seeking signatures for any initiative or referendum petition directly affecting rates of pay, hours of work, retirement, civil service or other working conditions provided such activity is not carried on during hours of work;
- f. Distributing badges, pamphlets, dodgers, or hand bills or other participation in any campaign in connection with such petition if the activity is not carried on during hours of work or when dressed in the uniform required in any department of the City.

A violation of any provisions of this Code may constitute a cause for suspension, removal from office or employment or other disciplinary action.

The Council amended this SOP and renamed it to Code of Conduct for Public Officials by Resolution No. 7414 effective June 1, 2004.

16-1/SOP/6-04

APPENDIX DE

FPPC Form 700 Statement of Economic Interests

CALIFORNIA FORM 700 FAIR POLITICAL PRACTICES COMMISSION	STATEMENT OF ECONOMIC INTERESTS COVER PAGE <i>A PUBLIC DOCUMENT</i>	Date Initial Filing Received _____ Official Use Only
---	---	--

Please type or print in ink.

NAME OF FILER (LAST)	(FIRST)	(MIDDLE)

1. Office, Agency, or Court

Agency Name *(Do not use acronyms)* _____

Division, Board, Department, District, if applicable _____ Your Position _____

► If filing for multiple positions, list below or on an attachment. *(Do not use acronyms)*

Agency: _____ Position: _____

2. Jurisdiction of Office *(Check at least one box)*

☐ State	☐ Judge or Court Commissioner (Statewide Jurisdiction)
☐ Multi-County _____	☐ County of _____
☐ City of _____	☐ Other _____

3. Type of Statement *(Check at least one box)*

☐ Annual: The period covered is January 1, 2018, through December 31, 2018. -or- The period covered is ____/____/____, through December 31, 2018. ☐ Assuming Office: Date assumed ____/____/____ ☐ Candidate: Date of Election ____ and office sought, if different than Part 1: _____	☐ Leaving Office: Date Left ____/____/____ <i>(Check one circle.)</i> ☐ The period covered is January 1, 2018, through the date of leaving office. -or- ☐ The period covered is ____/____/____, through the date of leaving office.
--	---

4. Schedule Summary (must complete) ► **Total number of pages including this cover page:** _____

Schedules attached

☐ Schedule A-1 - Investments – schedule attached	☐ Schedule C - Income, Loans, & Business Positions – schedule attached
☐ Schedule A-2 - Investments – schedule attached	☐ Schedule D - Income – Gifts – schedule attached
☐ Schedule B - Real Property – schedule attached	☐ Schedule E - Income – Gifts – Travel Payments – schedule attached

-or- ☐ **None** - No reportable interests on any schedule

5. Verification

MAILING ADDRESS	STREET	CITY	STATE	ZIP CODE
(Business or Agency Address Recommended - Public Document)				
DAYTIME TELEPHONE NUMBER		EMAIL ADDRESS		
()				

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete. I acknowledge this is a public document.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date Signed _____ Signature _____
(month, day, year) (File the originally signed paper statement with your filing official.)

Clear Page
Print

FPPC Form 700 (2018/2019)
 FPPC Advice Email: advice@fppc.ca.gov
 FPPC Toll-Free Helpline: 866/275-3772 www.fppc.ca.gov
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APPENDIX DE

RESOLUTION NO. 7702**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING THE CITY OF MILPITAS CITY COUNCIL HANDBOOK TO CLARIFY THE PROCEDURES FOR RESIGNATION OF COMMISSIONERS, COMMITTEE MEMBERS OR BOARD MEMBERS FROM CITY COMMISSIONS, COMMITTEES OR BOARDS**

WHEREAS, the City of Milpitas ("City") City Council Handbook currently does not provide for a procedure by which Commissioners, Committee members or Board members of City commissions, committees or boards may resign; and

WHEREAS, the City Council wishes to clarify the procedure for resignation from a City commission, committee or board.

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Milpitas hereby amends the Section titled "Procedures for Making Appointments and Reappointments" at page 32 of the City Council Handbook by adding a paragraph at the end of the section to read as follows:

"A member of any City commission, committee or board who wishes to resign from their position must submit a written notice of resignation to the City Clerk. Such resignation shall become effective upon receipt of the written notice by the City Clerk. If a written notice of resignation designates an effective date, such resignation shall become effective on the date set in the notice, except when that date extends beyond the commissioner, committee member or board member's term, in which case the effective date of the resignation shall be the date the commissioner's term ends."

PASSED AND ADOPTED this 18th day of September 2007, by the following vote:

AYES: (5) Mayor Esteves, Vice Mayor Livengood, and Councilmembers Giordano, Gomez and Polanski

NOES: (0) None

ABSENT: (0) None

ABSTAIN: (0) None

ATTEST:


Mary Lavelle, City Clerk

APPROVED:


Jose S. Esteves, Mayor

APPROVED AS TO FORM:


Steven T. Mattas, City Attorney

Resolution No. 7702



**CITY OF MILPITAS
COMMISSIONERS HANDBOOK
2023**

Adopted by Milpitas City Council on:

August 21, 2018

Revisions Approved by Milpitas City Council on:

January 19, 2021

April 5, 2022

August 19, 2022

Welcome to City of Milpitas

Service as a Volunteer Commissioner



CITY OF MILPITAS

OFFICE OF MAYOR CARMEN MONTANO

455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479
 PHONE: 408-586-3050, FAX: 408-586-3056, www.milpitas.gov

Welcome and congratulations on joining the City of Milpitas team as a City Commissioner or Alternate! I am delighted that you are joining us as your appointment is important to your Commission's role in advising the Milpitas City Council on topics and initiatives important to the Milpitas community.

Included in this Commissioner Handbook is information on areas such as participating in a public meeting, attendance, and the role of Commissioners, the staff and council liaisons. I am hopeful that you will use this handbook as a guide to help you at your meetings and as you work with your Commission on your annual Work Plan and advisory areas.

I look forward to all the great work you will do on your Commission and on behalf of the Milpitas City Council, thank you for your service to the Milpitas community!

Sincerely,

Carmen Montano
 Mayor

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Introduction and Overview

CITY OVERVIEW

City of Milpitas is a California municipality of approximately 84,000 residents, and was incorporated as a General Law City in January of 1954. Elected City Officers are the Mayor (term of 2 years) and four elected City Councilmembers (terms of 4 years each). Those leaders are elected by Milpitas voters on the ballot in November elections held each even year.

City Council is the body responsible for making all major policy decisions and direction for the City of Milpitas, including adoption of the City's annual budget. The City Council votes at regular City Council meetings on all expenditures, major land use plans, infrastructure projects and facility and program activities. The Council relies on input from many sources, including the 12 Advisory Commissions and Measure F Oversight Committee, along with other Task Forces, Ad Hoc Committees and residents at large.

CURRENT CITY COMMISSIONS AND COMMITTEES

As of the publication of this manual, the following are 12 City of Milpitas Commissions and 1 Committee for which residents may volunteer to serve by Mayoral appointment:

- Arts Commission
- Community Advisory Commission
- Economic Development and Trade Commission
- Energy and Environmental Sustainability Commission
- Library and Education Advisory Commission
- Parks, Recreation and Cultural Resources Commission
- Planning Commission
- Public Safety and Emergency Preparedness Commission
- Senior Advisory Commission
- Science, Technology and Innovation Commission
- Veterans Commission
- Youth Advisory Commission
- Measure F Oversight Committee

All Commissions will consist of seven (7) appointed Commissioners, except the Parks, Recreation and Cultural Resources Commission which will consist of nine (9) appointed Commissioners. All Commissions, except the Planning Commission, will also have 2 appointed Alternate Members, and all Commissions, except the Planning Commission and Youth Advisory Commission, may have one (1) Milpitas resident enrolled in grades 9-12, as a non-voting member. The Arts Commission may have two (2) Milpitas residents enrolled in grades 9-12, one from each Milpitas area public high school, as non-voting members.

AD HOC TASK FORCES

From time to time, as needs arise, the Milpitas City Council may choose to appoint residents to serve on ad hoc advisory bodies. Examples include the HOPE (Suicide Prevention) Task Force, and the CEDAW Task Force. Each body to which members are appointed by the City Council shall report back to the Council at appropriate intervals and upon conclusion of the task assigned by the Council. Members' service concludes once a final report is provided to City Council, or as City Council directs.

Commission Roles

Commissioners serve as voluntary members from the community advising the City Council on policies related to the purpose of their Commission. They are expected to attend all meetings, actively participate and deliberate, and vote on any matters that are requested for recommendation to the City Council.

Alternate Members serve only in the absence of a voting member. When a voting Commissioner is absent from a Commission meeting, alternates will be seated at the table or dais to participate in a voting role at the start of the meeting. If a regular voting Commissioner arrives subsequently, that person shall not participate as a voting member and the Alternate Commissioner will continue to serve as a voting member. Otherwise, Alternate members do not deliberate or vote when all regular members are present at the Commission meeting.

Once per year, Commissioners will vote to elect a **Chair and Vice Chair of the Commission**. The Chair is responsible for leading the regular meetings of the Commission. The Chair shall call the meeting to order, state items to be discussed on the agenda, permit all members the opportunity to be heard, allow for comments from the public, call for a vote when required and work directly with the staff liaison to ensure a successful meeting. The Vice Chair shall serve the role of Chair in the absence of the Chair. No Commissioner shall serve more than three consecutive years as the Chair or Vice Chair of any Milpitas Commission.

A **City staff liaison** to your Commission is available to provide staff support and work closely with the Chair to develop the meeting agendas and any information gathered for benefit of the Commissioners. Staff shall assist in guiding the work of the Commission, provide agendas and take meeting minutes. The City Manager shall assign appropriate staff liaison(s) to each Commission.

Volunteer City Commissioners do not direct or delegate work tasks to staff or Council liaisons. Commission annual work plan activities and assignments are to be completed by Commissioners.

Each Commission, except for the Planning Commission, will be assigned a **City Council Liaison**. City Council liaisons are non-voting participants, acting in a capacity reflecting the majority opinion of the City Council, which is defined by current or

past official City Council action via City Council vote or consensus. The City Council liaison will endeavor to attend all Commission meetings of those bodies to which they are assigned.

The City Attorney may be available to provide legal advice when asked by the staff liaison regarding the Brown Act, parliamentary procedure, or on topics related to the Commission's business. Except for the Planning Commission, the City Attorney will not attend Commission meetings on a regular basis.

The **Milpitas Mayor and City Council** together serve as the ultimate deliberative body regarding all business and policy matters for the City of Milpitas. Significant work by Commissions shall result in recommendations to the City Council, which will then vote to approve any City policy or expenditure.

Joining and Leaving a Commission

Requirement to serve: to be appointed to most Commissions, you must be a current Milpitas resident over the age of eighteen (18). Specific requirements for select Commissions are reflected in the approved Bylaws Addendums. For example, members of the Economic Development and Trade Commission are not required to be residents, however, they shall represent various segments of the business community.

The City Council may appoint one (1) Milpitas resident enrolled in grades 9-12, as a non-voting member, to a Commission (except the Planning and Youth Advisory Commission). For the Arts Commission, the City Council may appoint two (2) Milpitas residents enrolled in grades 9-12, one from each Milpitas area public high school, as non-voting members.

APPLICATION & APPOINTMENT

To apply for service on any City of Milpitas Commission, residents or interested persons must complete a Commission Application and submit the form to the City Clerk. The form may be submitted online, in person, by US postal mail or by e-mail. The form is available from the City Clerk's office or on the City website. If requested, applicants may be asked to complete a supplemental questionnaire.

Copies of applications are provided to the Mayor for their consideration. Per Government Code, the Mayor of a General Law city holds the power of appointment, upon confirmation by the City Council. The City Council must vote to affirm all appointments to Commissions by the Mayor.

Applicants may express interest in serving on more than one Commission. However, residents may only serve on one Commission at a time, except by special exception of the City Council. City employees may not be appointed to Commissions.

RE-APPOINTMENT

Appointed Commissioners may seek to be re-appointed upon the expiration of their current term. Re-appointment to a new term is not automatic, but rather must be recommended by the Mayor and confirmed by the City Council. Prior to the end of their term, the City Clerk's Office will contact Commissioners eligible for re-appointment to confirm they seek to be re-appointed. The City Clerk will transmit those requests to the Mayor.

RESIGNATION

If a Commissioner is no longer available or able to serve, they must submit a resignation in writing by sending a written communication to the City Clerk and the Mayor pursuant to City Council Resolution No. 7702. The written resignation must then be accepted by City Council via action on consent calendar at a regular meeting.

By state law, a Notice of Vacancy must then be posted by the City Clerk to invite new applicants for the vacant Commission seat.

TERMS OF SERVICE

The term for each Commission seat is a period of three years and the term of service is tied to the Commission seat, not the commissioner. When a new Commissioner is appointed to fill a vacancy, they are appointed to fill the remainder of the term assigned to that Commission seat. Alternate Commissioner terms will be tied to the individual appointed for the duration of their service as an alternate.

Commission Participation

BYLAWS AND ORIENTATION BY STAFF

All City of Milpitas Commissions have written By-Laws by which Commissioners and staff abide, which are written by the City Attorney. By-laws may be viewed on the City's website and are provided to all Commissioners from their staff liaison.

A template for the basic edition of all Commission by-laws is included with this handbook, in the appendix.

Links to all Commission's By-laws can be found online on each Commission page: <http://www.milpitas.gov/318/Commissions>

The staff liaison shall provide onboarding to newly appointed Commissioners. Extensive training is provided in particular to the Planning Commission, commensurate with those duties related to land use decision making – serving as a quasi-judicial body - per the Milpitas Municipal Code. It is the commissioner's responsibility to ensure staff has up-to-date contact information allowing communication via email for distribution of agendas or other important information.

A nameplate is created for each new Commissioner. Business cards up to 50 each annually may be printed by staff, in house, on City standard format for Commissioners for City business purposes only. City of Milpitas business cards with City logo may not be printed privately or by an outside party.

ANNUAL WORKPLAN

Each Commission shall discuss and prepare its annual work plan, which shall be submitted and approved by City Council. The work plan is a list of the anticipated topics, assignments and goals that Commissioners will focus on over a 12 months' period. In turn, the Council may request an annual report listing accomplishments of each Commission based on the work plan. Annual Reports will be submitted to the City Council.

ANNUAL BUDGET

City Council shall allocate \$1,000 annually for each Commission. Funds are to be used towards City Council approved Work Plan tasks and projects, and administrative costs related to the Commission. Those Commissions that determine a need for additional funding shall return to City Council with a stated request for more funds and the purpose for those. City Council shall approve or deny any request for such expenditures.

REQUIRED ATTENDANCE

All appointed Commissioners (and Committee or other ad hoc body members) are expected to attend all regular meetings. Meetings are scheduled at specified times each month or at regular intervals. Attendance and participation in the business of the Commission is necessary for the success of the Commission in achieving its annual work plan goals. When a Commissioner is unable to attend a meeting, it is courteous to notify the City staff liaison and Commission Chair of expected absence.

Attendance is tracked by staff and the City Clerk shall report to the City Council quarterly. If any Commissioner is absent from three or more meetings in a year, that information will be reported to the City Council and can be grounds for removal. This policy allows for another resident to be appointed to the Commission.

POLICY FOR REMOVAL

Commissioners serve at the pleasure of the Mayor and City Council. Commissioners or alternates may be removed for reasons including, but not limited to, the following:

1. Failure to Adhere to Attendance Requirements
2. Harassment of Staff
3. Racist/Sexist Remarks Towards the Public or Other Commissioners
4. Misrepresentation
5. Failure to Meet the Requirements to Serve on a Commission
6. Failure to Adhere to the Ethical Standards Expected of a Commissioner.

PARTICIPATION

When attending Commission meetings, all voting members have the opportunity and right to participate and be heard. The Chair of the Commission holds the responsibility for decorum at the meetings, and shall permit each Commissioner to offer comments and make motions on matters on the meeting agenda.

Additionally, certain Commissions expect participation outside of regularly scheduled meetings. For example, Planning Commissioners may attend the annual Planners Institute offered by the League of California Cities. Several Commissions participate in various joint events throughout the year and other participation in Commission events may be required, as identified in the adopted annual work plan.

CELEBRATION

The Mayor and City Council appreciate the service of each and every Commissioner. As a way to express their appreciation, once each year in the spring, the City Council hosts an event to honor current Commissioners for their service. The Mayor and City Council will allocate funding for the recognition event during the annual budget process.

FUNDRAISING

Certain Commission work plans call for fundraising efforts. Those funds may then be utilized for events, contributions to non-profits, or for other City services. Money raised on behalf of the City of Milpitas will be held by the City as part of and in accordance with best practices of the city's Finance Department. Disbursement of those funds will require City Council approval. City staff will work with Commissions to ensure proper accounting procedures and practices are followed to reflect compliance with City and state regulations.

Ethics and Expected Standards of Performance

City Commissioners are representatives of the City while serving in their role as volunteer Commissioners, both while in attendance at meetings and while present at City functions as a Commissioner. All Commissioners and Alternate Members shall behave ethically at all times in compliance with the City of Milpitas Anti-Discrimination, Harassment, and Retaliation Policy and Standard Operating Procedure 16-1 “Code of Conduct for Public Officials” (see Appendix B and C). The code requires dedicated service, equal treatment, understanding of potential for and avoiding conflicts of interest, and refraining from participating in political activity while representing the Commission.

Here are links to ethics training courses available:

Fair Political Practices Commission:

<http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/ethics-training.html>

Institute for Local Government:

<http://www.ca-ilg.org/ethics-education-ab-1234-training>

California's Ralph M. Brown Act

The Brown Act or Open Meetings law is found in the California Government Code section 54950 et seq. The Brown Act was enacted in 1953 to promote transparency and guarantee the public's right to attend and participate in all meetings of local legislative bodies. Those bodies include temporary or permanent commissions, committees, boards or other bodies of a local agency, acting as either a decision-making body (such as Planning Commission) or advisory body (all others). Most importantly, according to this law, all meetings must be properly noticed for participants and for the public. City staff must ensure this occurs for all Commissions.

Notably, a majority of the members of any Commission may not discuss or deliberate on any business within the subject matter jurisdiction of the Commission except at a noticed meeting, and this includes in person interactions as well as serial or indirect communications.

Agendas for all meetings must be posted in advance of the meeting at the location of the meeting site and freely accessible to members of the public. In addition, agendas and minutes must also be posted to the City of Milpitas website. For meetings conducted at Milpitas City Hall, those agendas are posted on the outside noticing board for this purpose at the northwest entry to the building.

Regular Meeting agendas must be posted at least 72 hours before the meeting. Regular meeting dates and times are established in the bylaws or bylaws addendums of those bodies.

Special Meetings are any meeting scheduled outside of the regularly established meeting date and time. The agenda for a special meeting must be posted at least 24 hours in advance.

Meetings that are improperly noticed will be cancelled.

"Serial" meetings, where one Commissioner contacts another, who then contacts another Commissioner by phone, e-mail or in person, to discuss commission business and develop a majority consensus are explicitly prohibited by the Brown Act. All business of the Commission must be detailed on an agenda, posted in advance, and discussed at a duly noticed, public meeting held in an accessible location. Therefore, care must be taken to ensure that if a quorum (half of the members + 1) is gathered at a public or private place, no public business may be discussed. For this purpose, e-mail communications between Commissioners should be avoided including the use of "Reply All" to any staff notices sent via e-mail to the entire Commission. When corresponding with Commissioners, staff should ensure that communications with all Commissioners are conducted via BCC.

City of Milpitas Open Government Ordinance

In 2005, Milpitas City Council adopted the Open Government Ordinance and amended it in 2009. This is the local version of the City's "Sunshine Law" and ensures that all public business of the city government is conducted in public. It enhances Brown Act requirements. This law is available to read and review in the City's published Milpitas Municipal Code online, as Title I Chapter 310 found here: https://library.municode.com/ca/milpitas/codes/code_of_ordinances?nodeId=TITIA_D_CH310OPGOOR.

Parliamentary Procedure at Meetings

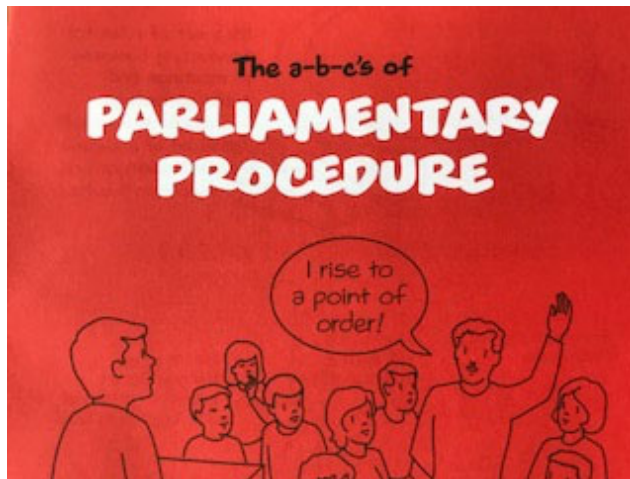
Meetings shall operate using standard parliamentary procedures following an approved meeting agenda. Most entities follow Robert's Rules of Order (or, in the alternative, Rosenberg's Rules of Order). Procedures generally include:

1. Establish and post a written agenda.
2. Agenda includes a Call to Order, Roll Call, note start and ending times.
3. Action by Motions made, seconded, discussed and voted upon.
4. Adjourn the meeting to conclude or continue the meeting.

One Commissioner can make a motion to approve an action, another member shall second the motion aloud, and then the Commission Chair shall call for a vote. Staff will record the number of votes in favor, the number opposed and any abstaining. The Chair will announce the result of the vote. Voting is most frequently done by voice, aloud, and may also be done by roll call or by a show of hands.

Motions are not needed to open and close a public hearing, or to adjourn (end) the meeting. Some training resources are listed on the next page of this handbook.

The City Clerk can provide to each Commissioner one copy of the copyrighted booklet "The a-b-c's of Parliamentary Procedure" published by Channing Bete.



Resources Available for Commissioners

City of Milpitas web page for Commissions:

<http://www.milpitas.gov/318/Commissions>

League of California Cities <http://www.cacities.org>
(Ethics, Brown Act and other training available online)

Fair Political Practices Commission <http://www.fppc.ca.gov>
(Training available on YouTube regarding Forms)

Parliamentary Procedure video <http://www.youtube.com/watch?v=FfnBGolKmbM>

Roberts Rules of Order <http://robertsrulesmadesimple.com/>
<http://www.rulesonline.com/>

Rosenberg's Rules of Order
<https://www.cacities.org/UploadedFiles/LeagueInternet/77/77d4ee2b-c0bc-4ec2-881b-42ccdbbe73c9.pdf>

Conflict of Interest Guidelines

State of California Fair Political Practices Commission ("FPPC") regulates reporting of potential conflicts of interest, according to the Political Reform Act. It mandates the filing of annual forms, known as Form 700/Statement of Economic Interests in accordance with the City's adopted Conflict of Interest Code. City Council, specified City staff, and certain City Commissioners must file Form 700 with the City Clerk each year. Its purpose is to reveal any potential conflicts of interest, relative to any financial interests held solely within the City of Milpitas. Forms must be filed initially when first appointed (Assuming Office), annually by April 1 each year, and then once more when departing the Commission upon resignation or conclusion of the term (Leaving Office).

More information and Form 700 is online at www.fppc.ca.gov. Contact the Milpitas City Clerk with any questions.

Commissions required to file Form 700:

Arts Commission
Community Advisory Commission
Economic Development & Trade Commission
Energy & Environmental Sustainability Commission
Parks, Recreation and Cultural Resources Commission
Planning Commission
Science, Technology & Innovation Commission

APPENDICES

- A. Standardized Commission By-Laws
- B. Anti-Discrimination, Harassment, and Retaliation Policy
- C. Standard Operating Procedure 16-1 “Code of Conduct for Public Officials”
- D. FPPC Form 700 Statement of Economic Interests
- E. City Council Resolution No. 7702 – notification upon resignation

APPENDIX A

Standardized Commission Bylaws

CITY OF MILPITAS COMMISSION BY-LAWS

Section 1. Purpose

A Commission serves as an active advisory group to the City Council on a variety of topics as directed by the City Council. These Commission By-Laws are applicable to all Commissions except for the Planning Commission, which is governed by the Municipal Code, Chapter 500. In addition to these By-Laws, each Commission shall have an addendum that is specific to the Commission and includes information about the Commission scope, member eligibility, and meeting frequency.

Section 2. Membership

A Commission is composed of seven (7) members and two (2) alternates appointed by the Mayor and approved by the City Council. All members and alternates shall be Milpitas residents, 18 years or older, unless otherwise noted in the Commission Bylaws Addendum. In addition to the seven (7) members and two (2) alternates, one (1) Milpitas resident enrolled in grades 9-12 may also be appointed as non-voting member by the Mayor and confirmed by the City Council for all Commissions except for the Youth Advisory Commission. The City Council may appoint a Council liaison to serve on the Commission in a non-voting capacity.

Section 3. Term of Office & Removal

The term of office is three years, or until the seat is filled, for every Commission and is tied to specific seats, not actual Commission members or alternates. A Commission member or alternate is appointed for the term of the seat, which can be less than three years, based on the time of appointment. A Commission member can re-apply at the end of each term.

Members and alternates are expected to attend all meetings. When any member or alternate has three or more absences in a 12-month period, the City Clerk's Office shall forward this information to the City Council for review and possible removal of the member or alternate from the Commission. Any member or alternate of the Commission may be removed from office at any time by a simple majority vote of the City Council at a regularly scheduled Council meeting, with or without cause.

Members and alternates may apply for reappointment by submitting a letter or e-mail of interest to the Mayor with a copy to the City Clerk prior to the expiration of their term of office. Any member or alternate of the Commission who wishes to resign MUST submit a letter of resignation or email to the Mayor with a copy to the City Clerk. Resignations will be confirmed by the City Council at a regularly scheduled Council meeting.

Section 4. Vacancies

Vacancies will be filled for the unexpired portion of the term by the Mayor with the approval of the City Council.

Section 5. Officers

A Chair and Vice Chair will be selected annually at the first meeting of the calendar year from the appointed members for a term of one year. The Chair will call for meetings and preside over all sessions. In the absence of the Chair and Vice Chair, the member with longest continuous service on the Commission will preside.

Section 6. Meetings

Commissions shall hold regular meetings at a predetermined day, week, time and location. All meetings shall be open to the public. Should a scheduled meeting occur on a holiday, said meeting will be deferred to the same day of the following week or to a date agreed upon by a majority of the Commission. Special meetings may be called by majority vote, the Chair, Staff Liaison, or the City Council. No meetings will be held in the month of July. Notice of any special meeting shall be given as required by law. Except as otherwise provided by these Bylaws, the Commission shall follow the latest edition of Robert's Rules of Order for the orderly conduct of meetings.

Section 7. Quorum

A quorum is a majority of the total voting seats on the Commission. Any FOUR (4) voting members, including alternates, shall constitute a quorum for the transaction of business. Alternates count towards quorum even when not seated until after the start of a meeting.

Section 8. Voting and Seating of Alternates

Voting authority is extended to the SEVEN (7) regular members. An alternate member shall vote only if seated in the absence of a regular member. In the event that a regular member is absent, alternate members shall be seated in order of their alternate position. If a member arrives after an alternate has been seated, the alternate shall remain as the voting member until the end of the meeting.

Section 9. Duties of Commission to be Advisory Only

It is intended that the Commission shall be an advisory body to the City Council.

Section 10. Subcommittees

Other committees within the Commission will be subcommittees of the Commission. The Commission may appoint such subcommittees, with at least one Commission member on the subcommittee, but not more than three members so as not to constitute a quorum.

Section 11. Assistance of Staff

The City Manager of the City of Milpitas shall provide the Commission with such information and staff assistance as the Commission may from time to time request subject to the limitations imposed by the City Council. The staff member designated by the City Manager shall attend meetings of the Commission, meetings of the Commission subcommittee as necessary, and submit such reports as said Commission may request and as deemed necessary or desirable, subject to limitations imposed by the City Council. The role of the Staff Liaison on a Commission is defined and should be referred to in the City of Milpitas Commissioner Handbook.

Section 12. Amendments

These Bylaws are subject to change through amendments approved by the City Council.

APPENDIX B

Anti-Discrimination, Harassment, and Retaliation Policy

Available at: <http://www.milpitas.gov/DocumentCenter/View/123>

APPENDIX C

CITY OF MILPITAS, CALIFORNIA

STANDARD OPERATING PROCEDURE 16-1

Effective: 03-02-1970

Revised: 03-17-1976

06-02-2004

SUBJECT: CODE OF CONDUCT FOR PUBLIC OFFICIALS

The proper operation of democratic government requires that public officials and employees be independent, impartial, and responsible to the people. The purpose of this Code of Conduct is to establish ethical standards of conduct for all such persons and to direct disclosure by such public officials and employees of private, financial or other interests in matters affecting the City. This Code is distinct from the Milpitas Code of Ethics, which applies solely to elected and appointed officials, campaign candidates, city management, and senior staff.

The municipal officials and employees of the City of Milpitas, whether elected or appointed, are "public officials and employees" within the meaning and intent of this Code.

1. Responsibilities of public office.

- a. Public officials and employees are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their primary concern. Their conduct in both their official and private affairs should be above reproach.
- b. Public officials and employees are bound to uphold the Constitution of the United States and the Constitution of the State of California and to carry out impartially the laws of the nation, state, and municipality.

2. Dedicated Service.

Public officials and employees should not exceed their authority or breach law or ask others to do so and they should work in full cooperation with other public officials and employees unless prohibited from doing so by law or by officially recognized confidentiality of their work.

3. Fair and Equal Treatment.

- a. **Unilateral Communications.** No public official or employee should encourage, make, or accept any application or communication from any party made out of the presence and without the knowledge of other

parties in a matter under consideration when such application or communication is designed to influence an official decision or the conduct of the official or other officials, employees, or agencies in order to obtain favored treatment or special consideration to advance the personal or private interests of himself/herself or others.

Any written unilateral communication received by a public official or employee in matters where all interested parties should have equal opportunity for a hearing should be made part of the record by the recipient. Any oral unilateral communication received under such condition should be written down in substance by the recipient and also made a part of the record.

- b. Use of Public Property. No public official or employee shall request, use, or permit the use of city-owned vehicles, equipment, materials, or property for personal convenience or profit, except when such services are available to the public generally or are provided as municipal policy for the use of such official or employee in the conduct of official business.

4. Conflict of Interest.

- a. No public official or employee, whether paid or unpaid, shall engage in any business or transaction or shall have a financial interest or other personal interest, direct or indirect, which is incompatible with the proper discharge of his/her official duties in the public interest or would tend to impair his/her independence of judgment or action in the performance of said official duties. Personal, as distinguished from financial interests, includes an interest arising from blood or marriage relationships, personal friendships, fraternal relationships or close business or political associations.
- b. Specific conflicts of interests are enumerated below for the guidance of officials. This list is merely illustrative and not exclusive:
 - (1) Incompatible Employment. No public official or employee shall engage in or accept private employment or render services from private interests when such employment or services is incompatible with the proper discharge of his/her official duties or would tend to impair his/her independence of judgment or action in the performance of said official duties. In the event a public official or employee should possess a financial or personal interest in any business or transaction, any presumption of conflict of interest in his/her public duties shall be removed by disclosure of the nature and extent of such investment to the proper authority for the records of said authority.

- (2) Disclosure of Confidential Information. No public official or employee shall, without proper legal authorization, disclose confidential information concerning the property, government, or affairs of the City. Nor shall they use such information to advance the financial or other private interests of themselves over others.
- (3) Gifts and Favors. No public official or employee shall accept any gift at any time, whether in the form of a service, loan, thing, or promise, from any person, firm or corporation, which to his/her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the City; nor shall any such official or employee accept a gift, favor or thing of value that may tend to influence him/her in the discharge of his/her duties, or grant in the discharge of said duties any improper favor, service, or thing of value. The following exceptions may be permitted with the approval of the City Manager:
- (a) A gift of candy or other perishable food items to the City or department, which is to be kept in the office area and shared by all employees;
 - (b) A gift justified by a personal relationship, which exists outside the realm of City business.

In situations where a public official or employee receives a gift, which is extremely embarrassing to return, the City Manager's Office has draft copies of letters, which might be enclosed to return the gift to the party who sent it. Anonymous gifts should be given to the City Manager's Office for disposal to a local charity if it has no useful purpose to the City.

- (4) Representing Private Interests Before City Agencies or Courts. No public official or employee whose salary is paid in whole or in part by the City shall appear in behalf of private interests before any agency of the City; nor shall they represent private interests in any action or proceeding against the interest of the City or in any litigation to which the City is a party.
- (5) Contracts with the City. The public has a right to assume that City employees are given no special advantages by virtue of their employment. Whether or not any special advantage exists, an employee's private involvement in any item bought or sold by the City is subject to criticism and misunderstanding and should be avoided. In accordance with Section 1090 of the Government

Code, City officers and employees are prohibited from bidding on or buying any items offered for sale by the City. This prohibition includes:

- (a) The auction and sale of bicycles, personal property, and other items confiscated or held for safekeeping by the City; and
- (b) The use of intermediaries to purchase such items for a City of Milpitas employee.

No public official or employee shall become a vendor selling any item to the City. Further, said officials and employees shall not participate in City purchases to buy anything for themselves, friends or relatives. Nor shall City purchases be used to secure personal price advantages.

Public officials and employees are cautioned from accepting "discounts" or other advantages offered by vendors to "City Employees." While these may be legitimate business promotions from ethical businesses, employees should first ensure that they are not compromising themselves or placing the City in a potentially embarrassing position through a conflict with their official duties.

- (6) Disclosure of Interest in Legislation. Any public official or employee who appears before the City Council and has a financial or private interest in any pending City legislation should disclose such interest on the record of the City Council and thereafter abstain from participating in discussions with or giving an opinion to the Council.
- (7) City officials or employees who discover lost or stolen property should immediately turn it in to the Police Department. If the property is discovered while on duty, the official or employee is not entitled to receive unclaimed property in accordance with the Civil Code. However, except for peace officers, unclaimed property discovered when off duty may be claimed in accordance with the law.

5. Political Activity.

In accordance with Title VI, Chapter 101, Section 18, of the City Ordinance Code, no public official or employee shall during hours of work or when dressed in a uniform required in any department of the City or when wearing any City insignia required or permitted in any department of the City or while identifying

themselves as an officer or employee of the City of Milpitas, participate in any City, District, County, State, Federal, or other political activity or participate in any nomination, campaign or election.

This does not prevent any officer or employee from:

- a. Becoming or continuing to be a member of a political club or organization;
- b. Attending political meetings;
- c. Enjoying entire freedom from all interference in voting;
- d. Speaking or accepting election or appointment to public office while on leave of absence;
- e. Seeking signatures for any initiative or referendum petition directly affecting rates of pay, hours of work, retirement, civil service or other working conditions provided such activity is not carried on during hours of work;
- f. Distributing badges, pamphlets, dodgers, or hand bills or other participation in any campaign in connection with such petition if the activity is not carried on during hours of work or when dressed in the uniform required in any department of the City.

A violation of any provisions of this Code may constitute a cause for suspension, removal from office or employment or other disciplinary action.

The Council amended this SOP and renamed it to Code of Conduct for Public Officials by Resolution No. 7414 effective June 1, 2004.

16-1/SOP/6-04

APPENDIX D

FPPC Form 700 Statement of Economic Interests

CALIFORNIA FORM 700 FAIR POLITICAL PRACTICES COMMISSION	STATEMENT OF ECONOMIC INTERESTS COVER PAGE <i>A PUBLIC DOCUMENT</i>	Date Initial Filing Received _____ Official Use Only
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Please type or print in ink.

NAME OF FILER (LAST)	(FIRST)	(MIDDLE)

1. Office, Agency, or Court

Agency Name *(Do not use acronyms)* _____

Division, Board, Department, District, if applicable _____ Your Position _____

► If filing for multiple positions, list below or on an attachment. *(Do not use acronyms)*

Agency: _____ Position: _____

2. Jurisdiction of Office *(Check at least one box)*

☐ State	☐ Judge or Court Commissioner (Statewide Jurisdiction)
☐ Multi-County _____	☐ County of _____
☐ City of _____	☐ Other _____

3. Type of Statement *(Check at least one box)*

☐ Annual: The period covered is January 1, 2018, through December 31, 2018. -or- The period covered is ____/____/____, through December 31, 2018. ☐ Assuming Office: Date assumed ____/____/____ ☐ Candidate: Date of Election ____ and office sought, if different than Part 1: _____	☐ Leaving Office: Date Left ____/____/____ <i>(Check one circle.)</i> ☐ The period covered is January 1, 2018, through the date of leaving office. -or- ☐ The period covered is ____/____/____, through the date of leaving office.
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4. Schedule Summary (must complete) ► *Total number of pages including this cover page:* _____

Schedules attached

☐ Schedule A-1 - Investments – schedule attached	☐ Schedule C - Income, Loans, & Business Positions – schedule attached
☐ Schedule A-2 - Investments – schedule attached	☐ Schedule D - Income – Gifts – schedule attached
☐ Schedule B - Real Property – schedule attached	☐ Schedule E - Income – Gifts – Travel Payments – schedule attached

-or- ☐ **None** - No reportable interests on any schedule

5. Verification

MAILING ADDRESS	STREET	CITY	STATE	ZIP CODE
(Business or Agency Address Recommended - Public Document)				
DAYTIME TELEPHONE NUMBER		EMAIL ADDRESS		
()				

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete. I acknowledge this is a public document.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date Signed _____ Signature _____
(month, day, year) (File the originally signed paper statement with your filing official.)

Clear Page
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APPENDIX E

RESOLUTION NO. 7702**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING THE CITY OF MILPITAS CITY COUNCIL HANDBOOK TO CLARIFY THE PROCEDURES FOR RESIGNATION OF COMMISSIONERS, COMMITTEE MEMBERS OR BOARD MEMBERS FROM CITY COMMISSIONS, COMMITTEES OR BOARDS**

WHEREAS, the City of Milpitas ("City") City Council Handbook currently does not provide for a procedure by which Commissioners, Committee members or Board members of City commissions, committees or boards may resign; and

WHEREAS, the City Council wishes to clarify the procedure for resignation from a City commission, committee or board.

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Milpitas hereby amends the Section titled "Procedures for Making Appointments and Reappointments" at page 32 of the City Council Handbook by adding a paragraph at the end of the section to read as follows:

"A member of any City commission, committee or board who wishes to resign from their position must submit a written notice of resignation to the City Clerk. Such resignation shall become effective upon receipt of the written notice by the City Clerk. If a written notice of resignation designates an effective date, such resignation shall become effective on the date set in the notice, except when that date extends beyond the commissioner, committee member or board member's term, in which case the effective date of the resignation shall be the date the commissioner's term ends."

PASSED AND ADOPTED this 18th day of September 2007, by the following vote:

AYES: (5) Mayor Esteves, Vice Mayor Livengood, and Councilmembers Giordano, Gomez and Polanski

NOES: (0) None

ABSENT: (0) None

ABSTAIN: (0) None

ATTEST:


Mary Lavelle, City Clerk

APPROVED:


Jose S. Esteves, Mayor

APPROVED AS TO FORM:


Steven T. Mattas, City Attorney

Resolution No. 7702

**CITY OF MILPITAS
STANDARD COMMISSION
BYLAWS**

Addendum: Science, Technology and Innovation Commission

The Science, Technology and Innovation Commission was originally established by City Council on September 6, 1994. On August 21, 2018, the City Council updated the name of the Commission.

Advisory Area

This Commission will advise the Council on matters pertaining to technology services benefitting the Milpitas community.

Meetings

The Science, Technology and Innovation Commission shall meet ~~6 times a year~~ monthly, except July, on the 3rd Monday of that month, at 7:00 PM at the Committee Conference Room in City Hall, or another designated location. ~~The schedule of meetings will be determined by the Commission at the first meeting following the July City Council legislative break.~~

PASSED AND ADOPTED THIS 20TH DAY OF JUNE, 2023



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve Delegation of Authority to the Acting City Manager or Designee to Approve and Execute Project Related Documents and Urgent Administrative Items During the City Council Summer Recess, from the Last City Council Meeting Held in June through August 8, 2023 (Staff Contact: Ashwini Kantak, Acting City Manager, 408-586-3053)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	6/20/2023
	<u>Recommendation:</u> Approve delegation of authority to the Acting City Manager, or their designee, to approve and execute project related documents, including contract documents, and urgent administrative items during the City Council summer recess from the last City Council meeting held in June through August 8, 2023.

Background

The City Council has a scheduled recess between the last City Council meeting in June and August 8, 2023, during which no regular City Council meetings will take place. In order to ensure that critical services and projects continue and are completed on time, it may be necessary to take action during Council recess. Therefore, it is requested that the City Council authorize the Acting City Manager or their designee, to take appropriate action during the recess.

Analysis

Authorizing the Acting City Manager or their designee to take appropriate actions, including signing contracts within City Council's financial authority under the Municipal Code, will ensure that projects stay on schedule and that the City continues to provide vital services to the community. Deferring any actions until after the Council recess could potentially result in additional cost or delay to projects or services. A report summarizing any action taken by the Acting City Manager or their designee during the recess under this delegated authority will be presented to the City Council on August 15, 2023.

Policy Alternative

Alternative: Do not approve the requested delegation of authority

Pros: Retains Council approval authority

Cons: Will not enable timely action on urgent project and administrative needs to ensure continued provision of vital services to the community.

Reason for not Recommending: Will not allow timely action to ensure the continued delivery of services to the community and time sensitive actions on projects during the Council recess.

Fiscal Impact

Approval of any potential agreements or contracts are anticipated to be within the Council approved budget; therefore, there is no fiscal impact.

CEQA

The City Council's delegation of authority is exempt from CEQA pursuant to CEQA Guideline 15061(b)(3) as it can be seen with certainty that the delegation does not have the potential to cause a significant effect on the environment as it does not involve the approval of any particular project. Further, this action is exempt pursuant to CEQA Guideline 15378(b)(4) as a governmental fiscal activity which does not involve any commitment to any specific project. Although the delegation may involve various projects, those projects received sufficient and appropriate CEQA review at the time of approval.

Recommendation

Approve delegation of authority to the Acting City Manager, or their designee, to approve and execute project related documents, including contract documents, and urgent administrative items during the City Council summer recess from the last City Council meeting held in June through August 8, 2023.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve Changes to the City Council Procedures and Protocols Handbook to allow the use of Electronic Voting (Staff Contact: Ashwini Kantak, Acting City Manager, 408-586-3053; Michael Mutalipassi, City Attorney, 408-586-3041)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	6/20/2023
	<u>Recommendation:</u> Approve changes to the City Council Procedures and Protocols Handbook to allow the use of electronic voting, as part of the implementation of a new Agenda Management system.

Background:

On January 11, 2022, the City Council approved the City of Milpitas City Council Procedures and Protocols Handbook 2021 (the "Handbook"). The 2021 City Council Handbook was a substantial overhaul of the previous 2004 City Council Handbook, which at the time, had not been amended since 2007. The process to overhaul the handbook took substantial time, effort, and the formation of an Ad Hoc Council Handbook Subcommittee. This work spanned from 2018 to the Handbook's adoption in 2022. The Handbook is designed to be brought to Council for updates, as needed, due to changes in the law or if the City Council desires to change its procedures or protocols.

On February 7, 2023, the Council clarified its request for a written policy regarding the use of languages other than English at City Council meetings. The Council determined that the requested policy should be added to the Handbook and that the City should not incur the expense of providing translation services at City Council meetings except under specific circumstances that require translation services or as required by law. The City Attorney was directed to prepare the appropriate draft edits to the Handbook. Additionally, AB 2449, which was signed into law in 2022, required updates to the Handbook's section on teleconferencing rules.

On February 21, 2023, the City Council approved changes to the Handbook related to teleconferencing rules and translation services. The City Council also directed staff to return to Council for a more substantive discussion about the Handbook which will be brought forward to the Council in Fall 2023.

In the interim, since the City is implementing a new Agenda Management system with an integrated electronic voting system, staff is bringing forward a recommended change to the Handbook to allow the use of electronic voting.

Analysis:

A red-lined draft of the proposed changes to the Handbook is attached. The proposed edits are shown in red. The key edits are summarized as follows.

1. Voting; Rules of Procedure

Section G (1) of Chapter IV on Meetings has been updated to include the use of electronic voting to record the votes by each member of the City Council.

Policy Alternative:

Not Applicable

Fiscal Impact:

There is no fiscal impact associated with this item.

California Environmental Quality Act:

This item is not a Project under CEQA in accordance with CEQA Guidelines Section 15061(b)(3) (Common Sense Exemption) as it can be seen with certainty that a general discussion of funding priorities by the City Council will not have a significant effect on the environment. Further, the item is also not a Project pursuant to CEQA Guidelines Section 15378(b)(4) as it is a government fiscal activity that does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

Recommendations

Approve changes to the City Council Procedures and Protocols Handbook to allow the use of electronic voting, as part of the implementation of a new Agenda Management system.

Attachments:

1. Draft City Council Protocols and Procedures Handbook - redlined



City of Milpitas City Council Procedures and Protocols Handbook 2023

Revised February 21, 2023

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DRAFT

CHAPTER I. Purpose and Overview

A. Purpose

This City Council Procedures and Protocols Handbook (Handbook) outlines the Milpitas City Council governing practices.

B. Applicability of Handbook

When not in conflict with the Constitution, the laws of the State of California or the Milpitas Municipal Code, this Handbook shall govern.

C. Revisions to the Handbook

This Handbook will be brought to Council for updates, as needed, due to changes in the law or if the City Council desires to change its procedures or protocols.

CHAPTER II. Duties of the City Council

A. General Authorities of City Council

Milpitas was incorporated on January 26, 1954. As a general law city, Milpitas derives its authority from and is subject to the California Constitution and the general laws of the State of California.

The City Council is the policy and lawmaking body of the City. State and local laws define the powers and responsibilities of the City Council.

The City has a Council Manager form of government in which the elected City Council sets policy direction and the City Manager implements Council policy, manages day-to-day operations and provides professional recommendations to support the Council on policy decisions. Although the Council and City Manager operate in all four dimensions of the governance process: mission, policy, administration and management, the Council's focus is on the mission and policy while the City Manager's focus is on administration and management. Clarity of roles are informed by this Handbook and Municipal Code provisions that provide the overall framework for the governance relationship.

B. Duties of Mayor

The Mayor is directly elected by Milpitas voters. The Mayor is the official head of the City of Milpitas for all ceremonial purposes. The Mayor is entitled to vote on all matters but does not possess any veto power. The Mayor signs all ordinances and resolutions after approval by the majority of the City Council.

C. Duties of Vice Mayor (Mayor Pro Tempore)

The Vice Mayor is selected from those on the Council during the first meeting at which the Mayor and returning or incoming Councilmembers commence their terms. Nomination is done through a motion and appointment is based on a majority vote.

In the event that the Mayor cannot attend a ceremonial function, the Vice Mayor shall serve as the official head of the City in his or her stead. In the event that neither the Mayor nor Vice Mayor can preside at a ceremonial function, one of the remaining members of the City Council shall serve as the official head of the City on a rotating basis to be administered by City staff.

D. Duties of Mayor and Councilmembers

1. Arrive on time for all Council meetings.
2. Review all meeting materials published in accordance with the Open Government Ordinance and other applicable laws, in preparation for Council meetings. As a body, provide clear direction to staff to aid in the development and consideration of proposed ordinances, policies, and

procedures. Pass ordinances, adopt resolutions, approve new projects and programs, and approve the budget and contracts.

3. Keep in touch with the community and interpret what is heard to Council colleagues and to the staff.
4. Participate in City Council meetings and other public forums.
5. Represent the City Council by fulfilling the liaison assignments to legislators, external agencies, and the City's boards and commission.
6. Requests for Staff Resources
 - a. Mayor and Councilmember requests to consider new programs, services, or requests for significant allocations of resources, shall be directed to the budget process to the maximum extent possible.
 - b. Mayor or Councilmember requests for minor (generally less than four hours of staff time) research or other staff work must be directed to the City Manager.
 - c. If more than four hours of staff time will be required to complete the task/project, the item will be placed on the agenda to ask the City Council if time should be spent on the proposed item. A discussion and prioritization of Mayor and Councilmember requests are scheduled on a quarterly basis.
 - d. Mayor and Councilmember requests for more than four hours of staff work for City Council consideration will adhere to all the City of Milpitas Open Government Ordinance -provisions, including, but not limited to:
 - I-310-2.30 Agenda Requirements. "(b) At least six (6) days before a regular City Council meeting, a preliminary agenda shall be posted containing a meaningful description of each item of business to be transacted."
 - "(c) A description is meaningful if it is sufficiently clear and specific to alert members of the public whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information on the item.
 - To achieve the above requirements, all materials must be submitted to the City Clerk, to the extent possible, no less than eight (8) days in advance of a Council meeting.
 - e. Staff responses to a Councilmember inquiry, including the original inquiry, shall be distributed to the Mayor and all City Councilmembers.
7. Absences

- a. Whenever a member knows in advance that he or she will be absent from a City Council meeting, it is the responsibility of that member to notify the City Manager or City Clerk as soon as possible of the impending absence.
- b. If a City Council member is absent without permission from all regular City Council meetings for 60 calendar days consecutively from the last regular meeting he or she attended, his or her office becomes vacant pursuant to Government Code 36513.

8. Administration of Oaths

The Mayor may require any person addressing the City Council to be sworn as a witness and to testify under oath; and must so require if directed to do so by a majority of the City Council. The Mayor may administer oaths. Appeals and revocation hearings are the most likely instances when testimony is taken under oath.

9. Subpoenas

In accordance with Government Code 37104, the City Council may issue subpoenas requiring attendance of witnesses or production of books or other documents for evidence or testimony in any action or proceeding pending before it.

10. City Council Subcommittees

Council subcommittees, when used, are to help the Council do its job. Subcommittees ordinarily will assist the Council by studying an issue and preparing policy alternatives and implications for Council deliberation. Council subcommittees may not speak or act for the Council, and the subcommittee members should be regularly reporting out their work to the City Council through a scheduled agenda item.

There are generally two types of subcommittees as follows:

- Standing subcommittees that have continuous subject matter jurisdiction and will continue to exist until the City Council terminates their existence through formal action.
- Ad hoc subcommittees have limited subject matter jurisdiction and are usually formed primarily to study a particular topic or immediate issue, and once their task is complete, the ad hoc subcommittee will automatically terminate.

Both standing and ad hoc subcommittees of the City Council are subject to the Brown Act pursuant to the City's Open Government Ordinance.

Subcommittees shall obtain City Council concurrence before they proceed in any direction different from the original instructions of the City Council. In addition, Subcommittees should not implement policy, provide direction that would result in incurring additional expenses or provide direction to staff to

take any actions that are not consistent with existing City Council direction without first obtaining City Council approval for such actions.

11. Compensation for Mayor and Councilmembers

Information about compensation for the Mayor and Councilmembers can be found in the Milpitas Municipal Code I-14-1.00, et seq.

12. Travel Expenses and Reimbursements

Information about travel expenses and reimbursements for City related expenses can be found in the City Council Travel Policy 3-1.

E. City Council Vacancies

A vacancy in the office of Councilmember or Mayor may be filled by appointment by the City Council. The appointee shall hold office until the next special municipal election which shall be immediately called to fill the remainder of the vacant term as provided under Milpitas Municipal Code Section I-3-2.00. Any unexpired remainder of the term of such office shall be filled by the voters at such election.

F. Role of City Manager.

1. The City Manager is the chief executive officer and the head of the administrative branch of the City government. The City Manager is appointed by the City Council and reports to the full City Council. The City Manager shall work in collaboration with the City Attorney.
2. The City Manager implements policies and procedures initiated by City Council and manages the day-to-day operations of the City. The City Manager supports the full Council in setting clear goals for the City and optimizes the use of City resources to meet these goals.
3. The City Manager is the appointing authority, responsible for all City personnel. The City Manager or designee serves as a liaison to each commission. The use of City-owned property is handled through the City Manager's Office. The City Manager supports effective policy making and oversight by the City Council by providing information, formulating policy proposals, advising and informing the Council on policy matters while promoting team building and collaboration, and ensuring that the administration's delivery of service is consistent with City Council direction.
4. The City Manager prepares the budget annually, advises the City Council of future financial needs, and is responsible for budget administration after adoption. The City Manager prepares and submits to the City Council a complete report at the end of each fiscal year on the finances and administrative activities of the City during the preceding year. City Manager

shall also present quarterly fiscal/budgetary updates or [as](#) requested throughout the year.

G. Role of City Attorney.

1. The City Attorney is appointed by the City Council and reports to the full City Council. The City Attorney advises the City Council and City officers in their official capacity on legal matters affecting the City, attends all City Council meetings and some board/commission meetings, and represents the City in legal actions and proceedings. The City Attorney shall work in collaboration with the City Manager.
2. The Office of the City Attorney approves as to form all bonds and contracts made by the City, approves all ordinances and resolutions and related amendments for the City, and prosecutes criminal cases for violation of City ordinances.
3. The members of the City Attorney's Office (attorneys and staff) maintain an attorney-client relationship with the City, full City Council or individual members thereof, its officers, agents and employees, so their official communications are protected as confidential attorney-client privilege.

CHAPTER III. Mayor and Councilmember Conduct

A. Mayor and Councilmembers shall:

The Milpitas City Council Code of Conduct, as approved by the City Council and noted below, shall be included in Council meeting agendas and read aloud at all City Council meetings.

Milpitas City Council Code of Conduct

- Be respectful and courteous (words, tone, and body language)
- Model civility.
- Avoid surprises.
- Praise publicly and criticize privately.
- Focus on the issue, not the person.
- Refrain from using electronic devices while on the Council dais.
- Disclose conflicts of interest and affiliations related to agenda items.
- Separate governing from campaigning.
- The Council speaks with one voice after making policy on issues.
- Respect the line between policy and administration.
- Council will hold one another accountable to comply with this Code of Conduct.

B. Mayor and Councilmember Best Practices for Council Meetings

- put constituents first at all times;
- treat each other and members of the public with dignity, courtesy, and respect;
- maintain confidentiality of all closed session materials and discussion;
- be attentive to others, limiting interruptions and distractions;
- encourage diverse viewpoints in debate while being mindful not to prolong discourse or block consensus;
- agree to respectfully disagree;
- keep comments clear, concise, and on topic;
- start meetings on time, work from the agenda; and
- present problems in a way that promotes discussion and resolution.

C. Mayor and Councilmember Conduct with City Staff:

1. Always maintain professionalism, treat all staff with respect.
2. Direct staff personnel issues to the City Manager.
3. Comments about staff performance should not be made in public or to the individual employee and should only be made to the City Manager through private correspondence or conversation.
4. Comments about staff in the office of the City Attorney should be made directly to the City Attorney.
5. In accordance with Milpitas Municipal Code VI-1-2.04, except for purposes of inquiry, the City Council and its members shall deal with the administrative staff solely through the City Manager.
6. The Mayor and Councilmembers must not attempt to influence City staff on the making of employment appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.
7. Routine administrative support will be provided to the Mayor and all Councilmembers. Requests for additional staff support — even in high priority or emergency situations — should be made to the City Manager.
8. Do not solicit political support from staff. The Mayor and Councilmembers should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace and on personal time.

CHAPTER IV. Meetings

- A. All Council decisions must occur at City Council meetings pursuant to the requirements of the Ralph M. Brown Act. The City Council shall not use a series of telephone calls, a conference call, mass e-mailing or any other method of communication to discuss or decide matters within the jurisdiction of the Council among a majority of the Councilmembers.

- B. Quorum
 - 1. No business may be transacted by the Council at a regular or special meeting unless a quorum of the membership is present (on a 5 member Council, a quorum is 3 members).
 - 2. When there is no quorum, the Mayor or Vice Mayor, or any Councilmember may adjourn a meeting, or if no Councilmember is present, the City Clerk may adjourn a meeting.

- C. Council Meeting Dates; Cancellation
 - 1. If at any time any regular meeting of the Council falls on a holiday, the regular meeting shall be held on the next business day or the earliest business day within a week.
 - 2. Any meeting of the City Council may be canceled in advance by the Mayor. It can also be cancelled by a majority of the Councilmembers at a City Council meeting. The City Manager may also cancel a meeting in cases of need, such as an emergency or when a majority of members have provided notice of their unavailability to attend a meeting.

- D. Types of Meetings
 - 1. Regular meetings are held on the first and third Tuesdays of each month at 7:00 p.m. in the City Hall Council Chambers, 455 E. Calaveras Blvd., Milpitas, California. Pursuant to the requirements of the City's Open Government Ordinance, the Preliminary agenda is posted by the Wednesday preceding the regular meeting date. The Brown Act requires the posting of an agenda at least 72 hours prior to a regular meeting.
 - 2. Special Meetings may be called by the Mayor. They can also be called by a majority of the Council at a public meeting. Any special meeting called requires a minimum of 24 hours notice as required by the Brown Act. Only business described in the notice may be transacted.
 - 3. Study Sessions may be held as part of a regular meeting or special meeting and are held for the purpose of providing information to the City Council, particularly on issues that are more complex or more time-consuming. Study sessions may be conducted jointly with another City board, commission or committee or another governmental agency. At study sessions Councilmembers may state their individual responses and

questions to the information provided and may collectively provide direction to City staff. No formal action is taken at the study sessions.

4. Closed Sessions can be part of either regular or special meetings, typically in advance of the regular or special meetings. The start time of the Closed Sessions shall be publicly noticed in accordance with the law. The Council conducts its business in public to the greatest extent possible. State law, however, recognizes that in certain limited circumstances authorized by the Brown Act, that the Council will need to meet in private without the public present. These matters may include certain personnel matters, labor negotiations, real property negotiations, matters of public security, and the discussion of litigation, among other topics listed in the Brown Act. These rules provide for strict confidentiality of City Council discussion as required by State law, and no Councilmember shall disclose anything discussed in closed session to any individual not present in that closed session. Violating this confidentiality requirement can subject an individual Councilmember to disciplinary action, a referral to the grand jury, and in some limited circumstances, criminal prosecution. In limited instances, if action is taken in closed session, the City Attorney may need to report out any action taken and any vote on that action.
5. Emergency Meetings can occur in limited circumstances when there is a work stoppage, crippling activity, other activity that impairs public health, safety, or dire emergency. Depending on the factual circumstances, 24 hour notice or one hour notice may be required, or no notice at all.

E. Teleconferencing

1. Pursuant to Government Code Section 54953(b), teleconferencing may be used as a method for conducting meetings where Councilmembers may be counted towards a quorum and participate fully in the meeting from remote locations. If a Councilmember participates in a meeting via teleconference, the following requirements must be met:
 - a. The remote locations must be connected to the main meeting location by telephone, video, or both.
 - b. The notice and agenda of the meeting must identify the remote location.
 - c. The agenda must be posted at the remote location and be accessible to the public.
 - d. All votes must be by roll call.
 - e. The meeting must in all respects comply with the Brown Act, including participation by members of the public present in the remote locations.

- f. During the teleconference, at least a quorum of the members of the City Council shall participate from locations within the boundaries of the City.
- 2. Alternatively, a Councilmember may appear virtually at a limited number of meetings without identifying his or her location on the agenda, posting the agenda in the remote location, or allowing public attendance in the remote location so long the Councilmember is participating remotely for just cause or due to emergency circumstances. The Councilmember must inform the City Manager as early as possible of the just cause or emergency circumstance so that the need for a remote appearance can be agendaized and acted on by the entire Council.
 - a. An emergency circumstance means a physical or family medical emergency that prevents a Councilmember from attending in person.
 - b. Just cause means, (A) a childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires a Councilmember to participate remotely, (B) a contagious illness that prevents a Councilmember from attending in person, (C) a need related to a physical or mental disability, or (D) travel while on official business of the City or another state or local agency.
 - c. The Councilmember requesting the virtual appearance shall offer the Council a general description of the circumstances relating to his or her need to appear virtually. The description generally need not exceed 20 words and shall not require the Councilmember to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law. The Council shall act on the request based on this description
 - d. A Councilmember may appear virtually for just cause not more than two times per calendar year. A Councilmember may not participate virtually pursuant to the relaxed Brown Act rules for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.
 - e. During the meeting, the Councilmember shall publicly disclose, before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the Councilmember, and the general nature of the Councilmember's relationship with any such individuals.
 - f. The member shall participate through both audio and visual technology, which means that the Councilmember must have their camera turned on during the conduct of the meeting.
- 3. Because there are other legal nuances to making use of the teleconferencing provisions in the Brown Act, please check in with the City Attorney or City Clerk in advance.

4. During certain state of emergency situations, it may also be possible to meet remotely without complying with some of the requirements above, depending on certain findings that must be met during a state of emergency as required by the Brown Act. See, Cal. Gov. Code 54953(e)

F. Presiding Officer

1. The Mayor presides at all City Council meetings. In the absence of the Mayor, the Vice Mayor is the presiding officer. If both the Mayor and Vice Mayor are absent, the remaining Councilmembers should select a presiding officer for that meeting. The presiding officer votes on all questions as do other members of the City Council.
2. The Mayor/presiding officer always sits in the middle seat at all formal council meetings. The Vice Mayor and City Manager are always seated immediately next to the Mayor/presiding officer. Councilmembers are seated based on seniority on the City Council. The Councilmember with the most seniority is seated next to the Vice Mayor, followed by the next most senior Councilmember and so forth. Seniority is defined by continuous time of service as an elected member of the Council. When two or more Councilmembers have equivalent time of service, those Councilmembers shall be given priority in seat selection by the highest number of votes in his/her most recent election.
3. The presiding officer conducts the meetings of the City Council to:
 - a. Ensure that consideration of items on the agenda move along without delay.
 - b. Ensure that petitioners, proponents and opponents are heard but not allowed to disrupt the meeting.
 - c. Ensure that decorum is maintained at the meeting.
 - d. In presiding over matters where the public has provided testimony and/or raised questions, the presiding officer should:
 - (i) Restate every question coming before the Council.
 - (ii) Direct questions or comments requiring a response to staff for a response.
 - (iii) Ensure that staff and members of the public direct their comments to the presiding officer.
 - (iv) If necessary, help keep Councilmember questions relevant to the matter being considered by the Council.
 - (v) If necessary, consider calling for a brief recess if orderly conduct of the meeting is being disrupted.
 - (vi) Announce the decision of the Council on all subjects.

4. Ensure that each member of the Council is provided an opportunity to completely express their views on items of business, the Mayor should:
 - (i) See that Councilmembers ask to be recognized by the Mayor before speaking.
 - (ii) Ensure that each Councilmember is given the opportunity to fully express their views.
5. The Chief of Police, or his or her representative, is the ex officio sergeant-at-arms of the City Council. The ex officio sergeant-at-arms shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum in the council chamber.

G. Voting; Rules of Procedure

1. A motion, second, and a majority vote of the Council shall be required for any formal action of Council (except where a different vote requirement is set by state law). Votes and abstentions are taken by roll call, electronic voting, or any other means that allows the public to determine the votes of individual members as allowed by law. ~~and Votes and abstentions shall be recorded in the meeting minutes.~~
2. Steps in making, discussing and voting on a formal motion:
 - a. The maker of the motion asks for recognition by the presiding officer. After the individual is recognized, he or she will say, "I move that we ..."
 - b. The presiding officer will ask if there is a second. Another member of the group must second the motion in order for it to be discussed. A second is made by saying "I second the motion." The Mayor or any Councilmember can suggest one or more modifications in the motion, which the member making the motion can accept or reject. There also may be times where the City Manager or City Attorney may suggest an amendment to the motion for clarity purposes for the public, which the member making the motion can accept or reject.
 - c. The presiding officer then restates the motion "It has been moved and seconded that ..." and opens the floor to discussion and debate.
 - d. The presiding officer will recognize members who wish to comment on the motion. Only one "main motion" may be discussed at a time.
 - e. Once discussion has concluded, the presiding officer will "call for the question" and conduct a ~~roll call~~ vote.
 - f. The presiding officer will announce the result of the vote.

3. Unless state law requires otherwise, a majority vote is needed for the motion to pass. In the event of a tie vote, the motion does not pass.
4. Subject to state law limitations and to the extent this Handbook does not address an issue of parliamentary procedure, Roberts Rules of Order shall apply. For example, even though Roberts Rules of Order permit a legislative body to reconsider or rescind prior actions, under due process the City Council cannot reconsider or rescind a quasi-judicial decision after the decision is final, in the absence of statutory authority to the contrary.
5. The City Attorney serves as parliamentarian during City Council meetings. The role of the parliamentarian is advisory; the Chair has the power to rule on questions of order.

H. Continued Matters

1. Any matter may be continued to a subsequent meeting.
2. If the Mayor or Councilmember who was not present at a prior meeting has reviewed the relevant documents and minutes from the missed meeting and, if possible, reviewed the recording or webcast from the meeting, then he or she shall disclose those actions on the record at the beginning of the discussion of the item and may vote on the continued matter.
 - a. Exception: Continued Public Hearing. If a hearing is required for an agenda item, then the Mayor or a Councilmember shall not participate in the decision if that member was not present during the entire hearing from the time of its opening to the time of its close. (MMC § I-20-3.14.)

I. Public Participation

1. Members of the public are encouraged and invited to participate in the legislative process by submitting written comments before the meeting or speaking at a meeting.

It is the intent of these rules to allow everyone to be heard without fear of jeers or cheers that may discourage public participation. For this reason, these rules are taken seriously. Persons attending the meeting will refrain from behavior which will disrupt the public meeting. This includes making loud noises, clapping, shouting, booing, hissing, or engaging in any other activity in a manner that disturbs, disrupts, or impedes the orderly conduct of the meeting. Disruptive or threatening behavior may result in removal from the Council meeting.

2. Only the presiding officer can interrupt a speaker during a presentation. However, a Councilmember can ask the Mayor for a point of order if the speaker is off the topic or exhibiting behavior or language the Councilmember finds disruptive.
3. Time Limits for public comment:

- a. Individual Speakers - 3 minutes or less as determined by the Mayor/presiding officer.
 - b. Organized group (in lieu of individual speakers) – up to 15 minutes, depending on the number of speakers represented and at the discretion of the Mayor.
 - c. The presiding officer may take a poll to determine number of speakers for each item and, at his/her discretion, limit the amount of time allotted to the speaker(s) when needed.
4. Individuals who wish to speak should submit a speaker card to the City Clerk to be called up at the appropriate time. Each speaker may only speak once on an item and shall speak at the podium into the microphone and address the City Council. A speaker may also provide comments virtually if the meeting format allows virtual participation.
 5. Written or photographic materials relevant to consideration of a matter may be submitted to the Council. Copies of such materials should be provided for the Mayor, Councilmembers, City Clerk, City Manager and City Attorney. The materials must be submitted to the City Clerk's Office by email to CityClerk@ci.milpitas-ca.gov by 12:00 p.m. on the day of the meeting, for distribution to the city officials in advance of the meeting/hearing. The City Council retains discretion to accept or to reject new documentation furnished on the night of the City Council meeting/hearing. Accepted materials are retained by the City and become part of the official public record.
 6. Wireless/Cellular telephones or any other telecommunications device should be in ~~the~~ silent mode or turned off during the City Council meeting.
 7. Literature distribution or petition circulation is not permitted when the City Council is in session. Such activity may occur outside the meeting room, provided access is not blocked.
 8. Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers, with the following restrictions:
 - a. Signs or symbolic objects shall not obstruct the view or passage of other attendees, or otherwise disturb the meeting.
 - b. Objects that are deemed a safety threat to persons at the meeting or could damage the facility itself will not be allowed.
- J. Discussion Items on the agenda are to be conducted in the following order:
1. Staff / applicant presentation
 2. Council questions to applicant and/or staff
 3. Open public hearing (or public comment section) for comments

4. Close public hearing (or public comment section)
5. Response by staff to public questions/concerns, if warranted
6. Council discussion and deliberation
7. Council votes

K. Quasi-Judicial Matters/Appeals/Revocation Hearings

1. Quasi-judicial matters and appeals will be considered at a noticed public hearing and will follow the order stated in Section I₇ above, with the following time allocations:
 - a. Applicant/Appellant – 15 minutes
 - b. Individual Speakers – 3 minutes
 - c. Rebuttal – 5 minutes
 - d. In an appeal, if the appellant is not the applicant, the applicant shall also have 15 min and is entitled to make any concluding remarks prior to closure of the public hearing

The time limits may be changed by the presiding officer to permit full and fair consideration of a particular matter depending on the number of items on the agenda and the number of persons desiring to speak on a matter.

2. If the Mayor or a Councilmember has spoken or met with a proponent or opponent of a quasi-judicial matter or has visited the site of a project which is the subject of a hearing, that contact, or visit should be acknowledged and described on the record prior to the opening of the hearing. Any facts that could influence the Mayor or a Councilmember's decision, must be included in the public record.

L. Items Considered after 11:00 p.m.

1. Unless a majority of the Council determines there is a need to act, no items shall continue, and no new items shall be heard after 11:00 p.m.

M. Conflict of Interest

1. The Political Reform Act (PRA) enforced by the Fair Political Practices Commission (FPPC), controls financial conflicts of interest.
2. In accordance with the Open Government Ordinance (MMC I-310-2.180), at the beginning of each City Council meeting or upon the arrival of the Mayor or Councilmember, the City Attorney shall ask the Mayor and each member of the City Council to disclose any financial or personal conflict with any item on the City Council's agenda. Pursuant to Government Code section 87105, if the Mayor or a Councilmember discloses that such a personal financial interest is present, he or she shall publicly identify the

conflict or potential conflict in detail sufficient to be understood by the public and shall recuse him or herself from taking action on the item if required to do so by law and leave the meeting room.

3. The other applicable law is Government Code §1090, which applies only to contracts in which a public official has a financial interest.
4. Whenever it appears to a Councilmember that he or she may have a prohibited financial interest in any item that may be presented to the City Council, the Councilmember should consult with the City Attorney at the earliest opportunity for advice on whether a disqualifying conflict of interest exists.
5. With full consideration of the City Attorney's advice, it is up to each individual Councilmember to decide for him/herself whether there is a conflict of interest. When a Councilmember may be in doubt, the City Attorney can obtain more formal advice from the Fair Political Practices Commission (FPPC).
6. A member shall not vote upon any matter on which s/he has a conflict of interest.
7. A member shall openly state the reason for his/her conflict of interest, or work in consultation with the City Attorney to state something on the record.
8. A member who is disqualified by a conflict of interest shall recuse him/herself from the dais and leave the room unless it is during the Consent Calendar.

N. Meeting Language

1. In accordance with Article III, Section 6 of the California Constitution, English is the official language of the State of California. English should be the language used for the formal portions of any meeting. All business of the Council should be transacted in English.
2. Councilmembers who wish to translate brief comments or questions made in English from the dais into a language that assists limited English-proficient speakers may do so, so long as the question or comment is first placed into the record in English, and the translation is a true and correct translation of the English comment.
3. Councilmembers may address their constituents in any language they choose outside of a meeting in which the official business of the City is conducted.
4. When appropriate or otherwise required by law, the City may provide access, services, and programs for limited English-proficient speakers

such as translation services for limited English-proficient speakers including in person, telephonic, or Zoom translation services.

5. Limited English-proficient speakers must be allowed the same amount of time to comment on at item or at public comment as other speakers. The translation of a person's comments cannot be counted toward his or her time limit.

CHAPTER V. Meeting Agendas and Minutes

A. Agenda Order

City Council agendas will be prepared by the City Clerk and presented to the City Council in the order described below. The presiding officer with the approval of a majority of the Council can change the order of hearing the items on the agenda.

1. Opening
 - a. Call to Order by Mayor and Roll Call by City Clerk
 - b. Adjourn to Closed Session
 - c. Closed Session Announcement
 - d. Pledge of Allegiance. If the Mayor and Vice Mayor are both absent, then the City Clerk calls the meeting to order and a temporary presiding officer is elected by a majority of those councilmembers present. Upon the arrival of the Mayor or Vice Mayor, the temporary presiding officer relinquishes the chair at the conclusion of the business then before the City Council.
 - e. Invocation. In accordance with the policy adopted by City Council (SOP 1.2), the Mayor and Councilmembers shall invite a community member to give an invocation at the speaker podium.
2. Ceremonial matters. The presentation and receipt of proclamations and commendations not requiring formal legislative action.
3. Public Forum. Members of the public wishing to comment on any item not appearing on the agenda may address the City Council at this time. State law prevents Council from taking action on any matter not on the agenda. Comments may be referred to staff for follow up. Individuals are limited to 3 minutes. However, the presiding officer has discretion to reduce the speaking time in situations where there are a large number of persons who wish to speak.
4. Announcements and Future Agenda Items. The Mayor and Councilmembers shall report on any meetings or conferences attended and paid for by the City and may also report on various assignments or other events. The Mayor and Councilmembers shall be limited to the same amount of speaking time as members of the public during open public comment (3 minutes). The City Manager may also make brief announcements. This section will include special reports and any other requests for staff work by the Mayor and Council.

5. Announcements of Conflict of Interests and Campaign Contributions. City Attorney shall ask the Mayor and Councilmembers to declare any conflicts of interest or campaign donations related to items on the agenda, in accordance with the Milpitas Open Government Ordinance (Municipal Code I-310)
6. Reading of the City Council Code of Conduct
7. Approval of Agenda
8. Consent Calendar. All matters listed under the Consent Calendar, including minutes, are considered by the Council to be routine and will be enacted by one motion without discussion (except for simple clarifying questions). If discussion is desired, that item may be removed and considered separately.
9. Public Hearing. Duly noticed hearings as mandated by local, state, or federal law, providing an opportunity for public review and comment of a proposed action by the Council.
10. Community Development. This section will cover the Community Development City Service Area and will include items related to Building Safety and, Housing, Economic Development, Engineering (Land Development), Fire (Fire Prevention), and Planning.
11. Community Services and Sustainable Infrastructure. This section will cover the Community Services and Sustainable Infrastructure City Service Area and will include items related to Engineering (Capital Projects and Solid Waste), Public Works, and Recreation and Community Services, —.
12. Public Safety. This section will cover the Public Safety City Service Area and will include items related to Fire/Emergency Preparedness and Police.
13. Leadership and Strategic Support Services. This section will cover the Leadership and Support Services Strategic Support City Service Area and will include items related to the City Clerk, City Council, City Manager, Finance, Human Resources, and Information Services Technology.
14. Reports of Mayor and Councilmembers. Reports and work plans from Commissions will be presented in this section. Reports from Council Subcommittees will also be presented in this section.
15. Adjournment

B. Agenda Item Submission

1. The City Manager has the primary responsibility for the development of the Council Agenda, ensuring all protocols are followed, and that management of the agenda is closely linked to organizational goals and work plans. Any item that is placed on the agenda shall be in accordance with the City's Open Government ordinance (MMC I-310) so that it can be clearly understood by members of the community.
2. Mayor or Councilmember:
 - a. The Mayor or a Councilmember may request the City Manager to add an item to a Council agenda. No staff report or other staff work will occur until the item is discussed before the full City Council. Discussion and prioritization by the City Council will occur on a quarterly basis.
 - b. Councilmembers may make this request verbally during a meeting or may submit a written request to the City Manager at other times.
 - c. See Section 2.C.4 "Request for Staff Resources" for further details on any associated staff work related an agenda item request.
3. Members of the Public. A member of the public may request Council action in the following ways:
 - a. Write a letter to the City Council
 - b. Speak during the Public Comment period at a City Council meeting
 - c. Attend annual Council goal setting meeting and provide input

Upon agreement of a majority of the City Council, Council will determine whether to place on a future agenda an item requested by the public.

C. Meeting Minutes

1. The preparation of accurate minutes is the responsibility of the City Clerk.
 - a) In general, summary minutes are used to record proceedings. The record focuses on who spoke and the motions and votes. Video recordings are used in order to serve a number of administrative, legal, and historical functions and to provide verbatim record of meetings. Failure to record does not affect the validity of any proceedings or action taken by the City Council.
 - b) The City Clerk may be directed by the presiding officer, with the consent of the City Council, to enter in the minutes a synopsis of the discussion of any matter coming before the City Council. The synopsis should be in complete sentences.

- c) The Mayor or a Councilmember may request, through the presiding officer, the privilege of having a previously prepared written abstract summarizing the major points of his or her statement on any subject under consideration entered into the minutes. If the City Council consents, such an abstract is entered into the minutes.
- d) Items such as letters which individuals request "to have entered into the record" are referred to in, but do not become a part of, the minutes.
- e) Changes in substantive matters may be made only at the direction of a majority of the City Council. Clerical corrections are to be made when discovered in order to maintain accuracy.

CHAPTER VI. City Council Actions

Several different types of action may be taken by the Mayor and/or City Council.

A. Proclamations.

Proclamations are issued by the Mayor without formal action by the City Council. Proclamations are public announcements directing attention to a person, organization or event, such as Citizen of the Year, Girl Scout Week, or International Year of the Child. Councilmembers need to make their requests to the Mayor, only the Mayor can issue proclamations.

B. Commendations.

Commendations are acknowledgments of the activities of a person or organization, issued by the Mayor or more Councilmembers without formal action being taken. Commendations typically acknowledge exceptional endeavors or are given to retiring employees and departing board and commission members and are presented at an appropriate function or council meeting.

C. Ordinances.

Legislative acts of the City Council are known as ordinances. Subject to certain state law exceptions, most ordinances are introduced at one meeting and are adopted by majority vote at a subsequent meeting, and go into effect 30 days after adoption.

An ordinance is necessary (1) when state law requires a regulation to be adopted by ordinance, (2) to amend or repeal provisions of the Municipal Code or any uncodified ordinances, and (3) to impose regulations on persons or property in the City.

Ordinances shall be prepared by the City Attorney. Ordinances are prepared for presentation to the City Council when ordered by a majority vote of the City Council, or when requested by the Mayor or the City Manager, or when prepared on the City Attorney's own initiative.

D. Resolutions.

Resolutions are City Council actions which become effective upon adoption and encompass the business not addressed through ordinances. They are typically used to handle routine business and administrative matters requiring some type of formal memorialization. Resolutions are used for various reasons, such as when specifically required by law, when needed as a separate evidentiary document to be transmitted to another agency, or where the frequency of future reference back to its contents warrants separate documents to facilitate reference and research.

E. Motions.

The least formal of City Council actions, motions typically are used for procedural matters (such as to continue items) or for administrative matters (such as to accept reports). An adopted motion is as legally effective and binding as an adopted resolution but generally is recorded simply as an item entry in the minutes.

CHAPTER VII. Communication

A. California Public Records Act.

All letters, memoranda, and email and other electronic communications involving City Councilmembers and members of boards, commissions, committees and task forces, the subject of which relate to the conduct of government or the performance of any governmental function, with a few exceptions as outlined in the Public Records Act, are public records. Emails and texts with content that concerns City business with other City employees or officials or interested members of the public are likely public records even if they are sent to/from a personal account or device.

B. Ralph M. Brown Act

Each Councilmember should be mindful of all of the requirements of the Brown Act and the Open Government Ordinance contained at Milpitas Municipal Code I-310.1.00 in communicating with each other. A majority of the Council shall not use a series of telephone calls, a conference call, mass e-mailing or any other informal session to discuss or decide matters before the City Council. This type of communication would be considered a “serial meeting” in violation of the law.

Section 54952.2(b)(1) of the Brown Act prohibits a majority of members of a legislative body outside of a lawful meeting from directly or indirectly using a series of meetings to discuss, deliberate or take action on any item of business within the subject matter jurisdiction of the body. Paragraph (b)(2) expressly provides that substantive briefings of members of a legislative body by staff are permissible, as long as staff does not communicate the comments or positions of members to any other members.

A serial meeting is a series of meetings or communications between individuals in which ideas are exchanged among a majority of a legislative body (i.e., three council members) through either one or more persons acting as intermediaries or through use of a technological device (such as a telephone answering machine, or e-mail or voice mail), even though a majority of members never gather in a room at the same time. Serial meetings commonly occur in one of two ways; either a staff member, a member of the body, or some other person individually contacts a majority of members of a body and shares ideas among the majority (“I’ve talked to Councilmembers A and B and they will vote ‘yes.’ Will you?”) or, without the involvement of a third person, member A calls member B, who then calls member C, and so on, until a majority of the body has reached a collective concurrence on a matter.

1. Contacts with staff

Staff can inadvertently become a conduit among a majority of a legislative body in the course of providing briefings on items of local agency business. To avoid an illegal serial meeting through a staff briefing:

- a. Individual briefings of a majority of members of a legislative body should be “unidirectional,” in that information should flow from staff to the member and the member's participation should be limited to asking questions and acquiring information. Otherwise, multiple members could separately give staff direction thereby causing staff to shape or modify its ultimate recommendations in order to reconcile the views of the various members, resulting in an action outside a meeting.
- b. Members should not ask staff to describe the views of other members of the body, and staff should not volunteer those views if known.
- c. Staff may present its viewpoint to the member but should not ask for the member's views, and the member should avoid providing his or her views unless it is absolutely clear that the staff member is not discussing the matter with a quorum of the legislative body.

2. Contacts with constituents, bargaining unit representatives, developers, and lobbyists

As with staff, a constituent, bargaining group representative, developer, or lobbyist can also inadvertently become an intermediary who causes an illegal serial meeting. Constituents' unfamiliarity with the requirements of the Act aggravates this potential problem because they may expect a member of a legislative body to be willing to commit to a position in a private conversation in advance of a meeting. To avoid serial meetings via constituent conversations:

- a. First, state the ground rules “up front.” Ask if the constituent has or intends to talk with other members of the body about the same subject; if so, make it clear that the constituent should not disclose the views of other members during the conversation.
- b. Explain to the constituent that you will not make a final decision on a matter prior to the meeting. For example: “State law prevents me from giving you a commitment outside a meeting. I will listen to what you have to say and give it consideration as I make up my mind.”

c. Do more listening and asking questions than expressing opinions.

d. If you disclose your thoughts about a matter, counsel the constituent not to share them with other members of the legislative body.

3. Contacts with fellow members of the same legislative body

Direct contacts concerning local agency business with fellow members of the same legislative body, whether through face-to-face or telephonic conversations, notes or letters, electronic mail, or staff members, are the most obvious means by which an illegal serial meeting can occur. This is not to say that a member of a legislative body is precluded from discussing items of agency business with another member of the body outside of a meeting; as long as the communication does not involve a quorum of the body, no “meeting” has occurred. There is, however, always the risk that one participant in the communication will disclose the views of the other participant to a third or fourth member, creating an illegal serial meeting. Therefore, it is recommended you avoid discussing local agency business with a quorum of the body or communicating the views of other members outside a meeting.

C. Mail Processing

1. Members of the City Council may receive mail and other materials through City Hall.
2. All mail received and specifically addressed to the Mayor or a Councilmember shall be placed in the mail drawer for that person without first being opened.
3. General correspondence addressed to Councilmembers as a whole may be opened and delivered to all Councilmembers if appropriate.

D. Correspondence

1. The City Manager or designee is authorized to receive and take administrative action on all correspondence directed to the City Council. The City Manager or designee may also respond to correspondence submitted to the full City Council on non-agenda items or authorize a staff member to respond. A courtesy copy is provided to each Councilmember.
2. Generally, correspondence relating to a specific City Council agenda item shall be distributed with the agenda report; correspondence received after the publication of agenda packets is to be compiled and distributed to the City Council prior to the City Council meeting.

3. After the City Council has taken a position on an issue, official correspondence should reflect this position. While Councilmembers who may disagree with a position are free to prepare correspondence on such issues as private citizens, City letterhead, official City Council title, and staff support should not be utilized. In addition, City letterhead and staff support cannot be utilized for personal or political purposes.

E. City letterhead, logo, insignia, and brand, as well as staff support, cannot be utilized for personal or political purposes.

F. Council Communication to Planning Commission

1. The Mayor and Councilmembers should be mindful not to unduly influence the decision at the Planning Commission meeting so as not to get ahead of the process.
2. It is not appropriate for the Mayor or a Councilmember to make public comments at the Planning Commission meeting unless he/she is acting in his or her personal capacity. If/when the matter comes before the City Council, such member should recuse him or herself from the matter.

G. External Communication

1. The Mayor and Councilmembers may communicate on behalf of the City through media interviews, letters, and newsletters. They may also be quoted in City issued press releases. Although the Mayor and Councilmembers are able to express individual opinions, any communication made on behalf of the City shall be aligned with Council adopted policies, programs, priorities. City issued press releases will include a quote by Mayor and other quotes, if any, will be determined by the City Manager, based on related work by each Councilmember.

CHAPTER VIII. Council Liaison Roles

The Mayor and Councilmembers serve on behalf of Milpitas as members of other governmental entities, committees, and agencies.

A. City Council Liaison

1. All City Councilmembers shall serve as liaisons to other City Commissions which shall be approved by the full City Council. In serving as a liaison, a City Councilmember shall endeavor to attend all Commission meetings of the Commission to which he or she is assigned.
2. Statements made by the City Council liaison about the City's official position should reflect the majority opinion of the City Council, which is defined by current or past official City Council action via City Council vote or consensus.
3. If the Mayor or a Councilmember wishes to attend the meeting of a Board, Agency, Committee or Task Force to which he/she has not been appointed to serve on by the City Council, the Mayor or Councilmember, as a courtesy, should advise the City representative(s), if any, as well as the respective chair, and should be mindful of the influence of his/her presence. If the presence of the Mayor or Councilmember shall constitute a quorum of the City Council, the meeting should be noticed as that of the City Council and all Councilmembers invited. An exception to this rule is when the Mayor or Councilmember observes only and does not speak at the meeting.

B. Milpitas Public Financing Authority, Milpitas Municipal Financing Authority, and Housing Authority Commission.

The Mayor and Councilmembers serve as the members of the Milpitas Public Financing Authority, Milpitas Municipal Financing Authority, and Housing Authority Commission.

C. Regional Boards and Outside Agency Representatives.

1. The role of a Member on regional Boards will vary depending on the nature of the appointment.
2. Reporting. Council representatives to Regional Boards shall keep the Mayor and Councilmembers informed of ongoing business through short written reports to the Mayor and Councilmembers or update reports to the City Council during the "Mayor and Councilmember Reports" opportunity on the City Council meeting agenda.
3. In the event the primary assigned liaison is unable to attend a particular meeting, he or she should notify the chair of the board/agency, and the

appointed alternate Council representative, or Mayor, should attend in the place of the primary.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Receive the January – March 2023 Report for Unhoused Services (Staff Contact: Alex Andrade, Economic Development Director, 408-586-3046)
Category:	Consent Calendar-Community Development
Meeting Date:	6/20/2023
	<u>Recommendation:</u> Receive the January – March 2023 report for unhoused services.

BACKGROUND:

On November 10, 2020, the City Council approved and authorized staff to enter into an agreement for homeless outreach and assessment services with Santa Clara County Office of Supportive Housing. The County's Homeless Engagement and Access Team (HEAT), via Abode Services, began conducting outreach in March 2021 to engage and provide resources to the city's unhoused residents. On March 15, 2022, the City Council approved using American Rescue Plan Act (ARPA) monies to continue funding HEAT through December 2023.

On December 1, 2020, the City Council directed staff to implement a six-month pilot mobile shower and laundry program. The nonprofit service provider, WeHOPE's Dignity on Wheel program, began providing mobile shower and laundry services every Sunday starting March 21, 2021, on Winsor Street, located immediately south of the Milpitas Library. On September 7, 2021, the City Council directed staff to continue the mobile shower and laundry program for an additional 12 months. On September 6, 2022, the City Council approved a continuation of services, and on April 4, 2022, the City Council approved gap funding to cover services through June 30, 2023.

This report reflects the January - March 2023 progress update for local unhoused services.

ANALYSIS:

From January – March 2023, the HEAT Team continued to collaborate with City staff and the County Office of Supportive Housing to conduct outreach throughout Milpitas to engage and provide resources to the city's unhoused residents. The HEAT Team provided basic needs items and transportation resources. The HEAT Team continued to foster rapport with unhoused residents to provide housing and employment resources, as well as to coordinate care with the Office of Supportive Housing. During the months of January, February, and March, the HEAT Team enrolled 19 clients and completed 24 assessments. Adding to 212 clients enrolled and 229 clients assessed since services began in March 2021, this makes a total of 231 clients enrolled and 253 clients assessed. Since the HEAT Team has been conducting proactive outreach throughout Milpitas, they have been able to locate and connect with unhoused residents both at known and new locations. For the unhoused individuals that did not provide identifying information for the HEAT Team to enroll or assess, they provided basic needs items and community resources. See Attachments 2-4 for the HEAT Team January – March 2023 reports.

From January – March 2023, WeHOPE provided 12 sessions to the unhoused community, providing a total of 217 showers and 96 loads of laundry, serving 120 unduplicated individuals. See Attachments 5-7 for the WeHOPE Dignity on Wheels January – March 2023 reports.

In addition to working closely with the above service providers, City departments continued to collaborate in providing assistance to the unhoused residents. Referrals to the HEAT Team continue to be provided through the City's referral process. This process has reduced internal messaging and maximized the HEAT Team's ability to quickly respond to requests for assessments and to provide updates to City staff. For a summary of

the various activities and services for Milpitas unhoused residents as described above, refer to Attachment 1 for the January – March 2023 report for unhoused services.

FISCAL IMPACT:

There is no fiscal impact on the City budget other than staff time related to this item.

California Environmental Quality Act (CEQA):

The action being considered has no potential for causing a significant effect on the environment and is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3).

RECOMMENDATION:

Receive the January – March 2023 report for unhoused services.

Attachment(s):

1. January – March 2023 report for unhoused services
2. January 2023 HEAT Team report
3. February 2023 HEAT Team report
4. March 2023 HEAT Team report
5. January 2023 WeHOPE Dignity on Wheels report
6. February 2023 WeHOPE Dignity on Wheels report
7. March 2023 WeHOPE Dignity on Wheels report

JANUARY - MARCH 2023 REPORT FOR UNHOUSED SERVICES													
Outreach Location		Type	Jurisdiction	Unhoused Count	DateS Counted	Date Referred	Clients Enrolled	DateA Enrolled	Clients Assessed	DateS Assessed	Clients Housed	Date Housed	Notes
1	Hillview Bridge	Encampment	Valley Water			N/A							
2	Topaz Street 1	Encampment	City			N/A							
3	Serra Center	Encampment	Private Property			N/A							
4	Ocean Supermarket	Encampment or Outreach	Private Property	1	2/21/2023	N/A	1	2/21/2023	1	2/21/2023			
5	Dixon Road 1	Encampment	City			N/A							
6	Dixon Road 2	RV Vehicles	City			N/A							
7	Calaveras Blvd Overpass	Encampment	City			N/A							
8	Dempsey Road 1	Encampment	City			N/A							
9	Sinclair Frontage Road	Encampment or Outreach	Union Pacific Railroad	1	1/30/2023	N/A	1	1/30/2023	1	1/30/2023			
10	Yosemite Business Park	Encampment	Private Property			N/A							
11	Gibraltar Court	Trailers	City			N/A							
12	Topaz Street 2	Encampment	City			N/A							
13	Railroad Court	Camp/Trailers	City			N/A							
14	Abel Plaza	Encampment	Private Property			N/A							
15	S. Main Street	Encampment	City			N/A							
16	S. Abbott Avenue	Encampment	City (if on street) or County (if on County property)			N/A							
17	W. Calaveras Blvd	Encampment	City			N/A							
18	Ethyl Court	Camp/Cars	City			N/A							
19	Hammond Way	Cars/Trailers or Outreach	City			N/A							
20	Coyote Creek Trail 1	Encampment	Valley Water			N/A							
21	Coyote Creek Trail 2	Encampment	Valley Water			N/A							
22	Coyote Creek Trail 3	Encampment	Valley Water			N/A							
23	Calaveras Plaza Shopping Center	Outreach (contact made in non-encampment setting)	N/A	1 1 3	2/15/2023 2/7/2023 3/9/2023	N/A	1 1 3	2/15/2023 2/7/2023 3/9/2023	1 1 3	2/15/2023 2/7/2023 3/9/2023			
24	Dignity on Wheels Mobile Shower and Laundry	Outreach (contact made in non-encampment setting)	N/A			N/A							
25	Dixon Landing Shopping Center	Outreach (contact made in non-encampment setting)	N/A			N/A							
26	Great Mall	Outreach (contact made in non-encampment setting)	N/A			N/A							
27	Milpitas Library	Outreach (contact made in non-encampment setting)	N/A	3	3/13/2023	N/A	2	3/13/2023	3	3/13/2023			3 assessed and 2 enrolled due to 1 client being previously enrolled
28	Main Street	Outreach (contact made in non-encampment setting)	N/A	1	1/30/2023	N/A	1	1/30/2023	1	1/30/2023			
29	Other (Street, Panhandle, Vehicle Dweller, or Unidentified Location)	Outreach (contact made in non-encampment setting)	N/A										
30	Dempsey Road 2	Encampment	Private Property			N/A							
31	Serra Center	Outreach (contact made in non-encampment setting)	N/A	1 1	1/11/2023 2/9/2023	N/A	1 1	1/11/2023 2/9/2023	1 1	1/11/2023 2/9/2023			
32	E. Calaveras Blvd	Outreach (contact made in non-encampment setting)	N/A	1	3/6/2023	N/A	0	3/6/2023	1	3/6/2023			0 = previously enrolled client
33	Dempsey Road 3	Outreach (contact made in non-encampment setting)	N/A			N/A							
34	Galaxy Court	Outreach (contact made in non-encampment setting)	N/A			N/A							
35	Ranch Drive	Outreach (contact made in non-encampment setting)	N/A			N/A							
36	Jacklin Rd	Vehicle	City			N/A							
37	Folsom Ct	Outreach (contact made in non-encampment setting)	N/A			N/A							
38	Other (near Extended Stay)	Outreach (contact made in non-encampment setting)	N/A			N/A							
39	S. Park Victoria	Outreach (contact made in non-encampment setting)	N/A	1	3/9/2023	N/A	1	3/9/2023	1	3/9/2023			
40	O'Toole Elms Park	Outreach (contact made in non-encampment setting)	City			N/A							
41	America's Best Value Inn	Outreach (contact made in non-encampment setting)	Private Property			N/A							
42	Milpitas Sports Center Park	Outreach (contact made in non-encampment setting)	City			N/A							
43	Foothill Park	Outreach (contact made in non-encampment setting)	City			N/A							
44	Washington Road	Vehicle	City			N/A							
45	Burley Drive	Vehicle	City			N/A							
46	W. Calaveras Blvd	Outreach (contact made in non-encampment setting)	N/A			N/A							
47	Albert Augustine Jr. Memorial Park	Outreach (contact made in non-encampment setting)	N/A			N/A							
48	N. Milpitas Bridge	Encampment	N/A			N/A							
49	Victorian Sqaure	Outreach (contact made in non-encampment setting)	N/A			N/A							
50	Calaveras 3	Encampment	N/A			N/A							
51	Cardoza Park	Outreach (contact made in non-encampment setting)	N/A	2	1/9/2023	N/A	2	1/9/2023	2	1/9/2023			
52	Railroad Avenue	Encampment	N/A			N/A							
53	Sunnyhills Shopping Center	Outreach (contact made in non-encampment setting)	N/A	2	3/6/2023	N/A	2	3/6/2023	2	3/6/2023			
54	Pioneer Park	Vehicle	N/A			N/A							
55	McCarthy Ranch	Vehicle	N/A	1 1	2/24/2023 2/7/2023 3/3/2023	N/A	1 0 1	2/24/2023 ----- 3/3/2023	1 1 1	2/24/2023 2/7/2023 3/3/2023			0 = previously enrolled client
56	Yosemite 6	Encampment	N/A	1	3/6/2023	N/A	0	-----	1	3/6/2023			0 = previously enrolled client
57	Beresford Square	Outreach (contact made in non-encampment setting)	N/A	1	3/27/2023	N/A	1	3/27/2023	1	3/27/2023			
			Total	24			20			24			

WeHOPE Dignity on Wheels Mobile Shower and Laundry	Session Location	Service Dates	Number of Sessions	Total Unduplicated Individuals Served	Showers Provided	Loads of Laundry Provided
	Milpitas Library	3/5/2023, 3/12/2023, 3/19/2023, 3/26/2023	4	40	63	35
	Milpitas Library	2/5/2023, 2/12/2023, 2/19/2023, 2/26/2023	4	36	87	33
	Milpitas Library	1/8/2023, 1/15/2023, 1/22/2023, 1/29/2023	4	40	67	28

Santa Clara County Office of Supportive Housing
 Abode Services
 Milpitas HEAT Team
 January 2023 Report

In January, Abode Services HEAT outreach specialists continued to respond to referrals from the City of Milpitas and Milpitas PD, regarding community concern unhoused individuals throughout various regions of the city of Milpitas.

Abode's HEAT staff continued to provide follow-up services to existing Milpitas enrollments and educated newly enrolled individuals about how to enlist in appropriate community resources to improve their living situation. Moreover, the HEAT staff facilitated referrals to the Santa Clara County's emergency shelter system hotline and safe parking alternatives. The HEAT staff were able to link two participants to the clinical outreach team with the Office of Supportive Housing for collateral mental health services.

The following table reflects the number of outreach contacts, the total number of unhoused enrolled into the SCC HEAT program, as well as the number of VI-SPDAT assessments administered:

Milpitas HEAT Contact, Enrolled, Assessed Clients: January 2023

Outreach Location	Outreach Contact	Enrolled	Assessments
Milpitas Outreach- Main Street 11	1	1	1
1/30/23	1	1	1
Milpitas Encampment- Sinclair Frontage 5	1	1	1
1/30/23	1	1	1
Milpitas Outreach- Serra Center 13	1	1	1
1/11/23	1	1	1
Milpitas Outreach - Cardoza skate park	2	2	2
1/9/23	5	5	5
Grand Total			

Milpitas Outreach= Contact made with client in non-encampment setting

Milpitas Encampment= Contact made at a location where a tent and/or other structures are used as shelter

**Previously enrolled participant*

Santa Clara County Office of Supportive Housing
 Abode Services
 Milpitas HEAT Team
 February 2023 Report

In February, the Abode Services Outreach team provided outreach and prevention services throughout the City of Milpitas and connected with six unhoused individuals, one of which was already enrolled in the program and was re-assessed due to a significant life change.

Due to the inclement weather conditions, Abodes HEAT staff provided weather appropriate basic needs items, such as: hand warmers, space blankets, and weather appropriate clothing items to all clients. Abode's outreach specialists continued to coordinate care and maintain supportive contact for existing program enrollments and continued to support new and existing clients with housing readiness tasks.

The following table reflects the number of outreach contacts, the total number of unhoused enrolled into the SCC HEAT program, as well as the number of VI-SPDAT assessments administered:

Milpitas HEAT Contact, Enrolled, Assessed Clients: February 2023

Outreach Location	Outreach Contact	Enrolled	Assessments
Milpitas Outreach- Ocean Market	1	1	1
2/21/23	1	1	1
Milpitas Outreach- Serra Center 13	1	1	1
2/09/23	1	1	1
Milpitas Outreach - McCarthy Ranch	2	1	2
2/24/23	1	1	1
2/07/23	1	0*	1
Milpitas Outreach- Calaveras Plaza Shopping Center (Vehicle Dweller)	2	2	2
2/15/23	1	1	1
2/07/23	1	1	1
Grand Total	6	5	6

Milpitas Outreach= Contact made with client in non-encampment setting

Milpitas Encampment= Contact made at a location where a tent and/or other structures are used as shelter

**Previously enrolled participant*

Santa Clara County Office of Supportive Housing
 Abode Services
 Milpitas HEAT Team
 March 2023 Report

In March, two Abode HEAT staff were deployed throughout various regions of the city of Milpitas and enrolled nine new unhoused individuals. The team revisited 4 existing clients to conduct re-assessments due to the client experiencing a significant life event. The team referred 1 client to the OSH clinical team for additional mental health and collateral services and linked two clients to the backpack medical team through the Valley Healthcare Homeless Program.

In addition, Abode's outreach team continued to distribute basic needs items and inform the unhoused about appropriate community resources to improve living situation and stabilize other life domains.

The following table reflects the number of outreach contacts, the total number of unhoused enrolled into the SCC HEAT program, as well as the number of VI-SPDAT assessments administered:

Milpitas HEAT Contact, Enrolled, Assessed Clients: March 2023

Outreach Location	Outreach Contact	Enrolled	Assessments
Milpitas Outreach (Vehicle Dweller) - Beresford Square	1	1	1
3/27/23	1	1	1
Milpitas Outreach - Milpitas library	3	2*	3
3/13/23	3	2	3
Milpitas Outreach- S. Park Victoria Dr.	1	1	1
3/09/23	1	1	1
Milpitas Outreach- Calaveras Plaza Shopping Center	3	3	3
3/09/23	3	3	3
Milpitas Encampment- Yosemite Dr.	1	0*	1
3/06/23	1	0	1
Milpitas Outreach - Sunnyhills Shopping Center	2	2	2
3/06/23	2	2	2
Milpitas Outreach (Vehicle Dweller) - E Calaveras Blvd.	1	0*	1
3/06/23	1	0	1
Milpitas Outreach – McCarthy Ranch	1	1	1
3/03/23	1	1	1

Grand Total	13	9	13
<i>Milpitas Outreach= Contact made with client in non-encampment setting</i>			
<i>Milpitas Encampment= Contact made at a location where a tent and/or other structures are used as shelter</i>			
<i>*Previously enrolled participant</i>			

MIL Services Report

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Show: All dow clients

Date Field: Visit Start equals Last Month (1/1/2023 to 1/31/2023)

Expense Code equals MIL

Field Location ↑	Visit Start ↑	Services Rendered	
Milpitas Library	1/8/2023	Laundry; Shower	
		Laundry; Shower	
		Shower	
		Laundry; Shower	
		Laundry; Shower	
		Shower	
		Laundry	
		Shower	
		Laundry; Shower	
		Shower	
		Shower	
		Shower	
		Laundry; Shower	
		Shower	
		Shower	
		Shower	
		Shower	
		Shower	
	Subtotal	Count	18
	1/15/2023	Laundry	
		Shower	
		Shower	
		Laundry; Shower	
Shower			
Laundry; Shower			
Shower			
Shower			
Laundry			
Shower			
Laundry; Shower			
Shower			
Shower			

		Shower
		Shower
Subtotal	Count	15
1/22/2023		Laundry; Shower
		Shower
		Laundry; Shower
		Shower
		Shower
		Shower
		Shower
		Shower
		Shower
		Laundry; Shower
		Shower
		Laundry; Shower
		Shower
		Laundry; Shower
		Laundry
		Shower
		Shower
		Laundry
		Shower
		Shower
		Laundry
		Laundry
		Shower
		Shower
Subtotal	Count	24
1/29/2023		Laundry; Shower
		Shower
		Laundry; Shower
		Shower
		Shower
		Laundry
		Shower
		Shower
		Shower
		Laundry; Shower
		Laundry; Shower
		Laundry
		Laundry; Shower
		Shower
		Shower

		Shower	
		Shower	
		Shower	
		Shower	
	Subtotal	Count	19
Subtotal		Count	76
Total		Count	76

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City Staff Calculation Page for January 2023 Report

Date	Services
1/8/2023	Laundry; Shower
1/8/2023	Laundry; Shower
1/8/2023	Shower
1/8/2023	Laundry; Shower
1/8/2023	Laundry; Shower
1/8/2023	Shower
1/8/2023	Laundry
1/8/2023	Shower
1/8/2023	Laundry; Shower
1/8/2023	Shower
1/8/2023	Shower
1/8/2023	Shower
1/8/2023	Laundry; Shower
1/8/2023	Shower
1/8/2023	Shower
1/8/2023	Shower
1/8/2023	Shower
1/8/2023	Shower
1/8/2023	Shower
1/15/2023	Laundry
1/15/2023	Shower
1/15/2023	Shower
1/15/2023	Laundry; Shower
1/15/2023	Shower
1/15/2023	Laundry; Shower
1/15/2023	Shower
1/15/2023	Shower
1/15/2023	Laundry
1/15/2023	Shower
1/15/2023	Laundry; Shower
1/15/2023	Shower
1/15/2023	Shower
1/15/2023	Shower
1/15/2023	Shower
1/15/2023	Shower
1/22/2023	Laundry; Shower
1/22/2023	Shower
1/22/2023	Laundry; Shower
1/22/2023	Shower
1/22/2023	Shower
1/22/2023	Shower
1/22/2023	Shower

Row Labels	Count of Services
1/15/2023	15
Laundry	2
Laundry; Shower	3
Shower	10
1/22/2023	24
Laundry	4
Laundry; Shower	5
Shower	15
1/29/2023	19
Laundry	2
Laundry; Shower	5
Shower	12
1/8/2023	18
Laundry	1
Laundry; Shower	6
Shower	11
Grand Total	76
Total Showers	67
Total Laundry	28

1/22/2023	Shower
1/22/2023	Shower
1/22/2023	Laundry; Shower
1/22/2023	Shower
1/22/2023	Laundry; Shower
1/22/2023	Shower
1/22/2023	Laundry; Shower
1/22/2023	Laundry
1/22/2023	Shower
1/22/2023	Shower
1/22/2023	Laundry
1/22/2023	Shower
1/22/2023	Shower
1/22/2023	Laundry
1/22/2023	Laundry
1/22/2023	Shower
1/22/2023	Shower
1/29/2023	Laundry; Shower
1/29/2023	Shower
1/29/2023	Laundry; Shower
1/29/2023	Shower
1/29/2023	Shower
1/29/2023	Laundry
1/29/2023	Shower
1/29/2023	Shower
1/29/2023	Shower
1/29/2023	Laundry; Shower
1/29/2023	Laundry; Shower
1/29/2023	Laundry
1/29/2023	Laundry; Shower
1/29/2023	Shower
1/29/2023	Shower
1/29/2023	Shower
1/29/2023	Shower
1/29/2023	Shower
1/29/2023	Shower

MIL Services Report

As of 2023-03-07 14:26:21 Pacific Standard Time/PST • Generated by ,

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Show: All dow clients

Date Field: Visit Start equals Last Month (2/1/2023 to 2/28/2023)

Expense Code equals MIL

Field Location ↑	Visit Start ↑	Services Rendered
Milpitas Library	2/5/2023	Shower
		Laundry; Shower
		Shower
		Shower
		Shower
		Laundry; Shower
		Laundry; Shower
		Shower
		Laundry
		Laundry; Shower
		Laundry; Shower
		Shower
		Shower
		Shower
		Laundry; Shower
		Shower
		Shower
		Shower
		Laundry; Shower
		Shower
		Shower
	Subtotal	Count 21
	2/12/2023	Shower
		Laundry; Shower
		Shower
		Shower
		Laundry; Shower
		Laundry
		Shower
		Shower
		Shower
		Shower

		Shower
		Shower
		Laundry; Shower
		Shower
		Shower
		Shower
		Shower
		Shower
		Shower
		Shower
		Shower
		Laundry
		Laundry; Shower
		Shower
		Shower
		Shower
		Laundry; Shower
		Laundry; Shower
		Shower
		Shower
		Shower
Subtotal	Count	30
2/19/2023		Laundry; Shower
		Shower
		Shower
		Laundry; Shower
		Laundry
		Laundry; Shower
		Shower
		Laundry; Shower
		Laundry; Shower
		Laundry; Shower
		Shower
		Shower
		Shower
		Shower
		Shower
		Laundry; Shower
		Shower
		Laundry; Shower
		Laundry; Shower
		Shower
		Shower
		Shower

	Subtotal	Count	22
	2/26/2023		Shower
			Shower
			Shower
			Shower
			Laundry
			Shower
			Laundry; Shower
			Laundry
			Shower
			Shower
			Shower
			Laundry; Shower
			Shower
			Laundry; Shower
			Shower
			Laundry; Shower
			Shower
			Shower
			Shower
			Laundry
			Shower
	Subtotal	Count	21
Subtotal		Count	94
Total		Count	94

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City Staff Calculation Page for February 2023 Report

Date	Services
2/5/2023	Shower
2/5/2023	Laundry; Shower
2/5/2023	Shower
2/5/2023	Shower
2/5/2023	Shower
2/5/2023	Laundry; Shower
2/5/2023	Laundry; Shower
2/5/2023	Shower
2/5/2023	Laundry
2/5/2023	Laundry; Shower
2/5/2023	Laundry; Shower
2/5/2023	Shower
2/5/2023	Shower
2/5/2023	Shower
2/5/2023	Laundry; Shower
2/5/2023	Shower
2/5/2023	Shower
2/5/2023	Laundry; Shower
2/5/2023	Shower
2/5/2023	Shower
2/12/2023	Shower
2/12/2023	Laundry; Shower
2/12/2023	Shower
2/12/2023	Shower
2/12/2023	Laundry; Shower
2/12/2023	Laundry
2/12/2023	Shower
2/12/2023	Shower
2/12/2023	Shower
2/12/2023	Shower
2/12/2023	Shower
2/12/2023	Shower
2/12/2023	Laundry; Shower
2/12/2023	Shower
2/12/2023	Shower
2/12/2023	Shower
2/12/2023	Shower
2/12/2023	Shower
2/12/2023	Shower

Row Labels	Count of Services
2/12/2023	30
Laundry	2
Laundry; Shower	6
Shower	22
2/19/2023	22
Laundry	1
Laundry; Shower	9
Shower	12
2/26/2023	21
Laundry	3
Laundry; Shower	4
Shower	14
2/5/2023	21
Laundry	1
Laundry; Shower	7
Shower	13
Grand Total	94
Total Laundry	33
Total Shower	87

2/12/2023	Shower
2/12/2023	Laundry
2/12/2023	Laundry; Shower
2/12/2023	Shower
2/12/2023	Shower
2/12/2023	Shower
2/12/2023	Laundry; Shower
2/12/2023	Laundry; Shower
2/12/2023	Shower
2/12/2023	Shower
2/12/2023	Shower
2/19/2023	Laundry; Shower
2/19/2023	Shower
2/19/2023	Shower
2/19/2023	Laundry; Shower
2/19/2023	Laundry
2/19/2023	Laundry; Shower
2/19/2023	Shower
2/19/2023	Laundry; Shower
2/19/2023	Laundry; Shower
2/19/2023	Laundry; Shower
2/19/2023	Shower
2/19/2023	Shower
2/19/2023	Shower
2/19/2023	Shower
2/19/2023	Shower
2/19/2023	Laundry; Shower
2/19/2023	Shower
2/19/2023	Laundry; Shower
2/19/2023	Laundry; Shower
2/19/2023	Shower
2/19/2023	Shower
2/19/2023	Shower
2/26/2023	Shower
2/26/2023	Shower
2/26/2023	Shower
2/26/2023	Shower
2/26/2023	Laundry
2/26/2023	Shower
2/26/2023	Laundry; Shower
2/26/2023	Laundry
2/26/2023	Shower
2/26/2023	Shower

2/26/2023	Shower
2/26/2023	Laundry; Shower
2/26/2023	Shower
2/26/2023	Laundry; Shower
2/26/2023	Shower
2/26/2023	Laundry; Shower
2/26/2023	Shower
2/26/2023	Shower
2/26/2023	Shower
2/26/2023	Laundry
2/26/2023	Shower

Data from WeHOPE:

Services Rendered	Visit Start	Field Location
Shower	3/5/2023	Milpitas Library
Shower	3/5/2023	Milpitas Library
Shower	3/5/2023	Milpitas Library
Shower	3/5/2023	Milpitas Library
Laundry	3/5/2023	Milpitas Library
Laundry; Shower	3/5/2023	Milpitas Library
Shower	3/5/2023	Milpitas Library
Shower	3/5/2023	Milpitas Library
Laundry; Shower	3/5/2023	Milpitas Library
Laundry; Shower	3/5/2023	Milpitas Library
Shower	3/5/2023	Milpitas Library
Shower	3/5/2023	Milpitas Library
Laundry; Shower	3/5/2023	Milpitas Library
Laundry	3/5/2023	Milpitas Library
Laundry	3/5/2023	Milpitas Library
Laundry; Shower	3/5/2023	Milpitas Library
Laundry	3/5/2023	Milpitas Library
Laundry; Shower	3/5/2023	Milpitas Library
Shower	3/12/2023	Milpitas Library
Laundry; Shower	3/12/2023	Milpitas Library
Shower	3/12/2023	Milpitas Library

Shower	3/12/2023	Milpitas Library
Shower	3/12/2023	Milpitas Library
Laundry; Shower	3/12/2023	Milpitas Library
Laundry; Shower	3/12/2023	Milpitas Library
Laundry; Shower	3/12/2023	Milpitas Library
Laundry; Shower	3/12/2023	Milpitas Library
Shower	3/12/2023	Milpitas Library
Laundry; Shower	3/19/2023	Milpitas Library
Shower	3/19/2023	Milpitas Library
Shower	3/19/2023	Milpitas Library
Shower	3/19/2023	Milpitas Library
Laundry; Shower	3/19/2023	Milpitas Library
Shower	3/19/2023	Milpitas Library
Shower	3/19/2023	Milpitas Library
Shower	3/19/2023	Milpitas Library
Shower	3/19/2023	Milpitas Library
Laundry; Shower	3/19/2023	Milpitas Library
Shower	3/19/2023	Milpitas Library
Laundry; Shower	3/19/2023	Milpitas Library
Shower	3/19/2023	Milpitas Library
Laundry	3/19/2023	Milpitas Library
Shower	3/19/2023	Milpitas Library

Shower	3/19/2023	Milpitas Library
Hygiene Kits; Shower	3/26/2023	Milpitas Library
Hygiene Kits; Shower	3/26/2023	Milpitas Library
Hygiene Kits; Laundry; Shower	3/26/2023	Milpitas Library
Hygiene Kits; Shower	3/26/2023	Milpitas Library
Hygiene Kits; Laundry; Shower	3/26/2023	Milpitas Library
Hygiene Kits; Laundry; Shower	3/26/2023	Milpitas Library
Hygiene Kits; Shower	3/26/2023	Milpitas Library
Hygiene Kits; Laundry; Shower	3/26/2023	Milpitas Library
Hygiene Kits; Laundry; Shower	3/26/2023	Milpitas Library
Hygiene Kits; Shower	3/26/2023	Milpitas Library
Laundry	3/26/2023	Milpitas Library
Hygiene Kits; Shower	3/26/2023	Milpitas Library
Hygiene Kits; Shower	3/26/2023	Milpitas Library
Hygiene Kits; Laundry; Shower	3/26/2023	Milpitas Library
Laundry	3/26/2023	Milpitas Library
Hygiene Kits; Shower	3/26/2023	Milpitas Library
Hygiene Kits; Shower	3/26/2023	Milpitas Library
Hygiene Kits; Laundry; Shower	3/26/2023	Milpitas Library
Hygiene Kits; Laundry; Shower	3/26/2023	Milpitas Library
Hygiene Kits; Shower	3/26/2023	Milpitas Library
Hygiene Kits; Laundry; Shower	3/26/2023	Milpitas Library

Hygiene Kits; Shower	3/26/2023	Milpitas Library
Hygiene Kits; Laundry; Shower	3/26/2023	Milpitas Library
Hygiene Kits; Laundry; Shower	3/26/2023	Milpitas Library
Hygiene Kits; Laundry; Shower	3/26/2023	Milpitas Library
Laundry	3/26/2023	Milpitas Library
Hygiene Kits; Shower	3/26/2023	Milpitas Library

Pivot Summary from City staff

Row Labels	Count of Services
3/5/2023	18
Laundry	4
Laundry; Shower	6
Shower	8
3/12/2023	10
Laundry; Shower	5
Shower	5
3/19/2023	16
Laundry	1
Laundry; Shower	4
Shower	11
3/26/2023	27
Hygiene Kits; Laundry; Shower	12
Hygiene Kits; Shower	12
Laundry	3
Grand Total	71

Laundry	35
Shower	63

Services	Dates
Shower	3/5/2023
Shower	3/5/2023
Shower	3/5/2023
Shower	3/5/2023
Laundry	3/5/2023
Laundry; Shower	3/5/2023
Shower	3/5/2023
Shower	3/5/2023
Laundry; Shower	3/5/2023
Laundry; Shower	3/5/2023
Shower	3/5/2023
Shower	3/5/2023
Laundry; Shower	3/5/2023
Laundry	3/5/2023
Laundry	3/5/2023
Laundry; Shower	3/5/2023
Laundry	3/5/2023
Laundry; Shower	3/5/2023
Shower	3/12/2023
Laundry; Shower	3/12/2023
Shower	3/12/2023
Shower	3/12/2023
Shower	3/12/2023
Laundry; Shower	3/12/2023
Laundry; Shower	3/12/2023
Laundry; Shower	3/12/2023
Laundry; Shower	3/12/2023
Shower	3/12/2023
Laundry; Shower	3/19/2023
Shower	3/19/2023
Shower	3/19/2023
Shower	3/19/2023
Laundry; Shower	3/19/2023
Shower	3/19/2023
Shower	3/19/2023
Shower	3/19/2023
Shower	3/19/2023
Laundry; Shower	3/19/2023
Shower	3/19/2023
Laundry; Shower	3/19/2023
Shower	3/19/2023
Laundry	3/19/2023
Shower	3/19/2023
Shower	3/19/2023
Hygiene Kits; Shower	3/26/2023
Hygiene Kits; Shower	3/26/2023

Hygiene Kits; Laundry; Shower	3/26/2023
Hygiene Kits; Shower	3/26/2023
Hygiene Kits; Laundry; Shower	3/26/2023
Hygiene Kits; Laundry; Shower	3/26/2023
Hygiene Kits; Shower	3/26/2023
Hygiene Kits; Laundry; Shower	3/26/2023
Hygiene Kits; Laundry; Shower	3/26/2023
Hygiene Kits; Shower	3/26/2023
Laundry	3/26/2023
Hygiene Kits; Shower	3/26/2023
Hygiene Kits; Shower	3/26/2023
Hygiene Kits; Laundry; Shower	3/26/2023
Laundry	3/26/2023
Hygiene Kits; Shower	3/26/2023
Hygiene Kits; Shower	3/26/2023
Hygiene Kits; Laundry; Shower	3/26/2023
Hygiene Kits; Laundry; Shower	3/26/2023
Hygiene Kits; Shower	3/26/2023
Hygiene Kits; Laundry; Shower	3/26/2023
Hygiene Kits; Shower	3/26/2023
Hygiene Kits; Laundry; Shower	3/26/2023
Hygiene Kits; Laundry; Shower	3/26/2023
Hygiene Kits; Laundry; Shower	3/26/2023
Laundry	3/26/2023
Hygiene Kits; Shower	3/26/2023



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Granting Acceptance of Public Improvements and Approve a Reduction of the Faithful Performance Bond for the Stratford School Addition and Remodel Commercial Project and Grant Authorization to the City Engineer to Release the Performance Bond after the One-Year Warranty Period (Staff Contact: Roberto Alonzo, Principal Civil Engineer, 408-586-3316)
Category:	Consent Calendar-Community Development
Meeting Date:	6/20/2023
	<u>Recommendation:</u> Adopt a resolution granting acceptance of the completed public improvements for the Stratford School Addition and Remodel Commercial Project as shown on Public Improvement Plans No. 2-1357; and approve a reduction in the faithful performance bond to \$28,600.00, which is 25% of the security's original value which shall be in effect for the duration of the warranty period; and grant authorization to the City Engineer to release the performance bond after the one-year warranty period without further City Council action provided that all required warranty work is completed to the satisfaction of the City Engineer.

BACKGROUND:

On September 21, 2021, the City Council approved the Improvement Agreement for the Stratford School Addition and Remodel Commercial Project (Project) on a 1.49-acre site located at 25 Corning Avenue. New public improvements constructed by the Project include new domestic, irrigation, and fire water services; reconstructed driveway approaches; and other miscellaneous items of work.

ANALYSIS:

The Developer, Stratford School, Inc., has successfully completed all required public improvements for the Project in accordance with the City approved public improvement plans. The public improvements are now ready for City Council acceptance and commencement of the 1-year warranty period. Staff recommends the City Council adopt a Resolution (attached) granting acceptance of the public improvements, to approve a reduction of the performance bond to \$28,600.00, which is 25% of the security's original value, and grant authorization to the City Engineer to release the performance bond after the one-year warranty period without further City Council action provided that all required warranty work is completed to the satisfaction of the City Engineer.

POLICY ALTERNATIVE(S):

Alternative 1:

Not approve a resolution granting acceptance of public improvements including the reduction of the performance bond.

Pros: None

Cons: Not granting acceptance of the completed public improvements would limit use of improvements and would not promote the orderly completion and closeout of the Project, and it would be in conflict with the City's obligation under the Improvement Agreement.

Reason for Not Recommending: Granting the acceptance of the completed public improvements would allow public use of the improvements and provides for the completion and closeout of the Project as required by the Improvement Agreement. Staff recommends the City Council adopt the resolution granting acceptance of public improvements.

FISCAL IMPACT:

Public Improvements completed as part of this project will be perpetually owned and maintained by the city following acceptance by the City Council and completion of the 1-year warranty period. The Public Works Department will be responsible for maintenance of the improvements and any required additional funding for ongoing maintenance will be requested through future budget appropriations as the Council adopts the annual operating budget for the Public Works Department.

California Environmental Quality Act (CEQA):

The Planning Department completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), which assessment determined that the proposed project is exempt from CEQA review pursuant to CEQA Guidelines Section 15301 (Existing Facilities) and as a separate and independent basis, CEQA Guidelines Section 15332 (In-fill Development Projects) and as a separate and independent basis, CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan or Zoning). Granting acceptance of public improvements and reducing faithful performance bond for public improvements are not considered projects under CEQA as there will be no direct or reasonably foreseeable indirect physical change in the environment.

RECOMMENDATION:

Adopt a resolution granting acceptance of the completed public improvements for the Stratford School Addition and Remodel Commercial Project as shown on Public Improvement Plans No. 2-1357; approve a reduction in the faithful performance bond to \$28,600.00, which is 25% of the security's original value which shall be in effect for the duration of the warranty period; and grant authorization to the City Engineer to release the performance bond after the one-year warranty period without further City Council action provided that all required warranty work is completed to the satisfaction of the City Engineer.

Attachment(s):

1. Resolution

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING ACCEPTANCE AND REDUCING PERFORMANCE BOND OF STRATFORD SCHOOL ADDITION AND REMODEL AND GRANTING AUTHORIZATION TO THE CITY ENGINEER TO RELEASE THE PERFORMANCE BOND AFTER THE ONE-YEAR WARRANTY PERIOD

WHEREAS, the Planning Commission of the City of Milpitas on November 18, 2020 approved the plans and specifications for the Stratford School Addition and Remodel, (the “Project”) to be completed by Stratford School, Inc. as part of its commercial development on 25 Corning Avenue; and

WHEREAS, the City of Milpitas has heretofore entered into an improvement agreement on September 21, 2021 with Stratford School, Inc., for the Stratford School Addition and Remodel; and

WHEREAS, Stratford School, Inc., as Principal, and SureTec Insurance Company, as Surety, executed and posted a certain Performance Bond Number 4442635 conditioned upon the faithful performance of the provisions of said improvement agreement and upon the faithful performance of all improvement work required thereunder; and

WHEREAS, said public improvements for the Stratford School Addition and Remodel have been completed and the improvement agreement provides that the security shall extend for a period of one year after the date of acceptance of said improvements to cover the warranty period of said improvements under said agreement; and

WHEREAS, the City Council is willing to consent to a reduction in the penal sum of said security during said one year warranty period; and

WHEREAS, the City Engineer of the City of Milpitas has made a final inspection of said improvements for the Stratford School Addition and Remodel and recommends that the City Council of the City of Milpitas accept the same as constructed in accordance with the approved plans and specifications.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. Those certain public improvements constructed as part of the Stratford School Addition and Remodel, are hereby accepted as constructed in accordance with the approved plans and specifications upon recommendation of the City Engineer of the City of Milpitas.
3. The penal sum of the faithful performance bond securing said improvements may be reduced to the sum of \$28,600.00, upon request of Principal and Surety, with said penal sum as reduced to apply from the date of completion and acceptance of said improvements and to extend for the balance of the term of one year of said security. Provided, however, that nothing herein contained shall in any way be deemed to be a waiver, release or relinquish by City of any obligations imposed upon the developer or his surety, or sureties, by law or by the above referend public improvement agreement, save and except as expressly set forth herein.
4. The City Council grants authorization to the City Engineer to release the performance bond after the one-year warranty period without further City Council action provided all required warranty work is completed to the satisfaction of the City Engineer.

PASSED AND ADOPTED this ____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve and Authorize the City Manager to Execute a Stormwater Management Facilities Operation and Maintenance Agreement between the City of Milpitas and Parktown Plaza Pak LLC for the Park Town Plaza Modification Project at 1400 S. Park Victoria Dr. (Staff Contact: Roberto Alonzo, Principal Civil Engineer, 408-586-3316)
Category:	Consent Calendar-Community Development
Meeting Date:	6/20/2023
	<u>Recommendation:</u> Approve and authorize the City Manager to execute a Stormwater Management Facilities Operation and Maintenance Agreement between the City of Milpitas and Parktown Plaza Pak LLC for the Park Town Plaza Modification Project at 1400 S. Park Victoria Dr.

BACKGROUND:

On February 26, 2014, the Property Owner received entitlements from the City allowing the development of the Property, for the construction of a new 5,400 square foot retail building with (3) tenant spaces, one with drive-thru, outdoor seating areas, a separate trash enclosure, emergency vehicle access, utilities, and associated offsite and onsite improvements, landscaping, irrigation, and stormwater treatment measures on a 0.25 acre site located at 1400 S. Park Victoria Dr.

The development uses Best Management Practices (BMP), Low Impact Development (LID) and Integrated Management Practices (IMP). As part of this agreement the Developer shall be responsible for maintenance and operation of all the developments bio-treatment areas.

ANALYSIS:

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.

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 Parktown Plaza Project will construct bio-retention basins to meet the low impact development and post construction treatment requirements for stormwater. The developer, Parktown Plaza Pak LLC will be responsible for the perpetual operation and maintenance of the stormwater treatment facilities which will be owned by the property owners and not maintained by the City.

Parktown Plaza Pak LLC has executed the required Stormwater Management Operations and Maintenance Agreement for this Project. The Agreement requires the developer to operate and maintain the installed stormwater treatment facilities in accordance with the Municipal Regional Stormwater NPDES Permit and the developer will compensate the City to complete the required annual system inspections.

Staff recommends the City Council approved the attached Stormwater Management Agreement (**Attached**) which has been reviewed by the City Attorney and approved as to form and by the Acting City Engineer as to content.

POLICY ALTERNATIVE(S):

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 for Not Recommending: 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 (CEQA):

On February 26, 2014, the Planning Commission found that the project is categorically exempt from further environmental review pursuant to Section 15332 (In-Fill Development Projects) of CEQA. Execution of the 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 City Manager to execute a Stormwater Management Facilities Operation and Maintenance Agreement between the City of Milpitas and Parktown Plaza Pak LLC for the Park Town Plaza Modification Project at 1400 S. Park Victoria Dr.

Attachment(s):

1. Stormwater Management Facilities Operation and Maintenance Agreement

Control No. 2023-_____
 Recording Requested by
 and when Recorded, return to:

CITY OF MILPITAS
 455 E. CALAVERAS BOULEVARD
 MILPITAS, CA 95035-5479

Attn: City Clerk
 Exempt From Recording Fees per Government
 Code 6103 and 27383

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

Document Transfer Tax is \$ 0

() Computed on full value of property conveyed

() Computed on full value less value of liens and encumbrances remaining

City transfer tax is \$ 0

APN: 088-36-044

STORMWATER MANAGEMENT FACILITIES OPERATION AND MAINTENANCE AGREEMENT

This Stormwater Management Facilities Operation and Maintenance Agreement ("AGREEMENT") is made and entered into this _____ day of _____, 2023 ("Effective Date"), by and between Parktown Plaza Pak LLC ("Property Owner") and the City of Milpitas, a municipal corporation of the State of California ("City").

RECITALS

This AGREEMENT is made and entered into with reference to the following facts:

- A. **WHEREAS**, the Property Owner is the owner of real property more particularly depicted and described on the attached as **Exhibit A** ("Property") and fully incorporated herein by reference; and
- B. **WHEREAS**, the Property Owner received entitlements from the City allowing the development of the Property, including the construction of a new 5,400 square foot retail building with (3) tenant spaces, one with drive-thru, outdoor seating areas, a separate trash enclosure, emergency vehicle access, utilities, and associated offsite and onsite improvements landscaping, irrigation, and stormwater treatment measures on a 0.25 acre site located at 1400 S Park Victoria Dr. in Milpitas and more commonly known as the Park Town Plaza Modification, Project No. PJ 5034, (the "Project") on the Property; and subject to conditions set forth in the following (collectively "City Approvals"):

1. Resolution No. 14-006 approving Site Development Permit No. SD13-0014,

2. Resolution No. 14-006 approving Conditional Use Permit No. UP14-0002, and

- C. **WHEREAS**, discharges to the City's municipal separate storm sewer system ("MS4") are regulated under state and federal law pursuant to Waste Discharge Requirements and National Pollutant Discharge Elimination System permit ("MS4 Permit") issued by the Regional Water Quality Control Board, San Francisco Region ("Regional Board").
- D. **WHEREAS**, pursuant to the requirements of the MS4 Permit and the City's Stormwater and Urban Runoff Pollution Control Ordinance as codified in Milpitas Municipal Code Chapter 16 ("Ordinance"), the City Approvals require the Property Owner to install, operate and maintain, at no cost or expense to the City, the Permanent Stormwater Pollution Prevention Measures ("BMPs") more particularly described in the City-approved Stormwater Control Operation and Maintenance Plan (sometimes referred to herein as "Plan") for the Project attached hereto as **Exhibit B** and fully incorporated herein by reference; and
- E. **WHEREAS**, the Stormwater Control Operation and Maintenance Plan may be subsequently modified from time to time with City's written approval and such changes shall be fully incorporated as part of this Agreement by this reference; and
- F. **WHEREAS**, the Stormwater Control Operation and Maintenance Plan includes provisions for the BMP Operation and Maintenance and an annual inspection checklist for the BMPs constructed on the Property, and
- G. **WHEREAS**, this Agreement memorializes the Property Owner's maintenance, operations, and inspection obligations under the City's Ordinance and the approved Stormwater Control Operation and Maintenance Plan.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

SECTION 1. Responsibility for Operation and Maintenance:

The Property Owner, at its sole cost and expense, shall construct and install the BMPs shown in Exhibit B in accordance with the plans approved by and on file with the City. Property Owner shall diligently maintain in perpetuity the BMPs in a manner assuring peak performance at all times, shall make such changes or modifications to the BMPs, subject to City's prior approval as may be reasonably necessary for the BMPs to continue to operate as designed and approved and to accomplish its intended purpose and in good repair, and in compliance with all applicable Federal, State, County and local laws and regulations, including but not limited to the Ordinance, as the same may be amended, revised, and/or replaced from time to time. The Owner shall be responsible for the costs incurred in operating, maintaining, repairing and replacing the BMPs. Property Owner shall not destroy or remove the BMPs or modify any measure in any manner that would lessen its effectiveness. Property Owner shall make available copies of the approved Stormwater Control Operation and Maintenance Plan at the site with the facility or property manager.

SECTION 2: Inspection by Property Owner:

The Property Owner, at its sole cost and expense, shall conduct annual inspections of all permanent installed BMPs per the Plan. The annual inspection report shall include completion of the checklist described in the approved Stormwater Control Operation and Maintenance Plan. The BMPs must be inspected by a qualified independent inspector who is acceptable to the City. The Property Owner shall submit the Inspection Report on these BMPs to the City Engineer no later than July 15th of each year.

SECTION 3. Facility Inspection by the City:

- (a) **Right of Entry.** The Property Owner, on its behalf and on behalf of its successors and assigns, grants permission to the City, the inspectors of the Regional Board, and local mosquito and vector control agency, and their authorized agents and employees, to enter the Property, and to inspect the BMPs whenever the City deems necessary to enforce provisions of the Ordinance, this Agreement, or any other local or state requirements. The City may enter the premises at any reasonable time during normal business hours and upon at least 48 hours prior written notice (except that prior written notice is not required in case of emergency) to inspect the premises related to BMPs and BMP operation and maintenance, to inspect and copy records related to storm water compliance, and to collect samples and take measurements related to BMPs. **The Property Owner shall deposit and maintain a Private Job Account with the City a minimum balance of Four Thousand Dollars (\$4,000) for inspection by City Staff pursuant to this Section 3. The deposit of Four Thousand Dollars (\$4,000.00) shall be made simultaneously with the execution of this Agreement.**
- (b) **Security.** The City may require the Owner, its successors and assigns, from time to time, to post security in a form, amount, and for a time period satisfactory to City to guarantee performance of the obligations stated herein. Should the Owner, its successors and assigns, fail to perform the obligations under this Agreement, the City may, in the case of a cash bond, act for the Owner, its successors and assigns, using the proceeds from such cash bond, or in the case of a surety bond, require the surety to perform the obligations of this Agreement.

SECTION 4. Failure to Perform Required Facility Repairs or Maintenance by the Property Owner:

- (a) **Enforcement Action.** If the Property Owner or its successors fail to operate and maintain the BMPs in good working order and in accordance with the approved Plan and the City's Ordinance, the City may, but is not required to, pursue any enforcement action available at law or in equity to cause the completion of all maintenance and may charge the costs of such enforcement action against the Property Owner in any manner authorized by law or in equity.
- (b) **City Maintenance.** In the event of Property Owner's failure to operate and maintain BMPs in accordance with the Plan and the City's Ordinance, the City may also, with prior written notice, enter the Property to return the BMPs to good working order; provided however that the Property Owner shall have 30 days after any such notice, or such other time provided by law, to cure the relevant failure and provided further that the Property Owner shall have such additional time after the initial 30 days to complete a cure so long as Property Owner commences the cure within the initial 30 days and diligently prosecutes the cure to completion. Notwithstanding the foregoing, City may in its sole discretion enter the Property to return the BMPs to good working in an emergency and take any other necessary action to mitigate an emergency without any notice to Property Owner. The City is under no obligation to maintain or repair the BMPs, and this Agreement may not be construed to impose any such obligation on the City. If the City, under this Section 4 takes any action to return the BMPs to good working order, the Property Owner

shall reimburse the City for all the reasonable costs and expenses incurred by the City. The City will provide the Property Owner with an itemized invoice of the City's costs and expenses and the Property Owner shall make full payments to the City within thirty (30) days of the date of the invoice. If the Property Owners fails to pay the invoice within thirty (30) days, the City shall be entitled to cause a lien for any such unpaid maintenance expense bill to be recorded against the Property. In addition, the City shall be entitled to have the unpaid amount of the invoice placed as a special assessment on the next regular tax bill levied against the Property, after which such assessment shall be collected in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and same procedures under foreclosure and sale in the case of delinquency as provided for ordinary municipal taxes. The actions described in this section are in addition to and not in lieu of other legal remedies provided by law. Notwithstanding the above, it is understood that City is under no obligation to repair or maintain the BMPs, and in no event shall this Agreement be construed to impose any such obligation on City.

- (c) Specific Performance. The provisions of this Agreement are expressly declared to be for the benefit of the City. The City may bring an action to obtain specific performance of this Agreement and may recover its costs, including attorney fees, incurred in bringing such action.

SECTION 5: Successors and Assigns:

Property Owner hereby declares that the Property shall be held, transferred, encumbered, used, conveyed, leased and occupied subject to the covenants, conditions, restrictions, easements and rights set forth herein for the use and benefit of each of the Lots. All of the limitations, easements, uses, obligations, covenants, restrictions and conditions stated herein shall run with the Property and shall be binding upon Property Owner, its successors and assigns, any and all parties having or acquiring any right, title or interest in or to the Property or any part thereof or interest therein and shall inure to the benefit of and be binding upon each successor-in-interest thereto.

Upon transfer of the property, the Property Owner shall provide the new owner with the current Plan and a copy of this Agreement and shall, in any event, be released from all obligations under this Agreement as of the effective date of the transfer of the Property.

SECTION 6. Indemnity:

The Property Owner, on Property Owner's behalf and on behalf of all successors in interest pursuant to Section 5 of this Agreement, shall indemnify, release, hold harmless, and defend the City and its authorized agents and employees from and against any and all demands, suits, liabilities, fines, losses, damages, accidents, casualties, occurrences or claims, including reasonable attorneys' fees, against the City which may in anyway arise or relate to the construction, operation, presence, existence or maintenance of the BMPs, or from any personal injury or property damage that may arise or relate from the City entering the property under Section 4. If a claim is asserted against the City, its authorized agents or employees, the City shall promptly notify the Property Owner and the Property Owner shall defend the claim and any resulting litigation at its sole cost and expense, with counsel approved by City. If any judgment is entered against the City, or its authorized agents or employees, the Property Owner must pay all costs and expenses to satisfy the judgment.

SECTION 7. Severability:

Invalidation of any one of the provisions of this Agreement shall in no way effect any other provisions, and all other provisions shall remain in full force and effect.

SECTION 8. Non-Discrimination:

The Property Owner shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin, in connection with or related to the performance of this Agreement.

SECTION 9. Governing Law:

City and Property Owner agree that the law governing this Agreement shall be that of the State of California and that Property Owner shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments.

SECTION 10. Recordation:

Property Owner shall, within 10 days after the effective date of this Agreement, record or cause the Agreement to be recorded in the Office of the Recorder, Santa Clara County, California, at the expense of the Property Owner, which recording shall constitute notice of the obligations herein set forth and a covenant running with the land and shall be binding upon all of the successors and assigns in title to the Property. In the event Property Owner fails to timely record this Agreement, City shall be authorized but not required to record the Agreement.

SECTION 11. Books and Records:

- A. The Property Owner shall maintain any and all ledgers, books of account, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements or in any way relating to the performance of this Agreement for a minimum period of three (3) years, or for any longer period required by law.
- B. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit at no cost to City, at reasonable any time during regular business hours, upon at least 48 hours' prior written request by the City Attorney, City Manager, or a designated representative of any of these officers. Copies of such documents shall be provided to City for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at the Property Owner's address indicated for receipt of notices in this Agreement.

SECTION 12. Notices:

All notices and other communications required or permitted to be given under this Agreement shall be in writing and shall be personally served or mailed, postage prepaid and return receipt requested, addressed to the respective parties as follows:

To CITY:	City of Milpitas Attn: City Engineer 455 East Calaveras Blvd. Milpitas, CA 95035
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To PROPERTY OWNER:	Parktown Plaza Pak, LLC, c/o Biagini Properties Inc. Attn: Alexander J. Pak 333 W El Camino Real, Suite 240 Sunnyvale, CA 94087
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Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the mail.

SECTION 13. Venue:

In the event that suit shall be brought by either party to this contract, the parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Northern District of California, San Jose, California.

SECTION 14. Interpretation, Prior Agreements:

This Agreement, including all Exhibits attached hereto, represents the entire understanding of the parties as to those matters contained herein. In the event that the terms specified in any of the Exhibits attached hereto conflict with any of the terms specified in the body of this Agreement, the terms specified in the body of this Agreement shall control. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may be modified only by a written amendment duly executed by the parties to this Agreement.

[Signatures on Next Page]

IN WITNESS WHEREOF, the Parties execute this Stormwater Management Facilities Operation and Maintenance Agreement as of the last date set forth below:

PROPERTY OWNER:

PARKTOWN PLAZA PAK, LLC,
a California limited liability company

By: 
Alexander J. Pak

CITY:

**CITY OF MILPITAS,
A MUNICIPAL CORPORATION**

By: _____
Ashwini Kantak, Acting City Manager

Approved as to form:

By: _____
Michael Mutalipassi, City Attorney

Approved:

By: _____
Lauren Lai, CPA, MPA
Finance Director/Risk Manager

Recommended for approval:

By: _____
Matt Cano
Deputy City Manager/Acting City Engineer

Please note that this is a placeholder for the acknowledgement. So use the most current version of the acknowledgement

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Santa Clara)

On Sept. 14, 2022, before me, Lynn M. Gentry, a Notary Public, personally appeared

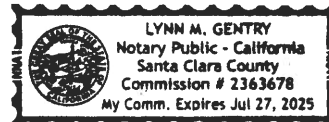
Alexander J Pak

_____ personally known to me;

X or _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature _____

CAPACITY CLAIMED BY SIGNER:

Though statute does not require the notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

____ Individual(s)
____ Corporate Officer(s) Titles _____ and _____
____ Partner(s) _____ Limited _____ General
____ Attorney-in-Fact
____ Trustee(s)
____ Guardian/Conservator
____ Other : _____

Signer is representing: _____

ATTENTION NOTARY: Although the information requested below is optional, it could prevent fraudulent attachment of this certificate to unauthorized document.

Title or type of document _____

Number of pages: _____ Date of document: _____

Signer(s) other than named above: _____

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED ABOVE

EXHIBIT A
Plat and Description for the site

LEGAL DESCRIPTION

Real property in the City of Milpitas, County of Santa Clara, State of California, described as follows:

ALL OF PARCEL 1, AS SAID PARCEL IS SHOWN UPON THAT CERTAIN MAP ENTITLED, "PARCEL MAP, BEING A PORTION OF PARCEL A AS SHOWN ON THAT CERTAIN MAP ENTITLED "AMENDED RECORD OF SURVEY, ETC.," BOOK 213 OF MAPS, PAGE 25, SANTA CLARA COUNTY RECORDS", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON DECEMBER 9, 1970 IN BOOK 276 OF MAPS AT PAGE 24.

APN: 088-36-044

PARCEL MAP

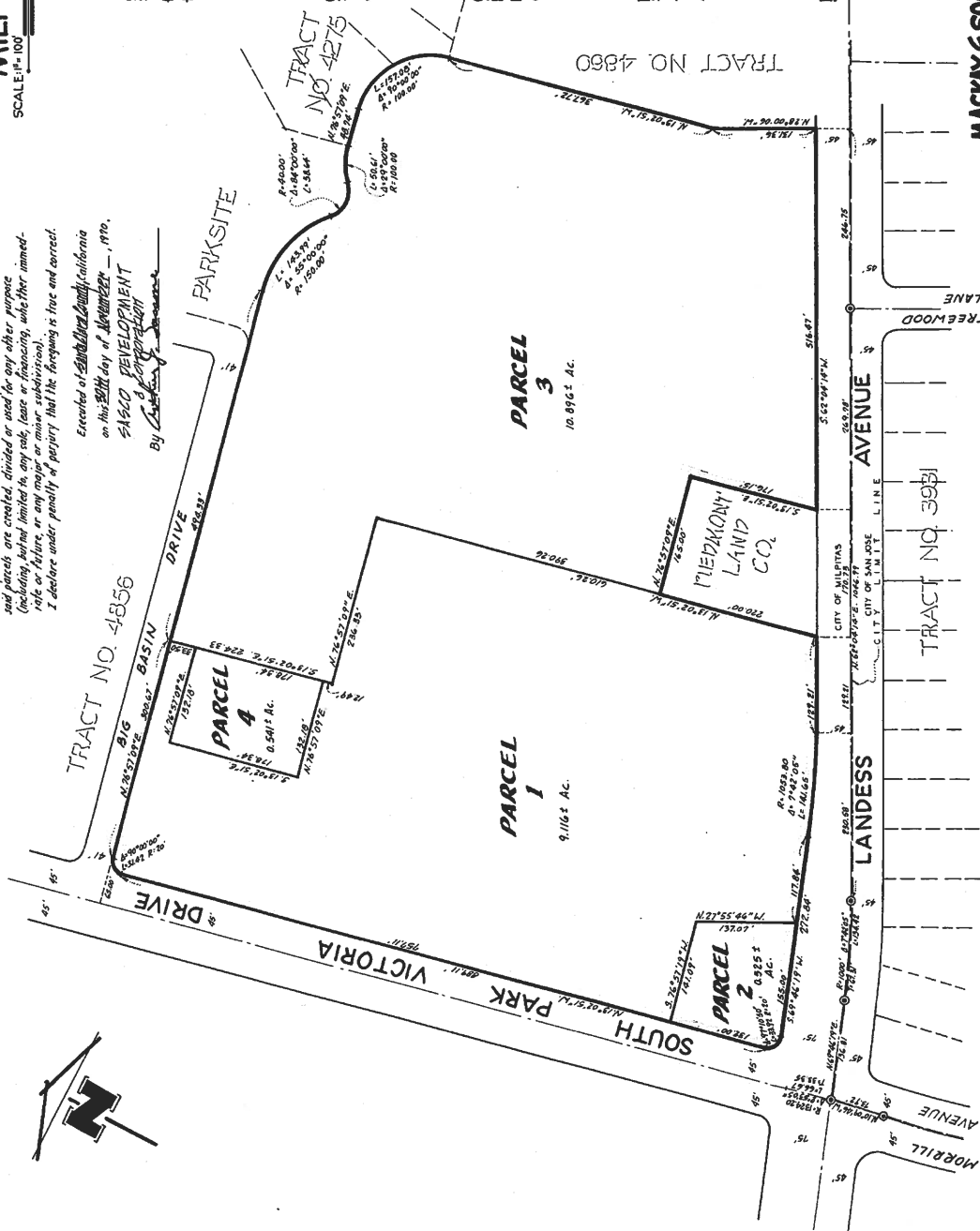
CONSISTING OF ONE SHEET
BEING A PORTION OF PARCEL 34 AS SHOWN ON THAT CERTAIN MAP ENTITLED 'AMENDED
RECORD OF SURVEY, ETC., BOOK 213 OF MAPS, PAGE 25, SANTA CLARA COUNTY RECORDS,
LYING ENTIRELY WITHIN THE CITY OF

MILPITAS, CALIFORNIA

SCALE: 1" = 100' NOVEMBER, 1970

OWNER'S CERTIFICATE (Tax Purpose)
The undersigned certifies that the undersigned is the owner of
the real property shown herein and that this Parcel Map is filed
and the parcels shown on it are created for the sole purpose of
having parcels which are separately assessed for real property
tax purposes upon the Santa Clara County Tax Roll. The undersigned
acknowledges that an approved amended Parcel Map will be required
in compliance with State Statutes and City Ordinance in the event
said parcels are created, divided or used for any other purpose
(including, but not limited to, any sale, lease or financing, whether immediate or future, or any major or minor subdivision).
I declare under penalty of perjury that the foregoing is true and correct.

Executed at Santa Clara County, California
on this 28th day of November, 1970.
SASCO DEVELOPMENT
By *George E. Somps*



SURVEYORS CERTIFICATE

This map was prepared by me or under my direction and is based on record information in conformance with the requirements of the Subdivision Map Act of the request of SASCO DEVELOPMENT in Nov. 1970. I hereby certify that all provisions of applicable State law and local ordinances have been complied with.

THOMAS W. FLOYD, Licensed Land Surveyor

Thomas W. Floyd
SASCO DEVELOPMENT

CITY ENGINEER'S CERTIFICATE

This map has been examined this 23rd day of Dec. 1970 for conformance with the requirements of Section 11515 of the Subdivision Map Act.

City Engineer

W. J. J. J.
SASCO DEVELOPMENT

COUNTY RECORDER'S CERTIFICATE

File No. 3019491 Fee, Five Dollars, Paid
Filed this 9 day of December, 1970, at 2:00 P.M. in Book 216 of Maps at Page 24 of the request of Mackay & Somps.

GEORGE E. FOWLES, County Recorder

George E. Fowles
SASCO DEVELOPMENT

NOTES AND LEGEND

The blue border line indicates the boundary of land included within this map.
The area within the blue border line is 21.078 Acres.
All distances and dimensions are shown in feet and decimals thereof.
© indicates a Standard City monument.

BASIS OF BEARINGS

The bearing, N 89° 44' 42" E, of the centerline of Landress Avenue as said Avenue is shown upon that certain map entitled 'Amended Record of Survey, ETC., filed in Book 213 of Maps of Page 25 in the office of the County Recorder of the County of Santa Clara, State of California, was taken as the basis of bearings shown upon this map.

SHEET 1 OF 1 SHEET

MACKAY & SOMPS • CIVIL ENGINEERS • SAN JOSE, CALIFORNIA

2407

Item # C9.

EXHIBIT B
Operation and Maintenance Plan

OPERATION & MAINTENANCE PLAN

**Park Town Plaza
1400 S. Park Victoria Drive
(Landess Avenue frontage)
Milpitas, CA**

Prepared By:

**Luk and Associates
738 Alfred Nobel Drive
Hercules, CA 94547
(510)724-3388**

Preparer: Chris Wood, P.E. C72184

Updated: March 17, 2015



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Checklists

Routine Inspection and Maintenance

Annual Inspection and Maintenance

Inspection and Maintenance Following Storms

I. Stormwater BMP Inspection and Maintenance Logs

Facility Name	
Address	
Begin Date	End Date

Date	BMP ID#	BMP Description	Inspected by:	Cause for Inspection	Exceptions Noted	Comments and Actions Taken

Instructions: Make copies of this blank form. Record all inspections and maintenance for all treatment BMPs on this form. Use additional log sheets and/or attach extended comments or documentation as necessary. Submit a copy of the completed log with the annual independent inspectors' report to the City of Antioch, and then start a new log.

- BMP ID# - Always use the ID# from the Operation and Maintenance Manual.
- Inspected by - Note all inspections and maintenance on this form, including the required independent annual inspection.
- Cause for inspection - Note if the inspection is routine, pre-rainy-season, post storm, annual, or in response to a noted problem or complaint
- Exceptions noted - Note any condition that requires correction or indicates a need for maintenance
- Comments and Actions Taken - Describe any maintenance done and need for follow-

II. Designation of Individuals Responsible for Stormwater Treatment BMP Operation and Maintenance

Designation for Individuals Responsible for Stormwater Treatment BMP Operation and Maintenance	
Date Completed	
Facility Name	
Facility Address	
Designated Contact for Operation and Maintenance	
Name:	Title or Position:
Telephone:	Alternate Telephone:
Email:	
Off-Hours or Emergency Contact	
Name:	Title or Position:
Telephone:	Alternate Telephone:
Email:	
Corporate Officer (authorized to execute contracts with the City, Town, or County)	
Name:	Title or Position:
Address:	
Telephone:	Alternate Telephone:
Email:	

III. Updates, Revisions and Errata

IV. Introduction

IV.A. Site Description

The project is a commercial-development of 3 retail spaces in 1 new building, surrounded by outdoor patios and a drive-thru aisle along the building's south and east side. Parking will be located along the building's north and west sides. Landscaping will be located within landscaping islands around the new building. Vehicular and pedestrian access will be from the south side of the site off Landess Avenue.

IV.B. Existing Site Conditions

The project site is approximately 0.75 acres and is located in the Parktown Plaza Shopping Center, which is at the northeast corner of Landess Avenue and South Park Victoria Drive in Milpitas, California. The site itself is adjacent to and north of Landess Avenue, west along South Park Victoria Drive. Currently, the project site is a moderately sloped, existing parking lot in the Parktown Plaza. The site is bounded by an existing Rite-Aid to the north, Landess Avenue to the south, South Park Victoria Drive to the west, and an existing Wells Fargo Bank to the east.

IV.C. Self Treating Areas

There are no designated self-treating areas on the project site.

IV.D. Summary of Stormwater Treatment Facilities

Impervious areas on the site, including all roofs, parking areas, and driveways have been divided into distinct drainage areas as shown on the Storm Water Control Plan. Runoffs from each of these areas are managed by routing storm water to bio-retention areas to treat runoff from these areas located around the site perimeter. All storm water will be drained into the storm inlet through the bio-retention areas prior to capture into the underground system.

Specific drainage areas and planter locations are shown on Stormwater Control Plan (C-3 Exhibit)

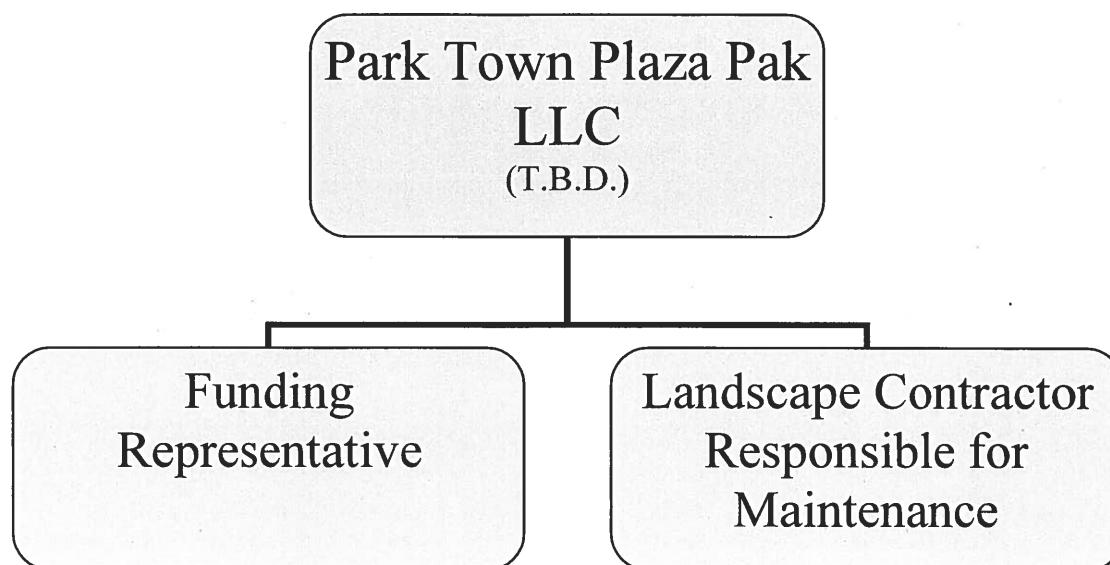
Offsite impervious surface is not being treated by IMP as improvements are limited to replacement of existing frontage concrete sidewalk and curb, and does not fall under the C-3 requirements for onsite improvements.

V. Responsibility for Maintenance

Park Town Plaza Pak LLC, will be responsible for the operation and maintenance of the Stormwater Treatment BMPs conveying and treating stormwater within their property. There

shall be a separate agreement and operation and maintenance plan for any other property owner within this property.

The following organization chart shows the organization of the maintenance function and the location within the overall organization.



V.A. Contact Information for Responsible Individuals

Park Town Plaza Pak LLC's primary contact will be (enter name of responsible party). Please see attachment for contact information. A new form shall be completed and added to section II whenever any of this information changes or is updated. When this occurs, a copy of the new table must be provided to the C3 representative at the City of Milpitas.

An Operation and Maintenance Agreement between the City of Milpitas and Park Town Plaza Pak LLC was entered into on (enter date of agreement). Please see the attached Operation and Maintenance Agreement.

V.B. Funding for Operation and Maintenance

The Operation and Maintenance Agreement sets forth that Park Town Plaza Pak LLC shall fund the operation and maintenance of the BMPs outlined in the project C3 Report. There is no apparent mechanism for funding at this time.

V.C. Staff Training Program

The landscape contractors retained by Park Town Plaza Pak LLC will familiarize themselves with the purposes, features, and mode of operation of the stormwater vegetated swale, flow through planter strips, and storm sump pump system as described in this O&M manual.

As will be reflected in contracts for landscape maintenance and other maintenance services, landscape maintenance supervisors and employees will be informed of the following specific maintenance requirements for the above mentioned BMPs.

- Maintain the design elevation of the soil surface
- Avoid and remove any soil or debris blocking planter inlets and outlets
- Use only equivalent soil to amend or condition soils as indicated on the landscape plan
- Minimize applications of fertilizers
- Application of pesticides are to be conducted only by a licensed pest control operator trained in the use of Integrated Pest Management

VI. Summary of Drainage Areas and BMPs

Drainage areas and locations of the treatment BMPs are shown on the Stormwater Control Plan (C-3 Exhibit). Discussions of each drainage area are as follows:

VI.A. Specific Descriptions of Each Drainage Area and Treatment Facility

Area “A1” – The parking asphalt concrete pavement and concrete sidewalk are sloped towards the bioretention planter located on the west end of the northerly parking stalls. Storm water will drain over the sidewalk and pavement, to a conveyance concrete swale at the end of the parking stalls and discharge through a curb opening and into the bio-retention planter.

Area “A2” – The parking asphalt concrete pavement and concrete sidewalk are sloped towards the bioretention planter located on the north-west end of the main westerly parking lot. Storm water will drain over the sidewalk and pavement, to a conveyance concrete swale at the west side of the parking stalls, along the westerly curb and discharge through curb openings and into the bio-retention planter.

Area “A3” – The west portion of building roof, drive through asphalt concrete pavement, and concrete sidewalk are sloped towards the bioretention planter located on the south side of the building. Storm water will drain over the sidewalk and pavement and discharge through curb openings and into the bio-retention planter.

Area “A4” – The east portion of building roof, drive through asphalt concrete pavement, and concrete sidewalk are sloped towards the bioretention planter located on the east side of the building. Storm water will drain over the sidewalk and pavement and discharge through curb openings and into the bio-retention planter.

VI.B. Features of all Bio-Retention Planters

Relevant design criteria applicable to all bio-retention planters:

- Minimum 6" deep reservoir (from top of pavement to top of soil)
- 18" deep sandy loam with minimum infiltration rate of 5"/hour.
- 12" Permeable base rock with subdrain below sandy loam layer.
- Irrigation shall be required to maintain plant viability.
- Perforated pipe underdrain and connection to storm drain or discharge point if swale located in type "D" soils (clay).
- Provide liner where groundwater is less than 10' deep.
- Native soils compacted per soils report.
- All other pertinent requirements set forth by the city of Milpitas C3 requirements.

The bio-retention planters operate by filtering the design storm flow through a layer of sandy loam top soil. They provide detention time to allow pollutants to settle out or be trapped by vegetation. Pollutants adhere to soil particles as runoff filters vertically through the soil and collects in the gravel layer below. After collecting in this layer, the treated runoff is collected into storm drain system and is conveyed to the City of Milpitas storm drain system by an onsite storm drainage system. A portion of runoff is expected to infiltrate into the underlying native soil.

VII. Documentation of BMP Construction [to be completed and updated]

VII.A. Details of Construction

Construction plans and details are attached to the report showing the locations of all treatment apparatus.

VII.B. Planting Plan

The selected plants vary for the site. Please refer to the planting plan for plant selection specifications.

VII.C. Irrigation System

Please refer to the irrigation plan for said system specifications.

VIII. BMP Maintenance Schedule

Inspection and Maintenance are consistent for the entire site. Routine inspection and maintenance will be conducted approximately monthly throughout the entire year. In addition, the stormwater treatment BMPs will also be inspected following each significant storm.

Site drainage and treatment BMPs will be **thoroughly** inspected at least once a year prior to the start of the rainy season.

The following checklists are also reproduced as stand-alone sheets to facilitate their use in the field.

VIII.A. Whenever Landscaping within Bio-Retention is maintained

- Maintain the design elevation of the soil surface, which should be 6 inches below the top of pavement for the treatment facility. See the construction drawings for details.
- Remove any soil or debris blocking planter inlets or overflows
- Use only soil that is equivalent to the specified sandy loam top soil. Amendments to planter soils must not reduce the infiltration rate.
- Minimize application of fertilizer.
- Pesticides may be applied only by a licensed pest control operator trained in the use of Integrated Pest Management.
- Confirm that the irrigation is adequate but not excessive. If underdrains flow during dry weather or flow on the surface, reduce irrigation.

VIII.B. Routine Inspection and Maintenance of Drainage System and Planters

- Examine each area drain and clean if necessary.
- Confirm there is no blockage in the connecting pick-up drain lines
- Check inlets and pipes; repair, replace, or replenish as necessary.
- Remove any accumulations of sediment, litter, and debris in the planter.
- Examine the overflow. Remove any debris. Fix any damaged or disconnected piping.
- Check that the soil surface is level and is maintained at the height indicated on the construction documents.
- Note the condition of the vegetation.
- Replace any dead plants.
- Prune or remove any overgrown plants or shrubs that may interfere with the operation of the planter.
- Remove any nuisance or invasive vegetation.

- Clean up fallen leaves or debris and replenish soil.
- Confirm that irrigation is adequate and not excessive.

VIII.C. Inspection Following Storms

- Confirm any standing water drains from the surface of the planters within 3-4 hours.
- Remove any debris from curb cuts at planters.
- Remove any accumulations of litter and debris in the planter.
- Check that the soil surface is level and is maintained at the height indicated on the construction documents.

VIII.D. Comprehensive Annual Inspection Prior to Rainy Season (system-wide)

- Examine treatment facilities and compare to as-built photographs and drawings. Confirm that drainage has not been altered.
- Examine paving and confirm flow to all treatment facilities is unimpeded.
- Remove any debris from curb cuts at planters.
- Remove any accumulations of litter and debris in the planter.
- Check that the soil surface is level and is maintained at the height indicated on the construction documents.
- Examine the overflow. Remove any debris. Note any damaged or disconnected piping.
- Check cleanouts and confirm underdrain piping is intact and unobstructed.
- Observe the structure of the planters and fix any holes, cracks, or failure.
- Note condition of vegetation. Replace any dead plants. Remove any nuisance or invasive vegetation.
- Clean up fallen leaves or debris and replenish cobbles or soil if needed.
- Prune or remove any overgrown plants or shrubs that may interfere with operation of the planter.
- Confirm that the irrigation is adequate and not excessive.

Checklist for Routine Inspection and Maintenance

- ☐ Examine each area drain and clean if necessary.
- ☐ Confirm there is no blockage in the connecting pick-up drain line leading to the Infiltration Planter if applicable.
- ☐ Remove any accumulations of sediment, litter, and debris in the planter.
- ☐ Examine the overflow. Remove any debris. Fix any damaged or disconnected piping.
- ☐ Observe the structure of the planters and fix and holes, cracks, or failure.
- ☐ Check that the soil surface is level and is maintained at the height indicated on the construction documents.
- ☐ Note the condition of the vegetation.
- ☐ Replace any dead plants.
- ☐ Prune or remove any overgrown plants or shrubs that may interfere with the operation of the planter.
- ☐ Remove any nuisance or invasive vegetation.
- ☐ Clean up fallen leaves or debris and replenish soil.
- ☐ Confirm that irrigation is adequate and not excessive.

**Checklist for Annual Inspection and Maintenance
(Prior to Rainy Season – System Wide)**

- ☐ Examine perimeter swales and compare to as-built photographs and drawings. Confirm that drainage has not been altered.
- ☐ Examine paving and confirm flow to all infiltration planters is unimpeded.
- ☐ Remove any debris from curb cuts at swales.
- ☐ Remove any accumulations of litter and debris in the planter.
- ☐ Check that the soil surface is level and is maintained at the height indicated on the construction documents.
- ☐ Examine the overflow. Remove any debris. Note any damaged or disconnected piping.
- ☐ Check cleanouts and confirm underdrain piping is intact and unobstructed.
- ☐ Observe the structure of the planters and fix any holes, cracks, or failure.
- ☐ Note condition of vegetation
- ☐ Replace any dead plants.
- ☐ Prune or remove any overgrown plants or shrubs that may interfere with operation of the planter.
- ☐ Remove any nuisance or invasive vegetation.
- ☐ Clean up fallen leaves or debris and replenish cobbles or soil if needed.
- ☐ Confirm that the irrigation is adequate and not excessive.

Checklist for Inspection and Maintenance Following Storms

- ☐ Confirm any standing water drains from the surface of the planters within 3-4 hours.
- ☐ Remove any debris from curb cuts at swales.
- ☐ Remove any accumulations of litter and debris in the planter.
- ☐ Check that the soil surface is level and is maintained at the height indicated on the construction documents.

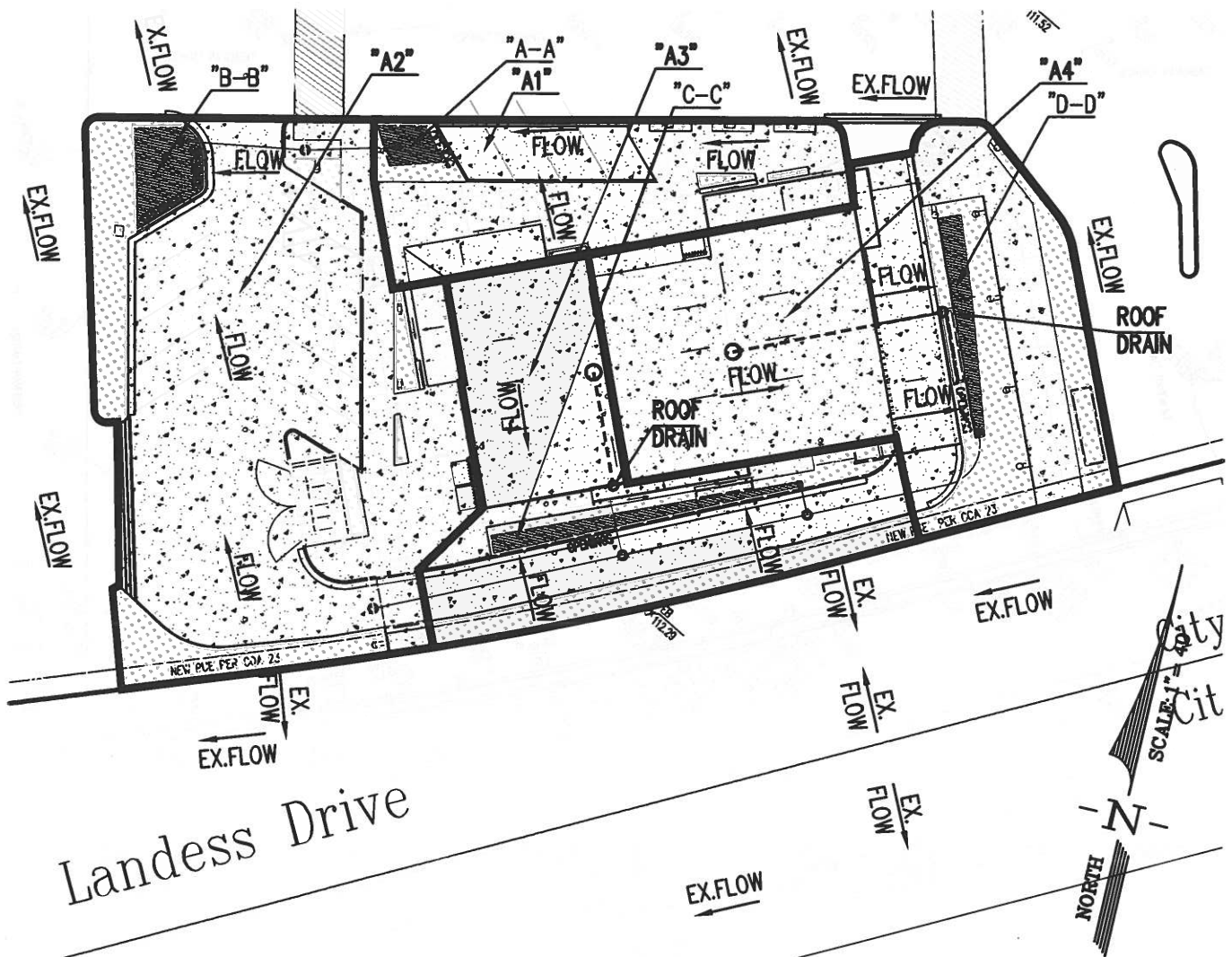
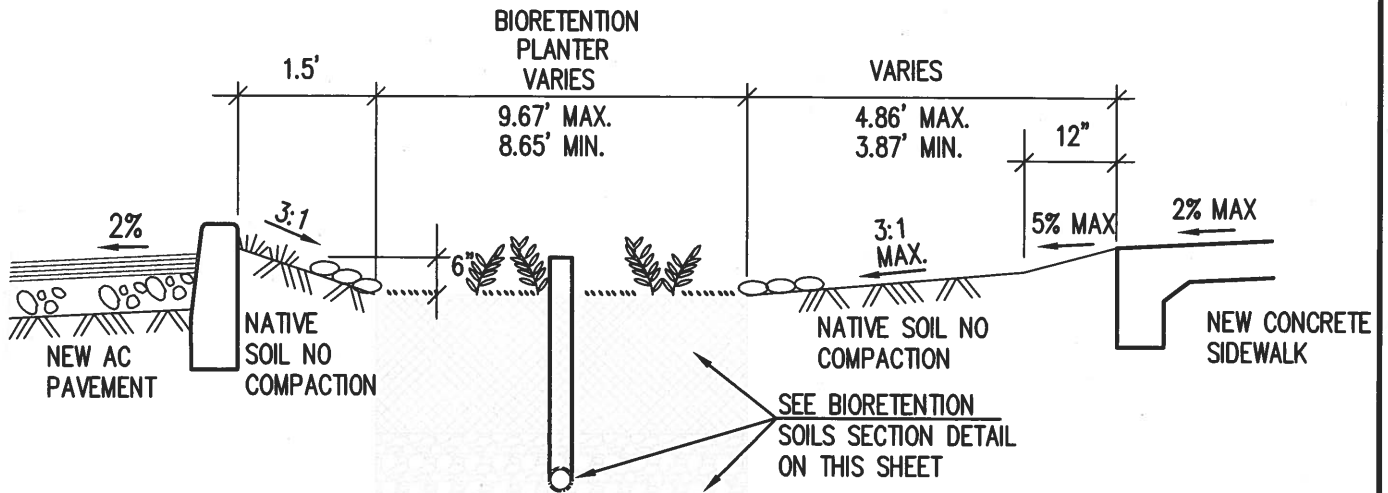
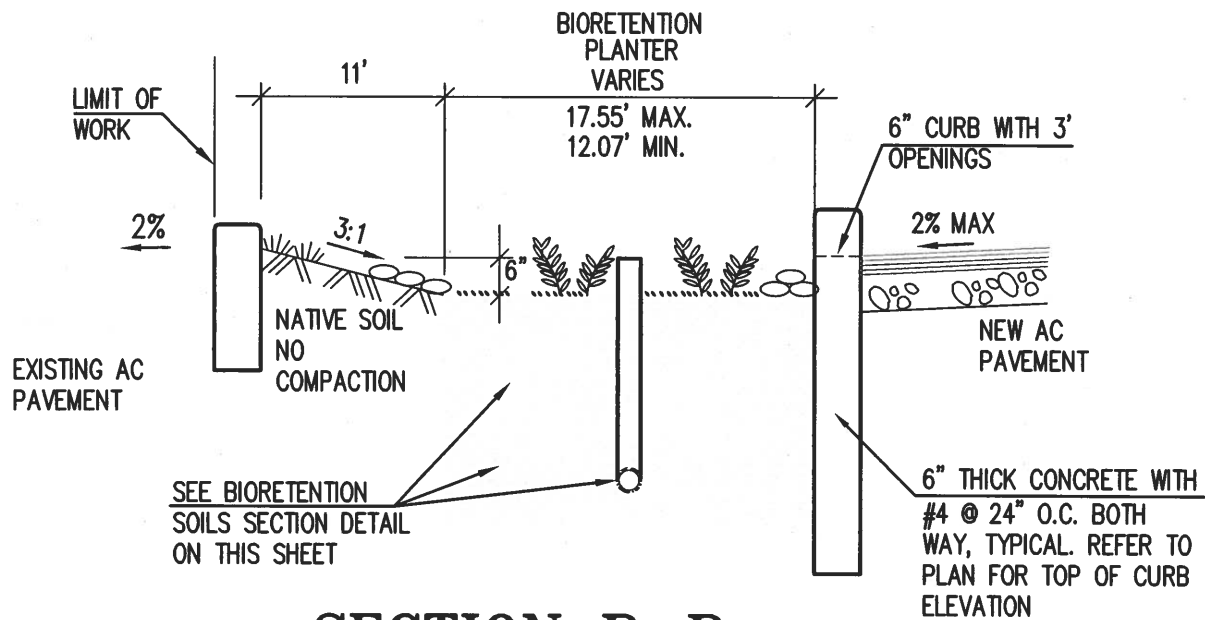


EXHIBIT "A"
PARK TOWN PLAZA
STORMWATER TREATMENT MEASURE SITE PLAN
CITY OF MILPITAS - SANTA CLARA COUNTY - CALIFORNIA
 Prepared By
Luk and Associates
 Civil Engineers - Land Planners - Land Surveyors
 738 ALFRED NOBEL DR
 HERCULES, CALIFORNIA 94547
MARCH 29, 2016 **SCALE: 1"=40'**



SECTION A-A

NOT TO SCALE



SECTION B-B

NOT TO SCALE

EXHIBIT "B-1"

PARK TOWN PLAZA

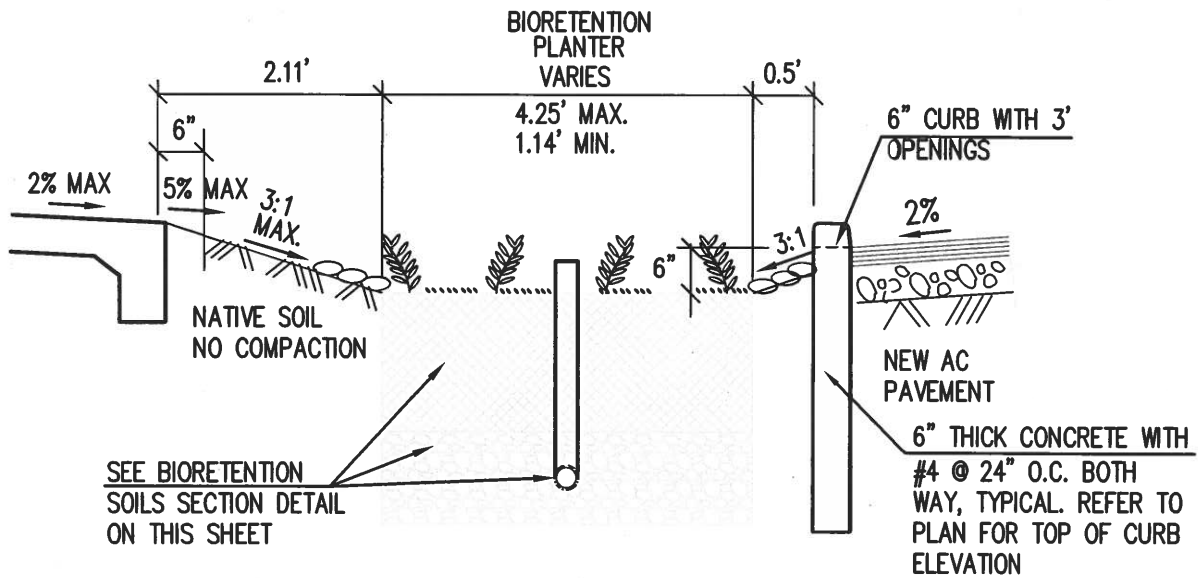
STORMWATER TREATMENT MEASURE DETAILS

CITY OF MILPITAS - SANTA CLARA COUNTY - CALIFORNIA

Prepared By
Luk and Associates

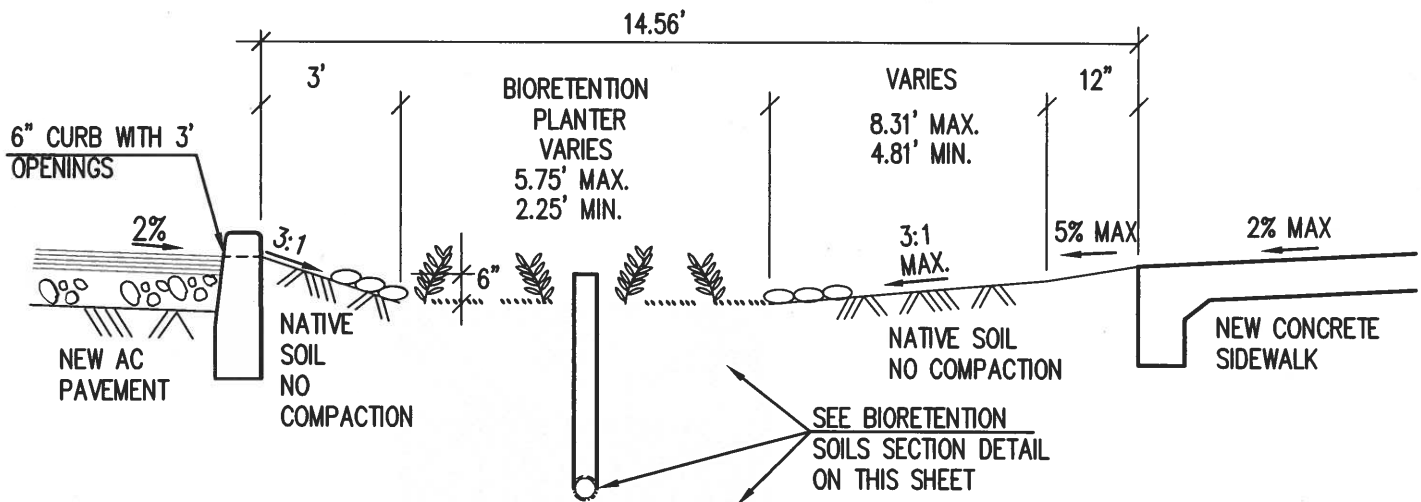
738 ALFRED NOBEL DR
HERCULES, CALIFORNIA 94547

MARCH 29, 2016



SECTION C-C

NOT TO SCALE



SECTION D-D

NOT TO SCALE

EXHIBIT "B-2"

PARK TOWN PLAZA

STORMWATER TREATMENT MEASURE DETAILS

CITY OF MILPITAS – SANTA CLARA COUNTY – CALIFORNIA

Prepared By

Luk and Associates

738 ALFRED NOBEL DR

HERCULES, CALIFORNIA 94547

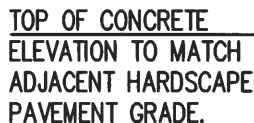
MARCH 29, 2016



PER SANTA CLARA
COUNTY C3 GUIDEBOOK
"FIGURE 6-2".

BIO-RETENTION PLANTER

NOT TO SCALE



CENTERED ON PARKING
STALLS AND PAVER STRIPS.
SEE PLANS

CURB OPENING DETAIL

NOT TO SCALE



**FLUSH CURB
OPENING**

TOP
PAVEMENT

ISOMETRIC VIEW

EXHIBIT "B-3"

PARK TOWN PLAZA

STORMWATER TREATMENT MEASURE DETAILS

CITY OF MILPITAS - SANTA CLARA COUNTY - CALIFORNIA

Prepared By

Prepared By
Luk and Associates

738 ALFRED NOBEL DR
HERCULES, CALIFORNIA 94547

MARCH 29, 2016

APPENDIX J:

**WRECO**

1243 Alpine Road, Suite 108
Walnut Creek, CA 94596
Phone: 925.941.0017
Fax: 925.941.0018
www.wreco.com

Memorandum

Date: February 12, 2014
To: Babak Kaderi
Cindy Hom
City of Milpitas
CC: Jackie Luk, P.E, PLS, Luk and Associates
John Chung, President, Associated Builders
From: Analette Ochoa, P.E., QSD/QSP
Andrew Chin
Subject: Park Town Plaza – Stormwater Control Plan Third Party Certification

I hereby certify that the selection, sizing, and design of stormwater treatment controls and the reduction of impervious areas as source control measures for the Park Town Plaza development, as presented in the project "Stormwater Control Plan" and shown on plan sheets C-4 to C-6 (Dated Feb. 4, 2014), complies with the City's NPDES C.3 Permit Provisions issued by the Regional Water Quality Control Board.

2/12/14

Certifying Engineer Signature

Date



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Authorize the Acting City Manager to Execute the Fee Reimbursement Agreement for Transit Area Specific Public Facilities and Public Improvements at the 355 Sango Court Project by Sango Court L.P. and Approve Budget Change Form for Fiscal Year 2023-24 (Staff Contact: Roberto Alonzo, Principal Civil Engineer, 408-586-3316)
Category:	Consent Calendar-Community Development
Meeting Date:	6/20/2023
	<u>Recommendation:</u> Authorize the Acting City Manager to execute the Fee Reimbursement Agreement for Transit Area Specific Public Facilities and Public Improvements at the 355 Sango Court Project by Sango Court L.P.

BACKGROUND:

On February 1, 2022 the City Council approved the public improvements and the Improvement Agreement ("Agreement") for the RCD Housing Project located at 355 Sango Court by Sango Court L.P. within the Transit Area Specific Plan (TASP) Area.

On June 12, 2018, the Mayor and City Council adopted a resolution which indicates that "the City and the Permittee shall enter into a reimbursement agreement to reimburse the permittee for the design and construction of the portion of the new recycled water main line that exceeds the property frontage length of 227 linear feet". (Attachment 2)

Projects within the TASP area are required to pay TASP Development Impact Fees (TASP Fee) to be used for design and construction of certain public facilities and improvements within the TASP area. At the request of the City (and in alignment with the June 12, 2018 City Council resolution referenced above) , the developer constructed a new 8-inch recycled water main line along the City's Preferred Alignment with point of beginning on Sango Court at the east end of the RCD Housing Project to Montague Expressway, a new Eastbound Sango Court roadway extension with curb, gutter, storm water treatment basin, sanitary sewer laterals and street lights per TASP residential street standard guidelines. The roadway and utility improvements would otherwise be financed by the TASP Fee and will serve more than the Developer's property within the TASP Area.

A Fee Reimbursement Agreement is proposed to allow for the reimbursement for work done by the developer for certain improvements that are above and beyond those that would be required for their development and to align with the June 12, 2018 City Council resolution. The Fee Reimbursement Agreement has been reviewed by the City Attorney as to form.

ANALYSIS:

Per the resolution adopted on June 12, 2018, staff is to reimburse developer for the design and construction of the portion of the new recycled water main line that exceeds the property frontage length of 227 linear feet. Staff recommends the City Council grant authorization to the City Manager to execute the Fee Reimbursement Agreement for the construction of the TASP Public Improvements. The Developer will be reimbursed for the actual cost of construction the new public improvements eligible for reimbursement and per Condition of Approval 41d for the design and construction of the portion of the new recycled water main line that exceeds the property frontage length of 227 linear feet, which are estimated not to exceed \$1,050,000.00.

POLICY ALTERNATIVE(S):

Alternative 1:

Do not approve granting authorization to the City Manager to approve the Fee Reimbursement Agreement Amendment.

Pros: None

Cons: If the Fee Reimbursement Agreement is not authorized the City would have to find other means to reimburse the Developer for constructing the public improvements or have to construct the public improvements ourselves. The City has determined that there will be greater efficiency if the Developer constructs the additional public improvements.

Reason for Not Recommending: Granting acceptance of installed public improvements would allow the City to own and maintain the improvements and would ensure the City is in compliance with the terms of the agreement with the Developer.

FISCAL IMPACT:

The fee reimbursement for the public improvements would be funded by TASP Impact Fees via CIP Projects No. 2016 (\$445,000) and 2019 (\$605,000). There is sufficient funding for CIP Project No. 2016 and there will be a Fiscal Year 2023-24 budget appropriation of \$104,609 for CIP Project No. 2019. Current available balance for CIP Project No. 2019 is \$500,391, therefore budget appropriation is necessary. The estimated reimbursement amount is not to exceed \$1,050,000.

California Environmental Quality Act (CEQA):

Granting authorization to the City Manager to approve the Fee Reimbursement Agreement is not considered a project under CEQA as there will be no direct or reasonably foreseeable indirect physical change in the environment.

RECOMMENDATION:

Authorize the City Manager to Execute the Fee Reimbursement Agreement for Transit Area Specific Public Facilities and Public Improvements at the 355 Sango Court Project by Sango Court L.P.

Attachment(s):

Attachment 1: Fee Reimbursement Agreement

Attachment 2: Resolution No. 8796

Attachment 3: Budget Change Form

**CITY OF MILPITAS
FEE REIMBURSEMENT AGREEMENT
FOR TRANSIT AREA SPECIFIC PLAN PUBLIC FACILITIES AND
PUBLIC IMPROVEMENTS**

This Fee Reimbursement Agreement for Milpitas Metro Plan Public Facilities and Public Improvements (the “**Agreement**”), dated as of _____, 2023, is by and between the City of Milpitas, a municipal corporation of the State of California (“**City**”), and Sango Court, L.P. (“**Developer**”).

WITNESSETH:

WHEREAS, Developer is the permittee of that certain real property (APN No. 086-36-013) located at 355 Sango Court in Milpitas, California; and

WHEREAS, on June 12, 2018, the City Council conditionally approved Site Development Permit No. SD17-0017, Density Bonus No. DB17-0001, and Environmental Assessment No. EA18-0001 for a 102-unit multifamily apartment building development project located at 355 Sango Court in Milpitas, California (the “**RCD Housing Project**”); and

WHEREAS, on February 1, 2022 when the City Council conditionally approved RCD Housing Project the City Council also approved that certain Improvement Agreement between City and Developer (the “**Improvement Agreement**”). The Improvement Agreement sets forth Developer’s obligations to provide security for and construct specified public improvements which include the Improvements and Designs defined below; and

WHEREAS, City has adopted a Milpitas Metro Plan and a Transit Area Specific Plan Development Impact Fee (the “**TASP Fee**”) to provide funds to finance public facilities and public improvements within the Milpitas Metro area; and

WHEREAS, City has adopted a Fiscal Mitigation and Services Plan for the TASP (EPS no. 17107) in 2008, as amended in 2014, outlining the public facilities and public improvements that are to be constructed with the TASP fees (the “**Financing Plan**”); and

WHEREAS, the Project is in the Milpitas Metro area and subject to TASP Fee; and

WHEREAS, the total Milpitas Metro Fee for the Project is estimated to be Three Million Three Hundred Forty-Three Thousand Six Hundred Sixty two Dollars (\$3,343,662) .The project is subject to the City Council-approved density bonus concessions of 50% of the total TASP fee amount, in the amount of One Million Six Hundred Seventy One Thousand Eight Hundred Thirty One Dollars (\$1,671,831.00); as provided for in Section 4 of City Council Resolution No. 8796; and

WHEREAS, pursuant to the conditions of approval for the Project set forth in City Council Resolution No. 8796 on June 12, 2018, Developer shall construct certain public facilities and improvements in the Milpitas Metro area such as a new 8” recycled water (RW) main line along Sango Court from the east end of proposed Sango Court to Montague Expressway that exceeds the property frontage of 227 linear feet. The new 8” RW mainline shall connect to the existing recycled water main line on Montague Expressway in order to comply with the California Code of Regulations Title 17 and 22, and approval by the California State Water Resources Control Board/Division of Drinking Water as well as by the South Bay Water Recycling. Other improvements covered include eastbound Milpitas Metro standard street curb and gutter, new sanitary sewer laterals and manhole, slurry seal, biofiltration planter, trash capture devices and street lights. A complete list of reimbursable items are shown in Exhibit A. (the

foregoing being the “**Improvements**” and the construction documents describing the Improvements being the “**Designs**”). The Improvements and Designs are included in the Financing Plan and would otherwise be financed by the Milpitas Metro Fee, and which Improvements and Designs will serve more than the RCD Housing Project; and

WHEREAS, City and Developer desire to enter into this Agreement to provide for allowable reimbursement against the Milpitas Metro Fee paid by Developer for the Improvements and Designs.

NOW, THEREFORE, in consideration of the mutual promises contained herein, City and Developer hereby agree as follows:

SECTION 1. Allowable Fee Reimbursements

Subject to the terms, conditions, and obligations of this Agreement, the City shall provide reimbursement to the Developer, from a portion of the Milpitas Metro Fee actually paid by Developer, in an amount based on verifiable actual costs of the Improvements and Designs pursuant to the procedure in Section 9 of this Agreement, which shall equal up to one hundred percent (100%) of the actual amount paid by Developer to complete the Improvements and Designs.

SECTION 2. Reimbursement Issuance Timing

- 2.1 Developer shall pay the City the full applicable Milpitas Metro Fee, at the time of building permit issuance, for each residential unit and per square footage of office space at the rate in effect at that time, subject to any annual adjustment as provided for in Section 9 of City Council Resolution No. 8344.
- 2.2 City shall pay to Developer the reimbursement required hereunder upon Developer’s completion and City’s acceptance of the Improvements and Designs as stipulated hereinafter, including Developer’s provision of all supporting documentation for all costs in accordance with the timing specified in Section 9 below.

SECTION 3. Completion of the Improvements

- 3.1 Developer shall complete construction of the **Improvements** in accordance with the plans and specifications approved by City and in accordance with City standard construction specifications and this Agreement, and the related Improvement Agreement. All **Improvements** shall be completed (determined by filing of a notice of completion) prior to issuance of first certificate of occupancy for the RCD Housing project.
- 3.2 In the event the **Improvements** are not fully constructed and accepted by City as set forth herein, Developer shall be in breach of this Agreement, and in violation of the Project conditions of approval. In addition to all other legal remedies available at law or equity, City may seek reimbursement from Developer for all reimbursements provided under this Agreement including interest at the legal rate. Additionally, City may withhold any and all certificates of occupancy, building permits or any other City approval or permit relating to the Project.

SECTION 4. Inspection of Improvements

- 4.1 City shall at all times have access to the construction site during construction of the **Improvements**. Developer shall furnish City with all reasonable information necessary for

ascertaining full knowledge of the **Improvements** with respect to the progress, workmanship and character of materials and equipment used and employed in the work contemplated herein.

- 4.2 Neither observation of the work by City nor failure of City to inspect the **Improvements** or to discover defects in material or workmanship shall relieve Developer from its obligations to complete construction in accordance with the plans and specifications approved by City and to ensure that the **Improvements** are free of defects in materials and workmanship.

SECTION 5. Acceptance of the Improvements

- 5.1 At such time as the Developer believes that the **Improvements** are complete, the Developer shall provide written notice of completion to the City, requesting an inspection. Within ten (10) business days, or as mutually agreed following the date of receipt of the Developers' written notice of completion of **Improvements**, the City shall conduct a final inspection of the applicable **Improvements**. If during the final inspection, the City determines that the **Improvements** have not been completed in accordance with all applicable codes, regulations, permits and approved plans, the City shall prepare a punch list of all items to be completed by the Developer and shall provide such punch list to the Developer within ten (10) business days or as mutually agreed following the final inspection.
- 5.2 If the City delivers such punch list to the Developer within said ten (10) business day period, or such other mutually agreed upon period, then the Developer shall undertake to repair such punch list items in a diligent manner within twenty (20) calendar days. Upon completion of the punch list work, the Developer shall request another final inspection from the City and within ten (10) business days following such written notice from the Developer, the City shall conduct another final inspection.
- 5.3 If the City determines that the punch list work is complete and no other deficiencies are identified, the Developer shall be deemed to have successfully completed the final inspection. If the City determines that the punch list work is not complete, then City and Developer shall repeat the inspection/punch list procedures specified in this Section until the successful completion of the punch list work and a final inspection. At such time as Developer has successfully completed the final inspection, City shall schedule the initial acceptance of the completed **Improvements** within thirty (30) calendar days thereafter before the City Council.

SECTION 6. Conveyance of the Improvements

Once the **Improvements** are accepted by the City Council and no liens have been filed with respect to such **Improvements** within ninety (90) days following the date of filing the Notice of Completion for such Improvement (or if valid liens were filed during such period, such liens have been bonded around or removed prior to acceptance), the **Improvements** shall become the property of the City. The Developer shall take any and all actions necessary to convey to the City and vest in the City full, complete and clear title to the **Improvements** through the City's initial and final acceptance procedures.

SECTION 7. Completion and Acceptance of the Designs

- 7.1 Developer shall perform and complete the **Designs** in accordance with the Project conditions. The **Designs** are considered deemed complete upon approval of the construction plans and specifications, including all required supporting documents by the City.

- 7.2 In the event the **Designs** are not fully completed and approved by City and/or other public agencies as set forth herein, Developer shall be in breach of this Agreement and in violation of the Project conditions of approval. In addition to all other legal remedies available at law or equity, City may seek reimbursement from Developer for all reimbursements provided under this Agreement including interest at the legal rate (if and to the extent any such reimbursements have been provided hereunder). Additionally, City may withhold any and all certificate of occupancy, building permit, or any other City approval or permit relating to the Project. City approved plans and specifications, including all supporting documents become City property upon completion of the **Designs**.

SECTION 8. Delivery of Design Plans and Specifications

Prior to acceptance of the **Improvements** by the City, the Developer shall deliver to the City copies of all plans, specifications, shop drawings, as-built plans, operating manuals, service manuals, warranties and other documents relating to the design, construction, installation and operation of the applicable **Improvements**. Plans shall be submitted in CAD format, GIS format and/or PDF format as acceptable to the City.

SECTION 9. Supporting Documents for the Actual Costs

Following Developer's completion and City's acceptance of the **Improvements** and the **Designs** provided in Sections 3 to 8 above, the Developer shall provide final invoices, records, change order documents, payment invoices, cancelled checks and other necessary documents, as requested by the City, in order to provide to the City a final accounting of the total amount of actual costs for the **Improvements** and the **Designs**. The City shall thereafter have sixty (60) days in which to review and approve such items. If the City notifies the Developer within that 60-day period that it does not approve all such items, and, if the Developer disputes the disapproval of such items by the City, the sixty (60) days may be extended as mutually agreed upon to provide an opportunity for the Parties to use diligent and good faith effort to resolve said dispute. Assuming no dispute as to the final accounting (or once said dispute has been resolved), the City shall, within thirty (30) days thereafter, reimburse the Developer in the amount up to one hundred percent (100%) of the actual costs to complete the Improvement and Design, as documented in the final accounting. The amount of the actual costs for the **Improvements** and the **Designs** shall not exceed the estimated value for "RCD Housing Project Improvements" identified on **Exhibit "A"** in the amount of One Million Fifty Thousand Dollars (\$1,050,000) without the express prior written approval of the City, which will require an amendment of this Agreement approved by the City Council.

SECTION 10. Limited City Obligation

The reimbursement obligations arising from this Agreement are neither a debt of the City nor a legal or equitable pledge, charge, lien, or encumbrance upon any of its property or upon any of its income, receipts, or revenues, except for the developer impact fees that would have otherwise been collected for the **Improvements**, the **Designs** and other capital facilities set forth in the Project plans for the TASP Fee program. Neither the City of Milpitas general fund nor any other fund of the City, except the TASP Fee program, shall be liable for the reimbursement or payment of any obligations arising from this Agreement. The reimbursement or taxing power of the City is not pledged for the payment of any obligation arising from this Agreement. The Developer shall not compel the forfeiture of any of the City's property to satisfy any obligations arising from this Agreement.

SECTION 11. Liens, Claims, and Encumbrances

Prior to acceptance of the **Improvements** by the City, the Developer shall provide a written guarantee and assurance to the City that there are no liens, claims, or monetary encumbrances on the **Improvements** and the **Designs**, together with unconditional final releases from all contractors and material suppliers, and with copies of invoices and corresponding checks issued by the Developer for all items for which fee reimbursements are requested under this Agreement for the **Improvements** and the **Designs**. The City shall have no obligation to accept the **Improvements**, or to issue any reimbursements for **Improvements** and the **Designs** until the Developer has cleared any and all liens, claims and monetary encumbrances from the **Improvements** and the **Designs** and provided the required documentation, guarantee and assurance in writing, to the satisfaction of the City.

SECTION 12. No Third Party Beneficiary

By entering into this Agreement, City is not entering into any contract or agreement with any general contractor, subcontractor, or other party nor is any general contractor, subcontractor, or other party a third party beneficiary of this Agreement, and City shall have no obligation to pay any general contractor, subcontractor, or other party for any work that such general contractor, subcontractor, or other third party may do pursuant to the plans and specifications for the **Improvements** and the **Designs**.

SECTION 13. Warranty and Repair

In accordance with this Section 13 and the terms and conditions of the Subdivision Improvement Agreement, Developer hereby warrants the **Improvements** as to materials and workmanship and should any failure of any **Improvements** occur within a period of one (1) year after initial acceptance of such **Improvements** by City Council, the Developer shall promptly cause the needed repairs to be made without cost to the City. The provisions contained herein shall not be deemed to limit any rights Developer has or may have to seek damages or other relief from any acts or omissions of any contractor involved in the construction or design of the **Improvements**. Nothing herein shall be construed to limit any other warranties City may have from the manufacturer or any materials used in the **Improvements** nor in any way limit any rights of City in equity or law under this Agreement.

SECTION 14. Notice

Any notice, payment, or instrument required or permitted by this Agreement to either party shall be deemed to have been received when personally delivered to that party or seventy-two (72) hours following deposit of the same in any United States Post Office, first class, postage prepaid, addressed as follows:

City: Matt Cano, P.E., Deputy City Manager/Acting City Engineer
Milpitas City Hall
455 East Calaveras Boulevard
Milpitas, CA 95035
Phone: 408-586-3012

Developer: Daniel Sawislak, Executive Director
Resources for Community Development
re: Sango Court, L.P.
2220 Oxford Street

Berkeley, CA 94704
Phone: 510-841-4410

Any party hereto may, by notice given hereunder, designate a different address to which subsequent notices, payments, and instruments shall be delivered to it.

SECTION 15. Term

The term of this Agreement shall start as of the date first written above and shall remain in effect for a one-year term, unless extended by the parties by written agreement.

SECTION 16. Captions

Captions to Sections of this Agreement are for convenience purposes only, and are not part of this Agreement.

SECTION 17. Severability

If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, such portion shall be deemed severed from this Agreement and the remaining parts shall remain in full effect as though such invalid or unenforceable provision had not been a part of this Agreement.

SECTION 18. Successors and Assigns/Reimbursements to Developer

This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. The TASP Fee Reimbursement granted herein shall run with the land with respect to their application against the TASP Fees otherwise payable upon development of the Project.

SECTION 19. Governing Law Venue

This Agreement is made under, and shall in all respects be interpreted, enforced, and governed by the laws of the State of California. In the event of a dispute concerning the terms of this Agreement, the venue for any legal action shall be with the appropriate court in the County of Santa Clara, State of California.

SECTION 20. Indemnity

To the fullest extent permitted by law, Developer shall protect, indemnify, defend (with counsel acceptable to City) and hold City, its officers, employees, and agents harmless from and against any and all liability, loss, cost and obligations arising out of or resulting from any injury or loss caused directly or indirectly by any cause whatsoever in connection with or incidental to the (i) activities performed by Developer, its officers, employees, or agents under this Agreement, or (ii) negligence, omission or willful misconduct by Developer, its officers, employee, or agents.

SECTION 21. Time of Essence

Time is of the essence in the performance of this Agreement.

SECTION 22. Waiver

Developer agrees that waiver by City of any breach or violation of any term, condition, or

obligation of this Agreement shall not be deemed to be a waiver of any other term, condition, or obligation contained herein or a waiver of any subsequent breach or violation of the same term, condition or obligation.

SECTION 23. Compliance with Laws

Developer has been alerted to the requirements of California Labor Code Sections 1720 *et seq.* and 1770 *et seq.*, which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. If the work to be performed under this Agreement by Developer is being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, Developer agrees to fully comply with such Prevailing Wage Laws. Developer shall defend, indemnify and hold City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon Developer and its contractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Section 1776), hours of labor (Labor Code Sections 1813 and 1815), public works contractor registration (Labor Code Sections 1725.5 and 1771.1) and debarment of contractors and subcontractors (Labor Code Sections 1777.1). It shall be the sole responsibility of Developer to determine whether to comply with Prevailing Wage Laws for any or all work required by this Agreement. As a material part of this Agreement, Developer agrees to assume all risk of liability arising from any decision not to comply with Prevailing Wage Laws for work required by this Agreement.

SECTION 24. Entire Agreement

This Agreement contains the entire agreement between the parties with respect to the matters contained herein and may be amended only by subsequent written agreement signed by all parties.

SECTION 25. Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one instrument.

[signatures on following page]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day of the year first above written.

CITY:

By: _____
Ashwini Kantak
Acting City Manager

DEVELOPER:

SANGO COURT, L.P.
a California limited partnership

By: RCD GP III LLC
General Partner

By: Resources for Community Development
Sole Member and Manager

By: _____
Daniel Sawislak, Executive Director

APPROVED AS TO FORM:

By: _____
Michael Mutalipassi
City Attorney

APPROVED AS TO CONTENT:

By: _____
Lauren Lai, CPA, MPA
Finance Director/Risk Manager

APPROVED AS TO CONTENT:

By: _____
Matt Cano, P.E.
Deputy City Manager/Acting City Engineer

NOTE: DEVELOPER'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO DEVELOPER'S BUSINESS ENTITY.

EXHIBIT A

355 SANGO COURT

REIMBURSEABLE - OFF-SITE ENCROACHMENT SITE IMPROVEMENTS COSTS

Description	Qty	Unit	UNIT COST Sub	TOTAL Sub
REIMBURSEMENT BUDGET- OFF-SITE IMPROVEMENTS;				
SITE DEMOLITIONS	2,040	sf	1.46	\$ 2,975
REMOVE ASPHALT CONTAINING ASBESTOS	5,627	sf	1.82	\$ 10,232
DISPOSE ASPHALT CONTAINING ASBESTOS	5,627	sf	28.81	\$ 162,078
IMPORT FILL	5,627	sf	6.40	\$ 35,990
ROUGH GRADE	2,040	sf	10.43	\$ 21,285
CITY STREET PAVING	2,040	sf	10.71	\$ 21,845
REPAIR ASPHALT PER CITY				\$ 1,709
RECLAIMED WATER (excludes portion on project frontage)	645	lf	575.00	\$ 370,875
DEWATERING				\$ 138,895
VALVES FOR 8' RECYCLED MAIN	3	ea	2,500.00	\$ 7,500
BLOW-OFF VALVE	1	ea	3,000.00	\$ 3,000
SPECIAL STORM-SEWER MANHOLE #1 (sheet 9)	1	ea	15,000.00	\$ 15,000
NEW SS LATERAL				\$ 29,225
RECONNECT STORM DRAIN LATERAL				\$ 1,952
SLURRY SEAL ENTIRE CUL-DE-SAC (50%)	15,325	sf	0.90	\$ 13,850
CITY CURB & GUTTER	248	lf	83.97	\$ 20,824
CITY SIDEWALK				Excluded
STRIPING/ PARKING STRIPING	1	ls	850.00	\$ 850
BIO-FILTRATION PLANTER	192	sf	35.71	\$ 6,857
BIO-FILTRATION PLANTER WALLS	70	lf	46.79	\$ 3,275
STORMWATER TRASH CAPTURE INLET AT PLANTER	1	ea	1,200.00	\$ 1,200
STREETLIGHT CONDUIT EXTENSION	75	ea	35.00	\$ 2,625
STREETLIGHT	2	ea	21,250.00	\$ 42,500
POTHOLING FOR PG&E CONNECTION TO CITY STREETLIGHTS				\$ 9,746
REIMBURSEMENT BUDGET- OFF-SITE IMPROVMENTS SUBTOTAL				\$ 914,542
PROPERTY LIABILITY & DAMAGE / 1000				\$ 15,547.21
NIBBI OVERHEAD & PROFIT (4%)				\$ 37,204
NIBBI PAYMENT & PERFORMANCE BOND				\$ 6,402
TOTAL HARD COSTS				\$ 973,694
REIMBURSEMENT SCOPE SOFT COSTS BUDGET				
TOPOGRAPHIC SURVEY- SANGO AND MONTAGUE				\$7,350
LOCATE UNDERGROUND UTILITIES OUTSIDE OF PROPERTY				\$5,557
ENCROACHMENT PERMIT- CONSTRUCTION DRAWINGS				\$8,431
ENCROACHMENT PERMIT- PLAN CHECK REVISIONS				\$3,000
ENCROACHMENT PERMIT- CONSTRUCTION ADMIN				\$1,000
STREET LIGHT DESIGN				\$7,250
JOINT TRENCH ADD SERVICE #2 SUBMITTALS AND OFFSITE IRRIGATION POWER APPLICATION				\$7,400
TOTAL SOFT COSTS				\$39,988
TOTAL REIMBURSEMENT HARD & SOFT COSTS				\$ 1,013,683

RESOLUTION NO. 8796

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING SITE DEVELOPMENT PERMIT NO. SD17-0017, DENSITY BONUS NO. DB17-0001, AND ENVIRONMENTAL ASSESSMENT NO. EA18-0001 FOR THE CONSTRUCTION OF 100-102 UNIT MULTIFAMILY APARTMENT BUILDING AND ASSOCIATED SITE IMPROVEMENTS ON A 1.26 ACRE SITE AT 355 SANGO COURT, AND MAKING CEQA FINDINGS PURSUANT TO CEQA GUIDELINES SECTIONS 15162, 15163, 15164, 15168, 15182, AND 15183

WHEREAS, pursuant to the California Environmental Quality Act (Public Resources Code, § 21000 et seq.), the State CEQA Guidelines (California Code of Regulations, title 14, § 15000 et seq.) (collectively, “CEQA”), the City of Milpitas is the lead agency for the proposed project described below; and

WHEREAS, on June 3, 2008, the City Council of the City of Milpitas certified an Environmental Impact Report (“EIR”) prepared to analyze the environmental impacts associated with the proposed Transit Area Specific Plan (the “TASP EIR,” State Clearinghouse No. 2006032091), and subsequently adopted the Transit Area Specific Plan (the “TASP”); and

WHEREAS, the TASP EIR reviewed the potential environmental impacts associated with the implementation of the TASP, which envisioned the development of 7,109 dwelling units, 287,075 square feet of retail space, 993,843 square feet of office and industrial park space, and 350 hotel rooms; and

WHEREAS, 355 Sango Court is located within the TASP planning area; specifically, within the Trade Zone/Montague subdistrict of the TASP; and

WHEREAS, pursuant to CEQA, when taking subsequent discretionary actions in furtherance of a project for which an EIR has been certified has been adopted, the lead agency is required to review any changed circumstances to determine whether any of the circumstances under Public Resources Code § 21166 and State CEQA Guidelines § 15162 require additional environmental review; and

WHEREAS, on September 19, 2017, Resources for Community Development (the “Applicant”) submitted an application to the City of Milpitas for the approvals necessary to develop a 100-102-unit multifamily affordable housing project at 355 Sango Court (the “Project”). The Project thus consists of and requires:

- a. Site Development Permit (SD17-0017) to evaluate the proposed site layout, architecture, massing, and proposed design for the development of a multi-family apartment building consisting of 100-102 units on a 1.26 acre site;
- b. Density Bonus (DB17-0001) to increase the allowable density from 75 rental units (60 du/acre) to 102 rental units (81 du/acre), to waive open space, TASP front setback for future street, off-street parking requirements, and concessions for the reconstruction of TASP street frontage, exemption from TASP fees, and private open space requirements; and
- c. Environmental Assessment (EA18-0001) to assess the consistency of all requested entitlements with the 2008 Transit Area Specific Plan EIR.

WHEREAS, the Planning Division completed an environmental assessment No..EA18-0001 for the Project in accordance with CEQA, and recommended that the Planning Commission determine this Project is covered under the program of activities identified in the Transit Area Specific Plan EIR, SCH#2006032091, certified by the City Council on June 3, 2008, based on the CEQA finding included in this Resolution (the “Addendum,” a true and correct copy of which is attached hereto and incorporated herein as Attachment A within **Exhibit 2**); and

WHEREAS, per 14 C.C.R (CEQA Guidelines) Section 15164(b), the Addendum demonstrates and concludes that none of circumstances necessitating preparation of a supplemental or subsequent EIR as specified in CEQA

Guidelines Sections 15162 or 15163 are present in that there are (a) no substantial changes are proposed in the Project which will require major revisions of the TASP EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; (b) no substantial changes have occurred with respect to the circumstances under which the Project is being undertaken which will require major revisions in the TASP EIR due to new or substantially more severe significant effects; and (c) no new information of substantial importance, as defined in CEQA Guidelines Section 15162, which was not known and could not have been known at the time the TASP EIR was certified has become available; and

WHEREAS, by this Resolution, the City Council adopts the Addendum, makes and accepts as its own the findings set forth in Attachment A of Exhibit 2, attached hereto; and

WHEREAS, as separate and independent bases, the City Council hereby finds and determines that the Project is exempt from further CEQA review pursuant to (1) CEQA Guidelines Section 15183 (projects consistent with a Community Plan, General Plan or Zoning; (2) CEQA Guidelines Section 15182 (residential projects consistent with a specific plan); and (3) CEQA Guidelines Section 15168 (projects within the scope of a program EIR); and

WHEREAS, the Planning Commission is an advisory body to the City Council pursuant to Milpitas Municipal Code Section XI-10-64.03 (Consideration of Concurrent Applications), and due to the application for density bonus pursuant to Milpitas Municipal Code Section XI-10-54.15, for which the City Council is the highest review authority for the Project, and, accordingly, all review by other bodies with approval authority over the application shall be in the form of a recommendation to the City Council; and

WHEREAS, on May 23, 2018, the Planning Commission held a duly-noticed public hearing, during which meeting the Planning Commission considered the Addendum and CEQA exemption findings as well as the requested Site Development Permit No. SD17-0017 and Density Bonus No. DB17-0001 for 335 Sango Court, heard a presentation from staff, and had the opportunity to hear from members of the public and closed the public hearing on the item; and

WHEREAS, based upon the entire record of proceedings, by adoption of Resolution No. 18-009, the Planning Commission recommended the City Council approve Site Development Permit No. SD17-0017, Density Bonus No. DB17-0001, and Environmental Assessment No. EA18-0001 for 355 Sango Court; and

WHEREAS, the documents and other materials which constitute the record of proceedings upon which the City Council bases the recommendation and the findings contained within this Resolution are available and may be reviewed at Milpitas City Hall, located at 455 E. Calaveras Boulevard, Milpitas, California 95035; and

WHEREAS, on June 12, 2018, the City Council held a duly-noticed public hearing, during which meeting the City Council considered the Addendum, as well as the requested Site Development Permit No. SD17-0017 and Density Bonus No. DB17-0001 for 355 Sango Court, heard a presentation from staff, and had the opportunity to hear from members of the public and closed the public hearing on the item; and

WHEREAS, the City Council, having fully considered all public testimony, including that of the applicant, together with all other evidence in the record, approved with modifications discussed at the public hearing, the concessions and waivers as set forth in this Resolution; and

WHEREAS, the findings and conclusions made by the City Council pursuant to this Resolution are based upon the oral and written evidence before it as a whole; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

SECTION 1. Recitals

The City Council has considered the full record before it, which includes, but is not limited to such things as all published staff reports, oral and written testimony by staff, the Planning Commission, City Council and the public, and all other relevant materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and incorporated herein by reference.

SECTION 2. California Environmental Quality Act Findings

The proposed Project is covered under the scope of activities approved under the Transit Area Specific Plan EIR, SCH#2006032091, which was certified by the Milpitas City Council on June 3, 2008. The EIR included a program of activities including construction of up to 7,109 residential units within the Transit Area Specific Plan (TASP) area. The proposed 102 residential units and residential amenity space fall within this scope of development activity contemplated in the TASP EIR. LSA Associates completed an environmental assessment of the proposed Project to confirm the proposed Project is within the scope of the TASP EIR. The analysis found that the Project is consistent with the TASP EIR and confirmed that the Project is within the scope of development density considered under the TASP EIR. No new impacts were identified and no new mitigation measures are required. Policies and/or mitigation measures required of projects covered under the TASP EIR are included as Conditions of Approval. Pursuant to Public Resources Code Section 21166 and CEQA Guidelines 15162, 15163, 15164, 15168, 15182, and 15183, each as a separate and independent basis.

SECTION 3. Site Development Permit Findings (Section XI-10-57.03(F)(1))

The City Council makes the following findings based on the evidence in the administrative record in support of Site Development Permit No. SD17-0017:

- A. The layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development.*

The proposed Project's site design is consistent with the TASP development standards for the Trade Zone/Montague Subdistrict. Because the Project would include more than thirty percent (30%) of its total units as affordable housing for lower income households, it is entitled to a thirty five percent (35%) increase in maximum density, up to three regulatory concessions, waivers from certain physical development standards, and a reduced maximum parking requirement. The Project proposes up to 102 units of multi-family rental housing and associated site amenities on a 1.26 acre site. All of the units, with the exception of one manager's unit, would be rented as affordable for lower income households. Architectural design features varied materials and compliments previously-approved and adjacent projects located within the subdistrict. Further, the Sango Court extension will improve access around the site and implement the Specific Plan

- B. The project is consistent with the Milpitas Zoning Ordinance.*

The Project is consistent with the Milpitas Zoning Ordinance, because the Project conforms to the development standards and requirements of the Multiple Family – Very High Density (R4) with a Transit Oriented Development (TOD) Overlay district. The proposed residential uses are permitted in the zoning district. The Project also complies with other aspects of the Zoning Ordinance, such as the Density Bonus Ordinance by providing up to 101 low-income rental units. As demonstrated in the table below, the Project conforms to the zoning district and meets the intent for this type of project envisioned in this area.

Table 1:
Summary of Development Standards

Standard (R4-TOD)	Requirement	Proposed	Compliance (Y/N)
Height	Residential building height shall not exceed six (6) stories and 75'	Residential building is 5 stories and 65'	Y
Setbacks	Front Yard: 12-20 feet, 8-15 feet from back of sidewalk of future street; Side and Rear Yards: 15 feet minimum, 20 feet when over three stories when abutting residential	15' interim front yard setback, exceeds 15' from back of sidewalk of future street; 22' side and rear yard setback	With approval of Density Bonus waiver ¹
Projections	Up to 6'	3'	Y
Block size	2 ac minimum/4 ac maximum	3.65 ac	Y
Building Orientation	Buildings must face street	Buildings face street	Y
Density	41-60 du/ac	81 du/ac	With Density Bonus ¹
Parking (Resident)	Between 128 (min)-161 (max) spaces	52 spaces	With Density Bonus ¹
Parking (Guest)	15% of required = 19 spaces	5 spaces	With Density Bonus ¹
Parking (Bicycle)	1 space per 4 housing units, exempting units with private garages = 25 spaces; on-street guest racks equivalent to 5% of parking requirement = 11 spaces	102 secure, long term spaces 20 exterior guest spaces	Y
Usable Open Space	Minimum 25% of the total site shall be usable open space or recreational facilities = 13,710 SF required;	10,438 SF	With approval of Density Bonus waiver ¹
Private Open Space	Each dwelling unit shall be provided with private open space as follows: - Balconies and porches (above ground level): minimum 60 SF; or - Patios (at ground level): minimum 100 SF	Private balconies not provided	With approval of Density Bonus concession ¹
¹ The Project is seeking a Density Bonus and requesting three regulatory concessions and three waivers.			

C. The project is consistent with the Milpitas General Plan.

The Project site has a General Plan land use designation of Multi-family Very High Density, Transit Oriented Residential. The designation is intended to create residential districts near BART and light rail stations, and requires housing to be built at an average density of at least 41 units per gross acre, up to a maximum of between 60 and 90 units per gross acre. As the Project proposes 81 dwelling units/acre, it is consistent with both the intended land use of the general plan and the relevant density requirement, with the approval of the Density Bonus. See Density Bonus section below in support of granting the concessions and waivers.

Further, the Project is consistent with the following General Plan Guiding Principle and Implementing Policies:

- a. 2.a 1-31 Develop the Transit area, as shown on the Transit Area Plan, as attractive, high density, urban neighborhoods with a mix of land uses around the light rail stations and the future BART station. Create pedestrian connections so that residents, visitors, and workers will walk, bike, and take transit. Design streets and public spaces to create a lively and attractive street character, and a distinctive identity for each sub-district.*

The proposed Project is consistent with this policy as it includes an attractive five-story building in close proximity to the future Milpitas BART Station. The Project also includes significant streetscape improvements enabling and encouraging pedestrian and bicycle movement throughout the Trade Zone/Montague subdistrict, with connections to the BART and Light Rail transportation hubs.

- b. 2.a 1-32 Require development in the Transit area to conform to the adopted design guidelines/requirements contained in the Transit Area Plan.*

The proposed Project is consistent with this policy as it has been designed per the adopted design requirements contained in the Transit Area Plan. As demonstrated in the finding below and in the Density Bonus section, the Project meets the applicable requirements of the Transit Area Plan, including building setbacks and height, density, parking, open space, landscaping, access and circulation.

D. The project is consistent with the Specific Plan.

The Project proposes the development of the site between 100 to 102 rental units at a density of 81 dwelling units/acre. The Transit Area Specific Plan land use designation applicable to the site (Very High Density, Transit Oriented Residential – VHD-TOR) permits residential development at densities of 41 to 60 dwelling units/acre. Because the project would include more than thirty percent (30%) of its total units as affordable housing for lower income households, it is entitled to a thirty five percent (35%) increase in maximum density, up to three regulatory concessions, waivers from certain physical development standards, and a reduced maximum parking requirement. As demonstrated in Tables 1 and 2, the Project also largely complies with TASP development standards. Where exceptions from TASP development standards have been identified, the Project seeks regulatory concessions and waivers through the provisions of affordable housing. As shown on the Project Plans, the concessions do not detract from the overall architectural, landscaping and site planning integrity of the proposed development, and the design intent behind the open space requirements is satisfied by the Project's adjacency to the proposed linear park and trail. Moreover, the exceptions will allow for the public benefit of additional affordable housing on the site that would not otherwise be possible through a strict application of the specified standard. Landscaping along the streets and greenspace with the development is also provided as envisioned by the TASP.

SECTION 4. Density Bonus (Section XI-10-54.15(D))

The City Council hereby finds that Project complies with the requirements necessary to qualify for the requested increase in allowable unit density and, as such, the City Council hereby approves application, Density Bonus No. DB17-000, and makes the following findings based on the evidence in the public record:

- A. *Determination of Maximum Allowable Densities. The maximum allowable base density specified in the General Plan, including any other permitted increases to density.*

The base R4-TOD Zoning would allow up to 75 units at 60 units per acre at 1.26 acres and the application of the Density Bonus of 35% allows an additional 27 units for a total of 102 units allowed on the site. The proposed Project includes between 100 to 102 dwelling units, which is within the allowable density with the application of the Density for Affordable Housing.

- B. *Unit Type and Location. All affordable units shall be reasonably dispersed throughout the project, shall contain on average the same number of bedrooms as the non-affordable units in the project, and shall be comparable with the non-affordable units in terms of appearance, materials and finished quality. The Planning Commission may recommend to the City Council and/or Housing Authority modifying the requirements as to unit size or type, if it is found that such a modification would better serve the affordable housing need of Milpitas.*

This standard is satisfied, as the Project proposes up to 101 residential units for very low income households and 1 manager's unit, which will comprise the entirety of the project; therefore, the units will be dispersed throughout the Project. There are 49 one-bedroom units, 27 two-bedroom units, and 26 three-bedroom units that will be dispersed throughout the building.

- C. *Agreement. Prior to final building inspection and occupancy for a project containing affordable units, the applicant shall execute and record at the Santa Clara County Recorder's Office the City's Agreement Imposing Restrictions on Real Property, which Agreement shall explain the affordability requirements. The agreement shall be approved by the Milpitas City Attorney prior to recordation.*

The Project will be conditioned to execute and record at the Santa Clara County Recorder's Office the City's Agreement Imposing Restrictions on Real Property.

- D. *Retaining Affordability. A developer shall agree to, and the City shall insure continued affordability of, all lower- or very low-income density bonus units for thirty (30) years or a longer period of time, if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. If the City does not grant at least one (1) additional concession or incentive, in addition to a density bonus as specified in Section XI-10-54.15(E), Density Bonus Conditions, of this Chapter, the developer shall agree to, and the City shall ensure continued affordability for a minimum of ten (10) years of all lower or very low-income housing units receiving a density bonus.*

The designated affordable units will be required to remain in place for a minimum of 55 years as stated in the Conditions of Approval and will require a Regulatory Agreement to be recorded over the Project site.

- E. *Affordable Rents. Those units targeted for lower-income households, as defined in Section 50079.5 of the Health and Safety Code shall be affordable at a rent that does not exceed thirty (30%) of sixty (60%) percent of the Santa Clara County median income. Those units targeted for very low-income households, as defined in Section 50105 of the Health and Safety Code, shall be affordable at a rent that does not exceed thirty (30%) of fifty (50%) percent of County median income.*

The designated units for both lower-income and very low-income households will be conditioned to have affordable rents that do not exceed thirty (30%) of sixty (60%) of the Santa Clara County median income and thirty (30%) of fifty (50%) percent of the County median income, respectively.

- F. *Relation to State. Density bonus requirements not specified in these regulations shall be governed by the State Density Bonus Law, Government Code Section 65915, et seq.*

Any density bonus requirements not specified in the City's Municipal Code shall be governed by the State Density Bonus Law, Government Code Section 65915, et seq.

Density Bonus Concessions and Waivers

In accordance with the California Government Code Section 65915 and Milpitas Municipal Code XI-10-54.15, the City must grant the requested incentives/concessions and waivers unless the City can make either of the following findings in writing and based on substantial evidence:

a. The concession is not required in order to provide for affordable housing costs as defined in State Health and Safety Section 50052.2, or for rents for the affordable units pursuant to Section XI-10-54.15(D)(5), Standards, of this Chapter.

b. The concession would have a specific adverse impact as defined in State Government Code Section 65589.5(d) (2) upon the public health and safety or the physical environment, or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.

If findings cannot be made then the proposed incentives/concessions and waivers must be granted, based on the requirements of the City's Municipal Code and California Government Code Sections 65915 – 65918.

The City hereby grants and approves the requested concessions and waivers with the modifications described in this Resolution.

Table 2
Density Bonus Requests

Type of Request	Standard	Modification	Granted Request
<i>Density Bonus</i>	60 du/ac	35% bonus = 81 du/ac	81 du/ac
<i>Regulatory Concessions</i>	Build permanent street frontage applying TASP standards	Provide 26' fire access lane	Exemption of TASP reconstruction of permanent right-of-way improvement along property frontage and only build 26 feet fire access around perimeter
	Pay Transit Area Specific Fee (TASP) of \$32,781 per unit	50% reduction of TASP Fees	Reduction of TASP fees resulting in actual and identifiable cost reductions to provide for affordable housing costs
	Private open space required for each unit	Eliminate requirement	Rely on common open space and adjacent planned public park and greenway
<i>Waivers</i>	25% of the total site as useable open space	19% of the site as useable open space	10,438 square feet of on-site usable open space

	TASP setback from future street of 8' to 15'	Incorporate fire department south setback of minimum 15' from fire access lane	Project is complying with the required 15' min. fire setback along the south frontage (measured from the edge of the EVA lane), which conflicts with the maximum required TASP setback of 15' from back of walk of the future sidewalk. Thereby, project will slightly exceed the TASP 15' maximum setback.
<i>Parking Reduction</i>	1.68 spaces/unit	0.92 spaces/unit	Proposed .92 (94) parking spaces per unit with nearby Montague Milpitas BART station. In addition, per AB 744 if within ½ mile of transit with at least 11% VLI or 100% affordable rental housing, developer is only required to provide 0.5 parking space per bedroom, provide above the requirement.

SECTION 5. Severability

If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held incorrect, invalid, illegal, or unenforceable, such decision shall not affect the validity of the remaining portions of this Resolution. The City Council hereby declares that it would have passed each section, subsection, phrase, or clause thereof irrespective of the fact that any one or more sections, subsections, phrases or clauses be declared incorrect, invalid, illegal, or unenforceable.

SECTION 7. Effective Date

This Resolution shall be effective immediately upon passage.

SECTION 8. City Council Approval

The City Council hereby approves Site Development Permit No. SD17-0017, Density Bonus No. DB17-0001, and Environmental Assessment No. EA18-0001 (subject to the Conditions of Approval attached hereto and incorporated herein as **Exhibit 1**), based on the above findings.

PASSED AND ADOPTED this 12th day of June 2018, by the following vote:

AYES: (5) Mayor Tran, Vice Mayor Grilli, Councilmembers Barbadillo, Nuñez, and Phan
 NOES: (0) None
 ABSENT: (0) None
 ABSTAIN: (0) None

ATTEST:


 Mary Lavelle, City Clerk

APPROVED:


 Rich Tran, Mayor

APPROVED AS TO FORM:

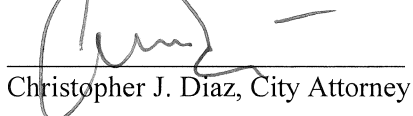

 Christopher J. Diaz, City Attorney

EXHIBIT 1**CONDITIONS OF APPROVAL
355 SANGO COURT RESIDENTIAL DEVELOPMENT****SITE DEVELOPMENT PERMIT NO. SD17-0017
DENSITY BONUS NO. DB17-0001
ENVIRONMENTAL ASSESSMENT NO. EA18-0007****GENERAL CONDITIONS**

1. General Compliance: The Permittee and owner, including all successors in interest (collectively "Permittee") shall comply with each and every condition set forth in this Permit. **SITE DEVELOPMENT PERMIT SD16-0009, VESTING TENTATIVE SUBDIVISION MAP MT16-0003, and CONDITIONAL USE PERMIT UP16-0028** (collectively "Permit") shall have no force or effect and no building permit shall be issued unless and until all things required by the below-enumerated precedent conditions have been performed or caused to be performed. The Permittee shall develop the site in accordance with the approved Attachments and as modified by these Conditions of Approval.
2. Effective Date: Unless there is a timely appeal filed in accordance with the Milpitas Zoning Code, the date of approval of this Permit is the date on which the City Council approved this Permit.
3. Acceptance of Permit: Should Permittee fail to file a timely appeal within twelve (12) calendar days of the date of approval of this Permit, inaction by Permittee shall be deemed to constitute each of the following:
 - a. Acceptance of this Permit by Permittee; and
 - b. Agreement by the Permittee to be bound by, comply with, and to do all things required of or by Permittee pursuant to all of the terms, obligations, and conditions of this Permit.
4. Permit Expiration: Pursuant to Section XI-10-64-06 of the Milpitas Municipal Code, this Permit shall become null and void if the activity permitted by this Permit is not commenced within two (2) years from the date of approval, or for a project submitted with a tentative map, within the time limits of the approved tentative map. Pursuant to Section XI-10-64.06(B) of the Milpitas Municipal Code, an activity permitted by this Permit shall be deemed to have commenced when the Project:
 - a. Completes a foundation associated with the Project; or
 - b. Dedicates any land or easement as required from the zoning action; or
 - c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.
5. Time Extension: Pursuant to Section XI-10-64.07 of the Milpitas Municipal Code, unless otherwise provided by State law, Permittee shall have the right to request a one-time extension of the Permit if the request is made in writing to the Planning Division prior to the expiration date of the approval. **(P)**
6. Project Job Account: If Permittee's Project job account is at any time delinquent or below the required deposit amount, City will not continue to review or process the application until Permittee's Project job account is paid in full and the required deposit has been made. Additionally, prior to the issuance of any building permit or occupancy permit as applicable, Permittee shall pay in full the Project account balance and establish a remaining balance of at least twenty-five percent (25%) of the required initial deposit. **(P/E)**
7. Notice: Pursuant to California Government Code Section 66020, any protest filed in court relating to the imposition of fees, dedication, reservations, or other exactions to be imposed on the development project shall be filed within ninety (90) days after the date of the adoption of this Resolution. This provision serves as notice from the local

agency to the Permittee that the ninety (90) day period in which the Permittee may file a protest has begun under California Government Code Section 66020(d)(1).

8. Cost and Approval: Permittee shall fully complete and satisfy each and every condition set forth in this Resolution and any other condition applicable to the Project to the sole satisfaction of the City. Additionally, Permittee shall be solely responsible and liable for the cost to satisfy each and every condition. **(ALL)**
9. Conditions: Each and every condition set forth in this Exhibit shall apply to the Project and continue to apply to the Project so long as the Project is operating under the permits and approvals in this Resolution. **(ALL)**
10. Compliance with Laws: The construction, use, and all related activity authorized under this Permit shall comply with all applicable local, state and federal laws, rules, regulations, guidelines, requirements and policies. **(CAO/P/E/B)**
11. Indemnification: To the fullest extent permitted by law, Permittee shall indemnify, defend with counsel of the City's choosing, and hold harmless City, its City Council, its boards and commissions, officials, officers, employees and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to (i) City's approval of the Project, including, but not limited to, the approval of the discretionary permits, maps under the Subdivision Map Act, and/or the City's related determinations or actions under the California Environmental Quality Act, and (ii) Permittee's construction, operation, use or related activity under this Permit. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Permittee, City and/or the parties initiating or bringing such proceeding. Permittee shall indemnify the City for all of City's costs, attorneys' fees and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. Permittee shall pay to the City upon demand or, as applicable, to counsel of City's choosing, any amount owed pursuant to the indemnification requirements prescribed in this condition. The above indemnification is intended to be as broad as permitted by applicable law. To the extent the above indemnification is limited by Government Code Section 66474.9, any limitations shall only apply to Vesting Tentative Map No. MT16-0003, and the balance of the Permit shall be unaffected by Government Code Section 66474.9.
12. Certificate of Insurance: Permittee shall provide certificate of insurance and name City as an additional insured in its insurance policies for the Project.
13. Revocation, Suspension, Modification: This Permit may be suspended, revoked or modified in accordance with Section XI-10-63.06 of the Milpitas Municipal Code.
14. Severability: If any term, provision, or condition of this Permit is held to be illegal or unenforceable by the Court, such term, provision or condition shall be severed and shall be inoperative, and the remainder of this Permit shall remain operative, binding and fully enforceable.
15. Compliance with Fire Department and California Fire Code: The Project shall comply with the requirements of the Milpitas Fire Department and the California Fire Code, as adopted by the City. Changes to the site plan and/or buildings requires review and approval by the Fire Department. **(F)**
16. Development in Conformance with Approved Plans: Permittee shall develop the approved Project in conformance with the plans dated May 2, 2018 and approved by the City Council on June 12, 2018, in accordance with these Conditions of Approval. Any deviation from the approved site plan, elevations, materials, colors, landscape plan or other approved submittal shall require that, prior to the issuance of building permits, the Permittee shall submit modified plans and any other applicable materials as required by the City for review, and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the

owner or designee shall be required to apply for review and obtain approval of the Planning Commission or City Council, as applicable, in accordance with the Milpitas Zoning Code. (P)

PLANNING CONDITIONS

17. Landscape: All approved landscaping shall be permanently maintained and replaced with substantially similar plant material as necessary to provide a permanent, attractive and effective appearance.
18. Architecture: Project Architecture shall be as depicted on the Building Elevations sheets as approved by the City Council on June 12, 2018. Any deviations from approved Project Architecture shall be approved at the sole discretion of the Director of Planning or his/her approved designee
19. Street Lights: Permittee shall provide street lighting along all street frontages subject to the review and approval of the Planning Division. Permittee shall likewise install pedestrian scale lights along all public and private street frontages. The Permittee shall submit a photometric plan to determine appropriate light levels with submittal of on-site improvement plans.
20. Agreement. Prior to final building inspection and occupancy for a project containing affordable units, the applicant shall execute and record at the Santa Clara County Recorder's Office the City's Agreement Imposing Restrictions on Real Property, which Agreement shall explain the affordability requirements. The agreement shall be approved by the Milpitas City Attorney prior to recordation.
21. Retaining Affordability. A developer shall agree to, and the City shall insure continued affordability of, all lower- or very low-income density bonus units for fifty-five (55) years or a longer period of time, if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.
22. Density Bonus: Project shall provide up to 101 affordable units and one manager's unit, consisting of 67% extremely low-income, 17% very low-income, and 16% low-income units. As a result, pursuant to Government Code Section 65915 and Milpitas Municipal Code Section XI-10-54.15, the Project has been approved with Density Bonus concessions, incentives and waivers applicable to projects that include such percentages of affordable housing (i.e., projects consisting of a minimum of 15% very low-income units or 30% low-income units) as follows:
 - a. Concession #1: Exemption of TASP reconstruction of the permanent right-of-way improvement along property frontage.
 - b. Concession #2: 50 percent reduction of TASP Fees
 - c. Concession #3: Eliminate private open space requirement for each unit.
 - d. Waiver #1: 19% (or 10,438 SF) of the site shall be useable open space
 - e. Waiver #2: Project will slightly exceed the TASP 15' maximum setback.
 - f. Parking reduction: 0.92 spaces/unit; project will provide a total of 94 parking spaces.
23. Parking Stackers: The Project shall install parking stackers and submit a revised parking plan to the Planning Division prior to Building Permit submittal.
24. Public Art Requirement: Permittee shall comply with the City's Public Art Requirements for Private Development, as set forth in Milpitas Municipal Code Section XI-10-14. Fee shall be no less than one-quarter of one percent of building development costs and shall be payable at time of building permit issuance, as approved by the City Council.

PLANNING & BUILDING PROJECT-RELATED TASP MITIGATION MEASURES & REQUIRED PROJECT DESIGN FEATURES

Biological Resources (TASP Policy 5.26)

25. Nesting Birds: To mitigate impacts on non-listed special-status nesting raptors and other nesting birds, a qualified biologist will survey the site for nesting raptors and other nesting birds within 14 days prior to any ground disturbing activity or vegetation removal. Results of the surveys will be forwarded to the U.S. Fish and Wildlife Services (USFWS) and CDFG (as appropriate) and, on a case-by-case basis, avoidance procedures adopted. These can include construction buffer areas (several hundred feet in the case of raptors) or seasonal avoidance. However, if construction activities occur only during the non-breeding season between August 31 and February 1, no surveys will be required. **(P)**

Noise (TASP Policy 5.10))

26. Noise Insulation: Prior to issuance of any building permit, Permittee shall demonstrate that the Project will meet the required 45 dBA maximum interior noise standard.

Air Quality (TASP Policy 5.16)

27. Dust Control Emissions: During the construction of the Project, Permittee shall comply with all of the following:
- All exposed surfaces (e.g. parking areas, staging areas, soil piles, graded areas and unpaved roads) shall be watered two times per day.
 - All haul trucks transporting soil, sand or other loose material off the site shall be covered.
 - All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day or more often if determined necessary by City Engineer or designee. The use of dry power sweeping is prohibited.
 - All vehicle speeds on unpaved roads shall be limited to 15 MPH.
 - All roadways, driveways and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five (5) minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
 - All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
 - Post a publicly visible sign with the telephone number and person to contact at the City regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations. **(B)**
28. ROG Emissions: Prior to issuance of any building permit, Permittee shall develop, submit and obtain approval from the City of a plan to reduce ROG emissions by 17 percent or greater during the architectural coating phase of the construction. Acceptable measures to achieve this goal include, but are not limited to, using paint that contains 125 grams per liter of VOC or less, the use of pre-fabricated building materials, or a combination of both. The plan shall be implemented as approved by the City. **(B)**

Cultural Resources (TASP Policies 5.34 and 5.35)

29. Archeological Monitoring: Any future ground disturbing activities, including grading, in the Transit Area shall be monitored by a qualified archaeologist to ensure that the accidental discovery of significant archaeological materials and/or human remains is handled according to CEQA Guidelines §15064.5 regarding discovery of archeological sites and burial sites, and Guidelines §15126.4(b) identifying mitigation measures for impacts on historic and cultural resources (see Public Resources Code §§21083.2, 21084.1). In the event that buried remains are encountered, work shall be halted in the immediate area and the Santa Clara County coroner and the City of Milpitas Department of Planning and Department of Building shall be immediately contacted to determine the nature of the remains and

related appropriate mitigation plan. If remains are determined to be of Native American origin, the coroner will then contact the Native American Heritage Commission (NAHC), which will in turn contact the appropriate Most Likely Descendent (MLD). The MLD will then have the opportunity to make a recommendation for the respectful treatment of the Native American remains and related burial goods. (P/B)

30. Paleontological Monitoring: All grading plans for development projects involving ground displacement shall include a requirement for monitoring by a qualified paleontologist to review underground materials recovered. In the event fossils are encountered, work in the area shall be halted and the City of Milpitas Department of Planning and Department of Building shall be immediately contacted to determine the nature of the remains and related appropriate mitigation plan. A qualified paleontologist shall evaluate the fossils, and steps needed to photo-document or to recover the fossils shall be taken. (P/B)

ENGINEERING CONDITIONS

PRIOR TO CONSTRUCTION PLAN SUBMITTALS

*The following conditions shall be met **prior to** any detailed construction plan check submittals (Building or Engineering, except demolition and rough grade plans), unless otherwise approved by the Director of Engineering/City Engineer. City reserves the right to reject any plan check submittal if any of the following conditions are not met. (E)*

31. Modifications: The Site Development Plan dated January 17, 2018 is subject to change during the plan check stage based upon City's previous comments and conditions stated herein.
32. Stormwater Control Plan: Permittee shall submit City approved final Stormwater Control Plan (SWCP) that complies with the latest Municipal Regional Stormwater NPDES Permit, including Low Impact Development (LID) Section C3.c.i.(2)(b) measures for harvesting and reuse, infiltration, or evapo-transpiration, for City's review and approval by the Engineering Department.
33. Photometric Analysis: Permittee shall submit streetlight photometric analysis for City's review and approval by the Engineering Department along Lundy Place and public trail area that meet the Illuminating Engineering Society of North America (IESNA), RP8, for roadway and sidewalk lighting standards and City standard design guidelines.
34. Recycle Water Cross-Connection Specialist: In order to comply with the California Code of Regulations Title 17 and 22, and for timely plan approval by the California State Water Resources Control Board/Division of Drinking Water as well as by the South Bay Water Recycling, Permittee must hire a certified cross-connection specialist for their consultation as to irrigation water system design and construction phasing. The name and contact information of the certified cross-connection specialist shall be provided on all landscape submittal plans.
35. Submittal Requirements: Permittee to ensure that all plan check submittals are in accordance with City's submittal check list for each permit type, including but not limited to, payment of permit fees and/or fee deposit at the time of the submittal.
36. Project Job Account/Fee Deposit: Permittee shall open a new PJ account as a deposit to cover the costs for Engineering Department's services for review and inspection of the Project. The amount shall be at 10% of the public improvement cost estimates as prepared by the Permittee's engineer.

PRIOR TO FINAL MAP APPROVAL/RECORDATION

*The following conditions shall be addressed during the final map plan check process and shall be met **prior to** any final approval/recordation (except demolition permit and rough grade permit), unless otherwise approved by the Director of Engineering/City Engineer. (E)*

37. Public Improvement Design Standards: All public improvements shall be designed and constructed in accordance with all applicable public improvement design standards, including but not limited to:
 - a. Milpitas Design Guidelines: (<http://www.ci.milpitas.ca.gov/milpitas/departments/engineering/design-guidelines/>);
 - b. Standard details and specifications: (<http://www.ci.milpitas.ca.gov/milpitas/departments/engineering/standard-details-and-specifications/>);
 - c. Transit Area Specific Plan design guidelines: (http://www.ci.milpitas.ca.gov/_pdfs/engDesignGuidelines/en_dg_vi_transitAreaSpecific.pdf); and
 - d. Americans with Disabilities Act (ADA) requirements, where applicable.
38. Sanitary Sewer Calculations: Permittee shall submit a completed "Sewer Needs Questionnaire" form and sanitary sewer calculations to justify lateral size design, allocation of discharge for each of the lateral, and impact to the existing main. Permittee shall be responsible to implement any necessary improvements if there is any identified deficiency to the existing main as a result of the Project.
39. Storm Drain Design: Permittee shall submit storm drain hydrology and hydraulic calculations based upon a 10-year storm event to justify the size of the storm drain lateral flowing full, without surcharging the main line pipe, and to be reviewed and approved by the Engineering Department.
40. Domestic Water and Fire Service Calculations: Permittee shall submit potable water and fire service calculations to confirm adequacy of lateral size, pressure and flow, to be reviewed and approved by the Engineering Department and Fire Department. Hydraulic modeling analysis by the City and paid by the Permittee may be required as needed. Permittee shall be responsible to implement any necessary improvements if there is any identified deficiency to the existing main as a result of the Project.
41. Specific Improvements: In addition to standard public improvements required under Milpitas Municipal Code (MMC) Title XI, Chapter 1, Section 7, Permittee shall install other specific improvements listed below including incidental improvements as required by the City as part of the encroachment permit.
 - a. Install 10' wide pedestrian and bicycle trail along Penitencia Creek as approved by the City. Permittee shall execute a Maintenance Agreement for perpetual maintenance of the subject trail by property owner.
 - b. Install minimum 26' wide emergency vehicle access road around the proposed building footprint as required by the Fire Department.
 - c. Installation of separate water service tap and meter for domestic and irrigation services.
 - d. A new 8-inch recycled water main line shall be installed along the City's Preferred Alignment, as described below, or an alignment the City identifies as the most feasible route for the recycled water main line. The City's Preferred Alignment is, point of beginning on Sango Court at the end of the cul-de-sac to Montague Expressway and shall connect to the existing recycled water main line on Montague Expressway.

The Permittee agrees to fulfill the requirement of installing a new recycled water main line by completing one of the following options at the City's discretion:

- If an alignment has not been installed by another party at the time of Building Permit issuance, the Permittee and the City shall enter into a reimbursement agreement to reimburse the permittee for the design and construction of the portion of the new recycled water main line that exceeds the property frontage length of 227 linear feet.
- If the recycled water main is under construction or the construction of the recycle water main has been completed, by another party, at the time of Building Permit issuance, the permittee shall pay the City for the cost of design and construction equivalent to the property frontage length, measured to be 227 linear feet. The cost of design and construction shall be based upon a licensed Civil Engineer's cost estimate, approved by the City.
- If the installation of a new recycled water main line is determined to be infeasible by the City, the permittee shall pay the City for the cost of design and construction equivalent to the property frontage length, measured to be 227 linear feet for the City's use to fund the City's preferred future recycled water

improvements which the City will design and install at a later time. The cost of design and construction shall be based upon a licensed Civil Engineer's cost estimate, approved by the City.

42. Abandonment of Existing City Utilities: Permittee shall cap, abandon or remove any unused existing public utilities based upon City's Abandonment Notes and to the City's satisfaction.
43. Relocation and Adjustment of Existing Public Utilities: Permittee shall relocate and/or adjust existing public utilities as needed that are in conflict with the proposed improvements.
44. Utility Protection: All existing public utilities shall be protected in place, or if necessary relocated as approved by the City Engineer. No permanent structure is permitted within City easements and no trees or deep-rooted shrubs are permitted within City utility easements, where the easement is located within landscape areas.
45. Maintenance Agreement: Permittee shall record a Maintenance Agreement for perpetual maintenance of certain public improvements, such as 10' wide pedestrian and bicycle trail, mutually agreed between the City and the Permittee.
46. Water Service Agreement: Permittee shall complete a water service agreement to obtain water service.
47. Encroachment Permit: Prior to any work in the public right-of-way and/or public easement, obtain an encroachment permit with insurance requirements for all public improvements including a traffic control plan per the latest California Manual on Uniform Traffic Control Devices (MUTCD) standards to be reviewed and approved by the Engineering Department.

PRIOR TO BUILDING PERMIT ISSUANCE

*The following conditions shall be addressed during the building plan check process and shall be met **prior to** any building permit issuance (except demolition permit and rough grade permit), unless otherwise approved by the Director of Engineering/City Engineer. (NOTE: Pursuant to Density Bonus approval, standard conditions regarding the reconstruction of the street and the upgrade of stormwater requirements have been requested as regulatory concessions, and therefore do not apply to this Project). (E)*

48. Permittee shall provide all necessary right of way and easement dedications to the City to construction 50% of the future Sango Court to Tarob Court street extension along the southern project frontage per TASP standards and guidelines.
49. Permittee shall provide engineer's estimate to construct 50% of the future Sango Court to Tarob Court street extension per TASP residential street standards and guidelines on the southern project frontage. This shall include all cost associated with removal and modifications of interim southern project frontage improvements and installation of TASP roadway, sidewalks, decorative concrete parking stalls, street lights, street furniture, landscape, utilities, and etc. The engineer's estimate shall be subjected to the City Engineer's review and approval.
(REGULATORY CONCESSION)
50. Permittee shall pay the engineer's estimate to construct 50% of the future Sango Court to Tarob Court street extension per TASP residential street standards. **(REGULATORY CONCESSION)**
51. No portion of the Project's stormwater treatment area shall be located in the future TASP residential street right of way and easement.
52. Off-Site Recycled Water: Permittee shall submit construction documents, including plans, studies, reports, and estimates to extend the City's recycled water pipeline. The work consists of installing approximately 900 linear feet of new 8 inch diameter recycled water pipeline along the entire southern property line (future Sango Court to Tarob Court street extension) and connecting to the recycled water main stub-out on Montague Expressway. Prior to issuance of the first certificate of occupancy (temporary or final) for any residential unit, the Permittee shall construct the off-site recycled water pipeline. The Permittee may receive credit through the TASP Fee program for the portion of the recycled waterline not in front of their property. The Permittee shall keep accurate records of all construction costs for the installation and shall confer with Engineering and Utility staff regarding the segments that need to be

tracked separately. Any credit shall be a part of the Fee Reimbursement Agreement approved by the City Council prior to building permit issuance.

53. Concurrent Off-site Plan Reviews: Permittee shall submit separate off-site improvement plans for City's review and approval by the Engineering Department.
54. Improvement Agreement and Securities: Permittee shall execute an Improvement Agreement and provide improvement securities in accordance with MMC Title X, Chapter 1, Section 8, and submit all other supplemental documents as stipulated in the Improvement Agreement (such as certificate of insurance).
55. Annexation to the Community Facilities District: Permittee shall submit an executed petition affirmatively consenting to annex the subject property to the Community Facilities District (CFD) 2008-1, and agree to pay the special taxes levied by the CFD 2008-1 for the purpose of maintaining the public services. The CFD annexation process shall be completed prior to final map approval. Permittee shall comply with all rules, regulations, policies and practices established by the State Law and/or by the City with respect to the CFD including, without limitation, requirements for notice and disclosure to future owners and/or residents. This condition of approval is nonseverable from the Permit and invalidation or limitation of this condition invalidates the Permit, condition 14 notwithstanding.
56. Public Easement Dedication: Permittee shall dedicate to the City and record a grant of easement with approved plat and legal description conveying title to the following public easements:
 - a. Street and right of way dedication along an alignment acceptable to the City and in compliance with TASP standards for the future Sango Court to Tarob Court street extension; and
 - b. 10' wide public service utility easement behind the street and right of way dedication along the entire southern property frontage. Project entry and monument signs, bioretention areas, and walls shall not be located within the public service utility easements; and
 - c. Minimum 10' wide public access easement along the proposed Penitencia Creek pedestrian and bicycle trail alignment; and
57. Easements on the Building Permit Plans: Permittee shall depict all existing easements to remain based upon current preliminary title report and depict new easements on applicable building permit plans.
58. Stormwater Facility Operation & Maintenance Plan: Permittee shall incorporate design details into applicable construction plans in accordance with City approved Storm Water Control Plan (SWCP). Permittee shall also submit Stormwater Facility Operation & Maintenance Plan that describes operation and maintenance procedures needed to ensure that treatment Best Management Practices (BMPs) and other storm water control measures continue to work as intended and do not create a nuisance (including vector control).
59. Water Supply and Force Majeure: The City reserves the right to suspend the issuance of building permits in case of an emergency declaration of water supply in the case of a major catastrophic event that restricts City's assurance to provide water supply.
60. Recycle Water Approval: Permittee shall use recycled water for landscape irrigation purpose, except for the interior courtyard/podium areas within the building footprint where the potable water shall be used for irrigation. Permittee shall comply with California Code of Regulations (CCR), Title 22, Division 4, Chapter 3, titled "*Water Recycling Criteria*", CCR, Title 17, Division 1, Chapter 5, Subchapter 1 titled "*Drinking Water Supply*" and all other recycled water regulations as listed under the publication titled "*California Department of Public Health Regulations Related to Recycled Water June 18, 2014*". Permittee shall obtain approval from the California State Water Resources Control Board/Division of Drinking Water, South Bay Water Recycling and the City for recycled water design, including but not limited to on-site irrigation design, based upon South Bay Water Recycling Guidelines and City of Milpitas Supplemental Guidelines. All landscape plants shall be compatible with recycled water.
61. Water Efficient Landscapes: Permittee shall comply with Milpitas Municipal Code Title VIII, Chapter 5 (Water Efficient Landscapes) for landscape design, including but not limited to, providing separate water meters for domestic water service and irrigation service and providing applicable landscape documentation package.

62. Solid Waste and Recycling Facility Design: Permittee shall comply with all applicable City design guidelines/details associated with haul route, turning radius, vertical and horizontal clearance, trash enclosure, staging area, storage area, etc.
63. Recycling Report Prior to Demolition Permit Issuance: Permittee shall submit Part I of a Recycling Report on business letterhead to the Building Department, for forwarding to the Engineering Department for review and approval. The report shall describe the following resource recovery activities:
- What materials will be salvaged.
 - How materials will be processed during demolition.
 - Intended locations or businesses for reuse or recycling.
 - Quantity estimates in tons (both recyclable and for landfill disposal). Estimates for recycling and disposal tonnage amounts by material type shall be included as separate items in all reports to the Building Division before demolition begins.

Permittee shall make every effort to salvage materials for reuse and recycling, and shall comply with the City's demolition and construction debris recycling ordinance.

64. Recycling Report Prior to Building Permit Issuance: Permittee shall submit Part II of the Recycling Report to the Building Department, for forwarding to the Engineering Department. Part II of the Recycling Report shall be supported by copies of weight tags and/or receipts of "end dumps." Actual reuse, recycling and disposal tonnage amounts (and estimates for "end dumps") shall be submitted to the Building Department for approval by the Engineering Department prior to inspection by the Building Department.
65. Flood Plain Management: This Project is in the Flood Zone "AO" with 1' average flood depth, therefore, Permittee shall comply with all applicable flood protection criterion required by the Federal Emergency Management Agency (FEMA) and MMC Title XI, Chapter 15. Permittee shall also submit a Flood Study for the Project demonstrating, to the satisfaction of the City Engineer, that the proposed development has no adverse impact to the surrounding flood plain within the Special Flood Hazard Area (SFHA) and to the flood carrying capacity of the area. The study should include cumulative effects of existing and proposed developments demonstrating the combined effects will not increase the water surface elevation of the Base Flood Elevation (BFE) more than one foot at any point. For the AO Flood Zone, the flood study is required to establish the BFE, and set the building elevation accordingly. The flood study shall be consistent with the requirements in accordance with Title 44 of the Code of Federal Regulations by establishing a hydraulic model and HEC-RAS. The study shall clearly identify the lowest floor elevation as being either the bottom of garage, bottom of first floor residential units, bottom of elevator pit, etc. and shall be completely elevated out of the SFHA.
66. Development Fees: Permittee shall pay the following development fees. The information listed in items "a" through "h" are based upon current fee rates; however, those fee rates are subject to change. The exact fee amount shall be determined at the time of building permit fee payment. (*NOTE: Pursuant to Density Bonus approval, standard conditions regarding TASP fees have been requested as a regulatory concession, and therefore do not apply to this Project*).
- Transit Area Specific Plan fee at \$32,781/unit for residential uses. Based on approval for development of 102 units, the estimated Transit Area Specific Plan Development Impact Fee for this Project is \$3,343,662.00 (\$32,781.00/unit x 102 units). Pursuant to the City Council-approved density bonus concessions granted for the project, Permittee shall pay 50% of the total TASP fee amount, in the amount of \$1,671,831.00 TASP fees shall be paid prior to Building Permit Final issuance (**REGULATORY CONCESSION**)
 - Parkland:
 - The Project is required to dedicate 0.89 acres of parkland, equivalent to \$2,429,605.56 fees-in-lieu.
 - The park portion of the TASP fee is valued at \$1,501,370.00, equivalent to 0.55 acres. This will be applied to the Project parkland requirement.
 - The applicant will receive credit for 0.24 acres of private recreation space on site and 0.08 acres of public parkland acreage to be dedicated on the Final Map at the discretion of the City. Upon demonstration of provision of this private recreation space and public parkland dedication to the

satisfaction of the Direction of Planning or his/her designee, additional parkland fees, equivalent to \$55,756.90.00, will be due, per table below.

355 Sango Court Unit Count	102
355 Sango Court Population Estimate	253 persons
TASP Parkland Requirement	3.5 acres/1,000 people or equivalent fees-in-lieu
PARKLAND ACREAGE DUE/FEE EQUIVALENT	0.89 acres/\$2,429,605.56
Amount Satisfied Through TASP Fees (Acreage/Dollars)	0.55 acres/\$1,531,397.40
REMAINING DELTA TO BE SATISFIED (Acreage/Dollars)	0.34 acres/\$946,797.21
Public Parkland Acreage to be Dedicated on Final Map	0.08 acres/\$223,027.20
Private Recreation Acreage Approved by City	0.24 acres
TOTAL ACREAGE/FEES PROVIDED	0.32 acres
REMAINING ACREAGE/FEE REQUIREMENT TO BE MET	0.02 acres/\$55,756.80
BALANCE OF PARKLAND ACREAGE/FEES DUE	0.02 acres/\$55,756.80

- c. Public Art Fee: As approved by City Council, one quarter (1/4) of one percent of building development costs, which is one half of the amount of the one half (1/2) of one percent of building development costs ordinarily charged pursuant to Milpitas Municipal Code Section XI-10-14.03, as further described in Condition 24
- d. Storm water connection fee at \$16,771/acre for residential and \$12,562/acre for commercial.
- e. Water connection fee at \$1,164/unit for residential and \$5.97/gpd for commercial, based upon increased water usage.
- f. Sewer connection fee at \$1,406/unit for residential and \$8.52/gpd for commercial, based upon increased average wastewater flow.
- g. 2.5% of applicable fees in accordance with City Resolution No. 7590 as Permitting Automation Fee.
- h. FEMA Flood Zone Designation Letter fee in the amount of \$100.00 each.

DURING CONSTRUCTION

*The following conditions shall be complied with at all times **during** the construction phase of the Project, unless otherwise approved by the Director of Engineering/City Engineer. (E)*

- 67. **Dewatering:** If dewatering is needed during construction, Permittee shall obtain a Short-Term Industrial Wastewater Permit from the San Jose/Santa Clara Water Pollution Control Plant for discharging the groundwater to a sanitary sewer system.
- 68. **On-site Recycle Water Coordination:** Permittee's cross-connection specialist shall coordinate the phasing of the construction; facilitate the cross-connection testing in order to minimize the impact for occupied buildings during cross-connection testing; sign-off before the water meter set; coordinate on-site construction inspection; complete the site inspection; fill out required paperwork/questionnaire; and provide them to the City for forwarding to South Bay Water Recycling.

69. Prohibition of Potable Water Usage: Permittee shall use recycled water for construction purposes, including dust control and compaction. Permittee shall comply with MMC VIII-6-5.00 and 6-6.00 where potable water usage is prohibited, unless otherwise approved by the City Council.
70. Construction Staging and Employee Parking: Permittee shall place all construction related materials, equipment, and arrange construction workers parking on-site and not located in the public right-of-ways or public easements.
71. Water Shut-down Plan: Permittee shall provide a water shut-down plan at least seven days in advance of the shut-down in coordination with the Engineering Inspector, and notify affected property owners/tenants when cut-in tee(s) is/are required.

PRIOR TO FIRST OCCUPANCY

*The following conditions shall be met **prior to** first building occupancy on either lot, unless otherwise approved the Director of Engineering/City Engineer.*

72. Completion of Public Improvements: Permittee shall complete all public improvements, including but not limited to frontage improvements along Sango Court, 8-inch recycled water main extension and pedestrian and bicycle train, as shown on City approved plans.
73. Stormwater Management Facilities O&M Agreement: Permittee shall execute and record a Stormwater Management Facilities Operation and Maintenance (O&M) Agreement associated with the SWCP O&M Plan, including perpetual maintenance of treatment areas/units, as reviewed and accepted by the Engineering Department. The subject O&M Agreement shall be referenced in the CC&Rs, if applicable.
74. LOMR-F: Permittee shall submit the FEMA approved LOMR-F for each unit/building associated with the requested occupancy, if Project is located in the SFHA.
75. Elevation and/or Flood Proofing Certificate: Permittee's civil engineer shall submit Elevation and/or Flood Proofing Certificate for the lowest finished floor elevation of each building for City record.
76. Landscape Certificate of Completion: Permittee shall submit a Certificate of Substantial Completion that complies with the Milpitas Municipal Code Water Efficient Landscapes ordinance.
77. Certificate of Cross-Connection: Permittee shall ensure that the cross-connection specialist complete the required recycled water construction inspection checklist, cross connection test results and any special inspection checklist as required by the South Bay Recycling Program <http://www.sanjoseca.gov/index.aspx?NID=1595> and forward them to the City.
78. Record Drawings: Permittee shall submit record drawings in AutoCAD, Tiff, and PDF formats for City records. Record drawings shall include all public improvements. Additionally, if the Project uses recycled water, the permittee shall also submit record drawings of on-site irrigation facilities.
79. Private Job (PJ) Balance: Permittee shall pay for any remaining balance from the Private Job deposit.

FIRE CONDITIONS

*The plans approved by City Council are **not** building plans and have not been reviewed nor approved for conformance to the California Building Code (CBC), California Fire Code (CFC) and the Milpitas Municipal Code (MMC). Do not consider the plan set approved by City Council as final building plans approved by the Fire Department. Building plans **must** be submitted for review and approval before construction is to commence. The following notes are a general list of the applicable code requirements (2016) and are provided to assist with the building permit process. Please note that these are not all inclusive. All applicable Building, Fire and Municipal Code requirements must be met in advance of any building permit approvals or related construction.*

80. Technical Assistance: To determine the acceptability of technologies, processes, products, facilities, materials, and uses attending the design, operation or use of a building or premises subject to inspection by the Fire Code Official, the Fire Code Official is authorized to require the owner or agent to provide, without charge to the jurisdiction, a technical opinion(s), plan review(s) and/or report(s). CFC Section 104.7.2.
81. Electronic documents: The Fire Code Official may require electronic base documents for all construction documents and operational permits. The Fire Code Official shall designate the software base format for the electronic documents. CFC Section 105.4.2.2, added by MMC Section V-300-2.11.
82. Fire Department Access: Fire Department apparatus and staff access shall be provided to all buildings and site. Detailed review will be done during construction permit process. The plans submitted (sheets G300 and G301) appear to be in general conformance with the requirements. CFC Section 503.
- Minimum Number of Fire Apparatus Access Points: A Minimum of two independent and approved (approved by the Fire Code Official) means of fire apparatus access shall be provided for the site. Buildings or facilities exceeding 30 feet (9144 mm), or three stories in height, or 50,000 square feet (5760 m²) shall be provided with at least two means of fire apparatus access for each structure. International Fire Code, Section D104.1, adopted and amended by MMC V-300-2.143.
 - Fire Apparatus Access Road(s) Required: For multi-family residential projects having more than 50 dwelling units shall be equipped throughout with two separate and approved fire apparatus access roads. Section D106.1 of the International Fire Code, amended by MMC V-300-2.146.
 - Turning Radius: Fire apparatus access roads shall meet the Milpitas Fire Department turning radii guidelines and shall provide continuous apparatus travel. Turning radii for fire apparatus access roads shall be a minimum net clearance of 48 feet 6 inches for the outside radius and 28 feet 0 inches for the inside radius. The layout for the outside and the inside radius shall be from the same reference point (center). CFC Section 503.2.4.
 - Fire Apparatus Clearance: Fire apparatus access roads shall provide a minimum clear width of 26 feet. This requirement is for the use and function of a fire ladder apparatus. International Fire Code, Appendix D, Sections D103.1 and D105.2, adopted and amended by Milpitas Municipal Code. MMC V-300-2.142 and 2.145.
 - Timing of Installation and Serviceability of Fire Protection Elements: When fire apparatus access roads or a water supply for fire protection is required to be installed, such protection shall be installed and made serviceable prior to and during the time of construction. Combustible construction shall not begin until water mains and hydrants are operational and fire apparatus access roads are installed (paved, or other acceptable Fire Department roads that are weather resistive and able to meet the fire apparatus requirements). CFC Section 501.4.
 - Fire Apparatus Access: Fire apparatus access shall extend to within 150 feet of all portions of exterior walls of the building/structure per the California Fire Code Section 503.1.1. When there is a dead-end condition, means for fire apparatus turn-around shall be provided.
 - Adjacent Access Rights: No source of access from lands adjoining a property to be developed shall be considered fire apparatus access roads, unless there is obtained the irrevocable and unobstructed rights and recorded as an ingress/egress access easement with the Country of Santa Clara. CFC Section 503.7, added by MMC V-300-2.48.
 - Fire Access Road Materials and Load Bearing Requirements: Fire access roads shall be paved (concrete and/or asphalt cement, or other concrete type pavement approved by the Fire Dept.). Fire apparatus access roads/lanes and emergency vehicle roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather capabilities. Design criteria shall be based on the City of Milpitas fire apparatus Sutphen S95 Aerial Platform unit. Please contact the Fire Prevention Division for specifications. CFC Section 503.2.3. The fire dept. gross vehicle weight is 62,500 lbs. (41,000 lbs 2 rear axles, 21,500 lbs 1 front axle). The EVA shall be designed to support the required vehicle weight listed and also designed for a point load of 33,100 lbs distributed over a 24" x 24" point load. Safety margin requirements shall be included and shall be part of the structural design.
 - Obstruction of Fire Access: Ground structures (including landscape) and building projections shall not encroach or impede the fire apparatus access requirements. CFC Section 503.4

- j. Emergency Vehicle Access (EVA): EVA roads, when required, shall meet the fire department site access requirements. CFC Section 503.
 - k. Marking of Fire Access Roads. The required access road shall be designated and clearly marked as a fire lane. The designated fire lane shall be identified as set forth in Section 22500.1 of the Vehicle Code. The designation shall be indicated (1) by a sign posted immediately adjacent to, and visible from, the designated place clearly stating in letters not less than one inch in height that the place is a fire lane, (2) by outlining or painting the place in red and, in contrasting color, marking the place with the words "FIRE LANE", which are clearly visible from a vehicle, or (3) by a red curb or red paint on the edge of the roadway upon which is clearly marked the words "FIRE LANE". CFC Section 503.3. Minimum marking shall be pole signage and red curb with "FIRE LANE" stencil. Signage and red curbs shall be done throughout and as needed to clearly identify the no parking zones.
 - l. Site Design Changes: The Fire Department reserves the right to request site design changes as needed to meet the requirements of the CFC, and/or make the request for additional fire protection measures in conformance with the CFC Section 102.9.
83. Fire Protection Water Supply (Hydrants, On-site and/or Public): An approved water supply (hydrants on-site and/or public) capable of supplying the required fire flow for fire protection shall be provided upon which facilities, buildings, or portions of buildings are hereafter constructed or moved into or within the jurisdiction. Water supply shall meet the Fire Code and the City of Milpitas Engineering Division water supply guidelines and the CFC Section 507, Appendix B and Appendix C. Note, the Civil plans submitted under this Planning review are not approved for construction.
- a. Water System Calculations: Private fire service mains and appurtenances shall be designed and installed in accordance with the City of Milpitas Engineering design guideline requirements and the NFPA 24. Design calculations and all the necessary design information for the water system to meet the domestic and fire flow requirements as per the City of Milpitas Engineer Division water design requirements shall be provided as part of the construction permit process. CFC Section 507. The minimum water flow at the worst case hydrant outlet within the private system shall be not less than 2,500 gpm.
 - b. Fire Hydrant Location: The location and quantity of hydrants will be evaluation during the construction permit process. This applies to the on-site private streets as well as to the public streets. CFC Section 507.5
 - c. Hydrant for Automatic Fire Sprinkler/Standpipe Systems: Buildings equipped with an automatic fire sprinkler system and/or a standpipe system installed in accordance with Sections 903 and or 905 shall have a fire hydrant within 50 feet of the fire department connections. CFC Section 507.1.1, amended by MMC Section V-300-2.53
 - d. Private Hydrant Requirements: Private hydrants shall have the bottom 6 inches of the hydrant painted, with a weather resistive paint, white in color. CFC Section 507.5.7, added by MMC V-300-2.54.
 - e. No Parking in Front of Hydrants: No parking is permitted in front of fire hydrants. Hydrants located on streets (Public or Private Street) shall have an unobstructed clearance of not less than 30 feet per CA Vehicle Code 22514.
84. Automatic Fire Sprinkler System for Structures:
- a. Automatic Fire Sprinkler. The buildings shall be provided with an automatic fire sprinkler system in conformance with the NFPA 13 Standards. Note, system type will depend on building/structure "construction type" analysis. California Fire Code Section 903
 - b. Sprinkler Valves: All valves controlling the water supply for the automatic sprinkler system shall be electrically supervised by a listed fire alarm control unit. CFC 903.4
 - c. Fire Riser Location. The fire sprinkler system riser shall not be located within electrical rooms or storage closets and shall be provided with clear access and working clearance. California Fire Code Section 903.3.5.3, added by MMC Section V-300-2.65
 - d. Sprinkler Design. Hydraulic design for the automatic fire sprinkler system shall provide a minimum of 20% safety margin. CFC Section 903.3.5.6, MMC V-300-2.68
 - e. Requirements for Fire Service Water Laterals for Building Sprinkler Systems: Each building shall have a fire service water laterals for the automatic fire sprinkler system and shall meet the California Fire Code requirements Chapter 9 and the NFPA applicable Standards. Note that the utilities drawings provided are not reviewed nor approved for construction. CFC Section 912.1

- f. Fire Pump(s). When required, fire pumps shall be installed in conformance with California Fire Code, the NFPA 20 and applicable standards.
- g. FDC/PIV (fire department connection/post indicating valve) Location(s). The location of the fire department FDC's/PIV's shall be at a readily visible and accessible location off the fire access road and approved by the Fire Code Official. FDC's/PIV's shall not be located behind parking stalls nor behind any other obstruction. Final review for location for the FDC's/PIV's will be conducted during the construction permit process. CFC Section 912.2
- h. FDC/PIV Signage. A metal sign with raised letters at least 1 inch in size shall be mounted on all fire department connections. Signage shall be reflective, weather resistive and approved by the Fire Code Official. CFC Section 912.5
- i. Backflow Protection. Potable water supply to the automatic sprinkler and/or the standpipe systems shall be protected against backflow as required by the Health and Safety Code section 13114.7 and the City of Milpitas Utilities Engineering Division. CFC Section 912.6
- j. Water Drainage. All new installations of sprinkler systems shall preclude sprinkler test and system drain water from discharging into the storm drain; provisions to direct water to the sanitary sewer or landscape or other approved means shall be provided. Sprinkler system design shall include the proposed method for drainage of sprinkler system discharge. Storm Water Pollution Regulations.

85. Fire Alarm System:

- a. R-2 Occupancy: Fire alarm system and smoke alarm shall be installed in Group R-1 occupancies as required in Sections 907.2.9.1 and 907.2.9.4. CFC Section 907.2.9
- b. Manual Fire Alarm System: A manual fire alarm system that activated the occupant notification system in accordance with Section 907.5 shall be installed in Group R-2 occupancies. CFC 907.2.9.1
- c. Smoke Alarm, R-2 Occupancy: R-2 Occupancy, listed single and multiple-station smoke alarms complying with UL217 shall be installed in accordance with Sections 907.2.11.2 through 907.2.11.6 and the NFPA 72. CFC Section 907.2.11
- d. Visible Alarm: Group R-1 and R-2.1 dwelling units or sleeping units in accordance with Table 907.5.2.3.2 shall be provided with a visible alarm notification appliance, active by both the in-room smoke alarm and the building fire alarm system. CFC Section 907.5.2.3.2
- e. Visual Alarm, R-2 Occupancy: In Group R-2 occupancies required by Section 907 and/or by Section 102.9 to have a fire alarm system, all dwellings units and sleeping units shall be provide with the capability to support visible alarm notification appliances in accordance with NFPA 72. CFC 907.5.2.3.3
- f. Fire Alarm Zones: Fire alarm system(s) shall be zoned as per the requirements of the CFC Sections 907.6.3 and 907.6.4.
- g. Fire Alarm Panel: Fire alarm panel (or fire alarm annunciator panel) shall be located in a readily accessible location and shall be provided with the necessary access and working clearance as required by the CA Electrical Code. CFC Section 907.6.4.1.1
- h. Fire Alarm Monitoring: Fire alarm monitoring (approved supervising station - UL, or FM approved). Fire alarm systems required by the Fire Code or by the California Building Code shall be monitored by an approved supervising station in accordance with the NFPA 72. CFC Section 907.6.6

86. Building/Structure Other Requirements:

- a. Stairs to Roof: All stairs shall run up to the roof. The fire code official shall determine the required number and location of stairway(s) to the roof. CFC Section 504.3.1, MMC Section V-300-2.49.
- b. Roof stairs. When there are roof planes with vertical difference of more than 24" there shall be stairs for access between the different roof planes. The Fire Code Official shall determine the location for the stairs. CFC Section 102.9
- c. Buildings with Courtyards. Fire access shall be provided to enclosed courts for firefighting and rescue operations. Each court shall be designed to provide readily accessible method of bring a fire department ground ladder (36' long) into the courtyard. Please anticipate and accommodate personnel carrying the ladder. CFC Section 102.9

- d. Roof Guardrails at Interior Courts. Roof openings into interior courts that are bounded on all sides by building walls shall be protected with guardrails. The top of the guardrail shall not be less than 42 inches in height above the adjacent roof surface that can be walked on. Intermediate rails shall be designed and spaced such that a 12-inch diameter sphere cannot pass through. CFC 316.7, added by Milpitas Municipal Code V-300-2.45
Exception: Where the roof opening is greater than 600 square feet in area.
- e. Access Control Devices: When access control devices including bars, grates, gates, electric or magnetic locks or similar devices, which would inhibit rapid fire department emergency access to the building, are installed, such devices shall be approved by the Fire Code Official. All access control devices shall be provided with an approved means for deactivation or unlocking by the fire department. Access control devices shall also comply with Chapter 10 Egress. CFC Section 504.6, added by MMC Section V-300-2.51
- f. Premises Identification: New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters and shall be consistent with Milpitas standardized addressing guidelines. CFC Section 505. The Fire Dept. may require the installation of address numbers at multiple building locations. CFC Section 102.9.
- g. Solar Electrical Panels. Solar photovoltaic systems shall meet and comply with the CFC Section 605.11 requirements.
- h. Address Illumination: All required addresses shall be illuminated. CFC Section 505.3, added by MMC V-300-2.52.
- i. Fire Department Emergency Key Box (aka: Knox Box, Knox Locks, Knox Electric Switches, etc.): The Fire Code Official is authorized to require a key box(es) to be installed in an approved location(s) if necessary for life-saving or fire-fighting purposes. Quantity and location shall be as directed by the Fire Code Official. CFC Section 506. Locked mechanical closets, fire alarm closets, sprinkler riser closets, etc. will need a Fire Dept. approved lock or "Knox" key box.
- j. Fire Command Center. Where required by other sections of this Code and in all R-1 buildings with more than 200 rooms, R-2 buildings with more than 100 dwellings, and buildings classified as high-rise buildings by the California Building Code and Group I-2 occupancies having occupied floors located more than 75 feet above the lowest level of fire department vehicle access, a fire command center for fire department operations shall be provided and shall comply with Sections 508.1.1 through 508.1.7. CFC Section 508.1 amended by Milpitas Municipal Code Section V-300-2.55

A fire command center is required to be located at the front of the building (near fire dept. point of approach) with readily access from the exterior. Location to be approved by the Fire Dept. CFC 508.1.1

Separation. The fire command center shall be separated from the remainder of the building by not less than I-hour fire barrier constructed in accordance with Section 707 of the California Building Code or horizontal assembly constructed in accordance with Section 711 of the California Building Code, or both. CFC 508.1.2

Size. The fire command center shall be a minimum of 200 square feet (19 m²) in area with a minimum dimension of 10 feet (3048 mm). CFC Section 508.1.3. 102.9.

Layout approval. A layout of the fire command center and all features required by this section to be contained therein shall be submitted for approval prior to installation.

Required features. The fire command center shall comply with NFPA 72 and shall contain the following features:

- i. The fire alarm system control unit, annunciator, voice evacuation unit, etc.
- ii. The fire department communications system.
- iii. Fire alarm system zoning annunciator panel (graphic display annunciator).

- iv. Annunciator unit visually indicating the location of the elevators and whether they are operational. (When required)
- v. Status indicators and controls for air distribution systems. (when required)
- vi. Emergency and standby power status indicators.
- vii. A telephone for fire department use with controlled access to the public telephone system.
- viii. Fire pump status indicators.
- ix. Schematic building plans indicating the typical floor plan and detailing the building core, means of egress, fire protection systems, fire-fighting equipment and fire department access, and the location of fire walls, fire barriers, fire partitions, smoke barriers and smoke partitions.
- x. An approved Building Information binder that contains, but is not limited to, the following information:
 - Building emergency contact information that includes: a list of the building's emergency contacts (e.g., building manager, building engineer, etc.) and their respective work phone number, cell phone number, and e-mail address;
 - General building information that includes: property name, address, the number of floors in the building (above and below grade), use and occupancy classification (for mixed uses, identify the different types of occupancies on each floor), estimated building population (ie., day, night, weekend);
 - Building construction information that includes: the type of building construction (e.g., floors, walls, columns, and roof assembly);
 - Elevator information that includes: number of elevator banks, elevator bank designation, elevator car number and respective floors that they serve, location of elevator rooms, location of sky lobby, location of freight elevator banks;
 - Building services and system information that includes: location of mechanical rooms, electrical rooms, gas meters rooms/areas, location of building management system, location and capacity of all fuel tanks, location of emergency generator, location of natural gas service;
 - Fire protection system information that includes: locations of standpipes, location of fire pump room, location of fire department connections, floors protected by automatic sprinklers, location of different types of automatic sprinkler systems installed (e.g., dry, wet, pre-action, etc.); and
 - Hazardous material information that includes: location of hazardous material, quantity of hazardous material.
- xi. Knox locking key box, approved by the fire code official, large enough for ten (10) sets of master keys.
- xii. Ten (10) sets of master keys for the building(s).
- xiii. A complete set of architectural, electrical, mechanical and plumbing plans for the building. Sets shall be "as-built" sets.
- xiv. A complete set of underground fire water lines, automatic fire sprinklers, automatic fire alarm drawings, standpipe systems, other fire suppression systems, emergency responders' ratio coverage, etc. All drawings shall be the latest sets and as-built.
- xv. Work table (two 30" x 72" min.), and six chairs.
- xvi. Electrical generator supervision devices. Location of manual start and transfer features.
- xvii. Public address system, where specifically required by other sections of this code.

- xviii. Fire command centers shall not be used for the housing of any boiler, heating unit, generator, combustible storage, or similar hazardous equipment or storage.
- xix. Ventilation. The fire command center shall be provided with an independent ventilation or air-conditioning system.
- k. Fire Equipment ID signs. Fire protection equipment shall be identified in an approved manner. Rooms containing controls for air-conditioning, systems, sprinkler risers and valves, or other fire detection, suppression or control elements shall be identified for the use of the fire department. CA Fire Code Section 509.
- l. Emergency Responder Radio Coverage: A Fire Department approved emergency responder radio coverage system shall be provided. SVRIA (Silicon Regional Interoperability Authority) registration is required prior to any design. CFC Section 510, MMC V-300-2.57.
- m. Medical Service Elevators. All new passenger service elevators shall meet the medical service elevator requirements in the California Building Code, 2016 Edition, Chapter 30. CFC Section 607.1.1, MMC V-300-2.59.
- n. Battery Systems. Stationary storage battery systems having an electrolyte capacity of more than 50 gallons for flooded lead-acid, nickel cadmium and valve-regulated lead-acid, or more than 1,000 pounds of lithium-ion and lithium metal polymer, used for facility standby power, emergency power or uninterrupted power supplies shall comply with the CA Fire Code Section 608.
- o. Standpipe System: Standpipe system shall be installed in accordance with the California Fire Code Section 905.2 and NFPA 15. When stairs are provided with intermediate landings, the standpipes shall be located at the bottom floor level, at the top floor level and at all intermediate landings. CFC Section 905.4.
- p. Portable Fire Extinguishers. Portable fire extinguishers shall be selected, installed and maintained in accordance with CFC Section 906.
- q. Standby Power for Elevators. Elevators may be required to provide standby power. CFC Section 1009.4.
- r. Two Way Communication. A two-way communication system complying with Sections 1009.8.1 and 1009.8.2 shall be provided at the landing serving each elevator or bank of elevators on each accessible floor that is one or more stories above or below the level of exit discharge. CFC Section 1009.8
- s. Fire Dept. Cache Rooms: Special Fire Department Requirements for Buildings over four stories. This requirement is applicable to all stair-wells. Milpitas Municipal Code Section V-300-2.77 added Section 914.12 to the California Fire. All Group B office buildings and Group R, Division 1 & 2 Occupancies, each having floor used for human occupancy located more than 60 feet above the lowest level of Fire Department vehicle access, or more than 4 stories in height.
 - 1. Equipment cache rooms shall be located on the 1st floor above the ground floor, and every other floor thereafter, or as directed by the fire agency.
 - a. Cache rooms shall be located and accessible from within the rated stair enclosures.
 - b. Prior to the purchase of the fire department cache room equipment and or materials a complete list of the equipment and or materials with all necessary cut-sheets shall be submitted to the fire department for review and approval.
 - c. Due to operational needs, the fire code official reserves the right to make changes to the required equipment and or materials listed under item 2 below.
 - 2. Each equipment storage room size should be a minimum of 4' deep, full height (8' to 9'), with a door the minimum width of 43". A roll-up door can be used provided it has a 43" minimum width and unobstructed access. It shall have a power outlet to provide electricity, a light (connected to a 'timer'), be sprinklered, and be locked with a 'break-away' type lock. Fixed shelving¹ shall be provided in a configuration approved by the fire agency to store items that may include, but not be limited to:

2.5 Inch Hose Pack Straps	Turning Out Solutions	24
2.5X50 Foot Durabuilt Hose	DB25X50YEN NAFH	8
Straight Tip 1-1/8 X 1.5 NH	FSS10TFT	2

¹ Shelving shall be every 16" after ladder placement is determined.

Ball Valve 2.5 Female X 1.5 Male	J140F	2
Universal Spanner Wrench	00100001 AKR	2
Gated Wye	AYNJNF TFT	2
2 1/2 x 1 1/2 reducer	3725N15N	2
50' banded hose roll	DF817X50R15NH NAFH	2
Red Hose Ret. Bands	HRRBARC	2
15' Stinger length hose	DF3X15Y25NH NAFH	2
Halligan Style Tool	HAL1P36	1
Pick head axe	6PH36W	1
Flat head axe	6FH32W	1
Attic ladder	10102LG LITTLE GIANT	1
Ames Wrecking bar	75036	1
Open door industries stops	WIY ODI	24
Salvage Cover	14VSC1214GR GOS	4
Spare Sprinkler heads (3) each type per bldg	To be Determined	3
Sprinkler wrench	To be Determined	1
Push cart for SCBA cylinders	MBR16 GROVES	1
RIT Pack	TRUE NORTH L-2 RIT BAG	1
Facemask	R56424 DRAGER	1
McGuire Diaper	RICTARP MCGUIRE	1
Evacuation Chair – Each side of Cache Room	6252 STRYKER	2
Air Bottles 45 min Carbon Cylinder Clear	4058992 DRAGER	8
Air Bottles 60 min Carbon Cylinder Clear	4058993 DRAGER	1
Quick Release Adapter	4046162 DRAGER	8
Weather Guard Gasket	4058936 DRAGER	9
Red Webbing	200103 CMC	4
D lock Carabiner	300221 CMC	2
Wagan LED Flare	WAGAN EL2639-3 FRED	2
Cable Cutter	UPB41 BEN NAW	1
18 Inch Pipe Wrench	5862074118 Irwin	1
30 Degree Elbow Adapter 2.5'	E253025N25N	4
Encased Line Gauge 2.5 Redhead	155225N RH	2
Speed Swivel	480-NST	1
Adapter 1.5	NHFRLX2.5NHM 3715N25N	2
16" Large Mouth Tool Bag	88598N11 HUSKY	2
Yellow Polytac Flshlt	88853 STRMLIT	2
LED Flashing Lights	TBD by MFD	3

3. Equipment maintenance, inspection, replacement and or equipment update and required certification(s) shall be the responsibility of the building owner and or owner's association.

The fire Code Official may require, an air bottle filling system shall have the fill access port located at a reasonable distance from each structure that takes into account debris fall out & collapse zones. A 'monument-type' fill station port should be located near a public roadway, not adjacent to the structure. The underground piping system, designed and installed with stainless steel welded fittings and piping, should terminate at this monument. A weather tight access panel with Knox-box key entry should also be provided. The storage system should be designed to provide enough air @ 4500 psig for up to fifty 45 minute bottles, prior to augmentation by an outside air source.

- t. Fire Protection Service. All fire alarm systems, fire detection systems, automatic sprinkler or extinguishing systems, communication systems, and all other equipment, material or systems required by these regulations

shall be maintained in an operable condition at all times in accordance with this code and California Code of Regulations, Title 19, Division 1. Upon disruption or diminishment of the fire protective qualities of such equipment, material or systems, immediate action shall be instituted to effect a reestablishment of such equipment, material or systems to their original normal and operational condition. California Code of Regulations, Title 19, Division 1, §1.14

87. Fire Safety: Fire safety during construction, alteration or demolition of the building shall meet the requirements of Chapter 33 of the California Fire Code and the Standards for Construction Site Fire Safety (un-024) by “unidocs” organization (<http://www.unidocs.org>). A Construction Site Fire Safety plan shall be submitted to the Milpitas Fire Prevention Division for review and approval prior to the start of combustible construction. CFC Chapter 33
88. Landscape sheets: The proposed landscaping may be impacted by the comments above and the requirements for fire access, fire systems and devices (such as apparatus access, hydrants, fire service lines, fire department connections valves, etc.). The Fire Dept. reserves the right to relocate, delete or change the proposed landscaping when in conflict with fire systems and devices. CFC 507.5.4.
89. Plan Submittal: Complete plans and specifications for all aspects of fire protection systems shall be submitted to the Fire Department for review and approval prior to system installation. CFC Section 901.2

BUILDING CONDITIONS

General

90. Applicable Codes: Applicable codes shall be 2016 California Building Code (CBC), California Mechanical Code (CMC), California Electrical Code (CEC), California Plumbing Code (CPC), Green Building Standards Code (CalGreen), California Energy Code (CEnC) and 2017 Milpitas Municipal Code (MMC).
91. Build It Green/LEED Requirement: Residential portion of the building shall meet Build It Green 50 Green Points or LEED for Homes Certified threshold per MMC sec. II-20-3.01.
92. Build It Green/LEED Requirement: Garage and commercial portion of the building shall meet LEED Silver threshold per MMC sec. II-20-3.01.
93. Licensed Engineer/Architect: Engineer or Architect licensed in the State of California shall prepare the plans. Structural design calculations and plans shall be wet signed and stamped when applying for a building permit.
94. Application for New Building Address: Applicant shall apply for new building addresses prior to submitting for a building permit.
95. Occupancy Group Designations: Apartment/Condominium building shall be classified as Group R2 Occupancy per CBC sec. 310 and garage shall be classified as Group S-2 Occupancy per sec. 311.
96. Fire Rating for Apartment Buildings: Apartment/Condominium buildings over 2 stories high shall be one-hour fire-rated minimum (Type V-A) when allowable area increase with sprinkler is used per CBC Table 504.4.
97. Allowable Building Area: Allowable building area for the building shall be as per CBC Table 506.2.
98. Exterior Wall Openings: The maximum area of protected and unprotected openings in exterior walls shall comply with CBC sec. 705.8.
99. Separating Units Requirements: Wall and floor separating units in the same building and separating units from other occupancies are required to be one-hour fire resistive construction per CBC sec. 420, 708 and 711.

100. Apartment Building Considered Separate and Distinct: Apartment/condominium building shall be considered as separate and distinct buildings for the purpose of determining area limitations, continuity of fire walls, limitation of number of stories and type of construction where it is separated from Group S-2 garage by 3-hour fire rated horizontal assembly, garage is not more than one story above grade and of Type I-A construction as per CBC sec. 510.2.
101. Required Separation in Residential Building: Required separation in buildings with mixed occupancies shall be per CBC sec. 508.
102. Corridor Fire Rating: Corridor with occupant load over 10 shall be one-hour rated with 20-minute doors leading to it per CBC sec. 1020.1.
103. Minimum Number of Exits: Minimum no. of exits shall be provided per CBC Table 1006.3.1 and the exits provided shall comply with CBC sec. 1022 through 1027. The required number of exits from any story shall be maintained until arrival at grade or public way per CBC sec. 1006.3.1. Elevator shall not be used as a component of a required means of egress per CBC sec. 1003.7, except elevators are used as an accessible means of egress in accordance with sec. 1009.4.
104. Required Egress: At least one required accessible means of egress shall be an elevator complying with CBC sec. 1009.4 in buildings where a required accessible floor is four or more stories above or below a level of exit discharge per sec. 1009.2.1.
105. Two-Way Communication System: Two way communication system is required at elevator landing on each accessible floor that is one or more stories above or below the story of exit discharge per CBC sec. 1009.8.
106. Exit Stair Enclosures: Exit stair enclosures shall not provide exit through corridor as per CBC sec. 1022.1, but shall extend to exterior of the building with an exit passageway.
107. Carbon Monoxide/Smoke Detectors Required: In the dwelling units, provide carbon monoxide detectors and smoke detectors per CBC sec. 915 and 907.2.11.
108. Escape Window Location: Escape bedroom windows below the 4th floor shall open into a public street, yard or exit court that opens to a public way as per CBC sec. 1030.1.
109. Exit Courts: Required exit courts to which escape bedroom windows open, shall be provided with exiting as per CBC sec. 1028.1.
110. Elevator Enclosure: Elevator shall be enclosed in a shaft enclosure per CBC sect. 713.2 and 713.4.
111. Elevator Hoistway Opening: Elevator hoistway opening shall be protected and enclosed within a shaft enclosure per CBC 3006.2 and 712.1.1.
112. Elevator Hoistway Door Opening: Elevator hoistway door opening shall be protected per CBC 3006.3.
113. Elevator Lobby Sign: Elevator lobby identification signs shall be provided at any door with direct access to an enclosed elevator lobby at landings in interior exit stairways where two or more doors lead to the floor level per CBC 1023.10.
114. Interior Stairway Enclosure: Interior stairway shall be enclosed per CBC sec. 1023.2.
115. Roofing Material: Roofing material shall be as per CBC Table 1505.1.

116. Exit Doors: Doors in a room with occupant load of 50 or more persons shall swing in the direction of exit per CBC sec. 1010.1.2.1. Exit doors from assembly occupancy shall be provided with panic hardware per sec. 1010.1.10.
117. Exit Signs: Provide exit signs and tactile exit signs when two exits are required per CBC sect. 1013.1 and 1013.4.
118. Building Occupancy Frontage: Buildings that house Group A Occupancy shall front directly on or discharge to a public street not less than 20 feet in width per sec. 1029.2 and 1029.3. The main entrance to the building shall be located on a public street or on the exit discharge.
119. Occupant Load: Occupant load factor for assembly and multi-use room without fixed seats, including clubhouse, common use deck area, courtyard, etc., shall be 1 occupant per 7 sq. ft per CBC Table 1004.1.2.
120. Exit Enclosure: Exit enclosure in building less than four stories in height shall be one-hour fire-resistive construction per CBC sec. 1023.2.
121. Exit Enclosure: Exit enclosure in building four or more stories in height shall be two-hour fire-resistive construction per CBC sec. 1023.2.
122. Stairways: In buildings four or more stories in height, one stairway shall extend to the roof surface through a penthouse complying with CBC sec. 1510.2, unless the roof has a slope steeper than 4:12 per CBC sec. 1011.12. In buildings without an occupied roof, access to the roof shall be permitted to be a roof hatch or trap door not less than 16 sq ft with a min. dimension of 2ft and accessed by an alternating tread device, ship ladder or a permanent ladder.
123. Exterior Openings: Exterior openings required for natural light shall open directly onto a public way, yard or court as set forth in CBC sec. 1205.1.
124. Egress Courts: Egress courts shall comply with CBC sec. 1028.4.
125. Acoustical Report: Provide acoustical report to determine sound insulation requirements for at least exterior walls. Interior sound insulation shall be as per CBC sec. 1207 or as per acoustical report.
126. Ventilation Requirements for Dwelling Units with Non-Openable Windows: Dwelling units, which has non-openable windows as required by acoustical report shall be provided with mechanical ventilation per CBC sec. 1203.1 and CMC sec. 402.3. As per City policy BDP-ME05, City does not allow the use of exhaust only fans to achieve the fresh outside air requirement through infiltration.
127. Ventilation Requirements for Studio Units: In studios, natural light and ventilation for sleeping areas shall meet requirements per CBC sec. 1203.5 and sec. 1205.2. Any room is permitted to be considered as a portion of an adjoining room for natural lighting and ventilation purpose where the common wall is open and unobstructed and provides an opening of not less than 1/10 of the floor area of the interior room and not less than 25 square feet per CBC 1205.2.1.
128. Bicycle Parking and Clean Air Vehicle Parking: Short and long term bicycle parking and clean air vehicles parking shall be provided in the non-residential portion of the Project per CalGreen sec. 5.106.4 and 5.106.5.2.
129. Electric Vehicle Charging Stations Requirement: Where 17 or more multifamily dwelling units are constructed on a building site, 3% of the total number of parking spaces provided for all types of parking facilities, but no less than 1, shall be electric vehicle charging stations (EVCS) capable to supporting future electric vehicle supply equipment per CalGreen sec. 4.106.4.2.

130. Electric Vehicle Charging Stations Location: At least one EVCS shall be located in common use areas and available for use by all residents per CalGreen sec. 4.106.4.2.1. Per City Policy No. BDP-BLG17 and CalGreen sec. 4.106.4.2.2, one in every 25 EVCS, but no less than 1, shall be accessible and located on an accessible route. Accessible EV charging parking space shall not be counted as one of the required accessible parking spaces as required by CBC, because the space is allowed to be used by non-disabled people.
131. Solar Ready Requirement: The buildings shall comply with solar ready requirements per CEnC 110.10.
132. Mechanical Duct Location: No mechanical duct shall penetrate exterior walls unless approved by Planning Division.
133. Balconies, Landings and Decks: Balconies, landings, decks, stairs and similar floor projections exposed to the weather shall comply with City Policy No. BDP-BLG40:
http://www.ci.milpitas.ca.gov/_pdfs/BLG40_RequirementsforConstructionofBalconies.pdf.

ACCESSIBILITY

134. Site Accessibility Plan: Provide site accessibility plan.
135. Accessible Parking Provided: People with disabilities accessible parking shall be provided per CBC sec. 1109A.3 (2% shall be accessible of the covered dwelling units). Signage is not required.
136. Accessible Parking Required: Each type of parking shall be accessible as per CBC sec. 1009A.3 and 1009A.4.
137. Accessible Assigned Parking Requirement: If assigned parking spaces are provided for residents, at least 2% of the assigned parking spaces shall be accessible in each type of parking facility per CBC 1109A.4.
138. Accessible Visitor Parking Requirement: If unassigned or visitor parking is provided, a minimum of 5% parking stalls shall be accessible and shall be provided with signage as per CBC sec. 1009A.5.
139. Accessible Parking Location: Accessible parking spaces shall be dispersed and located closest to the accessible entrances and elevators per CBC per sec. 1009A.7.
140. Accessible Parking Location: Accessible parking spaces shall be located so that persons with disabilities is not compelled to walk or wheel behind parked cars other than their own as per sec. 1109A.7.
141. Van Accessible Parking for Resident and Guest: One in every eight accessible parking spaces for resident and guest parking shall be "Van accessible", but not less than one per CBC sec. 1109A.8.6.
142. Van Accessible Parking for Public Parking: One in every six accessible parking spaces for public parking (e.g. retail space or leasing office, etc.) shall be "Van accessible", but not less than one per CBC sec. 11B-208.2.4.
143. Accessible Routes of Travel: An accessible route of travel shall be provided to all accessible building entrances. At least one accessible route shall be provided from public transportation stop, accessible parking and public street to building entrance per CBC sect. 1110A.1. When more than one route is provided, all routes shall be accessible.
144. Accessible Access: All primary entrances and required exit doors to building and facilities shall be accessible to people with disabilities per CBC, sec. 1117A.2.
145. Egress Clearance: Exit stairways considered as an accessible means of egress shall be min. 48" clear width between handrails and provided with the area of refuge per CBC sec. 1009.3 unless building is provided with approved automatic fire sprinkler system.

146. Egress Elevator: At least one accessible means of egress shall be an elevator per CBC sec. 1009.2.1 unless building is provided with approved automatic fire sprinkler system and horizontal exit at each floor and approved by Fire Department to exempt this requirement.
147. Accessible Elevators: All elevators shall be accessible per CBC sec. 1124A and at least one shall be medical emergency service elevator as per sec. 3002.4a.
148. Parking Structure Clearances: All entrances to and vertical clearances within parking structures shall have a minimum of 8 feet 2 inches where required for persons with disabilities per CBC sec. 1109.A.8.1.
149. Accessible Means of Egress: Each accessible portion of the space shall be served by accessible means of egress in at least the same number as required by CBC sec. 1006.2 or 1006.3 per sec. 1009.1.
150. Areas of Refuge: Areas of refuge shall be provided with a 2-way communication system between the area of refuge and a central control point per CBC sec. 1009.6.3.
151. Two-Way Communication System: 2-way communication system shall be provided at each elevator landing serving each accessible floor per CBC 1009.8.
152. Accessible Elevators: All elevators shall be accessible as per CBC sec. 1124A, except private elevators serving one dwelling unit.
153. Medical Emergency Service Elevators: All elevators in buildings four or more stories in height (including private elevator) shall be provided with not less than one medical emergency service to all landings meeting the provisions of CBC sec. 3002.4a.
154. Elevator Emergency Operation: If an elevator is considered as part of an accessible means of egress, it shall comply with the emergency operation, signaling device and standby power requirements and shall be accessed from an area of refuge per CBC sec. 1009.4.
155. Accessible Bathing and Toilet Facilities: Bathing and toilet facilities within covered multifamily dwelling units shall comply with CBC sec. 1134A.
156. Maneuvering Clearance: Provide maneuvering clearance at all interior doors per CBC sec. 1132A.5 and at entrance doors and exit doors per CBC sec. 1126A.3.
157. Accessible Kitchens: Kitchens within covered multifamily dwelling units shall comply with CBC sec. 1133A.
158. Bread Board Clear Space: Where bread board is provided in lieu of 30" work surface per CBC 1133A.4 exception, clear floor space shall be provided at each bread board and the clear floor space shall extend min. 19" into the knee and toe space per CBC 1133A.7.
159. Accessible Entrance: Covered multifamily dwellings served by an elevator, including private elevator, shall be designed and constructed to provide at least one accessible entrance on an accessible route per CBC sec. 1106A.1 and the units shall be adaptable and accessible into and throughout the dwelling unit as provided in Division IV per CBC sec. 1128A.

PUBLIC AND COMMON AREA

160. Accessible Public-Use Areas: Public-use areas shall be accessible per CBC Ch. 11B and common-use areas for residents and their guests shall be accessible per CBC sec. 1127A.

161. Accessible Common Facilities: Fitness center, swimming pools and all common facilities shall be fully accessible to people with disabilities per CBC sec. 1102A.4, sec.1141A and sec.1127A.

ENGINEERING

162. Storm Drain and Sanitary Sewer System: Storm drain and sanitary sewer system shall be gravity system without use of mechanical device.
163. Utility Lines: No utility lines shall cross property lines unless an easement agreement between the properties are recorded with the County and shall be submitted as part of the submittal documents and noted on the plans.
164. Soil Report: A soil report shall be provided when applying for grading, site improvement and building permit.
165. Paving: Paving of driveways and parking lot shall comply with MMC sec. II-13-18.
166. Concrete Flat Work: All non-structural concrete flat work shall be as per MMC sec. II-13-17.05.
167. Erosion and Sediment Control Plan: Erosion and sediment control plan shall be submitted when applying for grading permit as per MMC sec. II-13-10.
168. Recordation of Easements: Prior to issuance of building permit, all the easements including private storm drain easement through adjacent parcels shall be recorded. The developer shall include interim erosion control provisions and schedules in the construction plans for areas, which will not have permanent erosion control features installed (such as landscaping) prior to any occupancy so that erosion and sediment control can be sustained as per MMC sec. II-13-11.

ELECTRICAL

169. New Electrical Services: All new electrical services shall be underground per MMC sec. II-6-2.02.
170. Building Main Services Disconnect: The building main services disconnect shall be located on the first floor level of the building per MMC sec. II-6-2.03.
171. Grounding System: Grounding system shall comply with MMC sec. II-6-2.04.

STRUCTURAL

171. Structural Design Calculations: Provide two complete sets of structural design calculations (vertical and lateral) and five sets of construction plans and details when applying for a building permit. Plans and calculations shall be wet signed and stamped by Civil/Structural Engineer.

LEGEND

P = Planning Department
 B = Building Department
 E = Engineering Department
 F = Fire Department
 CAO = City Attorney's Office
 ALL = All Reviewing Departments

NOTICE OF RIGHT TO PROTEST

The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the ninety (90)-day approval period in which you may protest these fees,

dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), began on date of adoption of this resolution. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions. In addition, the action of the City Council is final and not administratively appealable. Any party seeking to challenge such decision in court must do so within ninety (90) days of June 12, 2018, the date of Council adoption of this Resolution (Code of Civil Procedure Section 1094.6) of such party will be legally barred from later challenge.

AGREEMENT

Permittee/Property Owner

The undersigned agrees to each and every condition of approval and acknowledges the NOTICE OF RIGHT TO PROTEST and hereby agrees to use the Project property on the terms and conditions set forth in this resolution.

Dated: _____

Signature of Permittee

EXHIBIT 2

ADDENDUM TO THE TRANSIT AREA SPECIFIC PLAN ENVIRONMENTAL IMPACT REPORT

City of Milpitas, California

BUDGET CHANGE FORMBCF Fiscal Year
FY 2023 – 2024

Type of Change	From (Credit)		To (Debit)	
	Account	Amount	Account	Amount
Check one:	350-2931	\$104,609	350-3999	\$104,609
☐ Budget Appropriation	351-951-2019-15-3899	\$104,609	351-951-2019-7-4800	\$104,609
☐ Budget Transfer				

Recommendation: Authorize the City Manager to Execute the Fee Reimbursement Agreement for Transit Area Specific Public Facilities and Public Improvements at the 355 Sango Court Project by Sango Court L.P.

BACKGROUND:

On February 1, 2022 the City Council approved the public improvements and the Improvement Agreement ("Agreement") for the RCD Housing Project located at 355 Sango Court by Sango Court L.P. within the Transit Area Specific Plan (TASP) Area.

On June 12, 2018, the Mayor and City Council adopted a resolution which indicates that "the City and the Permittee shall enter into a reimbursement agreement to reimburse the permittee for the design and construction of the portion of the new recycled water main line that exceeds the property frontage length of 227 linear feet". (Attachment 2)

Projects within the TASP area are required to pay TASP Development Impact Fees (TASP Fee) to be used for design and construction of certain public facilities and improvements within the TASP area. At the request of the City (and in alignment with the June 12, 2018 City Council resolution referenced above), the developer constructed a new 8-inch recycled water main line along the City's Preferred Alignment with point of beginning on Sango Court at the east end of the RCD Housing Project to Montague Expressway, a new Eastbound Sango Court roadway extension with curb, gutter, storm water treatment basin, sanitary sewer laterals and street lights per TASP residential street standard guidelines. The roadway and utility improvements would otherwise be financed by the TASP Fee and will serve more than the Developer's property within the TASP Area.

A Fee Reimbursement Agreement is proposed to allow for the reimbursement for work done by the developer for certain improvements that are above and beyond those that would be required for their development and to align with the June 12, 2018 City Council resolution. The Fee Reimbursement Agreement has been reviewed by the City Attorney as to form.

ANALYSIS:

Per the resolution adopted on June 12, 2018, staff is to reimburse developer for the design and construction of the portion of the new recycled water main line that exceeds the property frontage length of 227 linear feet. Staff recommends the City Council grant authorization to the City Manager to execute the Fee Reimbursement Agreement for the construction of the TASP Public Improvements. The Developer will be reimbursed for the actual cost of construction the new public improvements eligible for reimbursement and per Condition of Approval 41d for the design and construction of the portion of the new recycled water main line that exceeds the property frontage length of 227 linear feet, which are estimated not to exceed \$1,050,000.00.

POLICY ALTERNATIVE(S):**Alternative 1:**

Do not approve granting authorization to the City Manager to approve the Fee Reimbursement Agreement Amendment.

Pros: None

Cons: If the Fee Reimbursement Agreement is not authorized the City would have to find other means to reimburse the Developer for constructing the public improvements or have to construct the public improvements ourselves. The City has determined that there will be greater efficiency if the Developer constructs the additional public improvements.

Reason for Not Recommending: Granting acceptance of installed public improvements would allow the City to own and maintain the improvements and would ensure the City is in compliance with the terms of the agreement with the Developer.

FISCAL IMPACT:

The fee reimbursement for the public improvements would be funded by TASP Impact Fees via CIP Projects No. 2016 (\$445,000) and 2019 (\$605,000). There is sufficient funding for CIP Project No. 2016 and there will be a Fiscal Year 2023-24 budget appropriation of \$104,609 for CIP Project No. 2019. Current available balance for CIP Project No. 2019 is \$500,391, therefore budget appropriation is necessary. The estimated reimbursement amount is not to exceed \$1,050,000.

California Environmental Quality Act (CEQA):

Granting authorization to the City Manager to approve the Fee Reimbursement Agreement is not considered a project under CEQA as there will be no direct or reasonably foreseeable indirect physical change in the environment.

RECOMMENDATION:

Authorize the City Manager to Execute the Fee Reimbursement Agreement for Transit Area Specific Public Facilities and Public Improvements at the 355 Sango Court Project by Sango Court L.P.

Attachment(s):

Attachment 1: Fee Reimbursement Agreement

Attachment 2: Resolution No. 8796

Attachment 3: Budget Change Form

☐ Check if City Council Approval required.

Meeting: June 20, 2023

Requested by:	Department Head: Matt Cano	Date: June 20, 2023
Reviewed by:	Finance Director: Lauren Lai	Date: June 20, 2023
Approved by:	Acting City Manager: Ashwini Kantak	Date: June 20, 2023
Date approved by City Council, if required:		Confirmed by:



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve Accounts Receivable Write-offs for the Fiscal Year Ending June 30, 2023 (Staff Contact: Lauren Lai, Finance Director, 408-586-3111)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	6/20/2023
	<u>Recommendation:</u> Approve the Accounts Receivable write-offs for the Fiscal Year ending June 30, 2023.

BACKGROUND:

As part of the annual preparation of the financial statements, staff reviews the City's accounts receivables or outstanding payments to the City. Any outstanding payment in excess of one year is considered for being written off, if after several attempts to collect payment including internal billing mailings, past due notices, phone call follow up and referral of the outstanding payment to a collection agency have been unsuccessful. The City of Milpitas Municipal Code I-5-3.00 titled "Write-off of Uncollectible Accounts," authorizes the City Manager and the Director of Finance, jointly, to write off as uncollectible up to \$50,000.00 in total annually (and up to \$10,000.00 for any single account or claim) on all accounts or claims which the City may have against all persons under certain conditions. When the City Manager and Director of Finance determine that the claim is (1) uncollectible; possibly collectible but collection would not be reasonably cost effective taking into consideration the probable necessary cost to the City in pursuing collection and the likelihood of collection; or not a valid, enforceable claim of the City. Since the annual write-off amount is in excess of \$50,000, staff seeks Council approval.

ANALYSIS:

Depending on the total annual amount deemed uncollectible, staff recommends the attached listings of accounts receivable (AR) write-offs to City Council for approval. This report covers the period prior to June 2022. Attached in the Council's packet are two AR lists, one for utility accounts (water, and sewer) and the other for non-utility accounts that have remained unpaid for more than 12 months. The table below identifies AR category proposed write-off amounts and as a percentage of total amounts invoiced. It should be noted that during this period, the City achieved an overall collection rate of 99.85%. The proposed write-offs amount of \$87,192 is approximately 0.15% of all the amounts invoiced during the same period.

	Invoiced Amount	Proposed Write-Off Amounts	% of Invoiced Amount
Utility Accounts	\$ 55,179,868	\$ 64,632	0.12%
Private Development Jobs	\$ 238,567	\$ 312	0.13%
Fire Annual Permit	\$ 877,720	\$ 7,845	0.89%
Fire False Alarm	\$ 53,100	\$ 3,000	5.65%
PD False Alarm	\$ 70,125	\$ 9,600	13.69%
Returned Check Business License	\$ 320,623	\$ 1,675	0.52%
Shopping Cart Retrieval	\$ 33,097	\$ 128	0.39%
TOTAL	\$ 56,773,100	\$ 87,192	0.15%

Finance staff invoices and collects payments for all utility accounts as well as miscellaneous accounts

receivable (private development jobs, fire permits, business licenses, retiree medical, police false alarms, police subpoena, animal regulation violations, and NBO Fines). For utility accounts, in accordance to Senate Bill 998 Discontinuance of residential water service, a bill is due for payment in 21 days from the bill date. Finance staff then sends a reminder notice 23 days from the bill date and final notice 65 days from the bill date. A telephone call follows 73 days from the bill date. The utility account will be tagged for shut off 80 days from the bill date. And if not paid, a utility account will be cut-off 85 days from the bill date after which point it will be sent to the City's collection agency, Collection Bureau of America (CBA). If cut-off and sent to collections, utility customers will not be able to start new service until they have paid their outstanding balance in full; even if that balance has been written off from an accounting standpoint.

For miscellaneous accounts receivable, an invoice issued is due for payment in 28 days from issuance date of the invoice. If not paid on the due date, a reminder notice will be issued by Finance staff on the 28th day and due for payment in 14 days from issuance date of the reminder notice. If not paid on the due date, a Final Notice will be issued on the 42nd day and due for payment in 7 days from issuance date of Final Notice. If not paid on the due date, the account will be sent to the City's collection agency on the 49th day. If the account is for a developer, they will not be able to start new work in Milpitas if they have an outstanding balance.

POLICY ALTERNATIVE(S):

Alternative 1: Do not write off proposed recommendation to write off accounts receivable.

Pros: None

Cons: Will not follow Generally Accepted Accounting Principles and the City's financials will be overstated.

Reason for Not Recommending: The City needs to ensure to follow financial practices consistent with Generally Accepted Accounting Principles. Following GAAP is a precursor towards an unqualified or "clean" financial audit.

FISCAL IMPACT:

Write offs of \$87,192 from the outstanding accounts receivable will reduce the full-accrual fund balances of the General Fund by \$22,560 and the Utility Funds by \$64,632

California Environmental Quality Act (CEQA):

Not Applicable

RECOMMENDATION:

Approve the Accounts Receivable write-offs for the Fiscal Year ending June 30, 2023.

Attachment(s):

1. FY2022-2023 Utility Bills Write Off
2. Miscellaneous Accounts Receivable Write Off

CITY OF MILPITAS

Utility Bill Write Off

FY2022 - 2023

(final date as of 6/30/2022)

TOTAL **\$64,632.22**

ACCOUNT	Customer Name	Final Bill Date	WRITE-OFF AMOUNT	REASON
2000487	DORTHY ENOS	2/8/2021	30	CLOSED ACCOUNT
2001431	HERMILDO PLACHETA	7/12/2021	118	CLOSED ACCOUNT
2001639	MARY MASRI	12/6/2021	1,647	CLOSED ACCOUNT
2002213	ARG ENTERPRISES INC	10/25/2021	1,340	BANKRUPTCY
2002359	PACIFIC MERITAGE LLC	8/16/2021	42	CLOSED BUSINESS
2002860	ANAND PRASAD	1/25/2021	57	CLOSED ACCOUNT
2003118	JAKE JANITZ	8/23/2021	195	CLOSED ACCOUNT
2003121	SOHAIL YUSUFZAI	1/10/2022	25	CLOSED ACCOUNT
2003131	RICHARD PASSETTI	7/26/2021	60	CLOSED ACCOUNT
2003835	TILAK RAVI	12/20/2021	127	CLOSED ACCOUNT
2004962	RICHARD BELLETTINI	8/2/2021	523	CLOSED ACCOUNT
2006908	JOSE LESACA	12/6/2021	52	CLOSED ACCOUNT
2007203	ARNULFO GARZA	12/20/2021	189	CLOSED ACCOUNT
2012070	ALFONSO DE ANDA	4/11/2022	63	CLOSED ACCOUNT
2013222	PETER PELLEGRINI	7/19/2021	385	CLOSED ACCOUNT
2013704	LOUIS DYKMANS	2/7/2022	313	CLOSED ACCOUNT
2014588	ANN NGUYEN	9/27/2021	355	CLOSED ACCOUNT
2015139	DAN LOFGREN	7/12/2021	962	CLOSED ACCOUNT
2015263	LAP TANG	11/1/2021	455	CLOSED ACCOUNT
2015523	KENNETH BURKE	6/7/2021	82	CLOSED ACCOUNT

CITY OF MILPITAS

Utility Bill Write Off

FY2022 - 2023

(final date as of 6/30/2022)

TOTAL **\$64,632.22**

ACCOUNT	Customer Name	Final Bill Date	WRITE-OFF AMOUNT	REASON
2016234	HERMINIA ARANAS	5/10/2021	235	CLOSED ACCOUNT
2016923	ENRICO YAP	3/29/2021	36	CLOSED ACCOUNT
2017569	JOSEPHINE MANZANO	3/15/2021	64	CLOSED ACCOUNT
2018132	MELVIN VAN PATTEN	10/25/2021	267	CLOSED ACCOUNT
2019675	PETER LIU	1/11/2021	44	CLOSED ACCOUNT
2021855	PAULINO EBALOBOR	3/28/2022	345	CLOSED ACCOUNT
2022284	RENE MARFULL	8/2/2021	394	CLOSED ACCOUNT
2022488	VIRGINIA RIVERA	9/7/2020	28	CLOSED ACCOUNT
2022500	TIFFANY TRAN	2/7/2022	805	CLOSED ACCOUNT
2022619	RICHARD CHAN	2/7/2022	79	CLOSED ACCOUNT
2023635	EDGIE'S BILLIARDS	8/2/2021	384	CLOSED BUSINESS
2026435	BAGHER & KEFAYAT NAVID TRUST	5/16/2022	1,202	CLOSED ACCOUNT
2026448	SHERRIE GANIER	4/18/2022	852	CLOSED ACCOUNT
2026552	RICHARD GARCIA	7/19/2021	1,095	CLOSED ACCOUNT
2026692	MAITRAYEE SHAH	11/8/2021	77	CLOSED ACCOUNT
2026953	NORMA MORA	10/11/2021	565	CLOSED ACCOUNT
2026962	PATRICK MUNOZ	8/2/2021	331	CLOSED ACCOUNT
2027232	REAL ESTATE CONNECTIONS	2/14/2022	129	CLOSED BUSINESS
2027349	PRABHJEET KALRA	3/14/2022	729	CLOSED ACCOUNT
2028053	RAJA KUMAR	9/6/2021	211	CLOSED ACCOUNT

CITY OF MILPITAS

Utility Bill Write Off

FY2022 - 2023

(final date as of 6/30/2022)

TOTAL \$64,632.22

ACCOUNT	Customer Name	Final Bill Date	WRITE-OFF AMOUNT	REASON
2028426	KIMCHI NGUYEN	8/16/2021	153	CLOSED ACCOUNT
2032059	CUC LO	8/9/2021	772	CLOSED ACCOUNT
2032085	HSBC BANK	2/14/2022	223	CLOSED BUSINESS
2032359	DAVID CHEN	8/2/2021	87	CLOSED ACCOUNT
2033160	MADONNA SIMMONS	12/13/2021	213	CLOSED ACCOUNT
2033569	SHAWN BOWMAN	10/11/2021	198	CLOSED ACCOUNT
2033870	CARLOS GONZALEZ	2/7/2022	535	CLOSED ACCOUNT
2034315	CONNIE CHIU	5/31/2021	41	CLOSED ACCOUNT
2035579	BRUCE ELLEDGE	1/3/2022	585	CLOSED ACCOUNT
2036742	QUYNH CAO	8/23/2021	654	CLOSED ACCOUNT
2036792	VAN PHAM	4/25/2022	631	CLOSED ACCOUNT
2037274	JOSEPH KING	4/25/2022	914	CLOSED ACCOUNT
2037729	YASUHIRO MATSUI	7/12/2021	238	CLOSED ACCOUNT
2038141	DANIELLE BUENDIA	7/12/2021	135	CLOSED ACCOUNT
2038432	MARYDANH CAO	8/17/2020	35	CLOSED ACCOUNT
2038757	HUNG THAI	2/7/2022	55	CLOSED ACCOUNT
2038826	KENNY WONG	12/6/2021	1,417	CLOSED ACCOUNT
2039376	MOE SADEGHZADEH	5/30/2022	1,065	CLOSED ACCOUNT
2039781	CORNERSTONE PROPERTY MGMT	2/7/2022	39	CLOSED BUSINESS
2039874	EMAN ALJANAGEREH	8/16/2021	1,613	CLOSED ACCOUNT

CITY OF MILPITAS

Utility Bill Write Off

FY2022 - 2023

(final date as of 6/30/2022)

TOTAL \$64,632.22

ACCOUNT	Customer Name	Final Bill Date	WRITE-OFF AMOUNT	REASON
2040497	PHUNG NGUYEN	1/10/2022	335	CLOSED ACCOUNT
2041142	RONALD LUDWIG	3/29/2021	60	CLOSED ACCOUNT
2041718	TRON TRAN	1/25/2021	3,759	CLOSED ACCOUNT
2042373	MICHAEL ORBON	1/10/2022	1,545	CLOSED ACCOUNT
2042453	CENTRE POINTE PROJECT OWNER	9/11/2017	320	CLOSED BUSINESS
2042742	DAVID LUCIANI	2/14/2022	39	CLOSED ACCOUNT
2043775	ASHLEY BOSS	7/12/2021	166	CLOSED BUSINESS
2043833	MINT BASIL	12/13/2021	1,374	CLOSED BUSINESS
2043878	SEALINK CAFE	7/27/2020	275	CLOSED BUSINESS
2044390	GOLDEN STATE PROPERTY MGMT	8/2/2021	184	CLOSED BUSINESS
2044468	FRED NABI	11/1/2021	238	CLOSED ACCOUNT
2044736	GULLED ROBLE	12/7/2020	42	CLOSED ACCOUNT
2044873	ARCELO ABENOJAR	3/14/2022	99	CLOSED ACCOUNT
2045037	SHEILA PERRY	9/20/2021	780	CLOSED ACCOUNT
2045070	CHRIS GRADY	7/5/2021	246	CLOSED ACCOUNT
2045188	IVAN AGUIRRE	4/11/2022	1,569	CLOSED ACCOUNT
2045200	JUAN CERDA	4/25/2022	2,208	CLOSED ACCOUNT
2045225	LEVENT TEKMAN	12/7/2020	32	CLOSED ACCOUNT
2045280	BUU TRAN	8/16/2021	295	CLOSED ACCOUNT
2045354	ISMAT FATMA JAFRI	10/11/2021	110	CLOSED ACCOUNT

CITY OF MILPITAS

Utility Bill Write Off

FY2022 - 2023

(final date as of 6/30/2022)

TOTAL \$64,632.22

ACCOUNT	Customer Name	Final Bill Date	WRITE-OFF AMOUNT	REASON
2045506	MARIA FRANCO	7/12/2021	58	CLOSED ACCOUNT
2045596	AARON HIGHFILL	6/27/2022	393	CLOSED ACCOUNT
2045632	JOSHUA NONOY	7/27/2020	27	CLOSED ACCOUNT
2046087	THUONG NGUYEN	3/14/2022	1,036	CLOSED ACCOUNT
2046297	YUMING CHEN	8/9/2021	91	CLOSED ACCOUNT
2046532	THINH NGUYEN	3/22/2021	62	CLOSED ACCOUNT
2046596	SIFO US, INC	3/1/2021	72	CLOSED BUSINESS
2046694	ROBERT FONDA	9/20/2021	202	CLOSED ACCOUNT
2046818	ANGELICA JIMENEZ	11/1/2021	151	CLOSED ACCOUNT
2047006	THI BICH THUY NGUYEN	10/11/2021	259	CLOSED ACCOUNT
2047220	ANITA ALONZO	3/14/2022	309	CLOSED ACCOUNT
2047244	JOANNA SILVA	7/12/2021	200	CLOSED ACCOUNT
2047306	HA TRAN	1/24/2022	594	CLOSED ACCOUNT
2047314	CHERYL THOMAS	11/15/2021	341	CLOSED ACCOUNT
2047535	JET BUSINESS OPERATIONS LLC	12/20/2021	318	CLOSED BUSINESS
2047562	BINDU NARAN	5/30/2022	202	CLOSED ACCOUNT
2047587	RIKKI VARGAS	4/12/2021	46	CLOSED ACCOUNT
2047591	PIYUSH LOMESH	6/13/2022	244	CLOSED ACCOUNT
2047770	ELIZABETH THORPE	3/29/2021	54	CLOSED ACCOUNT
2047807	MARIA SANCHEZ	10/11/2021	322	CLOSED ACCOUNT

CITY OF MILPITAS

Utility Bill Write Off

FY2022 - 2023

(final date as of 6/30/2022)

TOTAL \$64,632.22

ACCOUNT	Customer Name	Final Bill Date	WRITE-OFF AMOUNT	REASON
2047948	99 HOMES LLC	6/27/2022	351	CLOSED BUSINESS
2048337	PIROM CHOENKLANG	11/15/2021	601	CLOSED ACCOUNT
2048424	BELWOOD INVESTMENTS	4/18/2022	747	CLOSED BUSINESS
2048452	ALLYSON PASALAKIS	7/12/2021	764	CLOSED ACCOUNT
2048504	MODAR ALAOUI	4/4/2022	1,312	CLOSED ACCOUNT
2048550	KEVIN BLONDIN	4/18/2022	107	CLOSED ACCOUNT
2048558	MINH DANG	9/28/2020	40	CLOSED ACCOUNT
2048571	FRANCINE MAPANAO	9/6/2021	210	CLOSED ACCOUNT
2048578	ALEJANDRA TORRES	8/16/2021	296	CLOSED ACCOUNT
2048595	KRISTINA KERSWELL	5/16/2022	1,952	CLOSED ACCOUNT
2048704	ABHISHEK DHABRIYA	9/6/2021	237	CLOSED ACCOUNT
2048712	ANDRINA ALLMOND	5/23/2022	1,742	CLOSED ACCOUNT
2048756	VY VU	4/11/2022	401	CLOSED ACCOUNT
2048858	ROCK N SALSA	3/1/2021	177	CLOSED BUSINESS
2048904	GRACILEA GONZALEZ	1/10/2022	608	CLOSED ACCOUNT
2048992	AVINASH KASA	8/16/2021	123	CLOSED ACCOUNT
2049100	NICOLE VASQUEZ	11/16/2020	116	CLOSED ACCOUNT
2049106	ELEAZAR CHAVIRA	6/7/2021	101	CLOSED ACCOUNT
2049244	NATASHA RIVADENEIRA	1/10/2022	109	CLOSED ACCOUNT
2049319	LISA KAMAKANI	3/1/2021	74	CLOSED ACCOUNT

CITY OF MILPITAS

Utility Bill Write Off

FY2022 - 2023

(final date as of 6/30/2022)

TOTAL **\$64,632.22**

ACCOUNT	Customer Name	Final Bill Date	WRITE-OFF AMOUNT	REASON
2049422	SUSHANTH MALAGALU	12/6/2021	863	CLOSED ACCOUNT
2049428	KELVIN QUEMUEL	6/13/2022	145	CLOSED ACCOUNT
2049509	ANTHONY WILLIAMS	5/16/2022	418	CLOSED ACCOUNT
2049863	VICTOR AGUIRRE	2/21/2022	1,532	CLOSED ACCOUNT
2049901	KIMLY CHHOENG	6/20/2022	2,048	CLOSED ACCOUNT
2049913	GABRIEL MEDINA	5/16/2022	79	CLOSED ACCOUNT
2049921	FREDDY UPSHAW	2/14/2022	1,013	CLOSED ACCOUNT
2049932	PEISYUAN FENG	3/28/2022	669	CLOSED ACCOUNT
2050006	SOFIA LOPEZ	5/9/2022	240	CLOSED ACCOUNT
2050070	ALICIA VALENZUELA	4/25/2022	296	CLOSED ACCOUNT
2050088	REKHA ANADKAT	8/16/2021	239	CLOSED ACCOUNT
2050105	Y& F FOODWORKS INC	3/21/2022	1,570	CLOSED BUSINESS
2050145	HOPYARD PROPERTY MGMT	7/5/2021	54	CLOSED BUSINESS
2050172	KI PROPERTIES SOLUTIONS LLC	9/6/2021	282	CLOSED BUSINESS
2050373	MARGARET HALL	10/4/2021	259	CLOSED ACCOUNT
2050559	JEFFREY PANG AND CO. INC	12/27/2021	245	CLOSED BUSINESS
2050671	JAMES HAYES	11/29/2021	61	CLOSED ACCOUNT
2050716	MICHELLE LORENZEN	2/14/2022	273	CLOSED ACCOUNT
2050724	CARMEN ONG	6/27/2022	640	CLOSED ACCOUNT
2050735	JAMES TIRONE	1/17/2022	148	CLOSED ACCOUNT

CITY OF MILPITAS

Utility Bill Write Off

FY2022 - 2023

(final date as of 6/30/2022)

TOTAL **\$64,632.22**

ACCOUNT	Customer Name	Final Bill Date	WRITE-OFF AMOUNT	REASON
2050911	JEYANTHI GOPALAN	4/11/2022	100	CLOSED ACCOUNT
2050922	JUXIANG LI	2/14/2022	41	CLOSED ACCOUNT
2050978	JESSICA OZANICK	4/11/2022	143	CLOSED ACCOUNT
2051132	FLOWERY PAU	5/2/2022	55	CLOSED ACCOUNT

FY 2022-2023 WRITE OFF
Miscellaneous Accounts Receivable
as of June 30, 2022

INVOICE #	DATE	CUSTOMER NAME	CUSTOMER ID NUMBER	AMOUNT	DESCRIPTION
I000050019	08/27/21	TED NGUYEN	00005041	120	Private Job
I000050065	09/24/21	TED NGUYEN	00005041	192	Private Job
PRIVATE JOB				312	
I000050115	10/15/21	76 ABBOTT AUTOMOTIVE	F21-0603	617	Fire Annual Permit
I000050275	12/03/21	76 ABBOTT AUTOMOTIVE	F21-0603	617	Fire Annual Permit
I000050210	12/03/21	APARTMENT COMPLEX	F94-0672	295	Fire Annual Permit
I000050262	12/03/21	APPLE	F20-0285	2,114	Fire Annual Permit
I000050256	12/03/21	COBBLESTONE	F18-0329	590	Fire Annual Permit
I000050209	12/03/21	CONDOMINIUM COMPLEX	F94-0741	1,175	Fire Annual Permit
I000051062	05/06/22	Irvine Company	F20-0026	617	Fire Annual Permit
I000050257	12/03/21	ORINDA EQUITY PARTNERS, LLC	F19-0230	617	Fire Annual Permit
I000049952	08/13/21	SAM'S MEDITERRANEAN KABAB & G	F15-0208	295	Fire Annual Permit
I000050235	12/03/21	VTA	F12-0175	910	Fire Annual Permit
FIRE ANNUAL PERMIT				7,845	
I000050031	09/10/21	DAVE & BUSTERS	00010092	300	Fire False Alarm
I000050032	09/10/21	DAVE & BUSTERS	00010092	600	Fire False Alarm
I000050120	10/15/21	DAVE & BUSTERS	00010092	900	Fire False Alarm
I000050124	10/15/21	H&M	00013222	300	Fire False Alarm
I000050125	10/15/21	H&M	00013222	600	Fire False Alarm
I000049930	07/30/21	SILICON MICROSTRUCTURES	00010765	300	Fire False Alarm
FIRE FALSE ALARM				3,000	
I000050616	02/04/22	ALLIED AIRE SERVICE INC	00000832	250	PD False Alarm
I000050927	03/25/22	AREVO INC	00013113	50	PD False Alarm
I000050935	03/25/22	AT&T MOBILITY	00012338	50	PD False Alarm
I000050584	02/04/22	BYTON	00013207	350	PD False Alarm
I000050609	02/04/22	BYTON	00013207	500	PD False Alarm
I000050649	02/11/22	CISCO	00013251	50	PD False Alarm

FY 2022-2023 WRITE OFF
Miscellaneous Accounts Receivable
as of June 30, 2022

INVOICE #	DATE	CUSTOMER NAME	CUSTOMER ID NUMBER	AMOUNT	DESCRIPTION
I000050696	02/11/22	DAVE & BUSTERS	00010092	100	PD False Alarm
I000050725	02/11/22	DAVE & BUSTERS	00010092	750	PD False Alarm
I000050670	02/11/22	DAVE & BUSTERS	00010092	50	PD False Alarm
I000050825	03/04/22	DAVE & BUSTERS	00010092	750	PD False Alarm
I000050953	03/25/22	DAVE & BUSTERS	00010092	250	PD False Alarm
I000050836	03/11/22	DAVID JOHNSON	00013264	50	PD False Alarm
I000050954	03/25/22	DAVID JOHNSON	00013264	3,350	PD False Alarm
I000050611	02/04/22	FLUID INDUSTRIAL SYSTEMS	00010440	50	PD False Alarm
I000050657	02/11/22	FLUID INDUSTRIAL SYSTEMS	00010440	100	PD False Alarm
I000050675	02/11/22	GOLDEN STATE URGENT CARE PROVI	00013208	250	PD False Alarm
I000050811	03/04/22	GOLDEN STATE URGENT CARE PROVI	00013208	250	PD False Alarm
I000050947	03/25/22	HOYA CORPORATION USA	00013021	50	PD False Alarm
I000050683	02/11/22	NANOSYS	00012459	50	PD False Alarm
I000050586	02/04/22	NUTRITION HOUSE RESTAURANT INC	00013206	250	PD False Alarm
I000050635	02/11/22	NUTRITION HOUSE RESTAURANT INC	00013206	500	PD False Alarm
I000050818	03/04/22	NUTRITION HOUSE RESTAURANT INC	00013206	250	PD False Alarm
I000050634	02/11/22	OPTICAL ASSOCIATES	00011046	50	PD False Alarm
I000050805	03/04/22	SUPERCARE HEALTH	00013103	750	PD False Alarm
I000050925	03/25/22	THE OLIVE GARDEN ITALIAN REST	00012491	500	PD False Alarm
POLICE FALSE ALARM				9,600	
I000050107	09/24/21	GREEN WIRE BAY AREA LLC	00013221	30	Returned Check
I000051129	05/20/22	UNITED PACIFIC	00013284	1,645	Returned Check
BUSINESS LICENSE				1,675	
I000047095	10/11/19	WAL-MART-MILPITAS	00010495	32	Shopping Cart Retrieval Svc
I000048238	06/19/20	HOME DEPOT #1041	00010714	16	Shopping Cart Retrieval Svc
I000048242	06/19/20	HOME DEPOT #1041	00010714	16	Shopping Cart Retrieval Svc
I000048363	07/10/20	HOME DEPOT #1041	00010714	16	Shopping Cart Retrieval Svc
I000049237	01/08/21	HOME DEPOT #1041	00010714	16	Shopping Cart Retrieval Svc

FY 2022-2023 WRITE OFF
Miscellaneous Accounts Receivable
as of June 30, 2022

INVOICE #		DATE	CUSTOMER NAME	CUSTOMER ID NUMBER	AMOUNT	DESCRIPTION
I000049741		05/21/21	HOME DEPOT #1041	00010714	16	Shopping Cart Retrieval Svc
I000049940		07/30/21	HOME DEPOT #1041	00010714	16	Shopping Cart Retrieval Svc
SHOPPING CART RETRIEVAL					128	
OVERALL TOTAL					22,560	



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution to Approve Compensation Changes Related to Annual Performance Evaluation of the City Attorney as directed by the City Council (Staff Contact: Nick Raisch, Human Resources Director, 408-586-3086)
Category:	Leadership and Support Services
Meeting Date:	6/20/2023
	<u>Recommendation:</u> Adopt a resolution to approve compensation changes related to Annual Performance Evaluation of the City Attorney as directed by the City Council.

BACKGROUND:

The City Attorney was hired on April 26, 2022. The City Attorney and the City have an executed employment agreement which is in place through April 25, 2025. The agreement states “The City Council shall conduct an evaluation of the Employee’s performance and provide guidance and direction in accordance with specific criteria developed by the City Council. At the time of Employee’s annual performance evaluation, Employee may be eligible to receive an increase in base salary”.

The agreement allows at the sole discretion of Council to provide the City Attorney with the same level of cost-of-living adjustment (COLA) as is provided to unrepresented management employees

The agreement also speaks to maintaining a 10% “buffer” between the City Attorney and any staff reporting to the City Attorney.

ANALYSIS:

On May 23, 2023, the City Council conducted the City Attorney’s performance evaluation and determined that overall, the City Attorney’s services to the City of Milpitas meets expectations.

The City Council in Closed Session authorized the following actions:

1. COLA – 2% increase effective July 2, 2023
 - a. This COLA is consistent with increases for Unrepresented Management, MidCon, and IAFF.
2. Merit – 2% increase effective on the anniversary date of employee
 - a. Based on the average performance rating by Council, this merit increase was approved.
3. Compaction adjustment – 5% increase effective on the anniversary date of employee
 - a. The current spread in compensation between the Assistant City Attorney and the City Attorney is out of alignment with the employment agreement, City practices, and industry standards.

These actions will be implemented as soon as administratively feasible following Council adoption.

FISCAL IMPACT:

After the above Council authorized actions are applied, the City Attorney’s new annual salary will be \$234,651. The City Attorney’s annual salary will be 11% from the top of the range, which is \$259,903. Funding will be available within the FY 2023-24 Adopted Budget.

California Environmental Quality Act (CEQA):

Approval of the recommendation is not an activity defined as a “project” under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines 15061(b)(3) and 15378(b)(4) either because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the

environment and/or because the action is financial and/or administrative and does not directly impact the environment.

RECOMMENDATION:

Adopt a Resolution to Approve Compensation Changes Related to Annual Performance Evaluation of the City Attorney as directed by the City Council

Attachment(s):

1. Resolution.

RESOLUTION NO. _____**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING
COMPENSATION CHANGES RELATED TO ANNUAL PERFORMANCE EVALUATION FOR
THE CITY ATTORNEY**

WHEREAS, the City and the City Attorney have an executed employment agreement which is in place through April 25, 2025; and

WHEREAS, the employment agreement states “The City Council shall conduct an evaluation of the Employee’s performance and provide guidance and direction in accordance with specific criteria developed by the City Council. At the time of Employee’s annual performance evaluation, Employee may be eligible to receive an increase in base salary”; and

WHEREAS, on May 23, 2023, the City Council conducted the City Attorney’s performance evaluation and determined that overall, the City Attorney’s services to the City of Milpitas meets expectations; and

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City Council hereby authorizes a 2% cost-of-living adjustment increase effective July 2, 2023;
3. The City Council hereby authorizes a 2% merit increase effective on the anniversary date of employee;
4. The City Council hereby authorizes a 5% compaction adjustment effective on the anniversary date of employee.
5. The City Council hereby authorizes the City Attorney’s new annual salary to be \$234,651 after the above increases are applied. The City Attorney’s annual salary will be 11% from the top of the range, which is \$259,903.

PASSED AND ADOPTED this _____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Approving the Sole Source Procurement of Crossing Guard Services; and Approve and Authorize the Acting City Manager to Enter into a 1-Year Agreement with All City Management Services, Inc. for Crossing Guard Services in a Total Amount Not-to-Exceed \$781,858.00 for Fiscal Year 2023-24 (Staff Contact: Jared Hernandez, Chief of Police, 408-586-2406)
Category:	Consent Calendar-Public Safety
Meeting Date:	6/20/2023
	<u>Recommendation:</u> Adopt a resolution approving the sole source procurement of Crossing Guard Services; and Approve and Authorize the Acting City Manager to enter into a 1-year agreement with All City Management Services, Inc. for Crossing Guard Services in a total amount not-to-exceed \$781,858.00 for Fiscal Year 2023-24.

BACKGROUND:

The City of Milpitas adopted the current crossing guard program in 2006 and posts guards primarily at intersections with high volumes of school-age pedestrians and vehicles during any one-hour period in a day and other factors consistent with the State of California Manual of Traffic Control Devices (CAMUTCD). Other factors include vehicle sight distance obstructions, traffic accident history, complex roadway geometry design, safety, City Council support, and/or Chief of Police support.

Since time of adoption, the Crossing Guard Program has been managed by the Milpitas Police Department and funded by the General Fund. However, based on the current condition of the program; strain on Police Department resources; recruitment challenges; and review of program models in use in other cities, staff presented several alternatives for the management of the existing program to Council on January 27, 2023 (Attachment 1). Subsequently, Council voted that management of the crossing guard program would be transitioned to a third-party contract service and at the existing 36-guard deployment service level, pending adoption of the City's FY2023-24 Operating Budget. The City's FY2023-24 Operating Budget was adopted on June 6, 2023.

All City Management Services, Inc. is the sole provider of full-service third-party crossing guard services in Santa Clara County and surrounding regions. They provide crossing guard services for Bay Area cities such as Menlo Park, Palo Alto, San Carlos, Redwood City, Fremont, Union City, Newark, Sunnyvale, Mountain View, Cupertino, Saratoga, and Los Gatos.

ANALYSIS:

The Police Department requests to enter into a 1-year agreement with All City Management Services, Inc. (ACMS) for crossing guard services, with a total amount not-to-exceed \$781,858 for fiscal year 2023-24, with a single 1-year option to renew. .

The purpose of the Crossing Guard Program is to provide crossing guard assistance to children and pedestrians at intersections along school routes, thereby enhancing public safety. A school-age pedestrian crossing count data collection study conducted in November 2022 identified 21 of the 34 locations assessed for crossing guard placement. The existing 36-guard model, however, covers 34 intersections and thus exceeds what would minimally be recommended based on the study findings.

Section I-2-3.06 of the Milpitas Municipal Code authorizes the Purchasing Agent to award contracts without competition when the Purchasing Agent determines in writing, after conducting a good faith review of available sources, that only one viable source exists for the required supplies, material, equipment or general service

there is a compelling reason for using only one source. ACMS is the sole provider of full-service third-party crossing guard services in Santa Clara County and surrounding regions (Attachment 4). Online research was conducted by Police Department staff to locate potential vendors that provide exclusive Crossing Guard services in California, and more specifically, the Bay Area. ACMS was the only company identified that provides all-inclusive Crossing Guard services in the Bay Area. They have been in operation since 1985 and have over 260 Crossing Guard contracts in 25 states. Additionally, they provide Crossing Guard services for all Bay Area cities who utilize a contract service including Menlo Park, Palo Alto, San Carlos, Redwood City, Fremont, Union City, Newark, Sunnyvale, Mountain View, Cupertino, Saratoga, and Los Gatos.

ACMS has agreed to retain all current crossing guards interested in continuing employment and are physically capable of performing their duties. The crossing guards will continue to be able to work in Milpitas, which was an important requirement for the City. All crossing guards, regardless of locations and hours worked, will be paid at a minimum hourly rate of \$18.75. Additionally, they will be paid a shift differential, as required by state law.

ACMS will provide necessary equipment and training to the crossing guards. The coordination of assignments, allocation of staffing, recruitment and hiring of guards, and supervision will all be managed by ACMS. The City will continue to manage the contract and ensure compliance with contract terms. With the existing program the City has not been able to fill crossing guard vacancies and thus has not been able to staff all locations. The contract will require ACMS to staff all locations approved by the City, resulting in improved public safety for the community.

Crossing Guards currently working for the City have been advised about the proposed transition to ACMS. Once the contract is finalized, and ACMS assumes control of the Crossing Guard Program, an orientation and training meeting will be scheduled with the Crossing Guards. ACMS employment forms will be distributed to the Crossing Guards to be completed.

During the on-boarding process, an Evaluation Training Assessment for each Crossing Guard will be conducted. This is a basic skill review to ensure the Crossing Guard is physically capable of performing the duties of their position. A designated trainer will be assigned to train the Crossing Guards on the methods and standards established by ACMS. Once training has been completed, ACMS will review work schedules with the current Crossing Guards, issue the necessary equipment, process and issue photo I.D. cards, and provide supervisory contact information to all of the Crossing Guards. ACMS anticipates having the entire transition process completed before the beginning of the 2023/2024 school year in August.

POLICY ALTERNATIVE(S):

Alternative 1: Do not approve the sole source procurement and do not approve the agreement with All City Management Services, Inc.

Pros: The City would not incur the cost of these services over the term of the agreement.

Cons: The challenges of staffing all locations and diverting police officers and community service officers from other critical duties would continue.

Reason for Not Recommending: If the program continues to be managed by the Police Department, the current recruitment challenges and significant strain on Police Department operations would continue, thus impacting public safety.

FISCAL IMPACT:

The agreement with All City Management Services, Inc. for crossing guard services in a total amount not to exceed \$781,858 is included in the FY2023-24 Adopted Budget.

California Environmental Quality Act (CEQA):

The action being requested is not a project as defined by CEQA (CEQA Guidelines exemption 15378(b)(2)).

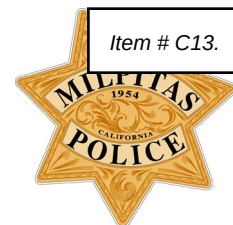
RECOMMENDATION:

1. Adopt a Resolution Approving the Sole Source Procurement of Crossing Guard Services.

2. Approve and Authorize the City Manager to Enter into a 1-Year Agreement with All City Management Services, Inc. for Crossing Guard Services in a Total Amount Not-to-Exceed \$781,858 for Fiscal Year 2023-24.

Attachment(s):

1. Crossing Guard Program Update memorandum dated January 27, 2023
2. All City Management Services (ACMS) Quotation
3. ACMS Master Services Agreement
4. Sole Source Justification Form
5. Resolution



MEMORANDUM

Milpitas Police Department

DATE: January 27, 2023

TO: Mayor and Councilmembers

THROUGH: Steve McHarris, City Manager *Steve McHarris*

FROM: Jared Hernandez, Chief of Police *Jared Hernandez*

SUBJECT: Crossing Guard Program Update

In June of 2022, City Council received an Informational Memorandum outlining the current Crossing Guard Program. In summary, the memorandum provided an update on the forthcoming crossing guard needs assessment, results of a preliminary salary study, and the recruitment strategy to fill vacant crossing guard positions for the 22/23 school year. The full memorandum can be accessed [here](#).

Crossing Guard Needs Assessment Update

The City of Milpitas adopted the current crossing guard program deployment criteria in 2006 and posts guards primarily at intersections with high volumes of school-age pedestrians and vehicles during any one-hour period in a day and other factors consistent with the State of California Manual of Traffic Control Devices (CAMUTCD). Other factors include vehicle sight distance obstructions, traffic accident history, complex roadway geometry design, safety, City Council support, and/or Chief of Police support.

Due to the significant population growth in recent years and the opening of the Mabel Mattos Elementary School, school-age pedestrian travel volumes, travel routes, and vehicle traffic patterns have changed. As a result, Staff completed a school-age pedestrian crossing count data collection using a traffic data consultant in November of 2022. Using the methodology described above, the study identified twenty-one (21) out of thirty-four (34) locations assessed, for guard placement.

Current Crossing Guard Compensation and Staffing

The Crossing Guard Program is managed by the Milpitas Police Department and is funded by the General Fund. For FY22-23, \$512,946 is budgeted for the program, which includes \$510,946 for staff salary costs and \$2,000 for equipment and supplies. It should be noted that the budgeted amount does not reflect the total program cost as it is calculated using the hourly pay rate and does not include the fully loaded rate. The budgeted amount also does not include the time spent by police officers assigned to cover vacant crossing guard positions due to staffing vacancies. Total program cost using the fully loaded rate will be discussed below.

Crossing Guards are part-time "temporary" employees with an hourly pay range between \$16.40 to \$18.46, and they receive an additional hour of pay in compliance with the State law related to split shifts. Beginning January 1, 2022, crossing guards have been hired at \$18.46 per hour (top of the range) to bolster recruitment and remain competitive with surrounding cities. Additionally, the Crossing Guard program is supervised by one (1) part-time Crossing Guard Supervisor. This supervisor position has a pay range between \$17.71 to \$21.21 per hour and also receives an additional hour of pay in compliance with State law related to split shifts.

In 2019, the City's program was staffed with one (1) Crossing Guard Supervisor and thirty-six (36) Crossing Guards. Over the past three years, several guards resigned from the program. Current staffing is one (1) Crossing Guard Supervisor and twenty-six (26) Crossing Guards. Due to vacancies,

the current staffing is insufficient to staff the thirty-four (34) identified locations in the 2014 survey on which the current deployment model is based. The lack of crossing guard staffing is further exacerbated by five (5) guards that are currently unavailable for duty, due to various personal reasons, reducing the total number of available guards to twenty-one (21).

Due to Crossing Guard vacancies, police department employees including Community Service Officers and Police Officers are regularly reassigned to staff intersections to provide crossing guard services. Collectively they backfill guard vacancies 16 to 25 hours per month. The fully loaded cost (including salary, benefits and overhead) of a Community Service Officer to provide this service is \$156 per hour. The fully loaded cost of a Police Officer to provide this service is \$274 per hour. Thus, staffing costs to cover the vacancies can range between \$2,500 to almost \$7,000 per month. This staffing model is not cost effective nor is it sustainable as a long-term solution to Crossing Guard vacancies.

Based on a recent school-age pedestrian crossing count completed in November, staff is evaluating potential changes to the deployment model. A change in the deployment model will directly impact the fiscal impact of alternative program models described below for consideration.

Crossing Guard Retention and Recruitment

To encourage retention of our current guards and remain competitive with surrounding agencies, all guards were elevated to the top of the pay range. In addition, the police department holds an annual Crossing Guard Appreciation luncheon to recognize guards for their contributions to the City and guard program as employee recognition is an important component to employee retention.

In 2021, the Police Department began ramping up recruitment efforts as our community began recovering from the impacts of the COVID-19 pandemic. In 2022, the Police Department initiated an aggressive recruitment campaign which included word of mouth recruitment, the placement of hard media advertisements in City facilities and cooperating businesses, digital advertisements on sites such as NeoGov, social media sites and websites, advertisement at community events and meetings, and advertisement through volunteer organizations and community groups. The Police Department also produced a recruitment video that was released on social media.

Recruitment efforts have not been successful and current guards continue to leave the program due to attrition. Staff has conducted extensive analysis to ensure our public safety objectives are met and is offering the below alternatives to Council for consideration.

Alternative Crossing Guard Program Models for Consideration

Based on the dire condition of the current program, strain on current Police Department resources, recruitment challenges, and review of program models being used in other cities, staff is presenting several alternatives to the existing program. Each alternative provides an estimated cost analysis based on the current deployment model of thirty-six (36) guards and one (1) supervisor, and a modified deployment model of twenty-seven (27) guards based on the most recent pedestrian count analysis. The City completed an updated school-aged pedestrian crossing study in November, which identified twenty-one (21) locations that meet the criteria for guard deployment. A reduction in the deployment model of the thirty-four (34) locations identified in 2014 to the twenty-one (21) locations identified in 2022, will require twenty-seven (27) guards to properly staff the twenty-one (21) locations. Due to the complexity of some locations near the high school, they will require multiple guards for safety.

Option A: Continue with the current program model and increase department staffing to manage the program.

Considerations: The Police Department would continue to be responsible for the program implementation and management. This includes recruitment, retention, equipment, and operations, including staffing vacant positions with Community Service Officers and Police Officers. The Police Department no longer has the capacity to effectively manage the program, and additional staffing will be required if this alternative were to be selected; therefore, the addition of one (1) full-time Lead Community Service Officer (CSO) position will be necessary for program administration, management, and operations. A classification study will be required to add this position. An additional vehicle would also need to be added to the existing fleet to accommodate the out-of-office work necessary for this position.

Due to recruitment challenges, Council may choose this option and to also increase the hourly wage to attract additional applicants. However, raising the hourly pay rate for the Crossing Guard and Crossing Guard Supervisor classifications without a comprehensive review of all temporary classification pay rates may create internal pay alignment issues and result in the need to raise other classification rates to realign.

Fiscal Impact FY23-24 (36 guard deployment): The cost of maintaining the hourly rate for crossing guards at \$18.46 and adding department staffing (1 full-time Lead CSO) to manage the program under the current deployment model (36 guards) is \$707,312 (\$526,900 for crossing guards and \$180,412 for the CSO). This is an increase of \$194,366 over the current \$512,946 budgeted for the program in the Police Department's FY22-23 operating budget. The fully loaded cost of this options is \$1,010,880.

Fiscal Impact FY23-24 (27 guard deployment): The cost of maintaining the hourly rate for crossing guards at \$18.46 and adding department staffing (1 full-time CSO) to manage the program under the recently recommended deployment model (27 guards) is \$526,541 (\$346,129 for crossing guards and \$180,412 for the CSO). This is an increase of \$13,595 over the current \$512,946 budgeted for the program in the Police Department's FY22-23 operating budget. The fully loaded cost of this options is \$758,160.

Option B: Transition the program management to a third-party contract service.

Considerations: All City Management Services (ACMS) is an all-inclusive contract service that provides Crossing Guard services to cities throughout the Bay Area, including several cities within Santa Clara County. ACMS handles scheduling, supervision, staffing, certified training, recruitment, worker's compensation claims, complaint and problem resolution, safety inspections, uniforms, and safety equipment. **If the City transitions management of the Crossing Guard program to ACMS, ACMS will retain current City employed guards to ensure consistent service is provided to the community. Current guards will not lose their jobs or be displaced to other jurisdictions.** Additionally, ACMS will provide guard coverage at vacant positions with substitute guards they retain on staff, thus ensuring no lapse in coverage and alleviating the current strain on Police services to backfill vacancies.

Fiscal Impact FY23-24 (36 guard deployment): The cost of transitioning to ACMS under the current deployment model (36 guards) and retaining the hourly pay rate of \$18.46 per hour with an additional hour of split shift pay pursuant to California law would be \$784,339. This is an increase of \$271,393 over the current \$512,946 budgeted for the program in the Police Department's FY22-23 operating budget. These calculations include fully loaded costs.

Fiscal Impact FY23-24 (27 guard deployment): The cost of transitioning to ACMS under the recently recommended deployment model (27 guards) and retaining the hourly pay rate of \$18.46 per hour with an additional hour of split shift pay pursuant to California law would be \$593,309. This is an increase of \$80,363 over the current \$512,946 budgeted for the program in the Police Department's FY22-23 operating budget. These calculations include fully loaded costs.

Option C: Eliminate the crossing guard program.

Considerations: Eliminating the crossing guard program would be a significant reduction in public safety service.

Fiscal Impact (36 guard deployment): Cost savings of \$512,946 (assuming no changes to the existing program are made). This does not factor in overhead costs or the costs associated with deploying police officers or CSOs due to crossing guard vacancies.

Fiscal Impact (27 guard deployment): N/A

Cost Comparison of Options

The table below shows the total fiscal impact for all three options. Both Options A and B include fully loaded costs (including salary, benefits, and overhead). Option C denotes annual savings; however, it does not factor in fully loaded costs, or the costs associated with backfilling vacant crossing guard positions with a CSO or Police Officer. Thus, the actual total savings is greater than the budgeted amount of \$512,946.

	Option A	Option B	Option C
36 Guards	\$1,010,880	\$784,339	\$512,946*
27 Guards	\$758,160	\$593,309	N/A
One Time Costs	\$70,000**	N/A	N/A

*Denotes annual savings

**Denotes one-time costs (additional vehicle and equipment)

Program Comparisons in Santa Clara County

Staff has gathered information about other crossing guard programs in Santa Clara County including type of program, funding sources, and compensation [see Table 1]. Of the eleven cities surveyed, seven cities (about 64% of the cities) utilize a contract service, three are managed by the respective city, and one is managed by the city's school district. Besides Milpitas, there are only three other cities that manage their own crossing guard program, and two of the three cities are currently evaluating a contract service model due to challenges with recruitment and program management.

Table 1

City	Funding Source	Program Managed By	Hourly Rate (Max)	On-Site Hours Daily	Paid Hours Daily	Daily Compensation
Gilroy	School District	School District	\$15.50*	Varies	Varies	\$ Varies
Santa Clara	City	City	\$24.00	3	3	\$72.00
San Jose	City	City	\$26.45	2	2	\$52.90
Milpitas	City	City	\$18.46*	3	4	\$73.14
Campbell	School District/City	City	\$23.00*	2	3	\$69.00
Cupertino	City	Contract Service	\$16.00**	1.75	4	\$64.00
Los Altos	School District	Contract Service	\$16.40*	2	3	\$49.20
Los Gatos	School District	Contract Service	\$17.00**	1.50	3	\$51.00
Mountain View	City	Contract Service	\$17.10**	1.75	3.50	\$59.80
Palo Alto	School District/City	Contract Service	\$16.45**	1.75	4	\$65.80
Saratoga	City	Contract Service	\$18.00**	2	4	\$72.00
Sunnyvale	City	Contract Service	\$20.00*	2	3	\$60.00

* Indicates one additional hour of pay in compliance with State Split Shift Premium Pay

** Indicates 1.50 to 2.25 additional hours of pay in Split Shift Premium Pay (exceeds requirement)

Split Shift Premium

Per California state law, employees who earn the minimum wage per hour are entitled to additional pay known as “split shift premium” when their work schedule includes a “split shift.” A “split shift” is defined as a work schedule interrupted by unpaid non-working hours established by the employer. A split shift premium applies to our crossing guards because their work schedule includes a morning shift and an afternoon shift that is interrupted by unpaid non-working hours. California law requires the split shift premium pay to equal one (1) hour of pay at the rate of the minimum wage. Currently, the minimum wage in Milpitas is \$16.40/hour. The City currently exceeds this regulation by paying Crossing Guards one (1) additional hour per day at their current hourly rate of pay (\$18.46/hour).

The split shift premium can be reduced or eliminated if the employee’s hourly wage exceeds the minimum wage. The difference in hourly wage that exceeds the minimum wage is credited towards the employer’s obligation to pay the split shift premium. The law related to split shift premium is illustrated in the below examples:

Employee A: Paid \$16.40 an hour, works 2 hours on site (1 morning, 1 afternoon) is paid 3 hours of work (because 1-hour shift premium) for a total daily compensation of \$49.20.

Employee B: Paid \$24.60 an hour, works 2 hours on site (1 morning, 1 afternoon) is paid 2 hours of work for a total daily compensation of \$49.20. No split shift premium pay is required because it is off-set by the higher wage.

Funding Options

In addition to program models, Council may consider pursuing a cost sharing model with the Milpitas Unified School District. Historically, the City of Milpitas has funded the program using General Fund monies allocated to the Milpitas Police Department. As noted in Table 1 above, of the eleven cities surveyed, five cities have crossing guard programs that are fully or partially funded by the school districts.

ATTACHMENT 1 – COMPARISON OF PROGRAM OPTIONS

	Option A	Option B	Option C
Program Description	Continue current model; maintain the hourly wage to a minimum of \$18.46; increase department staffing to manage the program.	Transition the program management to a third-party contract service (All City Management Services).	Eliminate the Crossing Guard program
Managed By	City	Third-Party Contract Service (ACMS)	N/A
Cost FY23-24 36 Guards @ 34 Locations	\$1,010,880	\$784,339	N/A
Cost FY23-24 27 Guards @ 21 Locations	\$758,160	\$593,309	N/A
Pros	• Maintains current model • Added staffing will allow better management of the program	• Scheduling, supervision, staffing, certified training, recruitment, worker's compensation claims, complaint and problem resolution, safety inspections, uniforms, and safety equipment would all be handled by ACMS • Existing Crossing Guards would become ACMS employees and retain assignments in Milpitas • ACMS would backfill vacancies with their staff eliminating need to staff with sworn officers	• Cost savings of \$512,946 based on current program allocation for FY22-23 (does not reflect fully loaded costs)
Cons	• Will require significant additional funding which could otherwise be used for other essential City services • May still result in ongoing recruitment challenges requiring expensive supplemental staff of sworn officers	• There could be a perception of potential impacts on current Crossing guards • Will require additional funding but will still cost less than Option A	• Significant reduction in public safety
Considerations	• Consider cost sharing with the Milpitas Unified School District to mitigate budget impact • Consider reducing number of locations based on traffic study for a more cost-effective program • Increasing hourly wage may improve recruitment and eliminate the need to staff locations with sworn officers	• Consider cost sharing with the Milpitas Unified School District to mitigate budget impact • Consider reducing number of locations based on traffic study for a more cost-effective program • Police department will ensure contractual obligations are met • Increasing hourly wage may improve recruitment	• Community concerns



CITY OF MILPITAS SOLE SOURCE OR SOLE BRAND (STANDARDIZATION) REQUEST

**THIS FORM MUST BE COMPLETED AND APPROVED
PRIOR TO ANY PROCUREMENT**

When a request is made for a sole source procurement or to restrict procurement to a specific brand (standardization) for the acquisition of supplies, equipment and materials or services (except for consultant services or contracts with other governmental agencies), as applicable, the requesting department must complete this form consistent with [Section I-2-3.06 - Sole Source Procurement](#) or [Section I-2-3.14 - Standardization](#).

Per the aforementioned Municipal Code section, a sole source contract is authorized when the Purchasing Agent determines in writing, after conducting a good faith review of available sources, that only one viable source exists for the required supplies, material, equipment, or general service, or that there is a compelling reason for using only one source. The detailed information you are providing will facilitate such a determination.

Per the aforementioned Municipal Code section, a standardization of supplies, materials or equipment, including information and communication technology products and services and subsequent sole brand procurement is authorized, when the Purchasing Agent has determined that it is required for the health, safety or welfare of the people or employees of the City, or that cost savings have been demonstrated. Among the factors that may be considered in determining to standardize on a single brand or trade name are that:

- a) In order to acquire a specific product(s) for the purpose of conducting a field test or experiment to determine the product's suitability for use by the City.
- b) When it is required for proper operation or function to match other products with respect to the repair or expansion or completion of a system or program already in use by the City, including, but not limited to, technology purchases required to achieve interoperability with existing hardware, software, systems or programs.
- c) In order to achieve significant cost savings based upon consideration of the following cost factors: (1) Timeliness and quality of installation, repair and maintenance; (2) Quality of user training; (3) Supplies and replacement parts; (4) Modification of existing equipment, materials or systems; (5) Future upgrades and updates; (6) Estimated amount and cost of reasonably foreseeable future purchases of equipment that would be required to be compatible or functional with the product which is the subject of the standardization determination; and/or (7) Administrative costs.

This form is not necessary for contracting for professional services or contracting with other governmental agencies.

Please answer in the space provided, or in an attachment address by specific reference, each question listed below in your justification. Be sure to answer each part of each question as each must be addressed; no response can be not applicable. Failure to respond fully to any of the questions may result in delay or rejection of the request due to inadequate justification. If additional information is necessary, please attach additional page(s) and/or documents, as needed.

1. This is a request for a (circle one) Sole Source Sole Brand exception.
2. Using appropriate detail, including brand name and model number, **briefly** describe the product you wish to procure. In the case of a general service use enough detail to clearly describe to someone not familiar with your department's operation what you are procuring.

If it is your assertion that the manufacturer or distributor is the only authorized source in the Bay Area, Northern California; or whatever the claim is; please substantiate that with a letter from the manufacturer or distributor. The letter must be on their stationary but can be sent via email. Attach a copy to this form.

This request is for the operation and management of school crossing guard services (36-guard model, to match existing City program)--including but not limited to providing guards, substitute guards, supervision, training, recruitment, equipment, payroll, problem resolution, and ongoing communication with school district—by All City Management Services (ACMS).

3. Please provide the total not-to-exceed amount of the purchase and/or agreement/contract as well as the requested term. (if buying software, the City's standard term is five years)

Total Cost: \$784,339

Term: 1 year with optional years 2 and 3

Detailed cost breakdown explanation per year:

Year 1: \$784,339

Year 2: (Optional)

Year 3: (Optional)

Year 4: N/A

Year 5: N/A

4. For goods: What are the unique performance features of the product/brand requested that are not available in any other product/brand? For services: What unique qualifications, rights, degrees, certifications, licenses and/or experience does this vendor possess?

N/A

5. **What other products/services have been examined and rejected, and why?** *(Please provide a specific meaningful explanation, one vendor and one feature at a time. For products be sure to clearly identify the product by name and model number and include the name, address, email, and telephone number of the company representative whose product you tested.)*

All City Management Services is the sole provider of full-service third-party crossing guard services in Santa Clara County and surrounding regions. Online research was conducted by Police Department staff to locate potential vendors that provide exclusive Crossing Guard services in California, and more specifically, the Bay Area. All City Management Services (ACMS) was the only company identified that provides all-inclusive Crossing Guard services in the Bay Area. They have been in operation since 1985 and have over 260 Crossing Guard contracts in 25 states. Additionally, they provide Crossing Guard services for all Bay Area cities who utilize a contract service including Menlo Park, Palo Alto, San Carlos, Redwood City, Fremont, Union City, Newark, Sunnyvale, Mountain View, Cupertino, Saratoga, and Los Gatos.

6. If justification is based on matching and/or intermixing with existing equipment (standardization or sole brand only – (sole brand may only be used by authority of the City Council)), list the quantity, manufacturer, brand, and model of the existing equipment, and identify measurable cost savings consistent with the sole brand requirements identified on page one of the request form (attach calculations as necessary).

I HEREBY CERTIFY THAT:

1. I have read and understand the City's requirements for competitive bidding, as well as the criteria for justification for sole source and sole brand procurements.
2. I have gathered the required technical information and have made a concentrated effort to review comparable and/or equal equipment/service.
3. There is validity as to the information contained herein justifying my request for sole source or sole brand procurement and meeting the City's criteria.
4. A sole source or sole brand procurement in this case would withstand a possible audit or a vendor's protest.

Requestor: Lisa Beaulieu

Lisa J. Beaulieu

Date: 5/3/23

Department Head:

DocuSigned by:
Jared Hernandez
1203F62BDEFA8421...

Date: May-08-2023

PURCHASING DIVISION USE ONLY:

APPROVED: Yes No

Purchasing Agent: _____ Date:

Purchasing Agent's Written Determination:

SOLE SOURCE OR SOLE BRAND REQUEST

A. OVERVIEW

Purchasing recognizes that departments often invest a great deal of time and effort in selecting a source or brand, prior to submitting a requisition to Purchasing. Even though the departmental review process prior to the submittal of a requisition may be sound, it is highly recommended to quickly engage with Purchasing as soon and early in the process as possible to ensure all documentation and justifications for the request are consistent with the Municipal Code.

Likewise, Purchasing can be an effective partner in a competitive review process given adequate time and involvement in your requirement definition.

In an effort to expedite sole source or sole brand requisitions through Purchasing, you are directed to review the Sole Source or Sole Brand Request form herein. If the Department feels the request meets the criteria, follow the instructions in filling out the form and attach it to the requisition. After review, if Purchasing concurs with your sole source or sole brand justification, the requisition may be expedited without the competitive solicitation requirements.

This is an internal City review process. Departments are directed to use discretion in their discussion with vendors so as to not compromise any competitive advantage that Purchasing may utilize; in the event the sole source or sole brand justification is rejected. Rather than merely a shift of the review burden, this process acknowledges the significant effort a department may undertake when identifying a vendor or brand and provides you with the method by which to make requisitioning efforts more efficient adhering to the City's Purchasing Ordinance.

In order for Purchasing to accept a request for sole source/sole brand, the certification form referenced is made a part of the Purchasing Agent's written determination as provided by the Municipal Code must be signed by the Department Head. The completed form will remain on file for audit purposes.

Sole Source Requests Over \$100,000

Sole Source requests over \$100,000 require submission of an Agenda Report [Sample - Sole Source Agenda Report](#) and approval by City Council and require submission of a resolution as in the [Sample - Sole Source Resolution](#). If you are making a second sole source purchase, over \$100,000, within the five-year life of the original sole source purchase you are still required to submit an AR to City Council, and at a minimum, the report should confirm the findings in the prior sole source resolution are still accurate and that nothing has changed in the marketplace or elsewhere. If anything has changed, then a new resolution is required. If

nothing has changed, then the Department can rely on the prior resolution but should include language in the AR indicating that all previous findings and conclusions are still accurate, and staff is not aware of any new information that would change those findings or conclusions in the prior sole source resolution.

B. PROCEDURE Sole source or sole brand procurements are an exception to competitive solicitation requirements and, therefore, require a detailed justification. In processing sole source or sole brand requests for supplies, equipment and/or services (except for consultant services or contracts with other governmental agencies) , Purchasing adheres to and is governed by the principles set forth in City of [Milpitas Municipal Code Section I-2-3.06 - Sole Source Procurement](#) or [Section I-2-3.14 - Standardization](#) as approved by the City Council.

If the requesting Department is requesting a particular vendor, brand or product, staff must make this fact clear on your requisition. If approved, the request will then be restrictive and non-competitive and will fall into a sole source or sole brand category.

Such a request should not be made unless Department staff is confident that the request is reasonable and appropriately justified to meet the City's requirements and withstand any possible audit or scrutiny. The City's requirements and the format for submitting such requests are contained herein.

The following factors DO NOT apply to sole source requests and should not be included in any sole source and/or sole brand justification request. They will not be considered and only tend to confuse the evaluation process and delay the procurement.

1. Personal preference or experience with or for a particular product or vendor.
2. Cost, vendor performance, and/or local service (these are generally considered award factors in competitive bidding).
3. Features which exceed the minimum department requirements.
4. Explanation of the need and/or basic use for the equipment, unless the information relates to a request for "unique factors" (refer to question three from the Sole Source/Sole Brand Request form). In other words, it is not appropriate to only state the Department is requesting a specific tree trimmer so staff can trim trees, instead explain why this particular trimmer with these exact performance specifications is the only one that will meet the Department's need(s).
5. A request for "no substitution" submitted without justification. This is just a sole source or sole brand request without justification and will be rejected

Certificate Of Completion		
Envelope Id: 37AA03C0736B4CCB971429E6FE058294	Status: Completed	
Subject: Sole Source Justification Form - ACMS		
Source Envelope:		
Document Pages: 6	Signatures: 1	Envelope Originator:
Certificate Pages: 4	Initials: 0	Lisa Beaulieu
AutoNav: Enabled		455 E Calaveras Blvd
Envelopeld Stamping: Enabled		Milpitas, CA 95035
Time Zone: (UTC-08:00) Pacific Time (US & Canada)		lbeaulieu@milpitas.gov
		IP Address: 50.59.22.2

Record Tracking		
Status: Original	Holder: Lisa Beaulieu	Location: DocuSign
May 8, 2023 11:36	lbeaulieu@milpitas.gov	

Signer Events	Signature	Timestamp
Jared Hernandez	DocuSigned by:  1203F62BDF8421...	Sent: May 8, 2023 12:10
jhernandez@milpitas.gov		Viewed: May 8, 2023 13:32
Chief of Police		Signed: May 8, 2023 13:32
Security Level: Email, Account Authentication (None)	Signature Adoption: Pre-selected Style Using IP Address: 50.59.22.2	

Electronic Record and Signature Disclosure:
 Accepted: May 8, 2023 | 13:32
 ID: 2f9c3ec2-adeb-4265-9b8c-9cb1ecf2f9e7

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	May 8, 2023 12:10
Certified Delivered	Security Checked	May 8, 2023 13:32
Signing Complete	Security Checked	May 8, 2023 13:32
Completed	Security Checked	May 8, 2023 13:32
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Carahsoft OBO City of Milpitas (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Carahsoft OBO City of Milpitas:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: mluu@ci.milpitas.ca.gov

To advise Carahsoft OBO City of Milpitas of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at mluu@ci.milpitas.ca.gov and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from Carahsoft OBO City of Milpitas

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to mluu@ci.milpitas.ca.gov and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Carahsoft OBO City of Milpitas

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;

ii. send us an email to mluu@ci.milpitas.ca.gov and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

By selecting the check-box next to ‘I agree to use electronic records and signatures’, you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify Carahsoft OBO City of Milpitas as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by Carahsoft OBO City of Milpitas during the course of your relationship with Carahsoft OBO City of Milpitas.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS
AUTHORIZING THE CITY MANAGER TO EXECUTE THE SOLE SOURCE
PROCUREMENT OF CROSSING GUARD SERVICES WITH ALL CITY
MANAGEMENT SERVICES, INC.**

WHEREAS, the City of Milpitas adopted the current crossing guard program in 2006 and posts guards primarily at intersections with high volumes of school-age pedestrians and vehicles during any one-hour period in a day and other factors consistent with the State of California Manual of Traffic Control Devices (CAMUTCD); and

WHEREAS, at time of adoption, the Crossing Guard Program was managed by the Milpitas Police Department; and

WHEREAS, based on the dire condition of the program; strain on Police Department resources; recruitment challenges; and review of program models in use in other cities, staff presented several alternatives to the existing program to Council on January 27, 2023; and

WHEREAS, Council voted that management of the crossing guard program would be transitioned to a third-party contract service at the existing 36-guard deployment service level, with the adoption of the City's FY2023-24 Operating Budget; and

WHEREAS, the City now wishes to enter into a 1-year master services agreement for crossing guard services in a total amount not-to-exceed \$781,858 for Fiscal Year 2023-24; and

WHEREAS, Section I-2-3.06 of the Milpitas Municipal Code authorizes the Purchasing Agent to award contracts without competition when the Purchasing Agent determines in writing, after conducting a good faith review of available sources, that only one viable source exists for the required supplies, material, equipment or general service, or there is a compelling reason for using only one source. All City Management Services, Inc. is the sole provider of full-service and all-inclusive crossing guard services in Santa Clara County and surrounding regions.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City Council approves and authorizes the City Manager to execute the 1-year sole source Master Services Agreement with All City Management Services, Inc. for crossing guard services in a total amount not-to-exceed \$781,858 for fiscal year 2023-24.

PASSED AND ADOPTED this _____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Waive the Second Reading and Adopt Ordinance No. 38.853 Amending the Zoning Map of the City of Milpitas in Accordance with the Provisions of Section 3.03 of Chapter 10 of Title XI of the Milpitas Municipal Code to Change the Zoning Classification of Two Parcels (APNs: 083-40-044 and 083-40-045) Located on the Southwest Corner of South Main Street and Montague Expressway for Consistency with New, Approved General Plan Land Use Designations. (Staff Contact: Ned Thomas, Planning Director, 408-586-3273; and Holly Pearson, Senior Special Projects Associate, 408-609-0072)
Category:	Consent Calendar-Community Development
Meeting Date:	6/20/2023
	<u>Recommendation:</u> 1. Determine that potential environmental impacts associated with the proposed Zoning Map changes have been previously analyzed under the Environmental Impact Report (EIR) for the Milpitas 2040 General Plan certified on March 9, 2021 (per Resolution 9047) and find that since the proposed Zoning Map changes are consistent with the General Plan, no further environmental analysis is required. 2. Move to waive the second reading and adopt Ordinance No. 38.853 amending the Zoning Map of the City of Milpitas in accordance with the provisions of Section 3.03 of Chapter 10 of Title XI of the Milpitas Municipal Code to change the zoning classification of two parcels (APNs: 083-40-044 and 083-40-045) located on the southwest corner of South Main Street and Montague Expressway for consistency with new, approved General Plan land use designations.

Background:

This Ordinance was introduced at the City Council meeting held on June 6, 2023. The Ordinance is now ready for its second reading and adoption.

Fiscal Impact:

The adoption of Ordinance No. 38.853 to amend the zoning classifications for two parcels on South Main Street will have no fiscal impact in terms of existing land uses but will allow more flexibility for future development in the area, consistent with the General Plan. Future redevelopment of the South Bay Tech Center site (1603-1765 South Main Street) would have a positive fiscal impact due to increased property values. Specific redevelopment plans for the site have not been proposed at this time, so the actual increase in property values is unknown.

California Environmental Quality Act (CEQA):

An Environmental Impact Report (EIR) was prepared for the Milpitas 2040 General Plan was adopted and certified by Resolution No. 9047 on March 9, 2021 (State Clearinghouse No. 2020070348). The proposed Zoning map amendments are consistent with the Milpitas 2040 General Plan and with the environmental analysis conducted for the plan update; therefore, no additional environmental review is required.

As a separate and independent basis, the project is also exempt from further environmental review under CEQA Guidelines Section 15183 (Project Consistent with General Plan, Community Plan, or Zoning).

Recommendation:

1. Determine that potential environmental impacts associated with the proposed Zoning Map changes have been previously analyzed under the Environmental Impact Report (EIR) for the Milpitas 2040 General Plan certified on March 9, 2021 (per Resolution 9047) and find that since the proposed Zoning Map changes are consistent with the General Plan, no further environmental analysis is required.
2. Move to waive the second reading and adopt Ordinance No. 38.853 amending the Zoning Map of the City of Milpitas in accordance with the provisions of Section 3.03 of Chapter 10 of Title XI of the Milpitas Municipal Code to change the zoning classification of two parcels (APNs: 083-40-044 and 083-40-045) located on the southwest corner of South Main Street and Montague Expressway for consistency with new, approved General Plan land use designations.

Attachments:

1. Ordinance No. 38.853

REGULAR**NUMBER:** 38.853

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING THE ZONING MAP OF THE CITY OF MILPITAS IN ACCORDANCE WITH THE PROVISIONS OF SECTION 3.03 OF CHAPTER 10 OF TITLE XI (ZONING ORDINANCE) OF THE MILPITAS MUNICIPAL CODE TO CHANGE THE ZONING DESIGNATION OF TWO PARCELS ON SOUTH MAIN STREET BETWEEN GREAT MALL PARKWAY AND MONTAGUE EXPRESSWAY (APNs: 083-40-044, 083-40-045) FOR CONSISTENCY WITH THE NEW BOUNDARIES OF THE MILPITAS METRO SPECIFIC PLAN AND PROPOSED BOUNDARIES OF THE DRAFT GATEWAY-MAIN STREET SPECIFIC PLAN FOR CONSISTENCY WITH NEW GENERAL LAND USE DESIGNATIONS FOR THE SUBJECT PARCELS.

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of June 6, 2023, upon motion by Mayor Carmen Montano and was adopted (second reading) by the City Council at its meeting June 20, 2023, upon motion by _____. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk_____
Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney

RECITALS AND FINDINGS:

WHEREAS, the City of Milpitas, California (the “City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, California Government Code Section 65800 et seq. authorizes the adoption and administration of zoning laws, ordinances, rules, and regulations by cities as a means of implementing the General Plan; and

WHEREAS, Section 3.03 of Chapter 10 Zoning of Title XI of the Milpitas Municipal Code, divides the city into zoning districts; and

WHEREAS, the City Council is the final authority on General Plan, Specific Plan, and Zoning amendments, including amendments to the Zoning Map; and

WHEREAS, on March 19, 2002, the Milpitas City Council adopted the Midtown Specific Plan, which encompassed a planning area of approximately 1,000 acres of land in the Midtown district of Milpitas; and

WHEREAS, on June 3, 2008, the Milpitas City Council adopted the Transit Area Specific Plan, a specific plan developed in response to Policy 7.5 of the Midtown Specific Plan; and

WHEREAS, in early 2019 the City of Milpitas launched a process to update the Transit Area Specific Plan, expanding the plan’s scope and geographic extent, and this updated draft plan is known as the Milpitas Metro Specific Plan; and

WHEREAS, the Gateway-Main Street Specific Plan was initiated in late 2021 as an update and reframing of the Midtown Specific Plan; and

WHEREAS, on February 7, 2023, the Milpitas City Council adopted the Metro Specific Plan; and

WHEREAS, the planning area boundaries of the draft Gateway-Main Street Specific Plan differ from the boundaries of its predecessor, the Milpitas Midtown Specific Plan, and 168 parcels along South Main Street and South Abel Street, in the area generally located south of Great Mall Parkway and north of Montague Expressway, will no longer be part of the Gateway-Main Street Specific Plan area; and

WHEREAS, the planning area boundaries of the adopted Milpitas Metro Specific Plan include eight large parcels along the east side of South Main Street that were previously part of the Milpitas Midtown Specific Plan area; and

WHEREAS, the other 160 parcels that are not included in the planning area for the Gateway-Main Street Specific Plan shall be given standard General Plan land use designations and zoning classifications consistent with the existing land uses on those parcels; and

WHEREAS, on June 6, 2023, the City Council adopted a resolution approving a General Plan Map Amendment (GP23-0002) to implement the changes to the land use designations for these parcels; and

WHEREAS, a Zoning Map Amendment is necessary to change the zoning classification for two of these parcels (APNs: 083-40-044, 083-40-045) to Mixed Use (MXD) Zoning District, such that the zoning for these parcels shall be consistent with the new, approved General Plan land use designations of Neighborhood Center Mixed Use; and

WHEREAS, per Milpitas Municipal Code §§ XI-10-57.02(G)(3), the City Council finds the Zoning Amendment set forth herein to be consistent with the General Plan, and specifically with Land Use Element

Action LU-1a (*update the City's Zoning Map as appropriate to ensure consistency with the land use designations shown on Figure LU-1[Land Use Map]*), because State law requires that a local jurisdiction's zoning ordinance must be consistent with its general plan, and the proposed zoning map amendments are required in order for the zoning of the subject parcels to be consistent with the new proposed land use designations in the Milpitas 2040 General Plan; and

WHEREAS, per Milpitas Municipal Code § XI-10-57.02(G)(3), the City Council likewise finds that the Zoning Amendment set forth herein will not adversely affect the public health, safety and welfare, in that the proposed zoning map changes involve only changes the zoning designations for a small number of parcels, the result of which would be minor refinements to the allowable uses and development standards for those parcels, while maintaining comparable or less intensive development densities and intensities; and

WHEREAS, on March 9, 2021, an Environmental Impact Report (EIR) was certified for the Milpitas 2040 General Plan in accordance with the California Environmental Quality Act (CEQA), and whereas the proposed zoning map amendments are consistent with the updated General Plan and the environmental analysis conducted for the same; and

WHEREAS, on May 10, 2023, the Planning Commission held a duly noticed public hearing on the subject application, considered evidence presented by City staff and other interested parties, and adopted Resolution 23-006 recommending that the City Council approve General Plan Amendment GP23-0002 and Zoning Amendment ZA23-0001; and

WHEREAS, on June 6, 2023, the City Council of the City of Milpitas adopted a Resolution approving General Plan Amendment GP23-0002 to change the General Plan land use designations for 168 parcels previously located in the Milpitas Midtown Specific Plan area, including the two parcels subject to this amendment to the City's zoning map.

NOW, THEREFORE, the City Council of the City of Milpitas does ordain as follows:

SECTION 1. RECORD AND BASIS FOR ACTION

The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10, SECTION 3.03

Title XI, Chapter 10, Section 3.03 ("Zoning Map") is hereby amended, as attached hereto in **Exhibit 1**.

SECTION 3. ZONING MAP AMENDMENT FINDINGS (XI-10-57.02)

The City Council makes the following findings based on the evidence in the public record in support of Zoning Amendment No. ZA23-0001:

A. *The proposed amendment is consistent with the General Plan.*

The proposed zoning map amendments are consistent with the General Plan because their purpose is to maintain consistency between the General Plan Land Use Map and the City's zoning ordinance, as required by the General Plan and by state law, in terms of the land use designations and regulations for the subject properties.

B. *The proposed amendment will not adversely affect the public health, safety and welfare.*

Item # C14.

The proposed amendments to the zoning map will not adversely affect public health, safety, or welfare because they are limited to minor refinements to the applicable zoning districts for selected parcels, consistent with updates to the boundaries of the two specific plans. The zoning map amendments would result only in very minor changes to allowable development density or intensity, allowable land uses, or applicable development standards, and such changes would not have adverse impacts to the public.

SECTION 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Based on its review of the entire record, including the staff report, public comments and testimony presented to the Planning Commission and City Council, and the facts outlined below, the City Council hereby finds and determines that the potential environmental effects of the proposed Ordinance have been adequately reviewed and analyzed under the Environmental Impact Report prepared for the Milpitas 2040 General Plan, adopted by Resolution No. 9047 on March 9, 2021 (State Clearinghouse No. 2020070348). The zoning map changes are consistent with the updated General Plan, and the proposed new zoning designations would allow similar and comparable land uses and development densities (or intensities) as those that were analyzed under the General Plan EIR, and therefore no additional environmental review is required.

Moreover, the City Council hereby finds that the introduction and adoption of this Ordinance is categorically exempt from CEQA pursuant to CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning). Section 15183 of the CEQA Guidelines provides that projects that are consistent with a Community Plan, General Plan or Zoning for which an EIR has been certified “shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site.” These proposed zoning amendments are consistent with the Milpitas General Plan because their purpose is to maintain consistency between the General Plan Land Use Map and the City’s zoning ordinance in terms of the land use designations and regulations for the subject properties.

Therefore, the proposed Amendment is consistent with the General Plan and is exempt from CEQA pursuant to Section 15183 of the CEQA Guidelines.

SECTION 5. SEVERABILITY

The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision, or part has no effect on the validity of the remainder.

SECTION 6. EFFECTIVE DATE AND POSTING

In accordance with Section 36937 of the Government Code of the State of California, this Ordinance takes effect 30 days from the date of its passage. The City Council hereby directs the City Clerk to cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.

Exhibit 1: Zoning Map Amendments

Item # C14.



Current Zoning:

- C2 General Commercial
- MP Industrial Park
- R4 MF Very High Density Residential
- R5 Urban Residential
- POS Park Open Space
- R1 Single-Family Residential



Proposed Zoning:

- C2 General Commercial
- MXD Mixed Use
- R4 MF Very High Density Residential
- R5 Urban Residential
- POS Park Open Space
- R1 Single-Family Residential



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Receive an Update on the Emergency Repairs to the HVAC System and Equipment at City Hall and at the Public Works/Information Technology/Police Department Buildings and Determine that the Condition Continues to Constitute an Emergency (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	6/20/2023
	<u>Recommendations:</u> (1) Receive an update on the emergency repairs to the HVAC system and equipment at City Hall and at the Public Works/Information Technology/Police Department Buildings; and (2) Determine by a four-fifths vote that the condition continues to constitute an emergency.

Background:

Pursuant to Public Contract Code section 22050 and the attached [Council Resolution No. 9134](#), the Director of Public Works, in the case of emergency, may authorize a repair of a public facility and procure the work without giving notice for bids. An emergency is defined as “a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.” Additionally, State law requires the Public Works Director, as the City official with delegated authority to take emergency action, to report any emergency authorization and the reason(s) for the authorization to the City Council not later than seven days after the action, or at its next regularly scheduled meeting if that meeting will occur not later than 14 days after the action. Further, the Public Works Director is required to report why the emergency would not permit a delay resulting from a competitive solicitation for bids and the City Council is required to review the emergency action at every regularly scheduled meeting thereafter until the emergency repair is completed. The City Council shall continue to review the emergency action at every regularly scheduled meeting thereafter until the action is terminated. At each review, the City Council shall determine, by a four-fifths vote, whether there is a need to continue the action.

Consistent with applicable State law and Council Resolution, on April 27, 2023, the Public Works Director declared an emergency and authorized the City to contract with its existing HVAC maintenance contractor, Environmental Systems Inc. (ESI), for the emergency repairs to the HVAC system at City Hall and the Public Works, Information Technology and Police Department buildings. The [Information Memorandum](#) issued on that date outlined the various equipment issues and provided a cost estimate of \$ 899,300.

Analysis:

Equipment and parts for the repairs to the HVAC systems at both City Hall and Public Works/Information Technology/Police Department buildings have been ordered by the contractor. Staff is working with the contractor to develop a repair schedule that minimizes disruption to department operations. Staff will continue to provide updates, including key project milestone and dates, as they are known.

Fiscal Impact:

Funding for these repairs is available in the City’s Capital Improvement Program (CIP) budget and has been fully encumbered CIP Project 3499 - HVAC Systems Repairs funded \$620,000 for the upgrades to the Building Management System (BMS) and Variable Air Flow (VAV) boxes at both buildings. The remaining repairs were funded by CIP Project 3406 – City Building Improvements in the amount of \$279,300.

California Environmental Quality Act:

The emergency repair work is exempt from CEQA, per CEQA Guidelines Section 15301, Existing Facilities and 15302, Replacement or Reconstruction.

Recommendations:

1. Receive an update on the emergency repairs to the HVAC system and equipment for City Hall and the Public Works, Information Technology and Police Department buildings.
2. Determine by a four-fifths vote that the condition continues to constitute an emergency.

Attachment:

None



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Conduct a Public Hearing and Adopt a Resolution Confirming the Assessment and Ordering the Levy for the Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch for Fiscal Year 2023-24 (Staff Contact: Roberto Alonzo, Principal Civil Engineer, 408-586-3316)
Category:	Public Hearings-Community Development
Meeting Date:	6/20/2023
	<u>Recommendation:</u> Open the public hearing, receive any comments, and move to close the hearing following any testimony, and Adopt a Resolution confirming the assessment and ordering the levy for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch for Fiscal Year 2023-24.

BACKGROUND:

Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch (LLMD 95-1) provides for the maintenance and improvement of public landscaping, irrigation systems, pedestrian lighting, gateway columns and entry signs along portions of North McCarthy Boulevard and the Ranch Drive gateway between State Route 237 and Dixon Landing Road in the areas as shown on the attached location map attached.

ANALYSIS:

On May 16, 2023, the City Council adopted Resolution No. 9240 approving the Annual Engineer's Report and adopted Resolution No. 9241 declaring its intention to levy and collect assessment for Fiscal Year 2023-24 for the Landscaping and Lighting Maintenance Assessment District No. 95-1. An annual public hearing is necessary to adopt a resolution confirming the assessment and ordering the levy for the Landscape and Lighting Maintenance Assessment District 95-1 for Fiscal Year 2023-24 (**Attachment 1**), and the Annual Engineer's Report (**Attachment 2**) to provide funds for the district. The total assessment for fiscal year 2023-24 is \$0.0365 per lot square foot, with an assessment rate not exceeding the maximum rate per square foot of \$0.0543. The FY 2023-24 rate is approximately 4.58% higher than the previous year FY 2022-23 rate of \$0.0349.

POLICY ALTERNATIVE(S):

Alternative 1:

Not approve resolution confirming the assessment and ordering the levy for LLMD 95-1.

Pros: None

Cons: The Landscaping and Lighting Act of 1972 requires the legislative body to adopt a resolution confirming the diagram and assessment, not adopting a resolution of confirmation would jeopardize the City's ability to collect assessments for the maintenance and upkeep of LLMD 95-1.

Reason not recommended: To allow for the continued maintenance of LLMD 95-1, staff recommends approving the resolution confirming the assessment and ordering the levy for fiscal year 2023-24.

Fiscal Impact:

The levy and collection of assessments provides a funding resource for the City to improve and maintain public landscaping, irrigation systems, pedestrian lighting, gateway columns and entry signs within LLMD 95-1 McCarthy Ranch.

California Environmental Quality Act:

Levy and collection of assessment is not considered a project under CEQA as there will be no direct or reasonably foreseeable indirect physical change in the environment.

RECOMMENDATION:

1. Open the public hearing, receive any comments, and move to close the hearing following any testimony.
2. Adopt a Resolution confirming the assessment and ordering the levy for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch for Fiscal Year 2023-24.

Attachment(s):

1. Resolution
2. Annual Engineer's Report
3. Location Map

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS CONFIRMING THE
ASSESSMENT AND ORDERING THE LEVY FOR THE LANDSCAPING AND LIGHTING MAINTENANCE
ASSESSMENT DISTRICT NO. 95-1 FOR FISCAL YEAR 2023-24**

WHEREAS, the City Council previously completed its proceedings in accordance with and pursuant to the Landscaping and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (the “Act”) to establish the Landscaping and Lighting Maintenance Assessment District (the “Assessment District”); and

WHEREAS, the City Council has retained NBS for the purpose of assisting with the annual levy of the Assessment District, and the preparation and filing of an Annual Report; and

WHEREAS, the City Council has, by previous resolution, declared its intention to hold a Public Hearing concerning the levy and collection of assessments within the Assessment District; and

WHEREAS, a Public Hearing has been held and concluded and notice thereof was duly given in accordance with Section 22626 of the Act; and

WHEREAS, at the time and place specified in the Resolution of Intention the City Council conducted such hearing and considered all objections to the assessment.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. Confirmation of Assessment and Diagram: The City Council hereby confirms the assessment and the diagram as is described in full detail in the Annual Report on file with the City Clerk.
2. Levy of Assessment: Pursuant to Section 22631 of the Act, the adoption of this Resolution shall constitute the levy of an assessment for the fiscal year commencing July 1, 2023 and ending June 30, 2024.
3. Ordering of the Levy: The City Council hereby orders NBS to prepare and submit the levy of assessments to Santa Clara County for placement on the Fiscal Year 2023-24 secured property tax roll.

PASSED AND ADOPTED this ____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmon Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney

CITY OF MILPITAS

Fiscal Year 2023/24 Annual Report For:

Landscaping and Lighting Maintenance Assessment District No. 95-1

April 2023

Prepared by:



Corporate Headquarters
32605 Temecula Parkway, Suite 100
Temecula, CA
Toll free: 800.67

CITY OF MILPITAS
LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT NO. 95-1
455 East Calaveras Boulevard
Milpitas, California 95035
Phone (408) 586-3000

CITY COUNCIL

Carmen Montano, Mayor
Evelyn Chua, Vice-Mayor
Anthony Phan, Council Member
Hon Lien, Council Member
Garry Barbadillo, Council Member

CITY STAFF

Roberto Alonzo, PE, Principal Civil Engineer
Lauren Lai, Finance Director
Christian Di Renzo, Public Works Director

NBS

Tim Seufert, Client Services Director
Amanda Welker, Project Manager
Tom Zetz, Administrator

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1. ENGINEER'S LETTER

WHEREAS, in 1995 the City Council of the City of Milpitas (the "City"), State of California, under the Landscaping and Lighting Act of 1972 (the "Act"), created the City of Milpitas Landscaping and Lighting Maintenance Assessment District No. 95-1 (the "District") in order to provide for the continued maintenance, operation, and administration of various improvements within the boundaries of the District; and

WHEREAS, the City Council has directed NBS to prepare and file a report for Fiscal Year 2023/24 in accordance with Chapter 1, Article 4 of the Act presenting plans and specifications describing the general nature, location and extent of the improvements to be maintained; an estimate of the costs to maintain, operate, and service the improvements for the District for the referenced fiscal year; a diagram for the District showing the area and properties to be assessed; and an assessment of the estimated costs to maintain and service the improvements, stating the net amount to be assessed upon all assessable lots or parcels within the District in proportion to the special benefit received.

NOW THEREFORE, the following assessments have been calculated in accordance with the assessment methodology adopted and approved by the City Council at the time of District formation, and are made to cover the portion of the estimated costs of maintenance, operation, and servicing of the improvements, to be paid by the assessable real property within the District in proportion to the special benefit received:

District	Parcels	2023/24 Maximum Assessment Rate per Lot Sq. Ft. ⁽¹⁾	2023/24 Actual Assessment Rate per Lot Sq. Ft.	2023/24 Net Amount to be Assessed ⁽²⁾⁽³⁾
LLMAD 95-1	44	\$0.0543	\$0.0365	\$430,902

⁽¹⁾ The April 1, 2023 CPI was not available at the time of writing of this report. The Fiscal Year 2023/24 CPI increase was estimated using the February 2023/24 CPI.

⁽²⁾ Amounts placed on the tax roll include the 1% Santa Clara County Collection Fee.

⁽³⁾ This amount is only an estimate and does not reflect the final billed amount with rounding adjustments. Refer to Section 7 for the rounded figure.

I identified all parcels which will have a special benefit conferred upon them from the improvements described in District's Plans and Specifications section of this Engineer's Report (the "Benefited Parcels") have been identified. For particulars as to the identification of said parcels, reference is made to the Assessment Diagram, a copy of which is on file in the office of the City Clerk.

I have assessed the costs and expenses of the improvements upon the Benefited Parcels. In making such assessment:

- The proportionate special benefit derived by each Benefited Parcel from the improvements was determined in relationship to the entirety of the maintenance costs of the improvements;
- No assessment has been imposed on any Benefited Parcel which exceeds the reasonable cost of the proportional special benefit conferred on such parcel from the improvements; and
- Any general benefits from the improvements have been separated from the special benefits and only special benefits have been assessed.

I, the undersigned, respectfully submit the enclosed Engineer's Report and, to the best of my knowledge, information and belief, the Engineer's Report, Assessments, and the Assessment Diagrams herein have been prepared and computed in accordance with the order of the City Council of the City of Milpitas, the Act, and Article XIID.

Roberto Alonzo

Roberto Alonzo, PE
Principal Civil Engineer



2. PLANS AND SPECIFICATIONS

The District provides for the continued administration, maintenance, operation, and servicing of various improvements located within the public right-of-way and dedicated easements within the boundaries of the District.

2.1 Location of Improvements

The District is located on the west side of the City of Milpitas, bounded on the east by State Route 880, on the west by Coyote Creek, on the south by State Route 237, and on the north by Dixon Landing Road. The improvements maintained include public landscaping and irrigation improvements, including jogging paths, pedestrian lighting, gateway improvements, and entry signage, which are primarily situated within the public right-of-way and dedicated public easements within the District.

2.2 Landscaping Improvements

Landscaping, pedestrian lighting, gateway, and signage improvements were installed along the roadways and sidewalks within the District to enhance the overall visual appearance for adjacent parcels.

The improvements within the District consist of the maintenance and installation of any or all public landscaping and irrigation improvements adjacent to curbs of the following described streets, including jogging paths, planter walls, grass berms, pedestrian lighting and appurtenant irrigation systems, ornamental planting including lawns, shrubs, and trees; installation and maintenance of gateway columns and entry signs. Such maintenance includes all necessary repairs, replacements, water, electric current, spraying, care, supervision, debris removal and all other items of work necessary and incidental for property maintenance and operation thereof. The landscaping, irrigation, pedestrian lighting, gateway, and signage improvements are collectively referred to as “landscaping improvements.” All such work will be performed in the following areas:

2.2.1 N. MCCARTHY BOULEVARD

1. A strip of land including an earth berm approximately 50 feet in width from face of each curb line, from the southerly connection with Ranch Drive northerly 2,400 feet, more or less, to the northerly connection with Ranch Drive. A strip of land including a grass berm approximately 35 feet in width, west of the face of westerly curb, along the West Side of N. McCarthy Boulevard, from the southerly connection with Ranch Drive, northerly 2,400 feet, more or less. The initial phase includes a strip of land 6 feet wide on the west side of McCarthy Boulevard.
2. Commencing at a location approximately 2,400 feet north of State Route 237 thence proceeding north to the northern boundary of Lands of N. McCarthy, 7,800 feet more or less, a strip of land approximately 27 to 34 feet in width on each side along the east and west sides of McCarthy Boulevard between the northerly connection with Ranch Drive and Dixon Landing Road.
3. A median island from the southerly intersection with Ranch Drive northerly to the intersection with Dixon Landing Road.

4. Gateway Improvements, at the southerly intersection of N. McCarthy Boulevard and Ranch Drive and southerly of Bridge No. 1 along N. McCarthy Boulevard, including curved stone planter walls, gateway columns with entry sign appurtenant mounding ornamental plantings including flat work, trees and ground cover, irrigation systems; all as shown on landscape plans.
5. Lighting costs in the District are limited to the supplemental pedestrian lights installed on the east side of McCarthy Boulevard between the two intersections at Ranch Drive and McCarthy Boulevard. The conventional lighting along McCarthy Boulevard is not included. There also exists decorative up-lighting for the Gateway Towers in other areas near the southern Ranch Drive intersection of McCarthy.

2.2.2 MILPITAS ENTRY SIGN

1. City of Milpitas Entry Identification Sign along N. McCarthy Blvd., including walls, columns, lighting, and other appurtenances.

2.2.3 RANCH DRIVE

1. Commencing at a Northerly location where the right-of-way of Ranch Drive is contiguous with the right-of-way of Interstate 880, thence southerly, a strip of land approximately 10 feet in width measured from the east face of curb of Ranch Drive, from the northerly connection with Interstate 880 and Ranch Drive, southerly 630 feet, more or less, thence 405 feet south to the southerly end of Gateway location, varying in width from 10 feet to 132 feet, more or less.
2. Gateway Improvements, at the southerly connection of Ranch Drive and Interstate 880, including curved stone planter walls, gateway columns with entry sign appurtenant mounding ornamental plantings including flat work, trees and ground cover, irrigation systems; all as shown on landscape plans (Part A), except the Shopping Center's Monument Sign. As mentioned above, there also exists decorative up-lighting for the Gateway Towers in other areas near the southern Ranch Drive intersection of McCarthy.

2.3 Capital Improvements

In Fiscal Year 2021/22, the City initiated the design and construction of landscape and irrigation renovation on N. McCarthy Blvd. between State Route 237 and Dixon Landing Road and a portion of Ranch Drive. The landscape and irrigation renovation design has been completed and the project is now in the construction stage.

2.4 Overhead

In addition to the hard costs of maintaining the improvements mentioned above, the City will incur costs for staff time and expenses related to the management and maintenance of the improvements within the District. Staff time includes oversight and coordination of both City and contractor provided services, annual tax roll preparation, and addressing property owner questions and concerns. These activities are directly related to the maintenance of the improvements, and without them the improvements could not be efficiently completed or properly maintained on an ongoing basis.

3. ESTIMATE OF COSTS

The estimated costs of maintenance and servicing of the improvements as described in the Plans and Specifications are summarized below.

3.1 District Budget

The Fiscal Year 2023/24 estimated cost budget for the maintenance and servicing of the improvements is as follows:

Description	Fiscal Year 2023/24 Budget
Maintenance Staff and Contract Services ⁽¹⁾	\$271,000
Capital Equipment	0
Supplies	36,800
Utilities (Water, Electricity)	63,000
Reserve Fund	6,830
Capital Improvement Program	66,500
Maintenance Costs	\$444,130
NBS	\$4,750
City Staff District Administration	400
County Auditor-Controller Fee ⁽²⁾	4,006
District Specific Costs	\$9,156
Total District Costs	\$453,286
General Benefit Contribution ⁽³⁾	(22,384)
Operating Reserve Contribution	0
Net Amount to be Assessed	\$430,902
Total District Square Footage⁽⁴⁾	11,792,520
Rate per Square Foot⁽⁵⁾⁽⁶⁾	\$0.0365
Maximum Rate Per Square Foot – 2023/24⁽⁷⁾	\$0.0543

⁽¹⁾ Fiscal 2023/24 Landscape Maintenance Contract Services includes Terracare and Irvine Company.

⁽²⁾ County Auditor-Controller Fee is currently 1% of the total levy submittal.

⁽³⁾ General Benefit Contribution is not applied to District Specific Costs as these are special benefits to the District.

⁽⁴⁾ Total District Square Footage includes the 50% reduction for Parcel 5-7 (Sewer Main Pump Station) and Parcel 5-3C (Storm Pump Station).

⁽⁵⁾ The Rate per Square Foot equals the Net Amount to be Assessed / Total District Square Footage.

⁽⁶⁾ The assessed rate cannot exceed the maximum rate.

⁽⁷⁾ The April 1, 2023 CPI was not available at the time of writing of this report. The Fiscal Year 2023/24 CPI increase was estimated by using the February 2023/24 CPI.

3.1.1 OPERATING RESERVE

It is the intent of the City to maintain an operating reserve which shall not exceed the estimated costs of maintenance and servicing of the improvements prior to December 10 of the fiscal year, or when the City expects to receive its apportionment of special assessments from the County, whichever is later. The operating reserve balance information for the District is as follows:

Estimated Fiscal Year Ending 6/30/2023 Operating Reserve Cash Balance	\$166,170
Operating Reserve Collection for Fiscal Year 2023/24	6,830
Estimated Fiscal Year Ending 6/30/2024 Operating Reserve Cash Balance	\$173,000

3.1.2 CAPITAL IMPROVEMENT BUDGET

The City completed the design and has begun construction of the landscape and irrigation renovations on N. McCarthy Blvd. between State Route 237 and Dixon Landing Road and a portion of Ranch Drive in 2022. As of January 31, 2023, the balance available for the Capital Improvement Project was \$369,000. The City will utilize these funds to finance the project.

4. SPECIAL AND GENERAL BENEFIT

The improvements defined in Section 2 are expected to confer certain special benefits to parcels within the District. The special benefits are described in this section. Figures in this section are derived from a Special v. General Benefit Analysis performed in Fiscal Year 2020/21.

4.1 Identification of Benefit

Section 4 of Article XIID of the California Constitution provides that once a local agency which proposes to impose assessments on property has identified those parcels that will have special benefits conferred upon them and upon which an assessment will be imposed, the local agency must next “separate the general benefits from the special benefits conferred,” and only the special benefits can be included in the amount of the assessments imposed.

4.2 Special Benefits Identified

The improvements described in Section 2 are expected to confer certain special benefits to parcels within the District. The special benefits conferred to property within the District can be grouped into three primary benefit categories: aesthetic benefit, safety benefit, and economic benefit. The three District benefit categories are further expanded upon below.

- Improved Aesthetics:** The aesthetic benefit relates to the increase in the overall aesthetics as a result of the ongoing maintenance, servicing, and operation of the improvements within the District. The landscaping improvements enhance the overall image and desirability of the properties within the District. Street landscaping improvements improve the livability, commercial activity, appearance, and desirability for properties within the District. Regular maintenance ensures that the improvements do not reach a state of deterioration or disrepair so as to be materially detrimental to properties adjacent to or in close proximity to the improvements. The overall appeal of the District is enhanced when improvements are in place and kept in a healthy and satisfactory condition. Conversely, appeal decreases when improvements are not well-maintained, unsafe, or destroyed by the elements or vandalism. Streetscapes have a significant effect on how people view and interact with their community.¹ With streetscapes that are safe and inviting, people are more likely to walk, which can help reduce automobile traffic, improve public health, stimulate local economic activity, and attract residents and visitors to the community.²
- Increased Safety:** Well maintained areas mitigate crime, especially vandalism, and enhance pedestrian safety. A recent study found that after landscape improvements were installed, there was a 46% decrease in crash rates across urban arterial and highway sites and a second study reviewed found a 5% to 20% reduction in mid-block crashes after trees and planters in urban arterial roads were put in place. In addition, there is less graffiti, vandalism, and littering in outdoor spaces with natural landscapes than in comparable plant-less spaces.³ The Victoria

¹ Victoria Transport Policy Institute. (2011). *Community Livability. Helping to Create Attractive, Safe, Cohesive Communities*. Retrieved from <http://www.vtpi.org/tdm/tdm97.htm>.

² Ibid.

³ Wolf, Kathleen L. (2010). *Safe Streets – A Literature Review*. In: *Green Cities: Good Health* (www.greenhealth.washington.edu). College of the Environment, University of Washington.

Transport Policy Institute has found that streetscapes reduce traffic speeds and when combined with improved pedestrian crossing conditions can significantly reduce collisions.⁴

- **Economic Activity:** Well maintained street landscape improvements not only make adjacent properties appear more stable and prosperous but can spur investment in the property. The National Complete Streets Coalition notes that street design that is inclusive of all modes of transportation, where appropriate, not only improves conditions for existing businesses, but also is a proven method for revitalizing an area and attracting new development.⁵ Landscaped sidewalks create an inviting place for customers to shop and do business.⁶ Well-maintained and safe District areas will encourage an increase in the overall pedestrian activity. The area will become more pedestrian friendly, thus improving the retail environment by encouraging individuals to shop, dine, and stay within the District boundaries. The District will provide a cleaner more inviting environment to businesses and consumers which will attract, retain and expand the retail and business climate throughout. The effort will reduce vacancy rates and increase lease rates and utilization of property within the District.

4.3 General Benefits Identified

Section 4 of Article XIID of the California Constitution provides that once a local agency which proposes to impose assessments on property has identified those parcels that will have special benefits conferred upon them and upon which an assessment will be imposed, the local agency must next “separate the general benefits from the special benefits conferred,” and only the special benefits can be included in the amount of the assessments imposed.

General benefit is an overall and similar benefit to the public at large resulting from the maintenance of the District’s improvements provided by the assessments levied. The improvements to be maintained by the District are located within the District boundaries only. There will be no District maintenance activities provided for improvements located outside of the District boundaries.

The ongoing maintenance of the District improvements will provide aesthetic, safety and economic activity benefits to the property within the District. However, it is recognized that the ongoing maintenance activities will also provide a level of benefit to some property within proximity to the District, as well as individuals passing through. Therefore, the general benefit created as a result of the District maintenance activities has been considered.

4.4 Quantification of Benefit

As a result of the maintenance and operation of the improvements, there will be a level of general benefit to people that do not work or intend to conduct business within the District. In order for property within the District to be assessed only for that portion of special benefits received from the District’s maintenance

⁴ Victoria Transport Policy Institute. (2011). *Community Livability. Helping to Create Attractive, Safe, Cohesive Communities*. Retrieved from <http://www.vtpi.org/tdm/tdm97.htm>.

⁵ Pugliese, Philip. (2008). *Complete Streets provide all the elements of multi-modal transportation*. Retrieved from <http://www.americantrails.org/resources/trans/completestreets08.html>

⁶ U.S Department of Transportation. Federal Highway Administration. (2001). *Designing Sidewalks and Trails for Access, Part II of II: Best Practices Design Guide*. Retrieved from http://www.fhwa.dot.gov/environment/bicycle_pedestrian/publications/sidewalk2/

activities, general benefits provided by the ongoing maintenance of the improvements needs to be quantified. The amount of general benefit that is provided from the District's maintenance activities cannot be funded via property owners' assessments.

Based upon the City's General Plan, the streets within the City are classified into one of the following categories: freeway, expressway, arterial, collector or local streets. The landscaping improvements are primarily located along N McCarthy Boulevard and Ranch Drive and situated within the public rights-of-way. The portion of the maintained landscaping that is located along N McCarthy Boulevard (classified as an arterial street) provides some general benefit to pass-through traffic.

Arterial streets are intended to provide a higher degree of mobility and generally serve longer vehicle trips. The landscape improvements within the District boundaries not only serve the parcels in the immediate vicinity, but persons who live outside of the District and are passing by. The City's most recent traffic study⁷ completed in 2016 does not identify the percentage of traffic, which is pass-through traffic, but it does provide an estimated number of daily trips for N McCarthy Boulevard at the entrance of the District. However, the daily trip count estimate is lower than the trip count utilized in the 2015 findings report. This would not be expected with the increase in development to this area. Therefore, In the absence of a more recent reading of traffic along N. McCarthy Boulevard, the 2015 average number of daily trips of 35,050 per the General Plan has been utilized for the base trip count.

In order to account for the estimated increase in daily average trips as a result of the increased development, the City commissioned a traffic study for each new development. Per the traffic studies, it is estimated there will be an increase of 9,156 average daily trips. Adding this increase to the 35,050 previously identified above, the estimated number of average vehicles per day is 44,206 as shown below.

Street Name	Average Number of Vehicles per Day
N McCarthy Boulevard – between SR 237 and Ranch Drive	44,206

Before the determination and allocation of the percentage of special and general benefit for the District can be made, the estimated pass-through traffic must be computed. The pass-through trips are vehicles driving along the maintained streets for a portion of their trips, but not working, shopping or conducting business in the District or benefiting from the landscaping improvements in place.

Research consistently shows that developments with multiple land uses that make walking safe and convenient and are near other development, allow residents and workers to drive significantly less if they choose. While this District is not a mixed-use development, there are multiple land uses adjacent to one another. Therefore, treating this development area as though the uses were separated and accessible only by car would result in inflated trip counts in comparison to conventional, single-use developments.

In lieu of having a comprehensive traffic study that identifies the pass-through traffic, the estimated number of special benefit trips for each parcel has been determined using the average daily trips according

⁷ City of Milpitas. (2016 Traffic Study). Retrieved from City's Assistant Traffic Engineer

to the ITE Trip Generation Report, 9th Edition⁸ and the 2010 NCHRP Report 684 Enhancing Trip Capture Estimation for Mixed-use Developments⁹.

Utilizing the ITE Trip Generation Report, each parcel within the District was assigned an average daily number of special benefit trips using the parcel's land use, building size or number of units. Further, to ensure the number of trips generated by the parcels has not been overstated, the percentage of total trips that are made internally within the development has been considered. Using the 2010 NCHRP Report 684 Enhancing Trip Capture Estimation for Mixed-Use Developments, the total special benefit trips have been reduced by approximately 31% (19,258 trips) to account for internal trips between the various businesses within the District. The total number of special benefit trips is therefore 42,864 as shown below.

Property Type	Combined Trip Generations
Retail (ITE Land Uses 815, 820, 869)	24,978.76
Office (ITE Land Uses 710, 714, 750)	15,832.41
Industrial/Warehousing (ITE Land Uses 140, 150, 151)	8,660.43
Fast-Food Restaurant w/ drive thru (ITE Land Use 934)	3,925.30
Gas Station (ITE Land Use 945)	3,758.16
Restaurant (ITE Land Uses 931, 932)	3,710.03
Hotel (ITE Land Use 310)	1,256.82
Total Trips	62,121.92
Internal Trip Reduction ¹	(19,257.79)
Total Adjusted Special Benefit Trips	42,864.12

(1) The internal trip rate percentage was calculated by using the NCHRP 684 Internal Rate Capture Estimation Tool.¹⁰

The total of all special benefit trips was removed from the average number of vehicles per day traveling within the District to estimate the number of pass-through trips daily.

Street Name	Average Number of Vehicles per Day	Less: Estimated Special Benefit Trips	Estimated Number of Pass Through Trips	Estimated % General Benefit
McCarthy Blvd.	44,206	42,864	1,342	3.04%

Based on the above calculations, the general benefit portion of the improved aesthetics, increased safety, and economic activity benefits resulting from the landscaping improvements is estimated to be 3.04%.

Pass-thru Vehicle General Benefit	3.04%
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⁸ Trip Generation, 9th Edition: An Informational Report of the Institute of Transportation Engineers. (2012) Washington, DC: Institute of Transportation Engineers.

⁹ Bochner, Brian S., Hooper, Kevin, Sperry, Benjamin and Dunphy, Robert. National Cooperative Highway Research Program, Transportation Research Board of National Academies (2011). NCHRP Report 684 Enhancing Trip Capture Estimation for Mixed-Use Developments. Retrieved from onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rpt_684.pdf

¹⁰ Ibid.

The commonly accepted distance people will walk for public transportation, goods and services is one-quarter mile.¹¹ However, based on the location of the District, and given that it is bounded by State Route 880 and 237, and Coyote Creek, there is not an efficient or practical means of walking into the District. Although unlikely, a person may decide to use the paths within the District, and as such the general benefit portion of the improved aesthetics, increased safety, and economic activity benefits resulting from the landscaping improvements is estimated to be 1.00%.

Pass-thru Walking General Benefit	1.00%
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An estimated 1% of all US trips are made by bicycle¹². Although the District is bounded by State Route 880 and 237, and Coyote Creek, there is a bike lane on N McCarthy Boulevard and a bike path along Coyote Creek¹³. According to the National Household Travel Surveys, 49% of bike trips are for recreation, exercise, and sports¹⁴. As result of the District maintenance activities, there will be a level of general benefit to bicycle traffic that is not associated with property in the District. As such the general benefit portion of the improved aesthetics, increased safety, and economic activity benefits resulting from the landscaping improvements is estimated to be .50%, rounded up to 1.00%.

Pass-thru Biking General Benefit	1.00%
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Collective District-Wide General Benefit

Since the District is comprised of improved aesthetics, safety, and economic activity benefits resulting from the collective landscaping improvements, the activity of both pedestrians and vehicles must be addressed in a collective form rather than independently. The sum of the calculated general benefits is the total general benefit related to vehicle, walking, and biking pass-thru traffic. This general benefit result is provided in the table below:

Pass-thru Vehicle General Benefit	3.04%
Pass-thru Walking General Benefit	1.00%
Pass-thru Biking General Benefit	1.00%
Total General Benefit	5.04%

The general benefit, which is the percentage of the total budget that must be funded through sources other than assessments, is 5.04%. The special benefit then, which is the percentage of the budget that may be funded by assessments, is 95.00%. **This general benefit percentage is in line with the level of general benefit determined by the assessment engineer at formation of the District (less than 10%).**

¹¹ Walkscore. (2014). Walk Score Methodology. Retrieved from <http://www.walkscore.com/methodology.shtml>

¹² U.S Department of Transportation. Federal Highway Administration. (2011). Summary of Travel Trends: 2009 National Household Travel Survey. (Report No. FHWA-PL-11-022). Retrieved from <http://nhts.ornl.gov>

¹³ City of Milpitas. (2002). General Plan. Retrieved from <http://www.ci.milpitas.ca.gov>

¹⁴ Pucher, J., Buehler R., Meron, F., and Bauman, A. American Journals of Public Health, Supplement 1, Vol 101, No S1 (2011). Walking and Cycling in the United States, 2001-2009: Evidence from the National Household Travel Surveys. Retrieved from <http://www.ncbi.nlm.nih.gov/pubmed/21551387>

4.5 Special Benefit Trips

The detailed breakdown of the estimated special benefit trips for each parcel in the District is shown in the following table.

Assmt ID	Assessor's Parcel Number	Land Use Description	Acreage	Gross Leasable Area	Average Trip Rate ¹	Estimated # of Daily Special Benefit Trips ²
1-1A-1	022-54-016	710 - General office	1.05	8,500	11.03	93.76
1-1A-2	022-54-017 ⁽³⁾	310 – Hotel	3.29	83,310	8.17	680.64
1-1A-3	022-54-018 ⁽³⁾	310 – Hotel	2.31	70,524	8.17	576.18
1-1A-4	022-54-019	934 - Fast Food	0.19	0.00	496.12	0.00
1-1B	022-54-008	934 - Fast Food	0.78	2,912	496.12	1,444.70
1-2	022-54-002	820 - Shopping Center	0.58	5,600	42.70	239.12
1-3	022-54-003	932 - High Vol. Restaurant	1.02	5,465	127.15	694.87
1-4A	022-54-009	869 - Home Superstore	8.47	86,250	20.00	1,725.00
1-4B	022-54-012	820 - Shopping Center	3.02	15,000	42.70	640.50
1-4C	022-54-013	820 - Shopping Center	0.23	10,000	42.70	427.00
1-4D	022-54-015	931 - Quality Restaurant	1.78	8,285	89.95	745.24
1-4E	022-54-014	932 - High Vol. Restaurant	0.64	3,710	127.15	471.73
1-4F	022-54-011	820 - Shopping Center	1.31	9,100	42.70	388.57
1-4G	022-54-010	931 - Quality Restaurant	1.03	7,476	89.95	672.47
2-1	022-53-001	931 - Quality Restaurant	0.75	6,500	89.95	584.68
2-2	022-53-002	820 - Shopping Center	1.23	15,020	42.70	641.35
2-3	022-53-003	820 - Shopping Center	0.76	12,000	42.70	512.40
2-4	022-53-004	934 - Fast Food	0.6	2,000	496.12	992.24
2-5	022-53-005	934 - Fast Food	0.74	3,000	496.12	1,488.36
2-6	022-53-006	820 – Shopping Center	1.19	51,250	45.04	2,308.30
2-7	022-53-007	820 - Shopping Center	21.92	187,134	42.70	7,990.62
3	022-29-016	815 - Discount Superstore	14.56	125,000	50.75	6,343.75
4-1A-1	022-56-005	714 - Corp Headquarters	2.04	115,753	7.98	923.71
4-1A-2	022-56-006	714 - Corp Headquarters	2.06	174,483	7.98	1,392.37
4-1A-3	022-56-007	714 - Corp Headquarters	2.07	174,483	7.98	1,392.37
4-1A-4	022-56-008	Undeveloped	34.52	-	-	-
4-1A-5	022-56-009	Parking Lot	24.32	-	-	-
4-1B	022-29-037	Undeveloped	6	-	-	-
5-1A-1	022-29-034	750 - Office Park	36.49	572,660	11.42	6,539.78
5-2A-1	022-29-035	750 - Office Park	31.31	480,772	11.42	5,490.42
5-3A-1	022-29-040	150 – Warehousing/710 General Office	15.55	313,978	8.87	2,784.67
5-3A-2	022-29-041	931 – Quality Restaurant	0.14	6,015	89.95	541.05
5-3A-3	022-29-042	150 – Warehousing/710 General Office	6.94	136,632	8.87	1,211.79
5-3A-4	022-29-043	150 – Warehousing/710 General Office	7.36	122,208	8.87	1,083.86
5-3A-5	022-29-044	140 - Manufacturing and 710 General Office	7.73	131,331	8.87	1,164.77
5-3B-1A	022-30-054	140 - Manufacturing and 710 General Office	5.63	99,576	8.87	883.14
5-3B-2	022-30-038	Undeveloped	10	-	-	-
5-3B-3	022-30-039	Undeveloped	5	-	-	-
5-3C	022-30-035 ⁴	Pump Station	0.19	-	-	1.00

Assmt ID	Assessor's Parcel Number	Land Use Description	Acreage	Gross Leasable Area	Average Trip Rate ¹	Estimated # of Daily Special Benefit Trips ²
5-5A-1	022-30-055	815 - Discount Superstore	5.6	74,131	50.75	3,762.15
5-5A-2	022-30-056	915 – Gasoline/Service Station	0.59	3,182	1,181.07	3,758.16
5-5A-3	022-30-057	151 – Mini-Warehouse	3.15	114,707	13.34	1,530.19
5-6	022-30-041	Open Space	0	-	-	-
5-7	022-30-049 ⁴	Sewer Pump Station	9.12	8,500	11.03	1.00
Total Estimated Daily Special Benefit Trips						62,121.92
Internal Trip Reduction ⁵						(19,257.79)
Total Special Benefit Trips						42,864.12

(1) Average Trip Rate per Day is from the Institute of Traffic Engineer's, Trip Generation Report. ¹⁵

(2) Average Number of Special Benefit Trips per Day is the Average Trip Rate times each 1,000 square feet of gross leasable area.

(3) Average Number of Special Benefit Trips per Day is the Average Trip Rate times number of hotel rooms for this parcel.

(4) Pump Station trips are an estimate.

(5) The internal trip rate percentage was calculated by using the NCHRP 684 Internal Rate Capture Estimation Tool. ¹⁶

¹⁵ Trip Generation, 9th Edition: An Informational Report of the Institute of Transportation Engineers. (2012) Washington, DC: Institute of Transportation Engineers.

¹⁶ Bochner, Brian S., Hooper, Kevin, Sperry, Benjamin and Dunphy, Robert. National Cooperative Highway Research Program, Transportation Research Board of National Academies (2011). NCHRP Report 684 Enhancing Trip Capture Estimation for Mixed-Use Developments. Retrieved from onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rpt_684.pdf

5. METHOD OF ASSESSMENT

5.1 Introduction

The special benefits that accrue to the properties in the District are limited to those properties that abut an improved public street or which have been obligated by issuance of bonds for necessary public improvements (the “Benefited Parcels”). Other properties in the District receive only a general benefit from the work of the improvements, and there is also some general benefit that accrues to the community as a whole. As outlined in Section 4, the total amount of general benefit from the improvements is determined to be 5.04%.

The Benefited Parcels receive a special benefit proportionate to their net acreage and thus they are assessed on the basis of total net acreage for all costs associated with the maintenance and installation of the District’s improvements, with the following exceptions:

- Of the 9.12 acres of parcel 022-30-049 (sewer pump station), 5.51 acres is the pump station and is not assessable. The remaining 3.61 acres does not benefit from landscaping as much as other Benefited Parcels because it is dedicated to municipal sanitary sewer and storm facilities use and will not otherwise be developed. Therefore, it is assigned a special benefit equal to 50% of other Benefited Parcels.
- Parcel 022-30-035 (storm pump station) does not benefit from landscaping as much as other Benefited Parcels because it is dedicated to municipal sanitary sewer and storm facilities use and will not otherwise be developed. Therefore, it is assigned a special benefit equal to 50% of other Benefited Parcels.
- Parcel 022-29-037 and parcel 022-30-041 are dedicated to open space and therefore do not receive special benefit from the maintenance and improvements.

5.2 Method of Assessment Spread

The amount of assessment levied on each Benefited Parcel in the District, for Fiscal Year 2023/24, is \$0.03654 per square foot. The assessment rate was determined by taking the Fiscal Year 2023/24 Net Amount to be assessed (\$430,902) divided by the total net square footage of the District (11,792,520 sq. ft.).

The maximum assessment rate for Fiscal Year 2023/24 is approximately \$0.0543, which is a preliminary number. Each year the maximum assessment rate per square foot is increased by the percentage change from April 1st of the prior year to April 1st of the current year in the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Indexes, Pacific Cities and U.S. City Average, San Francisco-Oakland-Hayward. The April 1, 2023 CPI was not available at the time of writing of this report. For purposes of this report, the CPI increase was estimated by using the February 2023/24 CPI.

5.3 Maximum Assessment Rates

The following table provides the historical maximum assessment rate for Fiscal Year 2001/02 through the current fiscal year:

Fiscal Year	CPI	Percentage Increase ⁽¹⁾	Assessment Rate Range ⁽²⁾	
2001/02	189.1	N/A	\$0.0120	\$0.0300
2002/03	193.0	2.06%	0.0122	0.0306
2003/04	197.3	2.23%	0.0125	0.0313
2004/05	198.3	0.51%	0.0126	0.0315
2005/06	202.5	2.12%	0.0129	0.0321
2006/07	208.9	3.16%	0.0133	0.0331
2007/08	215.842	3.32%	0.0137	0.0342
2008/09	222.074	2.89%	0.0141	0.0352
2009/10	223.854	0.80%	0.0142	0.0355
2010/11	227.697	1.72%	0.0144	0.0361
2011/12	234.121	2.82%	0.0149	0.0371
2012/13	238.985	2.08%	0.0152	0.0379
2013/14	244.675	2.38%	0.0155	0.0388
2014/15	251.495	2.79%	0.0160	0.0399
2015/16	257.622	2.44%	0.0163	0.0409
2016/17	264.565	2.70%	0.0168	0.0420
2017/18	274.589	3.79%	0.0174	0.0436
2018/19	283.422	3.22%	0.0180	0.0450
2019/20	294.801	4.01%	0.0187	0.0468
2020/21	298.074	1.11%	0.0189	0.0473
2021/22	309.419	3.81%	0.0196	0.0491
2022/23	324.878	5.00%	0.0206	0.0515
2023/24	337.173	5.30% ⁽³⁾	0.0217	0.0543

⁽¹⁾ Percentage increase from April 1 of the prior year to April 1 of the current year in the US Department of Labor, Bureau of Labor Statistics, Consumer Price Indexes, Pacific Cities and US City Average, San Francisco-Oakland-Hayward.

⁽²⁾ The left and right column indicate the minimum and maximum assessment rate, respectively.

⁽³⁾ The April 1, 2023 CPI was not available at the time of writing of this report. The Fiscal Year 2023/24 CPI increase was estimated using the February 2023/24 CPI.

5.4 Appeals

Any property owner who feels that the amount of their assessment is in error as a result of incorrect information being used to apply the foregoing method of spread may file an appeal with the Finance Director of the City. Any such appeal is limited to the correction of an assessment during the current or, if before July 1, the upcoming fiscal year. Upon the filing of any such appeal, the Finance Director shall promptly review the information provided by the property owner and if he/she finds that the assessment should be modified, he/she shall have the authority to make the appropriate changes in the assessment roll. If any such changes are provided after the assessment roll has been filed with the County for collection, the Finance Director is authorized to refund to the property owner the amount of any approved reduction.

6. ASSESSMENT DIAGRAM

The following page provides a copy of the assessment diagram of the District.

Figure 1

Filed in the Office of the City Clerk of the City of Milpitas,
County of Santa Clara, State of California this 20th day
of May, 2014

Mary Lavelle
City Clerk of the City of Milpitas

Recorded in the Office of the Superintendent of Streets of the
City of Milpitas, County of Santa Clara, State of California,
this 3rd day of June 2014.

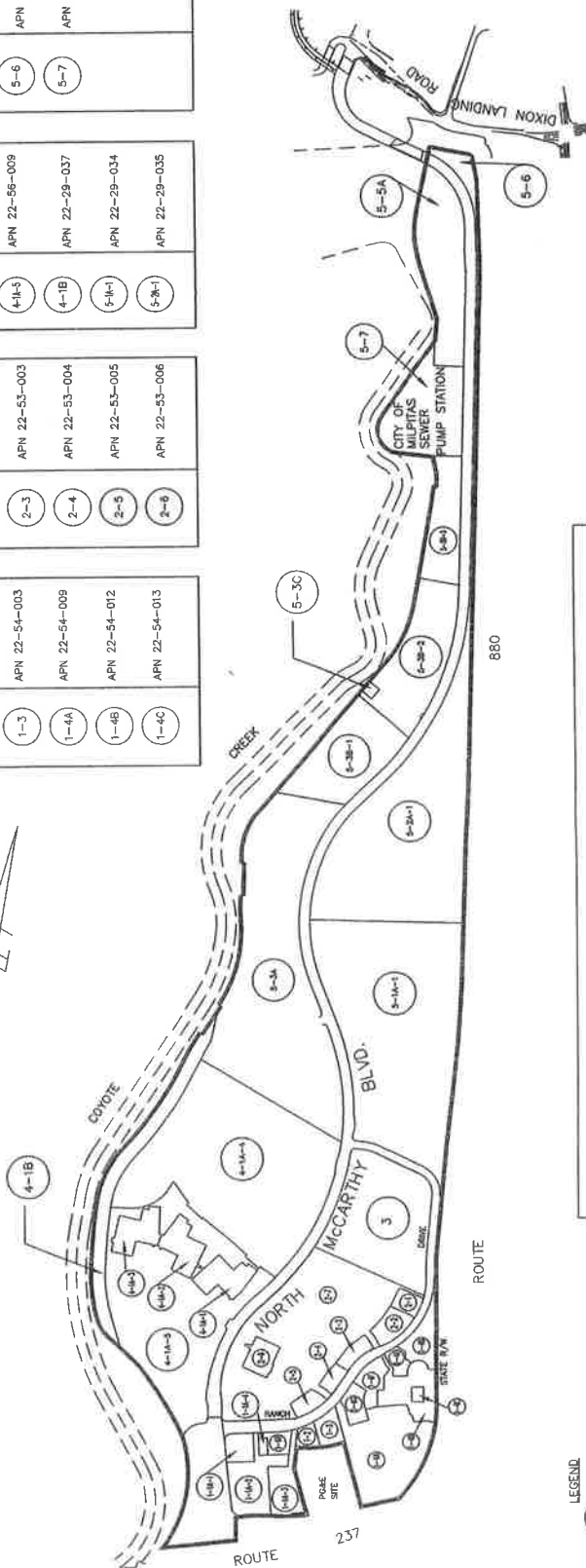
Mary Lavelle
Superintendent of Streets
City of Milpitas

An assessment was levied by the City Council of the City
of Milpitas, County of Santa Clara, State of California on
the lots, pieces and parcels of land shown on this assessment
diagram. Said assessment was levied on the 3rd day
of June 2014; said assessment diagram and the
assessment roll were recorded in the Office of the Superintendent
of Streets of said City on the 3rd day of June 2014.

Reference is made to the assessment roll recorded in the
Office of the Superintendent of Streets for the exact amount
of such assessment levied against each parcel of land
shown on this assessment diagram.

Mary Lavelle
City Clerk of the City of Milpitas

ASSESSMENT NO.	ASSESSOR'S PARCEL NO.	ASSESSMENT NO.	ASSESSOR'S PARCEL NO.	ASSESSMENT NO.	ASSESSOR'S PARCEL NO.	ASSESSMENT NO.	ASSESSOR'S PARCEL NO.
1-1A-1	APN 22-54-016	1-40	APN 22-54-015	2-7	APN 22-53-007	5-3A	APN 22-29-036
1-1A-2	APN 22-54-017	1-4E	APN 22-54-014	3	APN 22-29-016	5-3B-1	APN 22-30-037
1-1A-3	APN 22-54-018	1-4F	APN 22-54-011	4-1A-1	APN 22-56-005	5-3B-2	APN 22-30-038
1-1A-4	APN 22-54-019	1-4G	APN 22-54-010	4-1A-2	APN 22-56-006	5-3B-3	APN 22-30-039
1-1B	APN 22-54-008	2-1	APN 22-53-001	4-1A-3	APN 22-56-007	5-3C	APN 22-30-035
1-2	APN 22-54-002	2-2	APN 22-53-002	4-1A-4	APN 22-56-008	5-5A	APN 22-30-048
1-3	APN 22-54-003	2-3	APN 22-53-003	4-1A-5	APN 22-56-009	5-6	APN 22-30-041
1-4A	APN 22-54-009	2-4	APN 22-53-004	4-1B	APN 22-29-037	5-7	APN 22-30-049
1-4B	APN 22-54-012	2-5	APN 22-53-005	5-1A-1	APN 22-29-034		
1-4C	APN 22-54-013	2-6	APN 22-53-006	5-1A-1	APN 22-29-035		



- LEGEND
- ASSESSMENT NO.
 - BOUNDARY DISTRICT
 - ASSESSMENT LIMIT

PART F - ASSESSMENT DIAGRAM
LANDSCAPING & LIGHTING & MAINTENANCE
ASSESSMENT DISTRICT NO. 95-1

OF
CITY OF MILPITAS
COUNTY OF SANTA CLARA - STATE OF CALIFORNIA

Note:
Reference is hereby made to the maps and deeds of record in the Office of the
Assessor of the County of Santa Clara for a detailed description of the lines and
dimensions of any parcels shown hereon. These maps shall govern for all details
concerning the lines and dimensions of such parcels. Each parcel is identified in
said maps by its distinctive Assessor's Parcel Number.

7. ASSESSMENT ROLL

Assessor's parcel identification, for each lot or parcel within the District, shall be based on the Santa Clara County Assessor's secured roll data for the applicable year in which this report is prepared and is incorporated herein by reference.

A listing of assessor's parcels assessed within the District for Fiscal Year 2023/24, along with the assessment amounts, is on file in the office of the City Clerk and incorporated herein by reference. Based on County Assessor's secured roll data, current assessor's parcels, including corrected and/or new assessor's parcels, will be submitted and/or resubmitted to the Santa Clara County Auditor/Controller. The annual assessment amount to be levied and collected for the resubmitted parcel(s) shall be determined in accordance with the method of apportionment and assessment rate approved in this report. Therefore, if a single assessor's parcel has a status change in development, other land use change, or subdivides into multiple assessor's parcels, the assessment amounts applied to each of the new assessor's parcels shall be recalculated and applied according to the approved method of apportionment and assessment rate rather than a proportionate share of the original assessment amount.

City of Milpitas
LLMAD No. 95-1
Final Billing Detail Report for Fiscal Year 2023/24

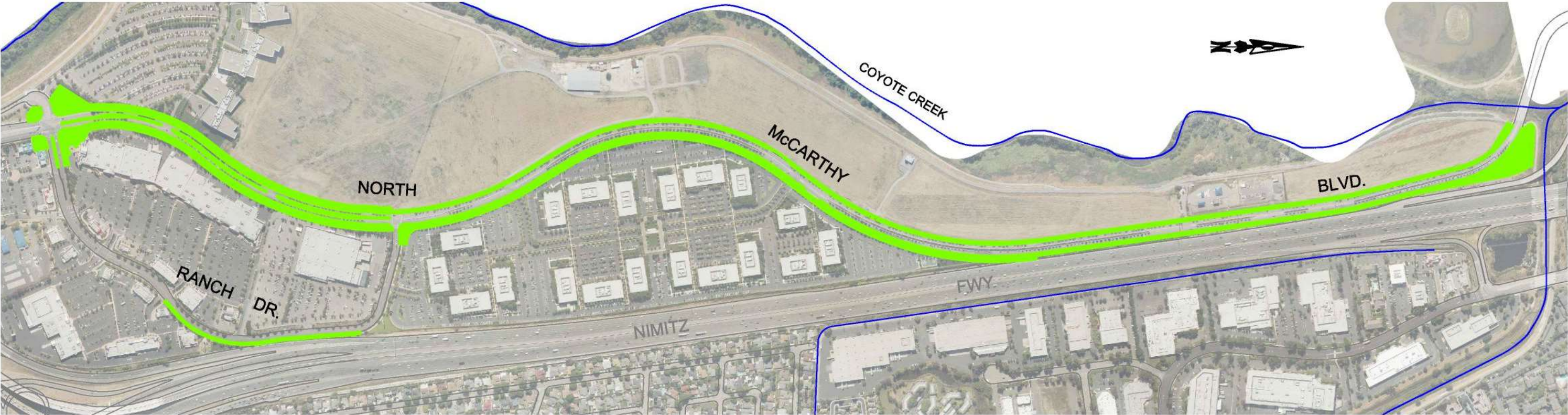
APN	Situs Address	Net Square Foot	Fiscal Year 2023/24 Levy
022-29-016	301 RANCH DR	634,234	\$23,175.06
022-29-034	430 N MCCARTHY BLVD	1,589,504	58,080.90
022-29-035	820 N MCCARTHY BLVD	1,363,864	49,835.94
022-29-040	407 N N MCCARTHY BLVD	677,532	24,757.20
022-29-041	507 N N MCCARTHY BLVD	43,691	1,596.46
022-29-042	607 N N MCCARTHY BLVD	302,350	11,047.94
022-29-043	707 N MCCARTHY BLVD	320,732	11,719.64
022-29-044	807 N MCCARTHY BLVD	336,545	12,297.42
022-30-035		4,138	151.20
022-30-038		435,600	15,916.94
022-30-039	1207 N MC CARTHY BLVD	217,800	7,958.46
022-30-049		78,626	2,873.00
022-30-054	907 N MCCARTHY BLVD	245,330	8,964.42
022-30-055	1645 N MCCARTHY BLVD	243,936	8,913.48
022-30-056	1605 N MCCARTHY BLVD	25,875	945.46
022-30-057	1585 N MCCARTHY BLVD	137,040	5,007.46
022-53-001	275 RANCH DR	32,670	1,193.76
022-53-002	179 RANCH DR	53,579	1,957.78
022-53-003	125 RANCH DR	33,106	1,209.68
022-53-004	81 RANCH DR	26,136	955.00
022-53-005	41 RANCH DR	32,234	1,177.84
022-53-006	63 RANCH DR	51,836	1,894.10
022-53-007	11 RANCH DR	954,835	34,889.92
022-54-002	74 RANCH DR	25,265	923.18
022-54-003	84 RANCH AVE	44,431	1,623.52
022-54-008	50 RANCH DR	33,977	1,241.52
022-54-009	120 RANCH DR	368,953	13,481.64
022-54-010	110 RANCH DR	44,867	1,639.44
022-54-011	170 RANCH DR	57,064	2,085.10
022-54-012	200 RANCH DR	131,551	4,806.90
022-54-013	212 RANCH DR	10,019	366.08
022-54-014	190 RANCH DR	27,878	1,018.68
022-54-015	260 RANCH DR	77,537	2,833.20
022-54-016	12 RANCH DR	46,174	1,687.18
022-54-017	30 RANCH RD	143,312	5,236.66
022-54-018	40 RANCH DR	100,624	3,676.80
022-54-019		8,276	302.42
022-56-005	115 N MCCARTHY BLVD	88,427	3,231.12
022-56-006	135 N MCCARTHY BLVD	89,734	3,278.88
022-56-007	155 N MCCARTHY BLVD	90,169	3,294.80
022-56-010	205 N MCCARTHY BLVD	1,488,719	54,398.18
022-56-011		1,074,352	39,257.08

Slight variances may occur due to rounding

City of Milpitas
LLMAD No. 95-1
Final Billing Detail Report for Fiscal Year 2023/24

APN	Situs Address	Net Square Foot	Fiscal Year 2023/24 Levy
42 Accounts		11,792,520	\$430,901.44
42 Total Accounts		11,792,520	\$430,901.44

CITY OF MILPITAS
LANDSCAPING MAINTENANCE DISTRICT (LMD) 95-1
(N.T.S.)



 2023-2024 FISCAL YEAR LANDSCAPE AREA FUNDED FOR MAINTENANCE



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Conduct a Public Hearing and Adopt a Resolution Confirming the Assessment and Ordering the Levy for the Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon for Fiscal Year 2023-24 (Staff Contact: Roberto Alonzo, Principal Civil Engineer, 408-586-3316)
Category:	Public Hearings-Community Development
Meeting Date:	6/20/2023
	<u>Recommendation:</u> Open the public hearing, receive any comments, and move to close the hearing following any testimony, and Adopt a Resolution confirming the assessment and ordering the levy for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon for Fiscal Year 2023-24.

BACKGROUND:

Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon (LLMD 98-1) provides for the maintenance and improvement of public landscaping, irrigation systems, and pedestrian walking path adjacent to Sinclair Frontage Road, and Los Coches Creek abutting the Sinclair Horizon residential subdivision in the areas as shown on the attached location map attached.

ANALYSIS:

On May 16, 2023, the City Council adopted Resolution No. 9242 approving the Annual Engineer's Report and adopted Resolution No. 9243 declaring its intention to levy and collect assessment for Fiscal Year 2023-24 for the Landscaping and Lighting Maintenance Assessment District No. 98-1.

An annual public hearing is necessary to adopt a resolution confirming the assessment and ordering the levy for the Landscape and Lighting Maintenance Assessment District 98-1 for Fiscal Year 2023-24 (**Attachment 1**), the Annual Engineer's Report (**Attachment 2**) to provide funds for the district. The total assessment for fiscal year 2023-24 is \$516.44 per lot, with an assessment rate not exceeding the maximum rate per lot which is \$560.54. The FY 2023-24 rate is approximately 4.53% higher than the previous year FY 2022-23 rate of \$493.03.

POLICY ALTERNATIVE(S):

Alternative 1:

Not approve resolution confirming the assessment and ordering the levy for LLMD 98-1.

Pros: None

Cons: The Landscaping and Lighting Act of 1972 requires the legislative body to adopt a resolution confirming the diagram and assessment, not adopting a resolution of confirmation would jeopardize the City's ability to collect assessments for the maintenance and upkeep of LLMD 98-1.

Reason not recommended: To allow for the continued maintenance of LLMD 98-1, staff recommends approving the resolution confirming the assessment and ordering the levy for fiscal year 2023-24.

Fiscal Impact:

The levy and collection of assessments provides a funding resource for the City to improve and maintain public landscaping, irrigation systems, pedestrian lighting, gateway columns and entry signs within LLMD 98-1 Sinclair Horizon.

California Environmental Quality Act:

Levy and collection of assessment is not considered a project under CEQA as there will be no direct or reasonably foreseeable indirect physical change in the environment.

Recommendation:

1. Open the public hearing, receive any comments, and move to close the hearing following any testimony.
2. Adopt a Resolution confirming the assessment and ordering the levy for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon for Fiscal Year 2023-24.

Attachments:

1. Resolution
2. Annual Engineer's Report
3. Location Map

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS, CONFIRMING THE
ASSESSMENT AND ORDERING THE LEVY FOR THE LANDSCAPING AND LIGHTING MAINTENANCE
ASSESSMENT DISTRICT NO. 98-1 FOR FISCAL YEAR 2023-24**

WHEREAS, the City Council previously completed its proceedings in accordance with and pursuant to the Landscaping and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (the “Act”) to establish the Landscaping and Lighting Maintenance Assessment District (the “Assessment District”); and

WHEREAS, the City Council has retained NBS for the purpose of assisting with the annual levy of the Assessment District, and the preparation and filing of an Annual Report; and

WHEREAS, the City Council has, by previous resolution, declared its intention to hold a Public Hearing concerning the levy and collection of assessments within the Assessment District; and

WHEREAS, a Public Hearing has been held and concluded and notice thereof was duly given in accordance with Section 22626 of the Act; and

WHEREAS, at the time and place specified in the Resolution of Intention the City Council conducted such hearing and considered all objections to the assessment.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. Confirmation of Assessment and Diagram: The City Council hereby confirms the assessment and the diagram as is described in full detail in the Annual Report on file with the City Clerk.
2. Levy of Assessment: Pursuant to Section 22631 of the Act, the adoption of this resolution shall constitute the levy of an assessment for the fiscal year commencing July 1, 2023, and ending June 30, 2024.
3. Ordering of the Levy: The City Council hereby orders NBS to prepare and submit the levy of assessments to Santa Clara County for placement on the Fiscal Year 2023-24 secured property tax roll.

PASSED AND ADOPTED this ____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmon Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney

CITY OF MILPITAS

Fiscal Year 2023/24 Annual Report For:

Landscaping and Lighting Maintenance Assessment District No. 98-1

April 2023

Prepared by:



Corporate Headquarters
32605 Temecula Parkway, Suite 100
Temecula, CA
Toll free: 800.67

CITY OF MILPITAS
LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT NO. 98-1
455 East Calaveras Boulevard
Milpitas, California 95035
(408) 586-3000

CITY COUNCIL

Carmen Montano, Mayor
Evelyn Chua, Vice-Mayor
Anthony Phan, Council Member
Hon Lien, Council Member
Garry Barbadillo, Council Member

CITY STAFF

Roberto Alonzo, PE, Principal Civil Engineer
Lauren Lai, Finance Director
Christian Di Renzo, Public Works Director

NBS

Tim Seufert, Client Services Director
Amanda Welker, Project Manager
Tom Zetz, Administrator

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1. ENGINEER'S LETTER

WHEREAS, in 1998 the City Council of the City of Milpitas (the "City"), State of California, under the Landscaping and Lighting Act of 1972 (the "Act"), created the City of Milpitas Landscaping and Lighting Maintenance Assessment District No. 98-1 (the "District") to provide for the continued maintenance, operation, and administration of various improvements within the boundaries of the District; and

WHEREAS, the City Council has directed NBS to prepare and file a report for Fiscal Year 2023/24 in accordance with Chapter 1, Article 4 of the Act presenting plans and specifications describing the general nature, location and extent of the improvements to be maintained; an estimate of the costs to maintain, operate, and service the improvements for the District for the referenced fiscal year; a diagram for the District showing the area and properties to be assessed; and an assessment of the estimated costs to maintain and service the improvements, stating the net amount to be assessed upon all assessable lots or parcels within the District in proportion to the special benefit received.

NOW THEREFORE, the following assessments have been calculated in accordance with the assessment methodology adopted and approved by the City Council at the time of District formation, and are made to cover the portion of the estimated costs of maintenance, operation, and servicing of the improvements, to be paid by the assessable real property within the District in proportion to the special benefit received:

District	Parcels	2023/24 Maximum Assessment Rate per Lot ⁽¹⁾	2023/24 Actual Assessment Rate per Lot	2023/24 Net Amount to be Assessed ⁽²⁾⁽³⁾
LLMAD 98-1	98	\$560.54	\$516.44	\$50,612.00

⁽¹⁾ The April 1, 2023 CPI was not available at the time of writing of this report. The Fiscal Year 2023/24 CPI increase was estimated using the February 2023/24 CPI.

⁽²⁾ Amounts placed on the tax roll include the 1% Santa Clara County Collection Fee.

⁽³⁾ This amount is only an estimate and does not reflect the final billed amount with rounding adjustments. Refer to Section 7 for the rounded figure.

I identified all parcels which will have a special benefit conferred upon them from the improvements described in District's Plans and Specifications section of this Engineer's Report (the "Benefited Parcels"). For particulars as to the identification of said parcels, reference is made to the Assessment Diagram, a copy is on file in the office of the City Clerk.

I have assessed the costs and expenses of the improvements upon the Benefited Parcels. In making such assessment:

- The proportionate special benefit derived by each Benefited Parcel from the improvements was determined in relationship to the entirety of the maintenance costs of the improvements;
- No assessment has been imposed on any Benefited Parcel which exceeds the reasonable cost of the proportional special benefit conferred on such parcel from the improvements; and
- Any general benefits from the improvements have been separated from the special benefits and only special benefits have been assessed.

I, the undersigned, respectfully submit the enclosed Engineer's Report and, to the best of my knowledge, information and belief, the Engineer's Report, Assessments, and the Assessment Diagrams herein have been prepared and computed in accordance with the order of the City Council of the City of Milpitas, the Act, and Article XIII D.

Roberto Alonzo

Roberto Alonzo, PE
Principal Civil Engineer



2. PLANS AND SPECIFICATIONS

The District provides for the continued administration, maintenance, operation, and servicing of various improvements located within the public right-of-way and dedicated easements within the boundaries of the District.

2.1 Location of Improvements

The District is located in the City of Milpitas, bounded on the east by Sinclair Frontage Road, on the west by Berryessa Creek, and on the north by Los Coches Street. The improvements maintained include public landscaping and irrigation improvements, including jogging paths, planter walls, grass berms, and ornamental planting, which are primarily situated within the public rights-of-way and dedicated public by easements within the District.

2.2 Landscaping Improvements

The landscaping and irrigation improvements were installed within the District in order to enhance the overall visual appearance for adjacent parcels. The improvements consist of the maintenance and operation of any or all public landscaping and irrigation improvements adjacent to curbs, including asphalt concrete jogging paths, planter walls, grass berms, and appurtenant irrigation systems; ornamental planting including lawns, shrubs, and trees, including necessary repairs, replacements, water, electric current, spraying, care, supervision, debris removal and all other items of work necessary and incidental for proper maintenance and operation thereof. The landscaping and irrigation improvements are collectively referred to as “landscaping improvements.” All such work will be performed in the following areas:

2.2.1 BERRYESSA CREEK

Due to the widening of the creek, improvements in Berryessa Creek were removed. Any improvements maintained in this reach (asphalt concrete jogging path, exercise equipment, planting, and irrigation) will no longer be maintained or improved.

2.2.2 LOS COCHES CREEK

1. A strip of land 812 feet long, 14 feet in width along the south bank of Los Coches Creek adjacent to Tract 9018. The improvements include an asphalt concrete jogging path, exercise equipment, planting, and irrigation.
2. A strip of land 5.5 feet wide within the Los Coches Street right-of-way between the back of sidewalk and the right-of-way along the south side of Los Coches Street between Berryessa Creek and Sinclair Frontage Road. The improvements include planting and irrigation.

2.3 Capital Improvements

In Fiscal Year 2021/22, the City initiated the design and construction of landscape and irrigation renovation along portions of Los Coches Street and Sinclair Frontage Road. Design and construction is anticipated to continue through Fiscal Year 2023/24. Capital Improvements are scheduled to be complete by June 30, 2027.

2.4 Overhead

In addition to the hard costs of maintaining the improvements mentioned above, the City will incur costs for staff time and expenses related to the management and maintenance of the improvements within the District. Staff time includes oversight and coordination of both City and contractor provided services, annual tax roll preparation, and addressing property owner questions and concerns. These activities are directly related to the maintenance of the improvements, and without them the improvements could not be efficiently completed or properly maintained on an ongoing basis.

3. ESTIMATE OF COSTS

The estimated costs of maintenance and servicing of the improvements as described in the Plans and Specifications are summarized below.

3.1 District Budget

The Fiscal Year 2023/24 estimated cost budget for the maintenance and servicing of the improvements is as follows:

Description	Fiscal Year 2023/24 Budget
Maintenance Staff ⁽¹⁾	\$31,000
Capital Equipment	0
Supplies	2,800
Utilities (Water, Electricity)	11,000
Reserve Fund	0
<u>Capital Improvement Program</u>	<u>22,600</u>
Maintenance Costs	\$67,400
NBS	\$3,750
City Staff District Administration	400
<u>County Auditor-Controller Fee⁽²⁾</u>	<u>495</u>
District Specific Costs	\$4,645
Total District Costs	\$72,045
General Benefit Contribution ⁽³⁾	(21,433)
Operating Reserve Contribution	0
<u>Capital Improvement Fund Contribution</u>	<u>0</u>
Net Amount to be Assessed	\$50,612
Total District Lots	98
Rate per Lot⁽⁴⁾	\$516.44
Maximum Rate Per Lot – 2023/24⁽⁵⁾	\$560.54

⁽¹⁾ The City's Department of Public Works is the provider of Maintenance Services.

⁽²⁾ County Auditor-Controller Fee is currently 1% of the total levy submittal.

⁽³⁾ General Benefit Contribution is not applied to District Specific Costs as these are special benefits to the District.

⁽⁴⁾ The Rate per lot equals the Net Amount to be Assessed / Total District Lots. The Rate cannot exceed the maximum rate.

⁽⁵⁾ The April 1, 2023 CPI was not available at the time of writing of this report. The Fiscal Year 2023/24 CPI increase was estimated by using the February 2023/24 CPI.

3.1.1 OPERATING RESERVE

It is the intent of the City to maintain an operating reserve which shall not exceed the estimated costs of maintenance and servicing of the improvements prior to December 10 of the fiscal year, or when the City expects to receive its apportionment of special assessments from the County, whichever is later. The operating reserve balance information for the District is as follows:

Estimated Fiscal Year Ending 6/30/2023 Operating Reserve Cash Balance	\$52,174
Operating Reserve Collection for Fiscal Year 2023/24	0
Estimated Fiscal Year Ending 6/30/2024 Operating Reserve Cash Balance	\$52,174

3.1.2 CAPITAL IMPROVEMENT BUDGET

In Fiscal Year 2021/22, the City initiated the design and construction of landscape and irrigation renovation along portions of Los Coches Street and Sinclair Frontage Road. As of January 31, 2023, the balance available for the Capital Improvement Project was \$135,000. The City will utilize these funds, along with an annual collection of \$11,000 via the District from Fiscal Year 2022/23 to Fiscal Year 2026/27, to finance the project.

Capital Improvements are scheduled to be complete by June 30, 2027.

4. SPECIAL AND GENERAL BENEFIT

The improvements defined in Section 2 are expected to confer certain special benefits to parcels within the District. The special benefits are described in this section. Figures in this section are derived from a Special v. General Benefit Analysis performed in Fiscal Year 2014/15.

4.1 Introduction

Pursuant to Article XIID, all parcels that receive a special benefit conferred upon them as a result of the installation, implementation and maintenance of the improvements, services and activities shall be identified, and the proportionate special benefit derived by each identified parcel shall be determined in relationship to the entire costs of the installation, implementation and maintenance of the improvements, services and activities.

Article XIID, Section 4(a) of the California Constitution limits the amount of any assessment to the proportional special benefit conferred on the property. Proposition 218 requires that the City separate the general benefit from special benefit, so that only special benefit may be assessed to properties within the District. Furthermore, Article XIID also provides that publicly owned properties must be assessed unless there is clear and convincing evidence that those properties receive no special benefit from the assessment.

4.2 Special Benefits Identified

The improvements described in Section 2 are expected to confer certain special benefits to parcels within the District. The special benefits conferred to property within the District can be grouped into two primary benefit categories: aesthetic benefit and safety benefit. The two district benefit categories are further expanded upon below.

- Improved Aesthetics:** The aesthetic benefit relates to the increase in the overall aesthetics as a result of the ongoing maintenance, servicing and operation of the improvements within the District. Street landscaping improvements improve the livability, commercial activity, appearance and desirability for properties within the District. Regular maintenance ensures that the improvements do not reach a state of deterioration or disrepair so as to be materially detrimental to properties adjacent to or in close proximity to the improvements. The overall appeal of the District is enhanced when improvements are in place and kept in a healthy and satisfactory condition. Conversely, appeal decreases when improvements are not well-maintained, unsafe, or destroyed by the elements or vandalism. Streetscapes have a significant effect on how people view and interact with their community¹. With streetscapes that are safe and inviting, people are more likely to walk, which can help reduce automobile traffic, improve public health, stimulate local economic activity and attract residents and visitors to the community².
- Increased Safety:** Well maintained areas mitigate crime, especially vandalism, and enhance pedestrian safety. A recent study found that after landscape improvements were installed, there

¹ Victoria Transport Policy Institute. (2011). *Community Livability. Helping to Create Attractive, Safe, Cohesive Communities*. Retrieved from <http://www.vtpi.org/tm97.htm>.

² Ibid.

was a 46% decrease in crash rates across urban arterial and highway sites and a second study reviewed found a 5% to 20% reduction in mid-block crashes after trees and planters in urban arterial roads were put in place. In addition, there is less graffiti, vandalism, and littering in outdoor spaces with natural landscapes than in comparable plant-less spaces³. The Victoria Transport Policy Institute has found that streetscapes reduce traffic speeds and when combined with improved pedestrian crossing conditions can significantly reduce collisions⁴.

4.3 General Benefits Identified

Section 4 of Article XIID of the California Constitution provides that once a local agency which proposes to impose assessments on property has identified those parcels that will have special benefits conferred upon them and upon which an assessment will be imposed, the local agency must next “separate the general benefits from the special benefits conferred,” and only the special benefits can be included in the amount of the assessments imposed.

General benefit is an overall and similar benefit to the public at large resulting from the maintenance of the District’s improvements provided by the assessments levied. The improvements to be maintained by the District are located within the District boundaries only. There will be no District maintenance activities provided for improvements located outside of the District boundaries.

The ongoing maintenance of the District improvements will provide aesthetic and safety benefits to the property within the District. However, it is recognized that the ongoing District maintenance activities will also provide a level of benefit to some property within proximity to the District, as well as individuals passing through. Therefore, the general benefit created as a result of the District maintenance activities has been considered.

4.4 Quantification of Benefit

As a result of the maintenance and operation of the improvements, there will be a level of general benefit to people that do not live in or intend to conduct business within the District. In order for property within the District to be assessed only for that portion of special benefits received from the district’s maintenance activities, general benefits provided by the ongoing maintenance of the improvements needs to be quantified. The amount of general benefit that is provided from the District’s maintenance activities cannot be funded via property owners’ assessments.

The landscaping improvements are primarily located along Los Coches Street and Sinclair Frontage Road and within the subdivision along Los Coches Creek and Berryessa Creek. A portion of the maintained landscaping provides some general benefit to pass-thru traffic. Per the City, there is 52,912 square feet of landscaping being maintained.

Los Coches Creek and Berryessa Creek

As result of the District maintenance activities, there will be a level of general benefit to pedestrians and vehicular traffic that are not associated with property in the District. As expressed by the Court in *Beutz v.*

³ Wolf, Kathleen L. (2010). *Safe Streets – A Literature Review*. In: *Green Cities: Good Health* (www.greenhealth.washington.edu). College of the Environment, University of Washington.

⁴ Victoria Transport Policy Institute. (2011). *Community Livability. Helping to Create Attractive, Safe, Cohesive Communities*. Retrieved from <http://www.vtpi.org/tm/tm97.htm>.

County of Riverside (2010), "... courts of this state have long recognized that virtually all public improvement projects provide general benefits." A route beginning or ending with a parcel within the District does not include the "general public" for purposes of determining general benefit. The landscaping improvements along the south side of Los Coches Creek and Berryessa Creek are local in nature, however even though they are intended primarily for localized access, there is some portion of pedestrian traffic that may not be accessing the adjacent properties. The landscaping improvements are located adjacent to the backyard of homes, and access is only available by walking or bicycling. There is no vehicular access to these improvements.

The Summary of Travel Trends, 2009 National Household Travel Survey (NHTS) prepared by the U.S. Department of Transportation Federal Highway Administration analyzed the number of person trips by various modes of transportations such as private vehicle, transit, walking or some other means of transportation. According to the Pacific Division data extracted from the 2009 NHTS database, of the annual 181,703 (in millions) total person trips, 21,252 (in millions) or 11.70% of those person trips were made by using walking as their mode of transportation, and 2,066 (in millions) or 1.14% of those person trips were made by bicycling⁵.

According to the U.S. Census Bureau (2010), the average household size in the City is 3.34 persons⁶. Based on this average household size, and considering there are 98 residential units within the District, there are approximately 327 people residing within the District boundaries. There are an estimated 163 residential units in close proximity, but outside of the District boundaries. Based on the City's average household size, there are approximately 544 persons residing outside of the District boundaries, but have access to the landscaping improvements.

Community	Estimated Number of Residential Units	Estimated Number of Persons ⁽¹⁾
District	98	327
Sundrop Subdivision	83	277
Sinclair Renaissance Subdivision	80	267
Total Residential Population	261	871

⁽¹⁾ U.S. Census Bureau (2010) average household size in the City is 3.34 persons.⁷

In order to determine the estimated total number of persons who are within close proximity to the landscaping improvements, and would utilize walking or bicycling as their mode of transportation, we applied the 12.84% (11.70% walking, 1.14% bicycling) of person trips reported from the NHTS Pacific Division study, to the total nearby residential population (871). There are approximately 112 people within close proximity of the District that utilize walking or bicycling as their mode of transportation.

In order to determine the portion of the 112 persons that reside within the District, we applied the 2009 NHTS walking trip percentage (12.84%) to the District population (327). Approximately 42 people within the

⁵ U.S. Department of Transportation. Federal Highway Administration. (2011). Summary of Travel Trends: 2009 National Household Travel Survey. (Report No. FHWA-PL-11-022). Retrieved from <http://nhts.ornl.gov>

⁶ U.S. Census Bureau. (2010). Profile of General Population and Housing Characteristics: 2010, 2010 Demographic Profile Data. Milpitas, C.A. Retrieved March 23, 2015, <http://quickfacts.census.gov/qfd/states/06/0647766.html>

⁷ Ibid.

District boundaries use walking or bicycling as their primary mode of transportation. Therefore, the total surrounding neighborhood area population, located outside of the District boundaries, but in close proximity the landscaping improvements, that uses walking or bicycling as their primary mode of transportation is estimated to be 70 people.

Community	Estimated Number of Persons
District	42
Sundrop Subdivision	36
Sinclair Renaissance Subdivision	34
Walking or Bicycling Population	112

In order to obtain a better picture of the overall level of general benefit provided by the landscaping improvements, the pedestrian traffic that utilizes walking or bicycling as the mode of transportation that will seek out and use the District improvements, but live outside of the District, must be considered. The 2009 NHTS further details the purposes of the reported walking (21,252 in millions) and bicycling (2,066 in millions) trips; based on the property types people entering the District would most likely do so for social or recreational activities.

The following details the number of walking and bicycling trips, based on the 2009 NHTS study, for each of the activities that are the most likely reasons people outside of the District would use the landscaping improvements:

Trip Purpose	Number of Walking or Bicycling Trips (in millions)
Social/Recreational	6,442
Total	6,442

Of the total number of walking and bicycling trips reported, 6,442 (in millions) or 27.63% are for purposes that persons outside of the District may use the landscaping improvements. Applying this percentage (27.63%) to the number of people walking or bicycling as their mode of transportation and that reside outside of the District (70), there are approximately 19 people (general benefit) that may use the landscaping improvements, but do not reside within the District. Taking the 19 people that may walk or bicycle, but reside outside of the District, divided by total residential population with access to the landscaping improvements (871), the estimated percentage of persons, engaging in what is considered general benefit because they do not reside within the District, represents 2.21%.

Los Coches Street and Sinclair Frontage Road

The City does not have a study showing traffic volume along Los Coches Street and Sinclair Frontage Road along the District boundaries. The portion of the maintained landscaping that is located along Los Coches Street and Sinclair Frontage Road provides some general benefit to pass-through traffic. Before the determination and allocation of the percentage of special and general benefit for the District can be made, the estimated pass-through traffic must be computed. The pass-through trips are vehicles driving along the

maintained streets within the District for a portion of their trips, but not living or conducting business in the District and benefiting from the landscaping improvements in place.

The Sundrop and Sinclair Renaissance residential communities are located directly across the street and next to the District, and vehicles entering and/or exiting these communities in all likelihood are passing by a portion of the landscaping improvements for a portion of their trip. In lieu of having a study that identifies the pass-through traffic, the estimated number of trips generated for each community has been calculated based on the number of units and average number of trips per dwelling unit.

Community	Number of Residential Units ⁽¹⁾	Estimated Number of Daily Vehicle Trips ⁽²⁾	% of Total Daily Vehicle Trips ⁽³⁾
District	98	933.0	44.34%
Sundrop Subdivision	83	790.2	37.56%
Sinclair Renaissance Subdivision	80	380.8	18.10%
Total	261	2,104.0	100.00%

⁽¹⁾ Number of Residential Units is from the City's Approved Projects map.⁸

⁽²⁾ Per the ITE Trip Generation Report a single family residence generates an average of 9.52 trips per dwelling unit.⁹

⁽³⁾ Number of daily trips has been reduced by 50% to account for vehicles entering and exiting the community from the opposite direction on Sinclair Frontage Road, and not driving along the portion of Los Coches Street and Sinclair Frontage Road with landscaping improvements maintained by the District.

As detailed above, based on the average number of daily vehicle trips generated for the communities in close proximity to the District, 1,171 (55.66%) are generated by residential units located outside of the District (general benefit).

All Locations and Landscaping Improvements – Residential Pass-thru Benefit

The general benefit percentages determined in the previous sections for Los Coches Creek and Berryessa Creek (2.21%) and Los Coches Street and Sinclair Frontage Road (55.66%) were then applied to each corresponding location with landscaping improvements. The landscaping square footage being maintained by the District was provided by the City's Public Works Department. The general benefit percentage for each street type was multiplied by the total square footage being maintained for such street. The general benefit square footage was summed for all street segments and divided into the total square footage of all landscaping maintenance. The result is the combined general benefit percentage. The following table details this calculation.

Street Name	Total Square Footage	General Benefit Percentage	General Benefit Square Footage
Los Coches Creek	4,572	2.21%	101
Berryessa Creek	21,025	2.21%	465
Los Coches Street	24,747	55.66%	13,773
Sinclair Frontage	2,568	55.66%	1,429
Totals:	52,912		15,768
Landscaping General Benefit			29.80%

⁸ City of Milpitas. (2013). Approved Development Projects. Retrieved from http://www.ci.milpitas.ca.gov/government/planning/proj_approved.asp

⁹ Trip Generation, 9th Edition: An Informational Report of the Institute of Transportation Engineers. (2012). Washington, DC: Institute of Transportation Engineers.

Based on the above calculations, the general benefit portion of the improved aesthetics and increased safety resulting from the landscaping improvements is estimated to be 29.80%.

Public at Large General Benefit

Given the location and nature of the improvements, it is very unlikely the public at large would seek out or use the landscaping improvements within the District. In addition, there are more direct routes to access the industrial complexes/businesses located to the south of the District than the 2 lane Los Coches Street and Sinclair Frontage Road. Nevertheless, it is perceivable that members of the public at large may pass-thru a portion of the landscaping improvements, even if it's lost or leisure traffic. As such, general benefit of 2.00% has been assigned for the landscaping improvements to the public at large

4.4.1 COLLECTIVE DISTRICT-WIDE GENERAL BENEFIT

Since the District is comprised of improved aesthetics and increased safety benefits resulting from the collective landscaping improvements, the activity of both pedestrians and vehicles, and the public at large must be addressed in a collective form rather than independently. The sum of the calculated general benefits is the total general benefit related to all pass-thru traffic. This general benefit result is provided in the table below:

Residential Pass-thru General Benefit	29.80%
Public at Large General Benefit	2.00%
Total General Benefit	31.80%

The general benefit, which is the percentage of the total budget that must be funded through sources other than assessments, is 31.80%. The special benefit then, which is the percentage of the budget that may be funded by assessments, is 68.20%.

5. METHOD OF ASSESSMENT

5.1 Method of Assessment Spread

All parcels in the District on which residential dwellings will be constructed specially benefit from the improvements to an equivalent extent. These parcels are therefore assessed on a per lot basis for the maintenance and operation of the District, including incidentals and appurtenances, and will include all the costs of maintenance and/or operating the improvements. As outlined in Section 4, the total amount of general benefit from the improvements is determined to be 31.80%.

The preliminary maximum assessment rate for Fiscal Year 2023/24 is \$560.54. The actual assessment rate levied on each taxable parcel for Fiscal Year 2023/24 is \$516.45.

Each year the maximum assessment rate shall be increased by the percentage change from April 1st of the prior year to April 1st of the current year by the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Indexes, Pacific Cities and U.S. City Average, San Francisco-Oakland-Hayward. The April 1, 2023 CPI was not available at the time of writing of this report. For purposes of this report, the CPI increase was estimated by using the February 2023/24 CPI.

5.2 Maximum Assessment Rates

The following table provides the historical maximum assessment rates for Fiscal Year 2000/01 through the current fiscal year:

Fiscal Year	CPI	Percentage Increase ⁽¹⁾	Maximum Rate
2000/01	178.7	N/A	\$292.803
2001/02	189.1	5.82%	309.844
2002/03	193.0	2.06%	316.234
2003/04	197.3	2.23%	323.280
2004/05	198.3	0.51%	324.918
2005/06	202.5	2.12%	331.800
2006/07	208.9	3.16%	342.286
2007/08	215.842	3.32%	353.661
2008/09	222.074	2.89%	363.872
2009/10	223.854	0.80%	366.789
2010/11	227.697	1.72%	373.086
2011/12	234.121	2.82%	383.611
2012/13	238.985	2.08%	391.581
2013/14	244.675	2.38%	400.904
2014/15	251.495	2.79%	412.079
2015/16	257.622	2.44%	422.118
2016/17	264.565	2.70%	433.494
2017/18	274.589	3.79%	449.919
2018/19	283.422	3.22%	464.392
2019/20	294.801	4.01%	483.037
2020/21	298.074	1.11%	488.400
2021/22	309.419	3.81%	506.988
2022/23	324.878	5.00%	532.318
2023/24	337.173	5.30% ⁽²⁾	560.544

⁽¹⁾ Percentage increase from April 1 of the prior year to April 1 of the current year in the US Department of Labor, Bureau of Labor Statistics, Consumer Price Index, Pacific Cities and US City Average, San Francisco-Oakland-Hayward.

⁽²⁾ The April 1, 2023 CPI was not available at the time of writing of this report. The Fiscal Year 2023/24 CPI increase was estimated using the February 2023/24 CPI.

5.3 Appeals

Any property owner who feels that the amount of their assessment is in error as a result of incorrect information being used to apply the foregoing method of spread, may file an appeal with the Finance Director of the City. Any such appeal is limited to correction of an assessment during the current or, if before July 1, the upcoming fiscal year. Upon the filing of any such appeal, the Finance Director shall promptly review the information provided by the property owner and if he/she finds that the assessment should be modified, he/she shall have the authority to make the appropriate changes in the assessment roll. If any such changes are provided after the assessment roll has been filed with the County for collection, the Finance Director is authorized to refund to the property owner the amount of any approved reduction.

6. ASSESSMENT DIAGRAM

The following page provides a copy of the assessment diagram of the District.



7. ASSESSMENT ROLL

Assessor's parcel identification, for each lot or parcel within the District, shall be based on the Santa Clara County Assessor's secured roll data for the applicable year in which this report is prepared and is incorporated herein by reference.

A listing of assessor's parcels assessed within the District for Fiscal Year 2023/24, along with the assessment amounts, is on file in the office of the City Clerk and incorporated herein by reference. Based on County Assessor's secured roll data, current assessor's parcels, including corrected and/or new assessor's parcels, will be submitted and/or resubmitted to the Santa Clara County Auditor/Controller. The annual assessment amount to be levied and collected for the resubmitted parcel(s) shall be determined in accordance with the method of apportionment and assessment rate approved in this report. Therefore, if a single assessor's parcel has a status change in development, other land use change, or subdivides into multiple assessor's parcels, the assessment amounts applied to each of the new assessor's parcels shall be recalculated and applied according to the approved method of apportionment and assessment rate rather than a proportionate share of the original assessment amount.

City of Milpitas
LLMAD No. 98-1
Final Billing Detail Report for Fiscal Year 2023/24

APN	Assessment ID	Situs Address	Fiscal Year 2023/24 Levy
086-48-001	1	872 CAMERON CIR	\$516.44
086-48-002	2	868 CAMERON CIR	516.44
086-48-003	3	864 CAMERON CIR	516.44
086-48-004	4	860 CAMERON CIR	516.44
086-48-005	5	856 CAMERON CIR	516.44
086-48-006	6	852 CAMERON CIR	516.44
086-48-007	7	848 CAMERON CIR	516.44
086-48-008	8	844 CAMERON CIR	516.44
086-48-009	9	840 CAMERON CIR	516.44
086-48-010	10	836 CAMERON CIR	516.44
086-48-011	11	832 CAMERON CIR	516.44
086-48-012	12	828 CAMERON CIR	516.44
086-48-013	13	824 CAMERON CIR	516.44
086-48-014	14	820 CAMERON CIR	516.44
086-48-015	15	816 CAMERON CIR	516.44
086-48-016	16	812 CAMERON CIR	516.44
086-48-017	17	808 CAMERON CIR	516.44
086-48-018	18	804 CAMERON CIR	516.44
086-48-019	19	800 CAMERON CIR	516.44
086-48-020	20	1004 CAMERON PL	516.44
086-48-021	21	1000 CAMERON PL	516.44
086-48-022	22	996 CAMERON PL	516.44
086-48-023	23	992 CAMERON CIR	516.44
086-48-024	24	988 CAMERON CIR	516.44
086-48-025	25	984 CAMERON CIR	516.44
086-48-026	26	980 CAMERON CIR	516.44
086-48-027	27	976 CAMERON CIR	516.44
086-48-028	28	972 CAMERON CIR	516.44
086-48-029	29	968 CAMERON CIR	516.44
086-48-030	30	964 CAMERON CIR	516.44
086-48-031	31	960 CAMERON CIR	516.44
086-48-032	32	956 CAMERON CIR	516.44
086-48-033	33	952 CAMERON CIR	516.44
086-48-034	34	948 CAMERON CIR	516.44
086-48-035	35	944 CAMERON CIR	516.44
086-48-036	36	940 CAMERON CIR	516.44
086-48-037	37	936 CAMERON CIR	516.44
086-48-038	38	932 CAMERON CIR	516.44
086-48-039	39	928 CAMERON CIR	516.44
086-48-040	40	924 CAMERON CIR	516.44
086-48-041	41	920 CAMERON CIR	516.44
086-48-042	42	916 CAMERON CIR	516.44

Slight variances may occur due to rounding

City of Milpitas
LLMAD No. 98-1
Final Billing Detail Report for Fiscal Year 2023/24

APN	Assessment ID	Situs Address	Fiscal Year 2023/24 Levy
086-48-043	43	912 CAMERON CIR	516.44
086-48-044	44	908 CAMERON CIR	516.44
086-48-045	45	904 CAMERON CIR	516.44
086-48-046	46	900 CAMERON CIR	516.44
086-48-047	47	896 CAMERON CIR	516.44
086-48-048	48	892 CAMERON CIR	516.44
086-48-049	49	888 CAMERON CIR	516.44
086-48-050	50	884 CAMERON CIR	516.44
086-48-051	51	880 CAMERON CIR	516.44
086-48-052	52	876 CAMERON CIR	516.44
086-48-053	53	899 CAMERON CIR	516.44
086-48-054	54	903 CAMERON CIR	516.44
086-48-055	55	907 CAMERON CIR	516.44
086-48-056	56	911 CAMERON CIR	516.44
086-48-057	57	915 CAMERON CIR	516.44
086-48-058	58	211 CAMERON CT	516.44
086-48-059	59	203 CAMERON CT	516.44
086-48-060	60	195 CAMERON CT	516.44
086-48-061	61	200 CAMERON CT	516.44
086-48-062	62	208 CAMERON CT	516.44
086-48-063	63	216 CAMERON CT	516.44
086-48-064	64	207 WHITE CT	516.44
086-48-065	65	199 WHITE CT	516.44
086-48-066	66	191 WHITE CT	516.44
086-48-067	67	183 ALLEN CT	516.44
086-48-068	68	175 ALLEN CT	516.44
086-48-069	69	180 ALLEN CT	516.44
086-48-070	70	188 ALLEN CT	516.44
086-48-071	71	196 WHITE CT	516.44
086-48-072	72	204 WHITE CT	516.44
086-48-073	73	212 WHITE CT	516.44
086-48-074	74	203 KING CT	516.44
086-48-075	75	195 KING CT	516.44
086-48-076	76	187 KING CT	516.44
086-48-077	77	179 BRANDT CT	516.44
086-48-078	78	171 BRANDT CT	516.44
086-48-079	79	176 BRANDT CT	516.44
086-48-080	80	184 BRANDT CT	516.44
086-48-081	81	192 KING CT	516.44
086-48-082	82	200 KING CT	516.44
086-48-083	83	208 KING CT	516.44
086-48-084	84	199 DOUGLAS CT	516.44

Slight variances may occur due to rounding

City of Milpitas
LLMAD No. 98-1
Final Billing Detail Report for Fiscal Year 2023/24

APN	Assessment ID	Situs Address	Fiscal Year 2023/24 Levy
086-48-085	85	191 DOUGLAS CT	516.44
086-48-086	86	183 DOUGLAS CT	516.44
086-48-087	87	175 HOBBS CT	516.44
086-48-088	88	167 HOBBS CT	516.44
086-48-089	89	174 HOBBS CT	516.44
086-48-090	90	182 HOBBS CT	516.44
086-48-091	91	190 DOUGLAS CT	516.44
086-48-092	92	198 DOUGLAS CT	516.44
086-48-093	93	206 DOUGLAS CT	516.44
086-48-094	94	991 CAMERON CIR	516.44
086-48-095	95	995 CAMERON CIR	516.44
086-48-096	96	811 CAMERON CIR	516.44
086-48-097	97	815 CAMERON CIR	516.44
086-48-098	98	831 CAMERON CIR	516.44
98 Accounts			\$50,611.12
98 Total Accounts			\$50,611.12

CITY OF MILPITAS
LANDSCAPING MAINTENANCE DISTRICT (LMD) 98-1
(N.T.S.)



2023-2024 FISCAL YEAR LANDSCAPE AREA FUNDED FOR MAINTENANCE

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CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution to Appoint an Acting City Manager and Consider Acting Pay Effective Upon Adoption and Continuing Until Council Takes Further Action (Staff Contact: Nick Raisch, Human Resources Director, 408-586-3086)
Category:	Leadership and Support Services
Meeting Date:	6/6/2023
	<u>Recommendation:</u> (1) Adopt a resolution to appoint an Acting City Manager effective upon adoption and continuing until council takes further action; and (2) Consider acting pay during the assignment.

BACKGROUND:

The City Manager's employment agreement expired on June 3, 2023. The City of Milpitas is established as a Council-Manager form of government, which requires the City Council to appoint a City Manager or Chief Executive to handle the day-to-day operations and administration of the City. On June 6, 2023 the City Council appointed an Acting City Manager with a direction to staff to bring back the issue of compensation on June 20, 2023.

City Council last appointed an acting/interim City Manager on June 18, 2019. At that time the City Council approved the placement of the acting/interim City Manager at the same salary level as the prior City Manager which was \$298,000 per year. This represented a 20.5% increase from their prior rate of pay.

While unrepresented management do not have specific language governing acting assignments, working out of classification, or special assignments, the City's many labor agreements do address these situations. Those provisions are listed below for background reference on compensation practices related to higher level assignments.

MEA: Employees assigned to duties of a higher class for at least one shift shall be compensated at a rate of 10% above the employee's current base salary while working out of class, except where such increase exceeds the pay range allocated of the assigned position.

Protech: Employee shall be compensated at least 5% more than their salary or at the entrance step of the range of the higher classification, whichever compensation pattern is greater except where such increase exceeds the pay range allocated to the assigned position.

Mid Management and Confidential Unit: When assigned to upgraded duties employees shall be compensated at least 5% more than their salary or at the entrance step of the range of the higher classification, whichever is greater. Additionally, if staff is placed on a special project (special assignment) they are to be paid a minimum increase of 10% to 15% of their base salary.

The Current rate of pay for the City Manager classification as publicly adopted is \$334,367.

ANALYSIS:

During the normal course of business, anytime the City Manager is on leave, the Assistant City Manager, by nature of their position, takes on the duties and responsibilities of the City Manager.

As the current City Manager's employment agreement has expired and a new City Manager has not yet been selected, the City Council took official action on June 6, 2023, to appoint Ashwini Kantak as Acting City Manager.

The Council further directed staff to return in closed session on June 20, 2023 to discuss the appropriate level of compensation for the duration of this acting assignment.

POLICY ALTERNATIVE(S):

Alternative 1: Do not take further action with regard to Appointment of Acting City Manager.

Pros: None

Cons: The City Council has directed that the issue of Acting City Manager be agendized for further action.

FISCAL IMPACT:

Funding will be available from staff vacancies within the FY2023-24 adopted budget.

California Environmental Quality Act (CEQA):

Approval of the recommendation is not an activity defined as a "project" under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines 15061(b)(3) and 15378(b)(4) either because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment and/or because the action is financial and/or administrative and does not directly impact the environment.

RECOMMENDATION:

(1) Adopt a resolution to appoint an Acting City Manager effective upon adoption and continuing until council takes further action; and (2) Consider acting pay during the assignment.

Attachment(s):

1. Resolution.

RESOLUTION NO. _____**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPOINTING AN ACTING CITY MANAGER**

WHEREAS, the City of Milpitas Unrepresented Management Employees are not organized or represented for the purposes of meeting and conferring with the City in the areas of salary, benefits, and working conditions; and

WHEREAS, on June 3, 2023, the City Manager's Employment Agreement expired, and the position became vacant; and

WHEREAS, on June 6, 2023, council in open session appointed Assistant City Manager Ashwini Kantak as Acting City Manager;

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City Council hereby authorizes and affirms the appointment of _____ as Acting City Manager effective immediately and to remain in effect until future Council action.
3. The City Council hereby after discussion in closed session approves the following compensation for the duration of the assignment:
 - a) _____

PASSED AND ADOPTED this _____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Receive a Report on the Homekey Project at 1000 Hillview Court, Direct Staff to Establish a Stakeholder Group and Appoint a Council Liaison (Staff Contact: Ashwini Kantak, Acting City Manager, 408-586-3053; and Matt Cano, Deputy City Manager, 408-586-3012)
Category:	Leadership and Support Services
Meeting Date:	6/20/2023
	<u>Recommendations:</u> Receive a Report on the Homekey Project at 1000 Hillview Court, and direct staff to establish a stakeholder group and appoint a Council liaison to the stakeholder group.

BACKGROUND:

Project Background

The project at 1000 Hillview Court was funded through a combination of \$29.2M in Homekey grant funding, \$21.9M in 2016 Measure A funding from Santa Clara County (County) as a residual receipts loan and up to \$25M in 2016 Measure A funding from the County as a bridge loan. The project is also supported with 132 Section 8 Project Based Vouchers from the Santa Clara County Housing Authority. Finally, the County's Office of Supportive Housing (OSH) provides approximately \$1.7M in ongoing funding for supportive services and currently contracts with Abode Services. The project is owned by Jamboree Housing Corporation (Jamboree).

The conversion of Hillview Court from a hotel to a permanent supportive housing development has taken place in two phases. The first phase included minimal interior repairs and leasing of 50% of the units to both meet the Homekey deadlines and to afford Jamboree sufficient space to complete the necessary improvements to the building. Tenants of the first phase started to move in during December 2020. The second phase of the project included the permanent conversion of the property and tenants of the second phase started to move in during September 2021.

As of May 31, 2023, the Project is at 88% occupancy, with 116 of the 132 units occupied. The remaining units are expected to be occupied by August 2023. Four residents are affiliated with Milpitas while the remaining are affiliated with other cities and towns in the County.

Roles and Responsibilities

Jamboree, as the Property and Project Owner, is responsible for the overall management and oversight of the property including property management and resident services. Jamboree currently contracts with Domus Management for property management and security services. The County is primarily responsible for providing referrals to the 132 units and to ensure that tenants are provided supportive services in accordance with the Supportive Housing Services Plan. County OSH utilizes the coordinated entry system to send referrals. Eligible tenants include those who are chronically homeless. These respective roles are memorialized in a No Cost Memorandum of Understanding between the County and Jamboree.

Project Updates to Milpitas City Council

In June 2022, several members of the City Council requested periodic updates for this Project. An update was provided at the August 16, 2022 (<https://www.milpitas.gov/pdfs/council/2022/081622/Attachments.pdf>), City

Council meeting and another one at the November 15, 2022 meeting (<https://www.milpitas.gov/pdfs/council/2022/111522/Attachments.pdf>). Although an update was scheduled on March 21, 2023, the item was deferred and the data from that report has been incorporated into this report.

At the November 15, 2022, City Council meeting, Jamboree provided information on the Project including capital improvements, occupancy and on-site supportive services, roles and responsibilities of the County, Owner, and Property Manager, and enforcement of lease agreement terms.

Police and Fire staff provided information about the significant increase in recent calls for service compared to historic data at the same site. Information was presented on types of calls for service, number of events in 2020, 2021, and 2022 and average time spent on events.

Based on the information presented, Council expressed concerns about the trend in increased calls for service and its impact on public safety resources and asked the Project team to consider improving services offered on-site, installing a fence to mitigate impact on the businesses in the adjoining business park, engaging the tenants in discussions about the property, and tightening the enforcement process to ensure compliance with the lease terms and safety of the residents.

ANALYSIS:

This staff report provides information on updates related to the Project since November 2022. The updated calls for service data will be presented at the June 20, 2023, City Council meeting.

Staffing and Budget

On-site property management, security, and services are provided by sub-contractors of Jamboree. The costs for these services are offset from the revenue that is collected through rents rental subsidies provided through the Santa Clara County Housing Authority's Section 8 Project Base Voucher Program. See Attachment 2 for the Operating Budget. On-site supportive services and providing by the County through a Professional Services Agreement with Abode Services and is funded through the County's General Fund.

Table 1: Overall Staffing at 1000 Hillview Court

Entity	No. of On-Site Staff	Hours	Functional Area
Jamboree	2	Mon-Fri 8:30 am - 6 pm	Coordination of onsite activities and organizations. Provide operational oversight.
Domus	8	Property Management: Mon-Fri 8am-5pm Front Desk Clerks: Mon-Sun 6am-10pm Maintenance: Sun-Fri 8am-5pm	Property management
Select Security	5 (1 morning shift, 2 night shift, 2 on weekends)	24 hours 7 days a week	Site and facility security
Abode Services	11 total staff funded, currently 4 vacancies; hours vary	Mon-Fri 8:00 am - 8 pm; Sat 9:00 am – 5 pm	Case management and on-site social services

*Saturday hours from 9AM-5PM started March 24, 2023.

On-site staffing from Abode Services includes: one (1) Program Manager (currently vacant; Associate director is covering 4 days a week at least 9 am-5 pm); one (1) Program coordinator (supervising staff) 12 noon-8 pm; one (1) Clinical Supervisor (as needed onsite weekly); two (2) Mental Health Clinicians (currently vacant, generally M-F 9 am-5 pm); two (2) Harm Reduction Specialists (one hired, one in process of hiring); two (2) Peer Specialists; and two (2) Resident Service Coordinators.

Capital Improvements

Jamboree has completed the Phase II improvements and is currently working on finalizing the plans for the perimeter fence and a proposed scope of work for Phase III improvements. A timeline for expected completion has not been determined at this time.

Additional security elements and some facility improvements are anticipated to be completed in 2023 including a perimeter fence, elevator modernization, corridor and stairwell upgrades, window upgrades, BBQ shade structure, additional cameras, roof repair, and redesigning the building entryway.

In early March, City staff convened a meeting with Jamboree, County staff, and adjacent neighboring commercial businesses to discuss the location of the fence and to discuss any outstanding concerns. A mutual commitment was made to communicate frequently and clearly about concerns and progress to address the concerns.

Jamboree has developed the following draft list of items that are being considered for Phase III and will be discussing the proposal with the Tenant's Association, County and City staff before finalizing:

- Add additional cameras for higher visibility areas, such as elevators and the parking lot and adjust the angle of several existing cameras
- Add shade structure over the courtyard
- Interior and exterior painting
- Replace flooring on upper floors
- Add new interior and exterior lighting fixtures
- Refurbish the current elevator to reduce the number of malfunctions
- Redesign of amenities and office space

Lease Violations and Enforcement Process

According to Jamboree, when a resident exhibits behavioral issues, property management collaborates with JHC-Supportive Services and Abode-Case Management to mediate. Abode reaches out to residents to offer resources and counseling. Property management issues either a warning or a lease violation to the resident. Repeated behavioral issues may result in eviction. For severe behavioral issues, property management may move straight to eviction, depending on the severity. Alternatively, management may propose a mutual termination agreement to residents to voluntarily leave and avoid eviction and potential housing voucher loss. Since July 2021, eight residents have been evicted, three residents agreed to a mutual termination, and two residents currently have pending eviction court dates.

Social Services

The County provides intensive case management services at a ratio of 1 case manager for every 20 tenants through a professional services agreement with Abode Services.

On site services include educational and social activities and linkage to resources such as job training, health insurance, food programs, and government resources. A Narcotics Anonymous meeting is available to clients on-site every week Thursdays at 7:00PM. The role of the case manager is to develop client-centered service plans to obtain and retain housing, improve health conditions, improve daily living activities and to achieve

long-term stability. In addition, the case manager provides care coordination including assisting clients with transportation needs to off-site services such as drug and alcohol rehabilitation and mental health services.

Programming and Resources

Since November 2022, Jamboree, in cooperation with Abode Services, have added new programming and resources to continue improving the quality of life at Hillview. This collective effort continues to support the residents and increase the effectiveness of services and resources provided onsite.

Abode services has also implemented a new tool “Calling Post”. Launched on March 3, 2023, Calling Post is a mass communication technology that allows on-site staff to communicate with all residents who have opted into the service at one time. On-site providers compose a message which is then sent to residents via text message, email, and phone call. Residents can opt out at any time should they desire to do so. This tool will be used to communicate emergencies like earthquakes, or fires, important services and events announcements, and other urgent information as needed.

Additionally, new programming includes:

- No cost Uber rides: Over 70 cost free rides of transportation have been provided to residents for various medical appointments, preventing future EMS calls due to prophylactic and preventative care.
- Valley Homeless Health Care Program (VHHP): Starting on January 24, 2023, VHHP began meeting on-site with residents of the Hillview community in their home, or in private meeting spaces to address medical concerns. A primary care physician will be onsite once a month, and every other week a registered nurse, or occupational therapist will come onsite to address medically fragile clients, and those who are interested in medical services.
- Pet Clinic: Quarterly pet clinics with Silicon Valley Humane Society have been set up to provide a mobile clinic to support tenants with pets who are in need of vaccines or need to be spayed/neutered.

Tenant and Community Engagement

Since November 2022, Jamboree staff, in partnership with the County, have been meeting with the Hillview Court Tenant’s Association to address concerns and build a relationship with the residents.

Most recently, Jamboree hosted an all stakeholders meeting that included members of the Tenant’s Association Steering Committee and staff from the County, the City and Abode Services. A reconvening of this meeting will now take place on a monthly basis. Jamboree is hosting meetings to introduce the new Domus team, including a meet and greet with the Hillview Court Tenant’s Association on June 15, 2023.

On May 22, a resident of 1000 Hillview Court sent an email to the City Council and several other stakeholders noting significant concerns at the property. Many of the allegations made in the email were safety related and in response, the City Council sent a letter to Supervisor Lee’s office on May 26 (Attachment 3), asking for assistance in addressing these concerns. The City has not yet received a response to that letter nor to the one sent previously in August 2022, asking for the City to be compensated for the impact on its public safety resources. The August 2022 letter also requested additional case management services on site.

City staff attended an on-site meeting on May 31 and heard additional concerns about site safety, property management, and on-site services.

In order to ensure that tenant and other stakeholder concerns are addressed, and updates provided on a regular basis, staff is recommending establishing a stakeholder group comprising of representatives from the following entities:

- Santa Clara County Office of Supportive Housing
- Jamboree Housing Corporation
- Abode Services
- Domus (property management company)

- Select Security (security company)
- 1000 Hillview Court Tenant Association
- Adjacent business community
- Hillview residential community
- City of Milpitas City Council and staff
- Supervisor Lee's Office (County Board of Supervisors)

The stakeholder group would be convened on a regular basis at the project site. Key issues and objectives would be formulated by the stakeholder group. In lieu of this quarterly report, the City Council liaison and staff could bring back updates from the stakeholder group to the full City Council.

Presentation to City Council on June 20

At the June 20 City Council meeting, representatives from the County, Jamboree, Abode Services, and the Tenant's Association will be in attendance. Jamboree will provide an update including current occupancy status, planned future capital improvements, and any modifications to management and oversight roles and responsibilities, and enforcement process for compliance terms of lease agreements. Abode Services will provide a summary of the supportive services they offer. The Office of Supportive Housing in partnership with the Hillview Court Apartments Tenant's Association will provide an update on efforts to address concerns raised by tenants.

Police Department staff will present crime statistics from January 2020 through May 2023 including the number of calls for service, types of calls for service, and officer-initiated activity. Fire Department staff will also provide information about calls for service from January 2020 through May 2023.

FISCAL IMPACT:

There is no fiscal impact associated with receiving this report. However, the increased volume of Police and Fire calls for service at this site impacts response times to the rest of the Milpitas community and may necessitate investment in additional public safety resources in the future.

California Environmental Quality Act (CEQA):

Receiving a report is exempt from environmental review pursuant to CEQA Guideline 15378(b)(5) as an organizational or administrative activity of the City that will not result in any direct or indirect physical changes in the environment.

RECOMMENDATION:

Receive a Report on the Homekey Project at 1000 Hillview Court, and direct staff to establish a stakeholder group and appoint a Council liaison to the stakeholder group.

Attachment(s):

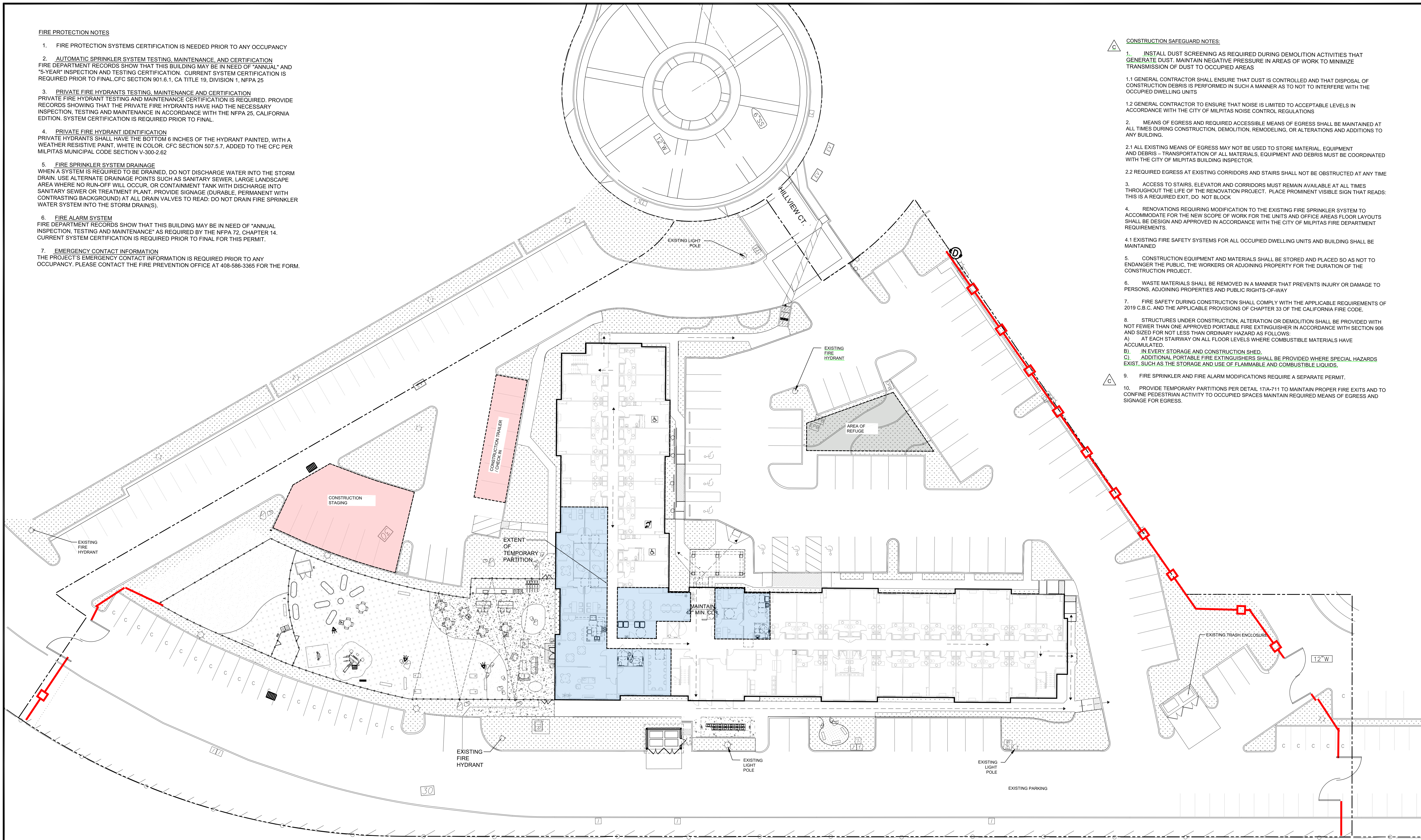
1. Site Plan with Proposed Fence Location
2. Operating Budget for 1000 Hillview Court
3. Letter sent to Supervisor Lee on May 26, 2023

FIRE PROTECTION NOTES

1. FIRE PROTECTION SYSTEMS CERTIFICATION IS NEEDED PRIOR TO ANY OCCUPANCY
2. AUTOMATIC SPRINKLER SYSTEM TESTING, MAINTENANCE, AND CERTIFICATION
FIRE DEPARTMENT RECORDS SHOW THAT THIS BUILDING MAY BE IN NEED OF "ANNUAL" AND "5-YEAR" INSPECTION AND TESTING CERTIFICATION. CURRENT SYSTEM CERTIFICATION IS REQUIRED PRIOR TO FINAL CFC SECTION 901.6.1, CA TITLE 19, DIVISION 1, NFPA 25
3. PRIVATE FIRE HYDRANTS TESTING, MAINTENANCE AND CERTIFICATION
PRIVATE FIRE HYDRANT TESTING AND MAINTENANCE CERTIFICATION IS REQUIRED. PROVIDE RECORDS SHOWING THAT THE PRIVATE FIRE HYDRANTS HAVE HAD THE NECESSARY INSPECTION, TESTING AND MAINTENANCE IN ACCORDANCE WITH THE NFPA 25, CALIFORNIA EDITION. SYSTEM CERTIFICATION IS REQUIRED PRIOR TO FINAL.
4. PRIVATE FIRE HYDRANT IDENTIFICATION
PRIVATE HYDRANTS SHALL HAVE THE BOTTOM 6 INCHES OF THE HYDRANT PAINTED, WITH A WEATHER RESISTIVE PAINT, WHITE IN COLOR, CFC SECTION 507.5.7, ADDED TO THE CFC PER MILPITAS MUNICIPAL CODE SECTION V-300-2.62
5. FIRE SPRINKLER SYSTEM DRAINAGE
WHEN A SYSTEM IS REQUIRED TO BE DRAINED, DO NOT DISCHARGE WATER INTO THE STORM DRAIN. USE ALTERNATE DRAINAGE POINTS SUCH AS SANITARY SEWER, LARGE LANDSCAPE AREA WHERE NO RUN-OFF WILL OCCUR, OR CONTAINMENT TANK WITH DISCHARGE INTO SANITARY SEWER OR TREATMENT PLANT. PROVIDE SIGNAGE (DURABLE, PERMANENT WITH CONTRASTING BACKGROUND) AT ALL DRAIN VALVES TO READ: DO NOT DRAIN FIRE SPRINKLER WATER SYSTEM INTO THE STORM DRAIN(S).
6. FIRE ALARM SYSTEM
FIRE DEPARTMENT RECORDS SHOW THAT THIS BUILDING MAY BE IN NEED OF "ANNUAL" INSPECTION, TESTING AND MAINTENANCE" AS REQUIRED BY THE NFPA 72, CHAPTER 14. CURRENT SYSTEM CERTIFICATION IS REQUIRED PRIOR TO FINAL FOR THIS PERMIT.
7. EMERGENCY CONTACT INFORMATION
THE PROJECT'S EMERGENCY CONTACT INFORMATION IS REQUIRED PRIOR TO ANY OCCUPANCY. PLEASE CONTACT THE FIRE PREVENTION OFFICE AT 408-586-3365 FOR THE FORM.

CONSTRUCTION SAFEGUARD NOTES:

1. INSTALL DUST SCREENING AS REQUIRED DURING DEMOLITION ACTIVITIES THAT GENERATE DUST. MAINTAIN NEGATIVE PRESSURE IN AREAS OF WORK TO MINIMIZE TRANSMISSION OF DUST TO OCCUPIED AREAS
- 1.1 GENERAL CONTRACTOR SHALL ENSURE THAT DUST IS CONTROLLED AND THAT DISPOSAL OF CONSTRUCTION DEBRIS IS PERFORMED IN SUCH A MANNER AS TO NOT TO INTERFERE WITH THE OCCUPIED DWELLING UNITS
- 1.2 GENERAL CONTRACTOR TO ENSURE THAT NOISE IS LIMITED TO ACCEPTABLE LEVELS IN ACCORDANCE WITH THE CITY OF MILPITAS NOISE CONTROL REGULATIONS
2. MEANS OF EGRESS AND REQUIRED ACCESSIBLE MEANS OF EGRESS SHALL BE MAINTAINED AT ALL TIMES DURING CONSTRUCTION, DEMOLITION, REMODELING, OR ALTERATIONS AND ADDITIONS TO ANY BUILDING.
- 2.1 ALL EXISTING MEANS OF EGRESS MAY NOT BE USED TO STORE MATERIAL, EQUIPMENT AND DEBRIS - TRANSPORTATION OF ALL MATERIALS, EQUIPMENT AND DEBRIS MUST BE COORDINATED WITH THE CITY OF MILPITAS BUILDING INSPECTOR.
- 2.2 REQUIRED EGRESS AT EXISTING CORRIDORS AND STAIRS SHALL NOT BE OBSTRUCTED AT ANY TIME
3. ACCESS TO STAIRS, ELEVATOR AND CORRIDORS MUST REMAIN AVAILABLE AT ALL TIMES THROUGHOUT THE LIFE OF THE RENOVATION PROJECT. PLACE PROMINENT VISIBLE SIGN THAT READS: THIS IS A REQUIRED EXIT, DO NOT BLOCK.
4. RENOVATIONS REQUIRING MODIFICATION TO THE EXISTING FIRE SPRINKLER SYSTEM TO ACCOMMODATE FOR THE NEW SCOPE OF WORK FOR THE UNITS AND OFFICE AREAS FLOOR LAYOUTS SHALL BE DESIGN AND APPROVED IN ACCORDANCE WITH THE CITY OF MILPITAS FIRE DEPARTMENT REQUIREMENTS.
- 4.1 EXISTING FIRE SAFETY SYSTEMS FOR ALL OCCUPIED DWELLING UNITS AND BUILDING SHALL BE MAINTAINED
5. CONSTRUCTION EQUIPMENT AND MATERIALS SHALL BE STORED AND PLACED SO AS NOT TO ENDANGER THE PUBLIC, THE WORKERS OR ADJOINING PROPERTY FOR THE DURATION OF THE CONSTRUCTION PROJECT.
6. WASTE MATERIALS SHALL BE REMOVED IN A MANNER THAT PREVENTS INJURY OR DAMAGE TO PERSONS, ADJOINING PROPERTIES AND PUBLIC RIGHTS-OF-WAY
7. FIRE SAFETY DURING CONSTRUCTION SHALL COMPLY WITH THE APPLICABLE REQUIREMENTS OF 2019 C.B.C. AND THE APPLICABLE PROVISIONS OF CHAPTER 33 OF THE CALIFORNIA FIRE CODE.
8. STRUCTURES UNDER CONSTRUCTION, ALTERATION OR DEMOLITION SHALL BE PROVIDED WITH NOT FEWER THAN ONE APPROVED PORTABLE FIRE EXTINGUISHER IN ACCORDANCE WITH SECTION 906 AND SIZED FOR NOT LESS THAN ORDINARY HAZARD AS FOLLOWS:
A) AT EACH STAIRWAY ON ALL FLOOR LEVELS WHERE COMBUSTIBLE MATERIALS HAVE ACCUMULATED.
B) IN EVERY STORAGE AND CONSTRUCTION SHED.
C) ADDITIONAL PORTABLE FIRE EXTINGUISHERS SHALL BE PROVIDED WHERE SPECIAL HAZARDS EXIST, SUCH AS THE STORAGE AND USE OF FLAMMABLE AND COMBUSTIBLE LIQUIDS.
9. FIRE SPRINKLER AND FIRE ALARM MODIFICATIONS REQUIRE A SEPARATE PERMIT.
10. PROVIDE TEMPORARY PARTITIONS PER DETAIL 17/A-711 TO MAINTAIN PROPER FIRE EXITS AND TO CONFINED PEDESTRIAN ACTIVITY TO OCCUPIED SPACES MAINTAIN REQUIRED MEANS OF EGRESS AND SIGNAGE FOR EGRESS.



CONSTRUCTION PHASING - SITE PLAN

SCALE: 3/32"=1'-0"

1

1. CONFIRM ALL EXTERIOR LIGHTING AND SECURITY SYSTEMS ARE OPERATIONAL AND IN GOOD WORKING CONDITION.
2. ALL CONSTRUCTION MATERIALS ARE TO BE SECURED IN DESIGNATED AREAS AND OUT OF REACH OF ALL STAFF, RESIDENTS AND VISITORS.
3. CONSTRUCTION PERSONNEL ENTRANCE

1. ALL DEMOLITION AND REMOVAL OF MATERIALS WILL BE DONE BEFORE OCCUPANCY
2. DEMOLITION WILL BE PHASED BY FLOOR, STARTING WITH THE THIRD FLOOR, THE OCCUPANCY WILL OCCUR AFTER THE DEMOLITION AND REMOVAL OF DEBRIS
3. AFTER OCCUPANCY, ANY MATERIAL PREP, SAWING AND CUTTING, MAJORITY OF THAT WILL OCCUR IN CONSTRUCTION YARD, MINOR MODIFICATIONS WILL BE DONE IN THE UNITS
4. NO DEBRIS BEING STORED IN ANY UNITS, ONLY FURNITURE STORED IN ADJACENT VACANT UNIT
5. UNITS DIRECTLY ADJACENT TO COMMON AREA AMENITY, MOBILITY, AND AUDIO VISUAL UNIT RENOVATION WORK MAY BE LEFT VACANT TO MITIGATE NOISE
6. FIRE SPRINKLER RENOVATION WORK WILL BE DONE UNDER FIRE WATCH DURING THE RENOVATION OF LIFE FIRE SAFETY SYSTEMS. FIRE WATCH TO BE DEFERRED SUBMITTAL, ISSUED AND APPROVED BY LOCAL FIRE AUTHORITY
7. ALL PERIMETER SIDEWALKS TO REMAIN CLEAR OF ANY CONSTRUCTION ACTIVITY AND MATERIALS
8. PHASING PLAN REQUIREMENTS SHALL BE PUT INTO PLACE PRIOR TO START OF ANY DEMOLITION AND SHALL BE COMPLIED WITH DURING ALL DEMOLITION WORK. TEMPORARY FIRE WALL(S) SHALL BE INSTALLED PRIOR TO ANY DEMOLITION ON EXISTING FIRE WALLS AND REMOVAL OF FIRE DOORS.

1. FIRE WATCH PLAN

SCOPE OF WORK - PHASE 2 (SITEWORK) UNDER THIS PERMIT

GENERAL CONSTRUCTION NOTES

DEFERRED SUBMITTALS

architecture design collaborative
23231 south pointe drive
laguna hills, ca 92653
www.adcollaborative.com
949.267.1660

Project Contact: Victor Robles
vrobles@adcollaborative.com
Principal: Corey DeManty
Job #: 2020-0008

Client
Company: Jamboree Housing Corporation
Address: 17701 Cowan Ave, Suite 200
Irvine, CA 92614
(949)263-8676

Phone No.

REVIEWED FOR
CODE COMPLIANCE
Jamboree
06/02/21
CITY OF MILPITAS
BUILDING & SAFETY
DEPARTMENT

HILLVIEW COURT (ESA) PHASE II

1000 HILLVIEW COURT
MILPITAS, CA 95035

Sheet Issue & Revision Log

△	1ST CITY SUBMITTAL 12-07-20
△	2ND CITY SUBMITTAL 02-09-21
△	3RD CITY SUBMITTAL 03-22-21
△	4TH CITY SUBMITTAL 04-26-21
△	5TH CITY SUBMITTAL 05-14-21
△	
△	
△	
△	
△	
△	
△	

It is the clients responsibility prior to or during construction to notify the architect in writing of any perceived errors or omissions in the plans and specifications of which a contractor thoroughly knowledgeable with the building codes and methods of construction should reasonably be aware. Written instructions addressing such perceived errors or omissions shall be received from the architect prior to the client or clients subcontractor proceeding with the work. The client will be responsible for any defects in construction if these procedures are not followed.



CONSTRUCTION
PHASING - SITE
PLAN

A-040

Attachment 2 - 1000 Hillview Court Annual Operating Budget

			STABILIZED YEAR	
			PER UNIT	TOTAL
INCOME				
Gross Potential Rental Income			9,311	1,247,676
Other Income (Residential)			108	14,472
GROSS POTENTIAL INCOME (RES.)			9,419	1,262,148
Vacancy (Residential)			(466)	(62,384)
Vacancy (Other Income)			(5)	(724)
Subsidy Income			18,066	2,420,868
Vacancy (Subsidy)			(903)	(121,043)
Operating Reserve Draws			0	0
EFFECTIVE GROSS INCOME			26,111	3,498,865
OPERATING EXPENSES				
Management Fee			635	85,050
Real Estate Taxes		2.00%	149	20,000
Insurance - Property			331	44,300
Utilities - Elec, Water, Sewer, Gas, and Trash			2,840	380,500
Payroll - Salary, Benefits, Insurance, and Taxes			2,275	304,888
Repairs & Maintenance			1,001	134,122
Advertising and Marketing			19	2,503
Administrative - Training, Tech, Legal, Audit/Acct, and			667	89,386
Contract Services - Janitorial contracts and supplies			1,196	160,300
Supportive Services		3.00%	2,098	281,100
Licenses and FTB Tax			51	6,775
Security Contracts			1,683	225,576
Replacement Reserve			287	38,500
TOTAL OPERATING EXPENSES			13,231	1,773,000
NET OPERATING INCOME			12,880	1,725,865
DEBT SERVICE (HARD)				
Permanent Loan			11,130	1,491,435
TOTAL DEBT SERVICE			Stabilized DSC	1.16
			Required DSC	1.15
NET CASH FLOW				234,430



OFFICE OF THE MILPITAS CITY COUNCIL

Carmen Montano
Mayor

Evelyn Chua
Vice Mayor

Garry Barbadillo, Esq
Councilmember

Hon Lien
Councilmember

Anthony Phan
Councilmember

May 26, 2023

Supervisor Otto Lee
County of Santa Clara District 3
70 W. Hedding Street
10th Floor
San Jose, CA 95110

via E-Mail:
Wendy Ho, Chief of Staff
wendy.ho@BOS.SCCGOV.ORG

SUBJECT: Project Homekey Public Safety Resources Impact

Dear Supervisor Lee,

On August 31, 2022, on behalf of the City Council, we wrote you a letter (Attachment 1) to seek compensation for the significantly increased public safety response related to 1000 Hillview Court, funded by the County and Project Homekey. To date, we have not received a formal response from your office regarding this additional funding request.

Today, we are writing to you again with an urgent request for assistance related to 1000 Hillview Court. We continue to receive complaints from residents at 1000 Hillview Court and we are very concerned for the safety of the residents. We recently received an email from a resident that raises serious issues about safety at this site (Attachment 2); we understand your office has received this email as well.

In her email, Ms. Reeve contends that since the Milpitas City Council has been requesting regular reports on public safety calls for service, the residents at 1000 Hillview Court are being encouraged not to call police or fire. If this is indeed the case, it undermines our collective work in trying to reduce calls for service by addressing criminal behavior and improving the living conditions for all residents. Any attempt to reduce calls for service by simply not calling the police or fire department could have significant unintended and potentially tragic consequences, which we would all want to avoid.

Regardless of whether this claim by the resident is factual, we continue to see a high volume of calls for service. Specifically, as you can see from the attached slide deck (Attachment 3), which was to be presented to the City Council meeting on March 21, 2023 (but was deferred), Police calls for service, including officer-initiated activities and necessary patrol checks increased dramatically, from 165 in 2020 to 548 for in 2022. The police events in 2023 are currently on pace to match or exceed prior years. The majority of the calls for service in 2022 and to date in 2023, were related to welfare checks, disorderly conduct and

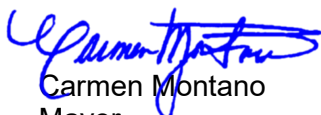
disturbance calls, and suspicious activity calls. Similarly, Fire calls for services increased from 30 calls in 2020 to 196 calls in 2022, or approximately 553%.

To put the number of public safety calls for service in context, between January 1, 2022, and November 20, 2022, the 1000 Hillview Court Apartments had 493 police events. In comparison, the 555 Apartments, which has 141 units, had 76 police events. In fact, the 1000 Hillview Court Apartments has required more police presence than any other apartment complex in the City of Milpitas, including apartment complexes more than five times its size.

The increased demand for public safety services at the 1000 Hillview Apartments, which is expected to continue, has impacted the City's public safety response system and service delivery to other parts of the City. Therefore, the City of Milpitas respectfully requests additional assistance, as requested in our previous letter. The recurring need for our public safety departments to respond to the 1000 Hillview Court Apartments is creating a fiscal burden and the City is seeking reimbursement for the additional public safety costs incurred by activity at this facility.

Additionally, we would like to request your immediate attention to the concerns raised by Ms. Reeve and your assistance in ensuring that potential safety issues are immediately addressed by the 1000 Hillview Court project team, including Santa Clara County staff. We look forward to hearing back from you on this matter as soon as possible. Thank you.

Sincerely,


Carmen Montano
Mayor


Evelyn Chua
Vice Mayor

Attachments

1. August 31, 2022 Letter to Supervisor Otto Lee
2. March 21, 2023, slide presentation
3. May 22, 2023, email from resident

C: City of Milpitas City Council
County of Santa Clara Board of Supervisors

Ashwini Kantak, Acting City Manager
Matt Cano, Deputy City Manager
Jared Hernandez, Chief of Police
Jason Schoonover, Fire Chief
Dr. Jeffrey V. Smith, Santa Clara County Executive Officer
Ky Le, Santa Clara County Deputy County Executive
Consuelo Hernandez, Director, Office of Supportive Housing at County of Santa Clara County





MAYOR AND CITY COUNCIL

ATTACHMENT 4

City of Milpitas Item # 19.

408.586.3000
455 E. Calaveras Blvd.
Milpitas, CA 95035
www.milpitas.gov

August 31, 2022

Supervisor Otto Lee
County of Santa Clara District 3
70 W. Hedding Street
10th Floor
San Jose, CA 95110

via E-Mail:
Wendy Ho, Chief of Staff
wendy.ho@BOS.SCCGOV.ORG

SUBJECT: Project Homekey Public Safety Resources Impact

Dear Supervisor Lee,

On behalf of the City Council, we are writing this letter to you to seek compensation for the significantly increased public safety response related to Project Homekey.

As you know, the County of Santa Clara and Jamboree Housing Corporation (Jamboree) jointly applied for and received Homekey funding to convert a hotel at 1000 Hillview Court into a 132-unit permanent supportive housing development (Hillview Court). The conversion of Hillview Court has taken place in two phases. Tenants of the first phase started to move in December 2020. As of August 9, 2022, the project is at 90% occupancy, with 120 of the 132 units occupied. The remaining units are expected to be occupied by October. As the number of tenants increased the City experienced a corresponding increase in public safety calls for services.

Specifically, as you can see from the attached slide deck, which was presented to Council at the August 16, 2022 City Council meeting, Police calls for service including officer-initiated activities increased by 155 calls for services, or 93.9%, from 165 in 2020 to 320 for just the first seven months in 2022. The majority of the calls for service in 2022 were related to welfare checks, disorderly conduct and disturbance calls, and suspicious activity calls. Similarly, Fire calls for services increased by 57 calls for services, or 190%, from 30 calls in 2020 to 87 for the first seven months in 2022. This increased demand for public safety services, which is expected to continue to rise once all Project Homekey units are occupied, has impacted the City's public safety response system. Therefore, as discussed by the City Council, the City needs to be reimbursed for the additional public safety cost incurred by Project Homekey activity.

As detailed in the attached Information Memorandum, by the end of 2022, the City is expected to incur about \$463,000 in public safety costs related to Project Homekey, an increase of \$349,000, or 300%, in comparison to CY 2020 costs of \$114,000. In other words, the City expects the cost for Fire Calls for Service to more than double and the cost for Police Calls for Service to increase by over 500% by year-end given the calls for service experience during the first seven months of 2022.



Given that the majority of the \$349,000 in estimated cost increases related to Project Homekey have been in the Police Department, the City expects to receive funding for FY 2022-23 retroactive to July 1, 2022, in the amount of \$293,000 for a new Police Officer position and, unless calls for services significantly reduce to pre-Project Homekey levels, this funding shall be continued annually. Further, the City Council requested that the County add staff capacity in the Office of Supportive Housing to proactively address issues at Project Homekey.

Sincerely,


Carmen Montano
Vice Mayor


Evelyn Chua
Council member

Attachments

Information Memo – dated 08/25/2022
Council Meeting Slide Deck – dated 08/16/2022

C: City of Milpitas City Council
County of Santa Clara Board of Supervisors
Steve McHarris, City Manager
Ashwini Kantak, Assistant City Manager
Walter C. Rossmann, Deputy City Manager
Jared Hernandez, Chief of Police
Brian Sherrard, Fire Chief
Dr. Jeffrey V. Smith, Santa Clara County Executive Officer
Ky Le, Santa Clara County Deputy County Executive
Consuelo Hernandez, Director, Office of Supportive Housing at County of Santa Clara County



Milpitas City Council Meeting

Item # 18: Receive Report on the Homekey Project at 1000 Hillview Court

March 21, 2023

City of Milpitas

455 E. Calaveras Blvd., Milpitas, CA 95035



www.milpitas.gov



408-586-3000

Presentation Overview

► Background

► Presentation by Project Team

- Project Updates since November 2022
- On-Site Services
- Stakeholder Engagement

► Presentation by Police and Fire

- Calls for Service
- Staffing
- Types of Calls for Service
- Next Steps

Background

- 132-unit permanent supportive housing project at 1000 Hillview Court jointly funded by Santa Clara County and Jamboree Housing Corporation
- County provides ongoing funding for supportive services; contracts with Abode Services to provide on-site services
- Jamboree owns the facility and contracts with Hyder for property management and Good Guards for security services
- Concerns about increased calls for service and impact on police and fire resources
- In June 2022, City Council directed staff to work with the Project Team and provide quarterly reports to Council
- Staff presented the first quarterly report in August 2022 and the second report in November 2022

Prior Council Discussion & Follow Up

➤ November 15, 2022, City Council Discussion:

- Install a fence to mitigate impact on businesses in adjoining business park
- Improve facility cleanliness and address resident complaints
- Improve site security and control access to the facility
- Consider adding staff to the facility management team
- Improve on-site services
- Request for information on ratio of calls compared to citywide calls for service in apartment complexes

➤ Update on Fence and other facility improvements

➤ New On-Site Services

➤ Meetings with representatives from the Hillview tenant community



Jamboree



Hillview Court Apartments Update



Property Updates

Occupancy

- 116 of 132 Units occupied
- 4 tenants are affiliated with Milpitas

Property Management

- Effective Monday May 8, 2023 Hyder Management will no longer oversee management operations for Hillview
- Domus Management will be the new management company.

Completed Construction

Phase I

- Total Budget: \$1.6M
- Scope of work included
 - Units: Added 13 mobility units and 7 audio/visual units.
 - Site: ADA- compliant path of travel, curbs and ramps, sidewalks, entry/exit points, parking, and signage.
 - Amenities: Mailboxes

Phase II

- Total Budget: \$3.7M
- Scope of Work:
 - Site: Outdoor community area with BBQ and seating, dog run, trash enclosure and mailbox canopies, and site upgrades.
 - Indoor: Community lounge and TV room, services & management offices, and computer room.

Proposed Construction Phase III

Interior

- Elevator modernization
- Corridor upgrades
- Stairwell upgrades
- Service area and front desk
- Unit window upgrades
- PTAC upgrades

Exterior/Site

- Perimeter fencing (priority)
- Shade structure of BBQ area
- Exterior paint
- Additional cameras
- Roof replacement



WHAT IS NEW?



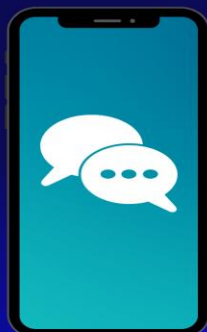
Hillview Calling Post



With Calling Post, we can reach everyone in the building with a single click! It is the fastest way to get information out when it really counts.

Via Call, Text or Email:

- ✓ **Emergencies** - Fire, Earthquake, etc.
- ✓ **Facilities** - Power/Water outages, etc.
- ✓ **Services** - Abode services Information
- ✓ **Other** - Urgent or important info as needed



How do I enroll?

Everyone has signed a "Consent to Contact" form and has a current phone number and/or email address on file with abode is **automatically enrolled. Contact Abode if you need a consent form or to update your information.**

New Communication Tool



A mass communication system that will send emails, phone calls and text to resident's who have opted into the system.

This will be utilized in times of announcements, and emergencies.

WHAT IS NEW?



ABODE SERVICES IS OFFERING

FREE MEDICAL UBER RIDES

NOVEMBER - ENDING OF FEBRUARY



COME SEE ABODE SERVICES
FOR TRANSPORTATION
ASSISTANCE TO COVER THE
FOLLOWING:

All Medical Appointments

Picking up Medications

(please have your medical appointment
date, time, and address ready)

Transportation for Medical Needs

70+ cost free Uber rides have been provided to residents for various medical appointments, preventing future EMS calls due to prophylactic and preventative care

Partnership with Valley Homeless Health Care Program

A Primary Care Position will be onsite once a month, Additionally every other week a Registered Nurse, or Occupational Therapist will come onsite to address medically fragile clients, and those who are interested in medical/occupational services further preventing EMS calls

Hillview Outcomes as of 3/3/23

Metric	Percentage
Medical Health Home	82 percent of all households
Behavioral Health Home	81 percent of all households
Income	80 percent connected to income

Looking Ahead

- ✓ Onsite Narcotic Anonymous
- ✓ Partnership with Bay Area Community Health
- ✓ Heath Fairs
- ✓ Summer BBQ



PSH Move In

ABODE
SERVICES

Tenants Association Engagement

RESOLVED

- New free internet for entire building available to tenants.
- Deactivated the exit alarm sound.
- Fire Panel has been fixed to eliminate the false alarm.
- Developed a new grievance procedure with Jamboree as the lead.
- New parking/towing policies to mitigate wrongful towing.
- New process for lease violations

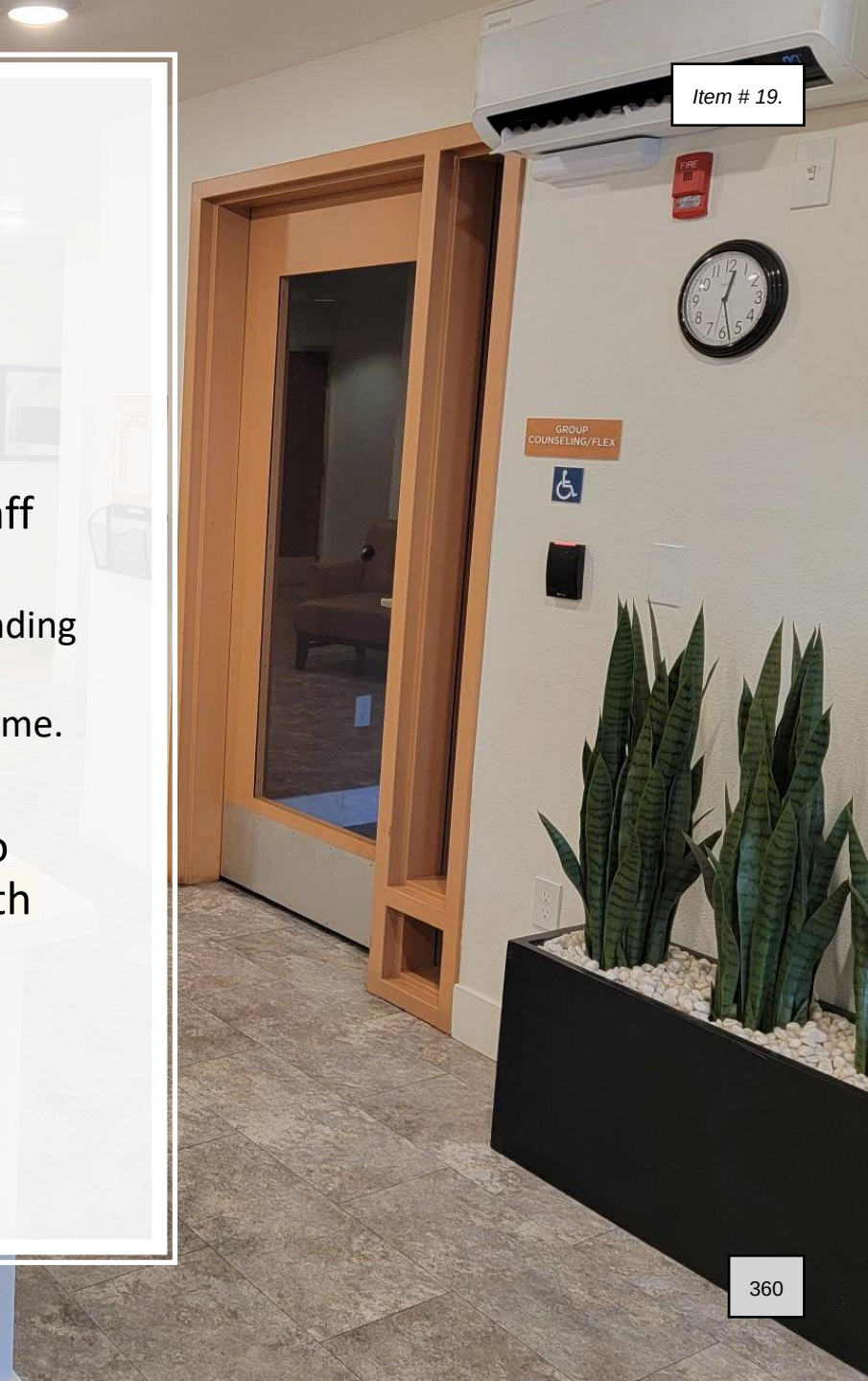
IN-PROCESS AND PENDING

- Jamboree reviewing all pending reasonable accommodation requests.
- Continued engagement with security team to improve performance
 - Non-tenants continue to frequent the property.
 - There is a reluctance to call the police when there is an incident or crime.
- Continue discussions around additional services, physical site improvements, fentanyl education, and ongoing engagement with all stakeholders.



Bi-Weekly Public Safety Meetings

- Coordination meeting with Jamboree, Property Management, Abode, County Staff and Milpitas Public Safety staff.
 - Increased communication and clear understanding of who to call based on communication tree.
 - Problem solve around units with high call volume.
 - Decreased unnecessary Fire and EMS calls.
- Quarterly events with Public Safety staff to “meet & greet” and build relationships with residents.
 - March 16, 2023 – held first meeting.



Staff Update on Public Safety Services at 1000 Hillview Court

1000 Hillview Court Impact on Public Safety Services

- Increase in Calls for Service
- Increase in Public Safety Staff Time
- Types of Calls for Service
- Next Steps



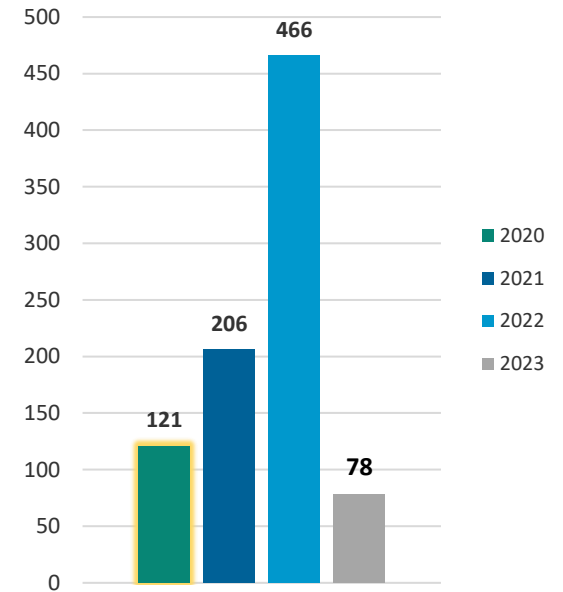
Calls for Service Data Police Department

Total Events: Past 4-Years

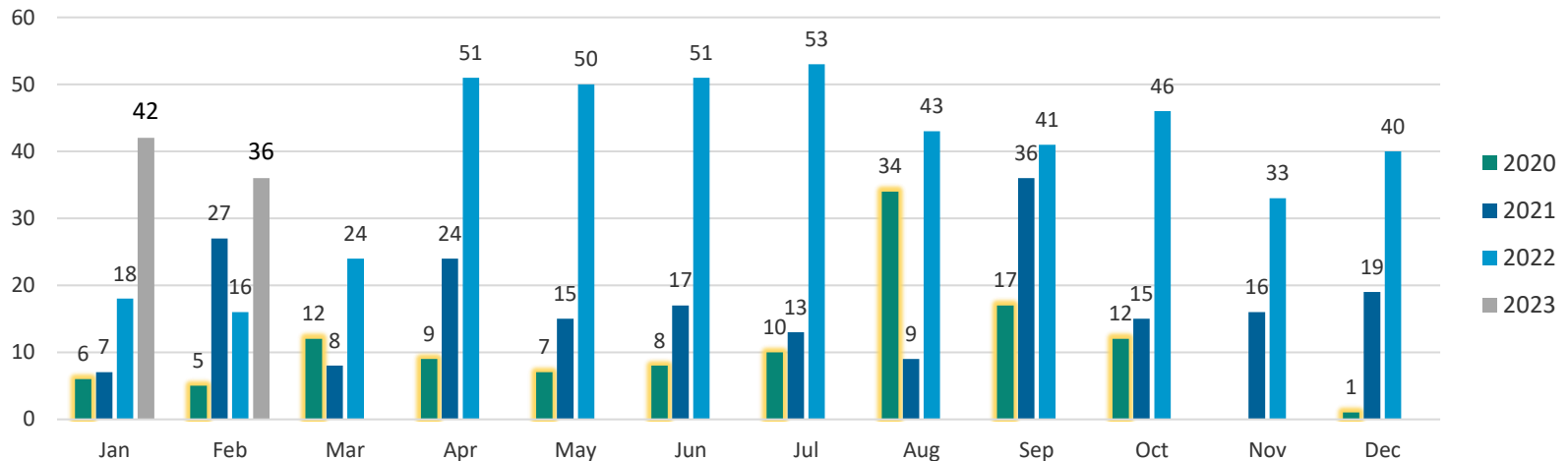
Item # 19.

- Does not include Patrol Check events
- 39 - Average number of Calls for Service for January through February 2023

Total PD Calls by Year



Total PD Calls by Month



364

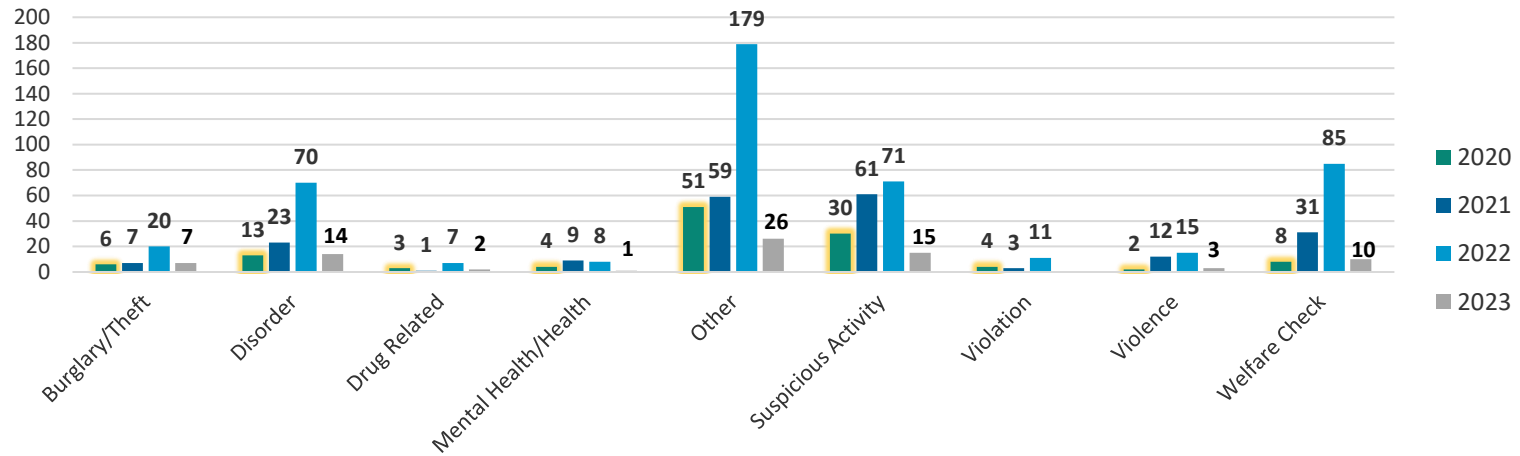
Type of Calls for Service

Item # 19.

Call Category	Examples
Burglary/Theft	Commercial Burglary, Residential Burglary, Found property, Grand theft, Petty theft, Receive/possess stolen prop, Recovered stolen vehicle, Robbery, Stolen vehicle, Tampering with a vehicle, Theft, Vehicle burglary
Disorders	Disorder (combined events, family, fight, music, neighbor, unknown, weapon)
Drug Related	Controlled Substance, Possession, Possession for Sale, Under the influence
Mental Health/Health	Suicide, Attempted suicide, Mentally disturbed person, Possible dead body
Suspicious Activity	Suspicious circumstances, Suspicious person, Suspicious package, Suspicious vehicle, Suspicious alarm
Violation	Municipal code violation, Vehicle violation, Violation of protective order, Weapons Violation, Traffic hazard
Violence	Assault, Assault with deadly weapon, Battery, Resist Arrest, Domestic violence, Attempted Homicide, Homicide, Rape, Carjacking
Welfare Check	Welfare check
Other	Arson, Fraud/Forgery, Sex Reg, Family Neglect/Abuse, Liquor Laws, Drunk, Gambling, DUI, Trespass, Prowling, Animal Noise, Accident, Warrants, Officer Fill, Courtesy Service, Civil Problem, Property Tows, E911 Hang-up, Registrants, Vandalism, Court Order Violation

Police Events by Categories and Year

PD Calls by Categories by Year



➤ Other

- Fraud/Forgery, Sex Reg, Family Neglect/Abuse, Drunk, Trespass, Prowling, Warrants, Officer Fill, Courtesy Service, Civil Problem, E911 Hang-up, Registrants, Vandalism, Court Order Violation

➤ Disorder

- Family Disturbance, Fight, Loud Music, Neighbor Disturbance

➤ Suspicious Activity

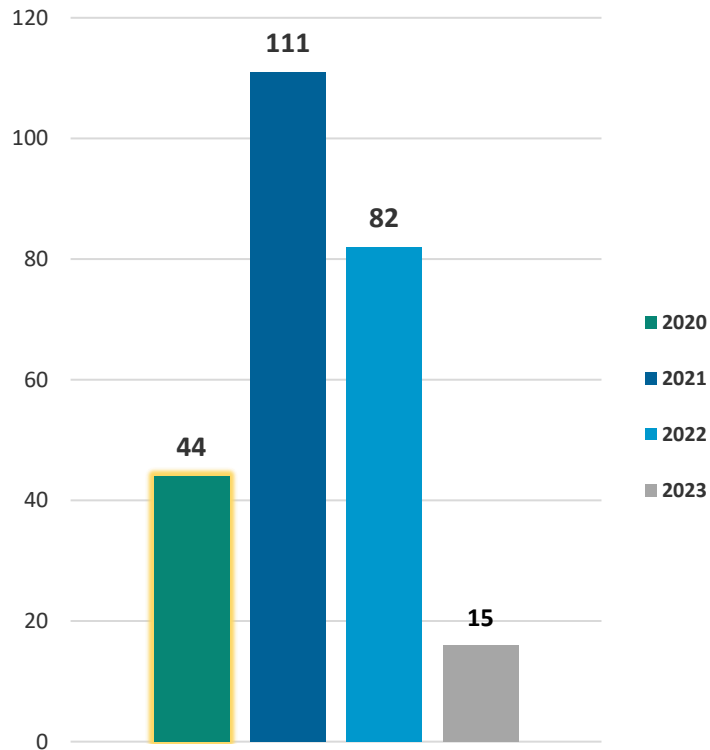
- Suspicious circumstances, Suspicious person, Suspicious vehicle.

➤ Welfare Check

Officer Initiated Activity

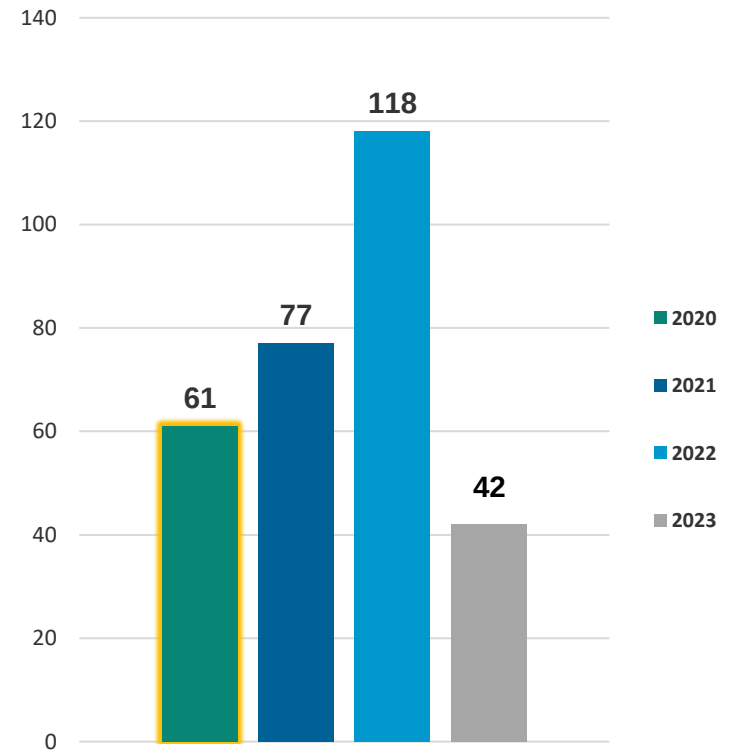
- **Patrol Check:**
An officer proactively patrols the area.

Patrol Checks by Year



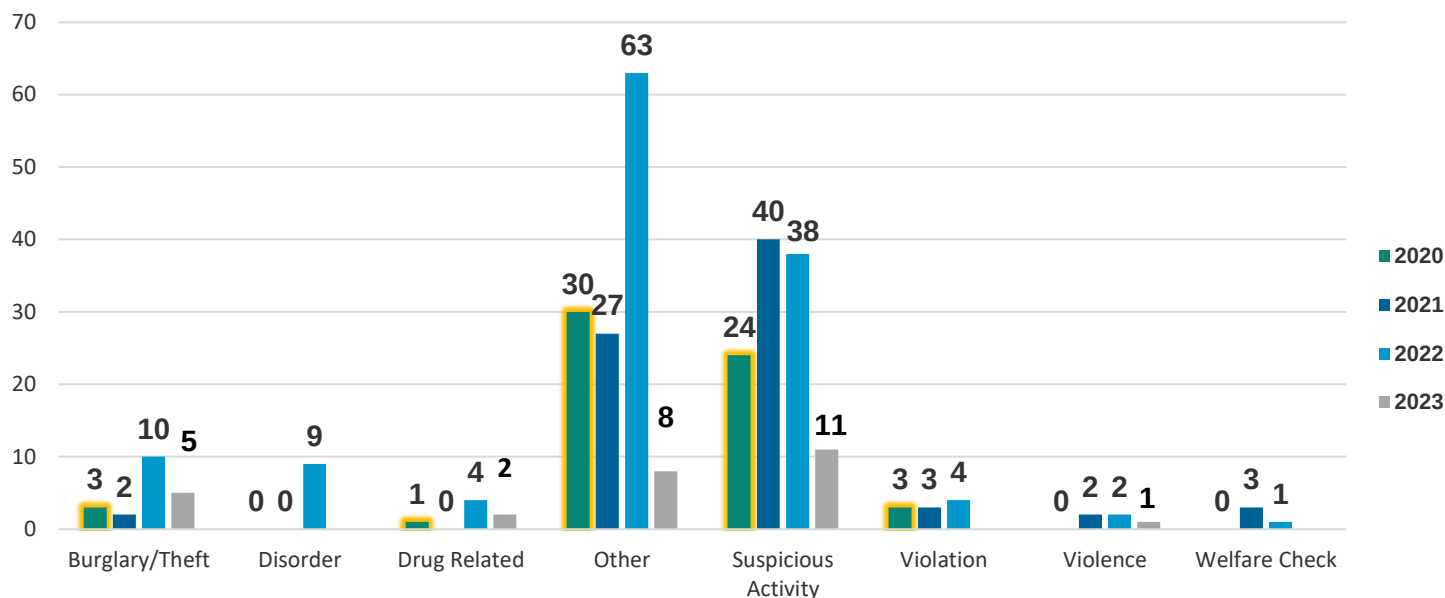
- **Self-Initiated Event:**
An event generated by an officer.

Self-Initiated Events by Year



Officer-Initiated Activity by Type and Year

Self-Initiated Categories by Year



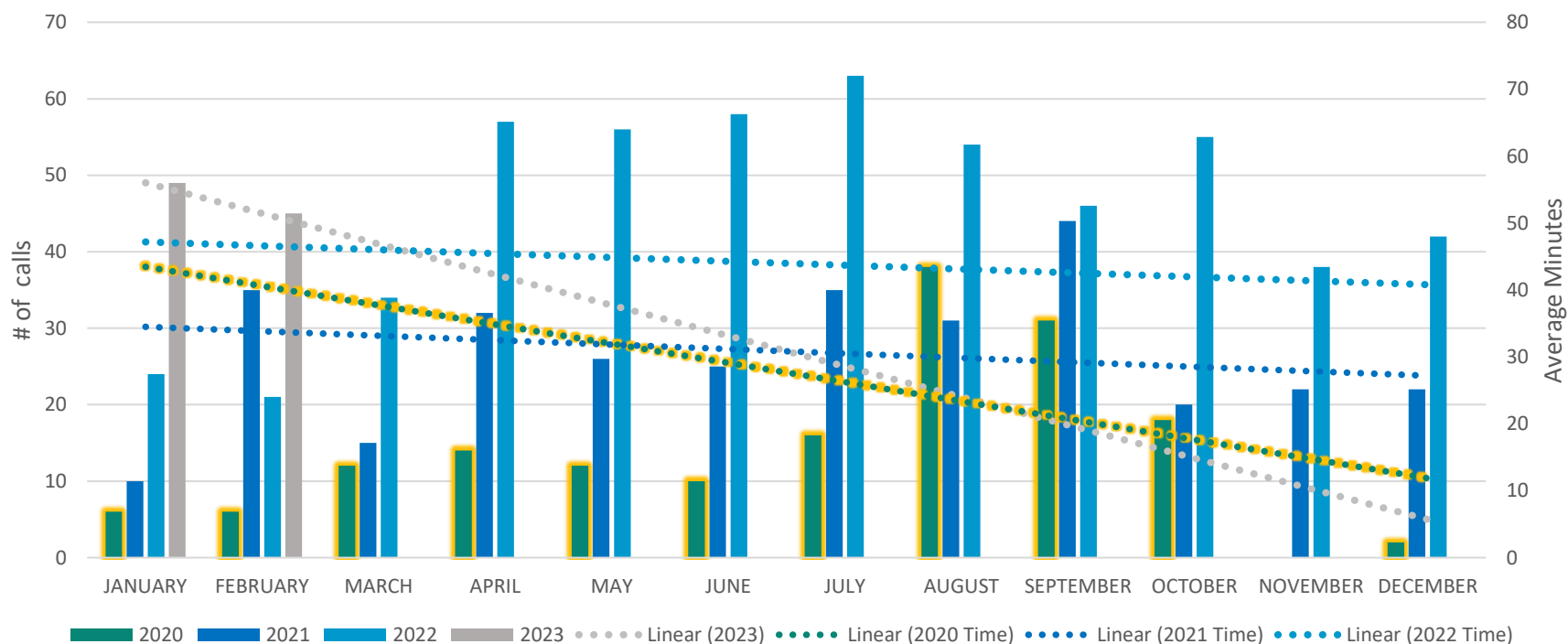
Other

- Fraud/Forgery, Sex Reg, Family Neglect/Abuse, Drunk, Trespass, Prowling, Warrants, Officer Fill, Courtesy Service, Civil Problem, E911 Hang-up, Registrants, Vandalism, Court Order Violation

Suspicious Activity

- Suspicious circumstances, Suspicious person, Suspicious vehicle.

Number of Calls for Service and Average Time Spent





Average Time Spent by Month and Year

1000 Hillview Calls 2021			
MONTH	Calls	Avg Time	TOTAL TIME
JANUARY	10	20:06	3 HRS 21 MIN
FEBRUARY	35	42:58	25 HRS 3 MIN
MARCH	15	20:25	5 HRS 6 MIN
APRIL	32	65:07	35 HRS 43 MIN
MAY	26	23:22	10 HRS 7 MIN
JUNE	25	49:40	20 HRS 41 MIN
JULY	35	16:52	9 HRS 50 MIN
AUGUST	31	16:54	8 HRS 43 MIN
SEPTEMBER	44	30:45	22 HRS 33 MIN
OCTOBER	20	27:13	9 HRS 4 MIN
NOVEMBER	22	18:36	6 HRS 49 MIN
DECEMBER	22	37:37	13 HRS 47 MIN
2021 TOTAL	317	32:09	169 HRS 51 MIN
			7 DAYS 1 HRS

2021 Avg/Month	26.4
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1000 Hillview Calls 2022			
MONTH	Calls	Avg Time	TOTAL TIME
JANUARY	24	64:11	25 HRS 40 MIN
FEBRUARY	21	20:34	7 HRS 11 MIN
MARCH	34	29:57	16 HRS 58 MIN
APRIL	57	47:46	45 HRS 22 MIN
MAY	56	74:32	49 HRS 33 MIN
JUNE	58	31:29	30 HRS 26 MIN
JULY	63	53:39	56 HRS 19 MIN
AUGUST	54	42:58	38 HRS 40 MIN
SEPTEMBER	46	60:50	46 HRS 38 MIN
OCTOBER	55	24:55	22 HRS 50 MIN
NOVEMBER	38	40:05	25 HRS 23 MIN
DECEMBER	42	36:48	28 HRS 3 MIN
2022 TOTAL	548	44:59	410 HRS 50 MIN
			17 DAYS 2 HRS

2022 Avg/Month	45.7
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1000 Hillview Calls 2023			
MONTH	Calls	Avg Time	TOTAL TIME
JANUARY	49	40:23	32 HRS 58 MIN
FEBRUARY	45	44:45	33 HRS 33 MIN
MARCH			
APRIL			
MAY			
JUNE			
JULY			
AUGUST			
SEPTEMBER			
OCTOBER			
NOVEMBER			
DECEMBER			
2022 TOTAL	94	42:29	66 HRS 30 MIN
			2 DAYS 18 HRS

2022 Avg/Month	47.0
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Apartment Comparison Data

January to November 2022

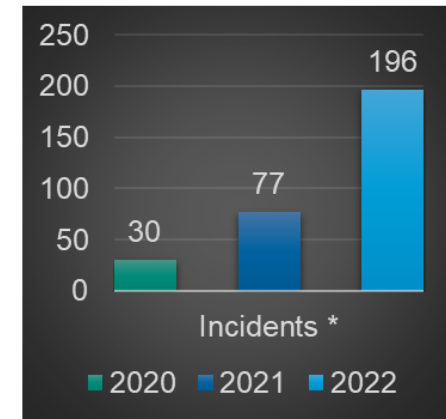
Apartment Name	Address	Burglary/Theft	Disorder	Drug Related	Mental Health/Health	Other	Suspicious Activity	Violation	Violence	Welfare Check	TOTAL	Patrol Check
Hillview Court Apartments	1000 Hillview Court	19	60	7	6	161	58	9	15	79	414	79
555 Apartments	555 S. Park Victoria Drive	7	8	1	0	41	3	5	2	2	69	7
Amalfi Apartments	500 Amalfi Loop	14	9	1	0	35	19	2	3	5	88	4
Anton Aspire Apartments	1828 S Milpitas Boulevard	17	10	0	1	78	20	2	3	4	135	26
Anton Aspire Apartments	1821 S Milpitas Boulevard	12	11	0	0	68	15	2	1	1	110	7
Apex Apartments	1102 S. Abel Street	11	13	2	1	97	14	3	3	13	157	2
Aspen Village Apartments	81 Mihakalis Street	8	2	0	0	22	5	4	0	0	41	8
Capitol 650 Apartments	650 E. Capitol Avenue	14	12	1	3	29	16	1	7	18	101	0
Centria Condos	1101 S. Main Street	1	11	0	0	105	11	2	1	0	131	0
Cerano Apartments	501 Murphy Ranch Road	12	25	1	13	40	33	3	2	17	146	29
Crossroads Apartments	450 Dempsey Road	0	2	0	0	3	2	0	0	0	7	0
DeVries Senior Apartments	163 N. Main Street	0	0	0	0	7	0	0	0	0	7	0
Eleanor Apartments	312 Gates Drive	24	9	1	0	17	5	9	2	4	71	14
Gideon Apartments	1315 McCandless Drive	0	0	0	0	8	0	0	0	0	8	0
Harmony Apartments	1615 McCandless Drive	No Available Data										
Ilara Apartments	1201 S. Main Street	11	9	0	2	22	38	0	2	4	88	7
Los Coches Sundrop Condos	905 Los Coches Street	0	0	0	0	0	0	0	0	0	0	1
Mill Creek Apartments	440 Dixon Landing Road	21	12	0	0	235	5	2	6	6	287	23
Mill Creek (AKA Brandermill) Apartments	1555 Milmont Drive	No Available Data										
Monte Vista Apartments	1001 S. Main Street	3	31	0	3	50	7	0	1	15	110	1
Parc West Apartments	950 S. Main Street	3	6	4	0	14	14	0	2	8	51	0
Spinnaker Pointe Apartments	231 Dixon Landing Road	12	21	1	2	49	10	4	4	6	109	20
Spring Valley Apartments	133 N. Temple Drive	5	29	0	0	65	13	2	5	12	131	10
Terrace/ Beresford Garden Senior Apartment	186 Beresford Court	4	3	0	0	13	10	0	0	2	32	1
The Crossings at Montague Apartments	755 E. Capitol Avenue	10	9	1	0	40	12	1	8	7	88	3
The District 1 Apartments	1315 McCandless Avenue	No Available Data										
The Edge Apartments	765 Montague Expressway	19	15	2	0	34	26	3	4	5	108	4
Turing Apartments	1355 McCandless Avenue	23	7	0	0	16	29	0	3	2	80	34
Victorian Square Apartments	2021 N. Milpitas Boulevard	4	0	0	0	59	14	8	0	0	85	1
Westmont of Milpitas	80 Cedar Way	2	2	0	1	11	2	1	0	3	22	1
Latana Apartments	1675 S Milpitas Boulevard	0	1	0	0	2	5	0	0	0	8	0

Calls for Service Data Fire Department



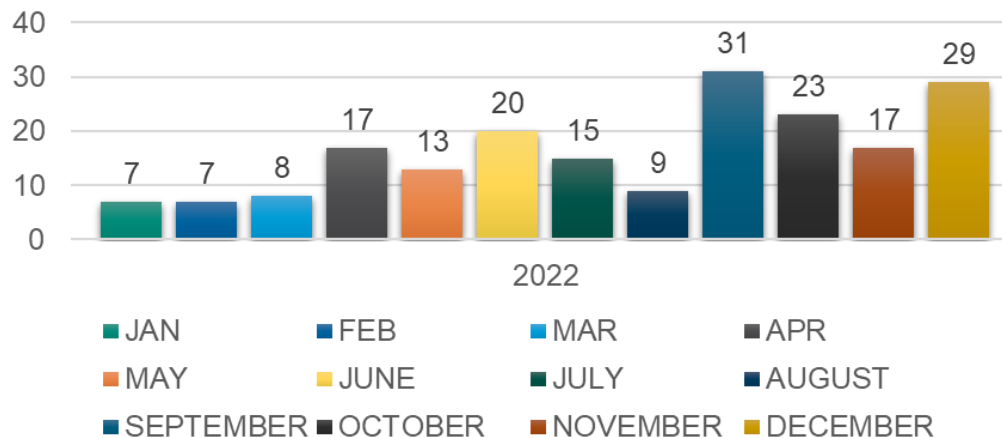
Total Fire Calls for Service: Past 3-Years

- › Calls for service increased as occupancy increased
- › Significant increase in calls for service in 2022



* data through November 30, 2022

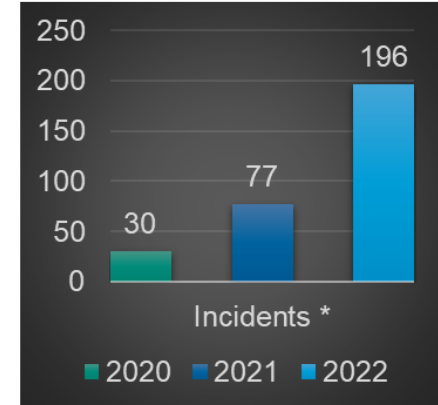
2022 Incidents





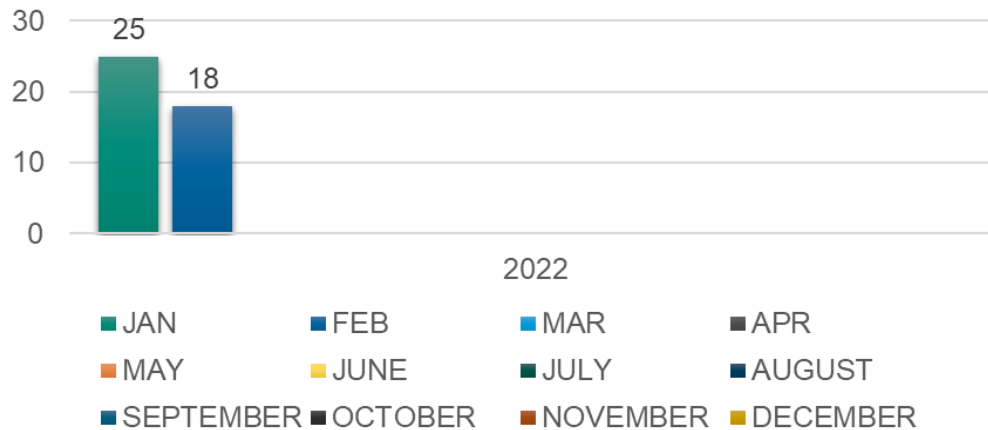
Total Fire Calls for Service: 2023

- Calls for service increased as occupancy increased
- 2023 Incidents trending higher than 2022



* data through November 30, 2022

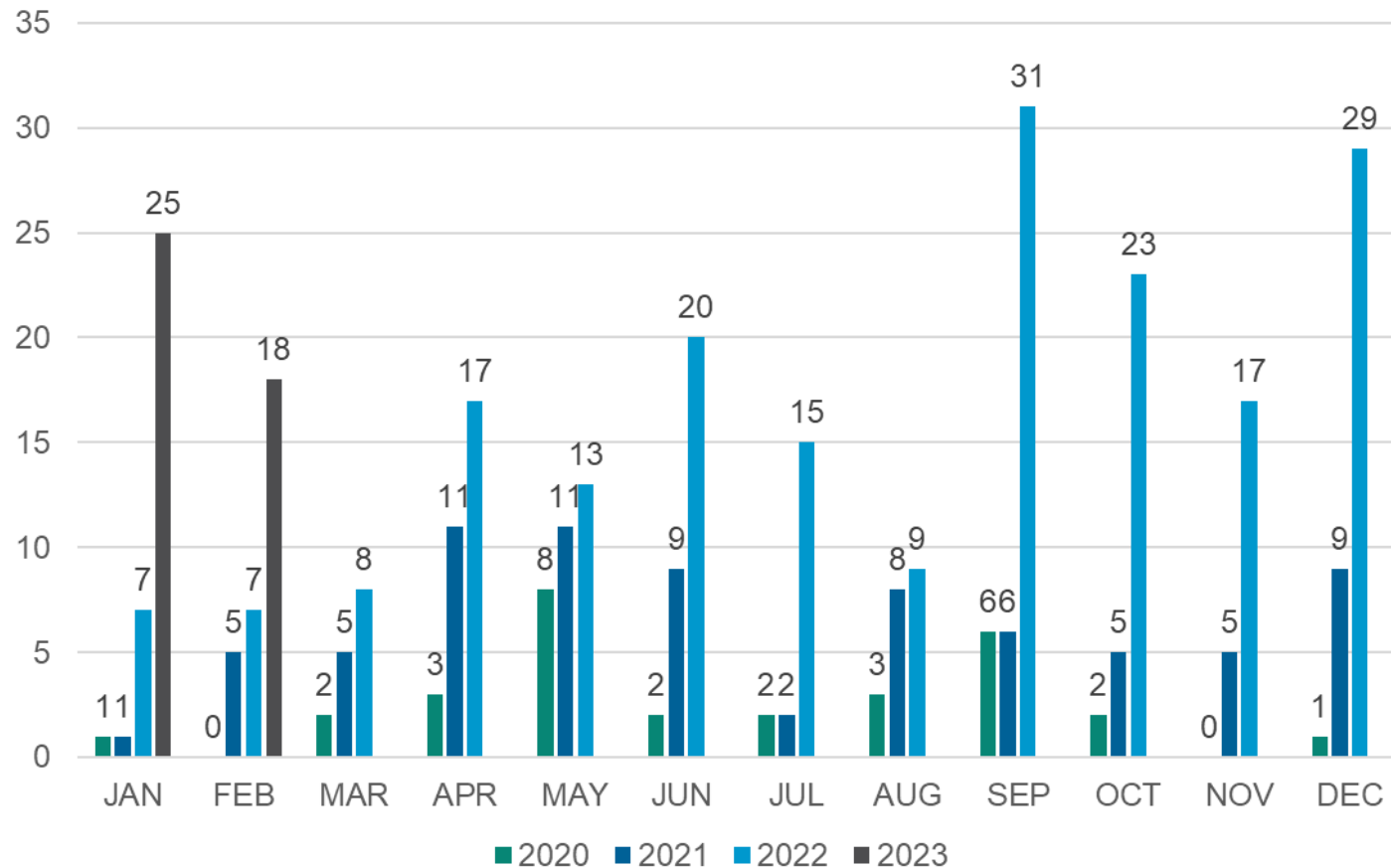
2023 Incidents



Type of Calls for Service

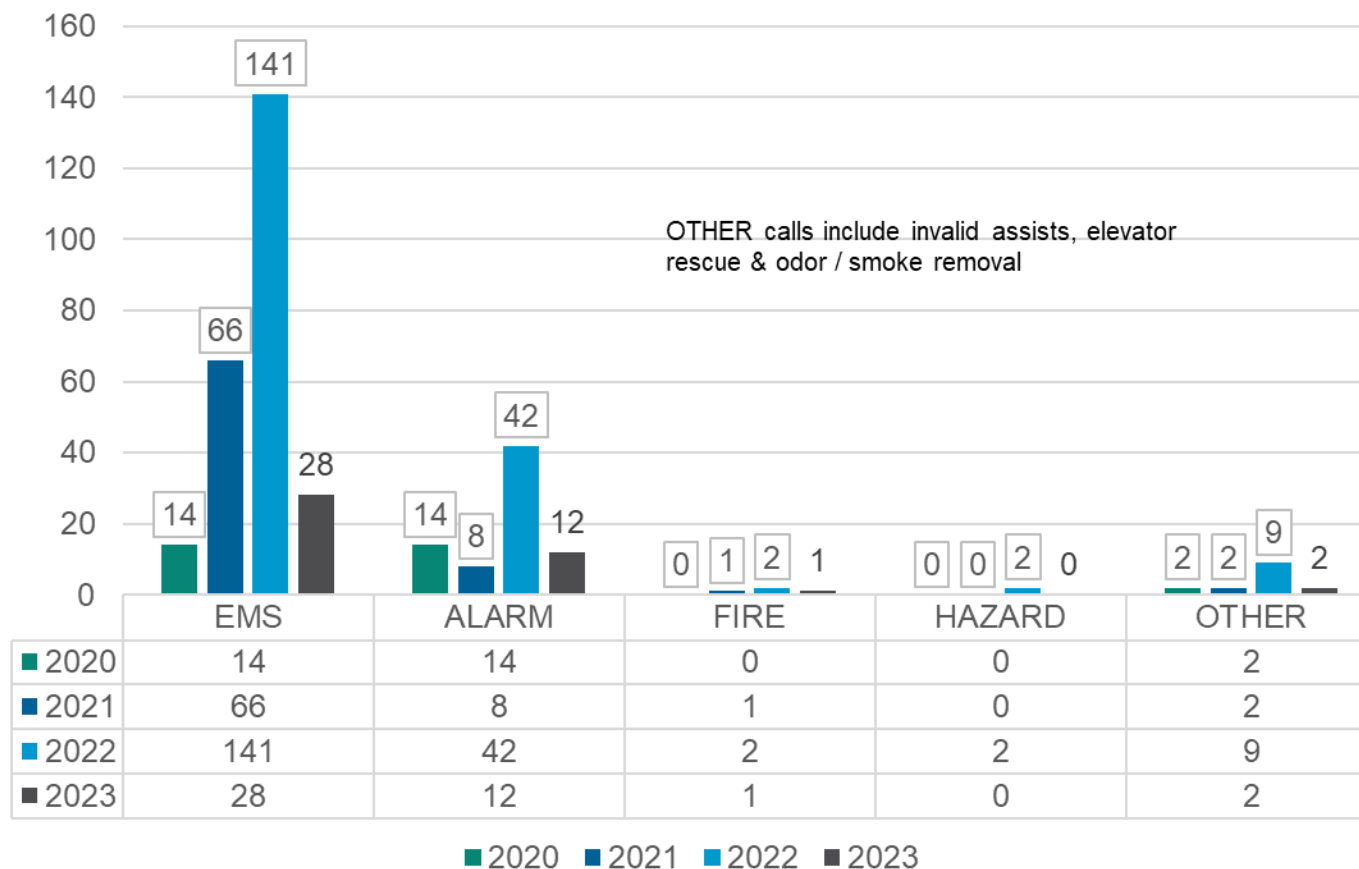
Call Category	Examples
EMS	Emergency Medical Services call (excluding vehicle accident)
ALARM	Smoke detector or alarm system activation
FIRE	Building or cooking fire (confined to container)
HAZARD	Hazardous condition
OTHER	Invalid assists, elevator rescue & odor / smoke removal

MILPITAS FIRE INCIDENTS BY MONTH



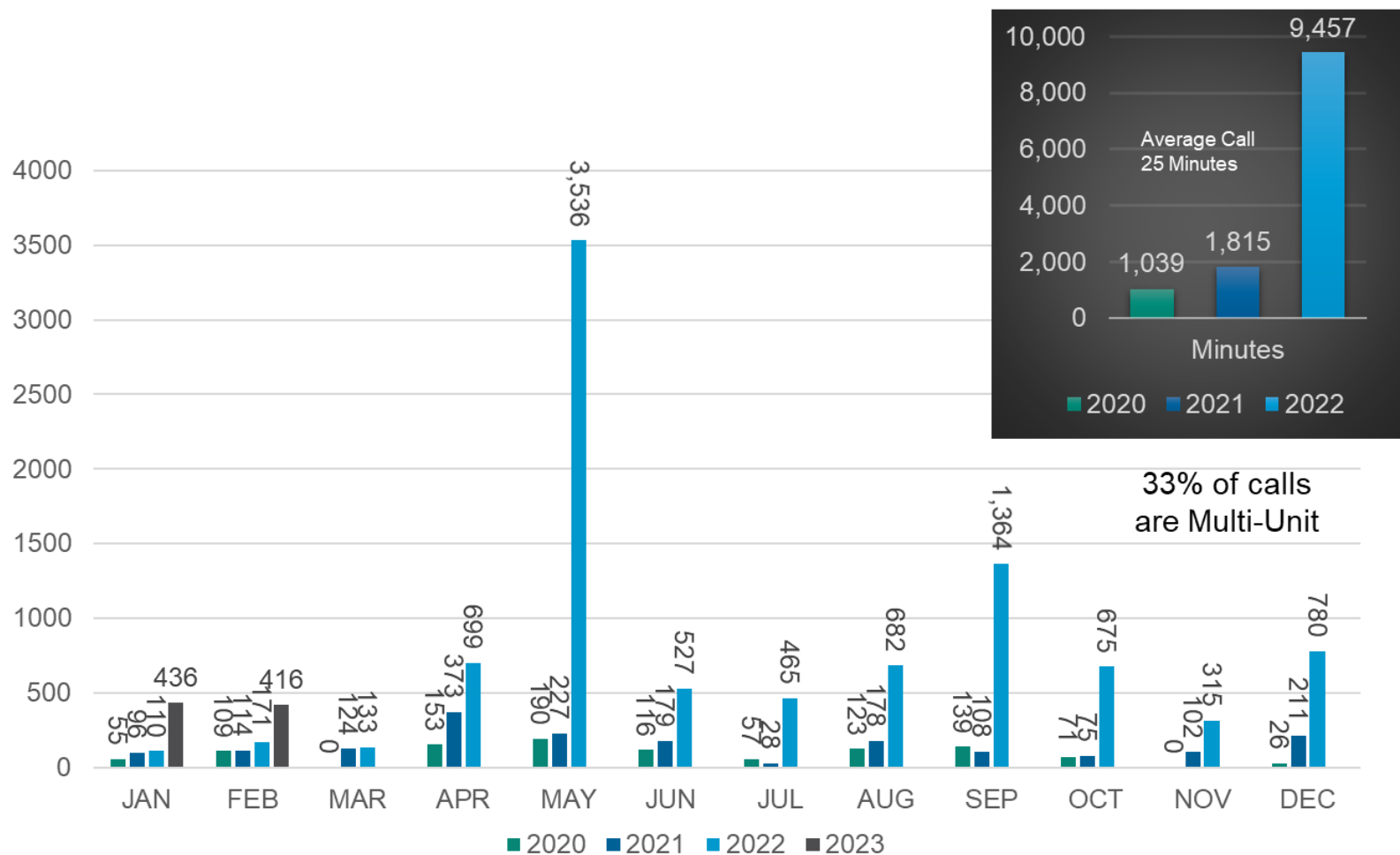
One Medic 86 transport from 1000 Hillview

MILPITAS FIRE INCIDENT TYPE





MILPITAS FIRE TIME SPENT ON SCENE IN MINUTES





TIME OF INCIDENT 2022

	<u>0000- 0200</u>	<u>0200- 0400</u>	<u>0400- 0600</u>	<u>0600- 0800</u>	<u>0800- 1000</u>	<u>1000- 1200</u>	<u>1200- 1400</u>	<u>1400- 1600</u>	<u>1600- 1800</u>	<u>1800- 2000</u>	<u>2000- 2200</u>	<u>2200- 0000</u>	<u>TOTAL</u>
JANUARY			2	1		1	1	1	1				7
FEBRUARY	1			2	2				1	1			7
MARCH	1		1			1	1	1	1		1	1	8
APRIL			1	4	2	3	2		1	1	2	1	17
MAY				2	2				4	2	2	1	13
JUNE	2	2	1			1	4		4	3	3		20
JULY			1	1	3		4		3	2	1		15
AUGUST		4	2			1				1	1		9
SEPTEMBER	6		1		2		4	4	2	6	3	3	31
OCTOBER	3	1		4	2	1	3	4		3	1	1	23
NOVEMBER		1	1	5	1	1	1	1	3		2	1	17
DECEMBER	4	2	2	2	2	2	6	1	2	3	2	1	29
TOTAL	13	8	10	19	14	9	20	11	20	19	16	8	196

Fire Department demand is consistent,
indicating a need for 24-hour response.

TIME OF INCIDENT 2023

	<u>0000-0200</u>	<u>0200-0400</u>	<u>0400-0600</u>	<u>0600-0800</u>	<u>0800-1000</u>	<u>1000-1200</u>	<u>1200-1400</u>	<u>1400-1600</u>	<u>1600-1800</u>	<u>1800-2000</u>	<u>2000-2200</u>	<u>2200-0000</u>	<u>TOTAL</u>
JANUARY	3	3	0	1	2	1	2	6	1	2	4	0	25
FEBRUARY	2	2	0	0	2	0	3	1	0	3	4	1	18
MARCH													
APRIL													
MAY													
JUNE													
JULY													
AUGUST													
SEPTEMBER													
OCTOBER													
NOVEMBER													
DECEMBER													
TOTAL	3	3	0	1	2	1	2	6	1	2	4	0	25

Significant call volume in January and February 2023

Next Steps

- Continue to share information to identify key issues and collaborate on solutions
- Project Team to implement Phase III improvements including fence between 1000 Hillview Court and adjacent business park
- Continue Quarterly reports to Council
- Explore convening a stakeholder group on a recurring basis

Recommendation

- Receive the update report on the Homekey Project at 1000 Hillview Court



City of Milpitas

455 E. Calaveras Blvd., Milpitas, CA 95035



www.milpitas.gov



408-586-3000

From: Lisa Reeve <lisareeve1062@gmail.com>

Sent: Monday, May 22, 2023 12:11:01 PM

To: Subject: Hillview Court Violence

CAUTION: EXTERNAL SENDER

This email originated from outside the organization. Do NOT click links or open attachments unless you recognize the sender and know the content is safe. Report suspicious messages to the IT Helpdesk.

Good Morning Everyone,

As some of you may already know I am a resident at the Permanent Supportive Housing Building located at 1000 Hillview Court in Milpitas Ca. There have always been a multitude of issues and safety concerns here at Hillview. As of late these issues and concerns have increased ten fold. Residents safety and quality of life has been increasingly declining to a point now of residents being assaulted and or threatened with serious bodily harm by a few other consistently troublesome residents. I am putting my own physical safety and probably my recently granted housing voucher at risk of retaliation from other tenants or the entities in charge of my voucher by writing this email. But I have had enough! Noone should have to live like this. This morning there was basically a riot in my hallway at 4:30am. A woman who was having a mental breakdown was jumped by five other residents. This fight would not have happened if security had called the police when she first started spray painting the outside of the building and hallways and smashing glass all up and down the hallway prior to her knocking on other residents' doors. But they are told only observe and report to management.

I and others have tried to work with the County office of Supportive Housing, Jamboree, Abode and property management by trying to form a tenants association even though we had a lot of push back, gaslighting and false promises from all of the above, and others. I will now run you all a list of the issues we are forced to live with everyday.

There have been several assaults here recently. I myself was personally assaulted in the middle of a community meeting. Staff present did nothing to deescalate the situation until after I was already assaulted. I am 60 years old and physically disabled, Staff refused to give the room number of my assailant to the police. Staff hid my assailant in their offices from the police until the police had left the building. Because the staff did nothing and a man was trying to attack another resident, I was sitting next to I put my hand up to stop him and he grabbed my wrist and twisted it completely around my back. I immediately left the meeting and called the police. I then went to the ER. I am awaiting my MRI. Another woman was attacked a few weeks ago and the security guard actually came to my door to ask ME, a 60 year old disabled woman, to help him deescalate the situation. By the time I got out there the police were already there. Another man was attacked and hospitalized. An Abode worker was attacked. Even one of the contracted landscapers was physically attacked. I and others of the tenants association steering committee have been threatened with physical harm for "being snitches" or complaining to staff or property management. A person's door was set on fire by another resident who has stalked and threatened several residents, threatening to grab a woman and drag them into his room to purposely OD her. Yet two months later he is still here, still terrorizing and threatening residents. We have a resident who has been involved in three stabbings and is still allowed to reside here. We have a resident who vandalized another resident's vehicle in retaliation for complaining.

We get gaslighted by staff with the stereotypical, "We're working on it" "Please understand the process." In the last two years I have lived here we have gone through eight program managers with Abode, three property management companies and three different security companies. Who's process exactly do we try to understand??? When?? Each entity has different policies.

Where is the security you ask???? Security is told to NOT call the police, even if asked by someone in need. Security is told by Jamboree and Property Management to only observe and report. The reason

behind that is that the building staff are trying not to reflect high numbers of calls for police and first responders because the city council is already complaining about the number of calls to the building. Residents are told if they have a problem they need to call for their own help. Many don't for fear of retaliation. Security will not call for ANY reason. On one occasion there was a young man, now deceased, lying in the hallway in his own vomit, obviously very ill, crying and begging security to call for help and as I witnessed security standing at the end of the hall staring at him and doing nothing I called 911. A few weeks afterwards this young man died. After calling for help from his room, only to be ignored again. I was not around to hear him this time. Two weeks later when the residents, not staff, called for a welfare check because of the stench of death in the hallway he was found deceased in his room. It was reported that he had been there for at least two weeks. The haz-mat crew is still working on remodeling his room because of the biological hazard of a rotting body. He OD'd after buying from one of the dealers in the building. This is public knowledge amongst the residents.

There is open air drug dealing happening everyday here. There are people walking the halls at night, sometimes not even residents, obviously high, knocking on doors and harrassing anyone and everyone they run into. I myself have had to use Narcan on people right outside my door. „twice. We have had many, many calls for overdoses to Hillview. We were evacuated last summer due to a hazardous situation in the building. The DEA Haz-mat Team spent four days in the building. But when residents asked what happened we were told there was no hazardous situation and that the Milpitas Police and City Council don't like us and were only trying to make an example to get us closed down and thrown out of town. This was told to me personally by a Jamboree employee. This narrative is extremely negative for the relationship between residents, police and first responders. It only makes their job harder. This attitude is further proven by their refusal to tell police where the man that assaulted me lived.

When residents complained that they heard footsteps and people in the attic rafters we were once again gaslighted by Jamboree and told "Oh there's no way anyone can be up there'. Until someone literally fell through the ceiling into an empty apartment. And then said the previous property management should have never told us that that happened. Do we not have a right to know that if you live on the third floor at any given moment someone could drop through your ceiling??? Do we not have the right to know when there is an active meth lab in our building??

Another issue that is very concerning is that the fire alarm continues to go off several times a week but now the fire department doesn't show up. Security goes to the panel room and shuts off the alarm before Fire has a chance to respond. Is this allowed? Isn't it the Fire Departments job to decide if it is a real fire or emergency? I do not believe it should be left to security alone to make that decision. They are not trained fire professionals. This is also management's way to not show too many calls for service to Hillview.

What is the reason you ask why all this is allowed to happen??? First, there are no real services. I have documentation showing I asked Abode for a caseworker from the day I moved in for at least eight months and was basically told " You're a smart woman,,I'm sure you'll figure it out. But I am sure when they submitted their reports to the county I had one, but I did not. If this is happening to me, what is happening to people who do not have the capacity to stand up for themselves like I do? There are no mental health professionals here at Hillview. Last I looked at the contract Abode is supposed to have 3-4 mental health workers on staff. Abode can not seem to keep staff. Three caseworkers and the only mental health counselor have quit in the last few months. I myself and several others before me have applied for and received our Housing Choice Voucher to move from here through a Reasonable Accommodation Request. Again, when I asked for help in the process I was told I get no help from anyone to find an alternative place to live that is better suited for my disability. I must find one on my own. I had to get three letters from my doctors at Stanford, Valley Medical and Momentum Mental Health documenting that living here is detrimental to my physical and mental well being and that they

request I be moved immediately. I have had more trauma living here at Hillview than I ever did living in my car for two years.

I AM a smart woman and I WILL figure out my move myself. I worry about the others who have to stay here and live in this Hell. We have elderly disabled people afraid to leave their rooms. This is by no means a supportive housing. There has already been one murder here. I fear if something doesn't change soon that someone else will again be seriously hurt or killed. At this point I do not think it is a bad idea for MPD to post an officer at 1000 Hillview Court for everyone's safety. I also ask that any of you on this email please take a hard look at the way Hillview Court is operated and the lack of services that they sold us and you at the beginning of this Project. I have documentation of everything I have stated here. Oh,,and if anything happens to me or my housing voucher please note I tried to change things.

Respectfully,
Lisa Reeve



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Review the List of Agenda Item Requests from Individual Councilmembers and Provide Direction to Staff, Through the Prioritization Process, on Groups 1 Items; Provide Additional Clarification to Staff, If Any, on Group 2 Items (Staff Contact: Ashwini Kantak, Assistant City Manager, 408-586-3053; and Matt Cano, Deputy City Manager, 408-586-3012)
Category:	Leadership and Support Services
Meeting Date:	6/20/2023
	<u>Recommendation:</u> (1) Review list of agenda item requests from individual Councilmembers and provide direction to staff, through the prioritization process, on which Group 1 items should be advanced; (2) Provide additional input to staff, if any, on Group 1 items that received Council direction to advance and all Group 2 items; and (3) Provide additional direction on Group 3 items as needed.

Background:

At City Council meetings, under the Announcements section, Members of the Council request items they would like the full Council to consider. These items are placed on a list for a future Council discussion and action. On January 19, 2021, at a Special City Council meeting, in order to streamline the process, Council provided direction to staff to bring forward individual Council agenda item requests to Council, for prioritization, on a quarterly basis.

On January 10, 2023, City Council approved a City Council Request Prioritization Policy which guides the prioritization process.

The last prioritization was held on February 7, 2023. Since the beginning of this process, Council has reviewed 190 items. Links to prior prioritization reports and minutes are included under Attachments.

Analysis:

Staff is now bringing forward the next prioritization of items that were requested by Council between February 7, 2023 and June 6, 2023, including the status on items approved previously by Council.

As shown in Attachment 1, a total of 44 items, some of which were discussed during the prior prioritization discussion, have been grouped into four categories differentiated by level of effort and status of the agenda request as outlined below:

Group 1 – Items that have not been initiated; will require more than four hours of staff time; and may require additional funding or resources (6 items).

Group 2 – Items that have not been initiated but will require less than 4 hours of staff work (1 item).

Group 3 – Items that are currently underway and/or already included in workplan (22 items).

Group 4 – Items that have been completed, postponed indefinitely, or withdrawn (14 items).

Prioritization Process

There are a total of 7 new items since February 7, 2023. Of these 7 items, 6 items are in Group 1 and 1 item is in Group 2

Similar to the prior prioritization process, the new Group 1 agenda item requests are identified in Attachment 2. Since these requests have not yet been discussed in detail, staff has made an attempt to

note alignment with Council priority areas to the extent possible. As part of Attachment 2, staff provided a write-up which includes the lead and supporting departments, estimated resources and cost to complete the work, description of work effort, any actions taken to date, clarification or direction sought from Council, and other additional considerations including impacts on other workplan items. To the extent possible, staff sought clarification from members of the Council sponsoring the request; however, some items may still need additional clarification from the requesting Councilmembers. To facilitate Council prioritization, Group 1 items have been further categorized into three sub-groups: Ordinances and Policies, Projects and Programs, and Miscellaneous.

For the six Group 1 items, the total annual costs are estimated as follows:

Item	Potential Ongoing Costs		Potential One Time Costs	
	Low Range	High Range	Low Range	High Range
CC01 – International Festival	\$0	\$48,000	\$0	\$0
CC02 – Senior Discount	\$0	\$500,000	\$0	\$0
CC03 – Library Sign	\$0	\$0	\$50,000	\$100,000
CC04 – Navigation Center	\$2.8 million	\$2.8 million	\$2.3 million	\$2.3 million
CC05 – Consulate Office	\$0	\$0	\$0	\$100,000
CC06 – Appraisals	\$0	\$0	\$68,000	\$68,000
Total	\$2.8 million	\$3.3 million	\$2.4 million	\$2.5 million

Since Group 2 items (see Attachment 1) require less than four hours of staff time, this item can be advanced without requiring a majority vote; however, Council may wish to provide additional input or direction on this item. For Group 3 items, which are underway and/or already included in staff workplans, staff provided an update in Attachment 1. A list of Items completed, postponed indefinitely or withdrawn, are presented as a separate attachment (Attachment 3).

Voting Process

In accordance with the adopted City Council Prioritization Policy and the number of Group 1 items, staff proposes that the Council prioritize no more than 2 items.

Round 1

Each member of the Council will be asked to prioritize their top 2 items from Group 1. Councilmembers will be provided hard copies to help them review and complete the preliminary prioritization and electronic voting will be conducted on mobile devices.

All items receiving three or more votes will move forward. If the number of items receiving three or more votes is two or greater, the prioritization process will be deemed complete. If the number of items is less than two, the remaining items will be prioritized as described in Round 2.

Round 2

In case items receiving three or more votes are less than two in number, Councilmembers will be asked to prioritize the remaining items so as to develop a top two list. Each member of the Council will be given the number of votes equivalent to two minus the number of items prioritized for staff work at the completion of Round 1. For example, if after Round 1, the Council agreed on advancing one item, one additional item will require prioritization. Therefore, each Member of the Council will be asked to vote on one item. Any item receiving three or more votes will be added to the prioritized list. If the total number of items on the list is one or greater, the prioritization process will be deemed complete.

Additional Rounds, if needed

If the total number of prioritized items after Round 2 is less than two, all remaining items which received at least one vote will be prioritized through additional rounds of voting. Items which receive zero votes in a round will be eliminated from the subsequent round of voting.

Please note that any items that do not advance through this multi-step prioritization process will be removed from the active list and would have to be resubmitted through Announcements for the next prioritization discussion scheduled for September 2023.

Group 3 Items Needing

As noted in the Attachment, the City Attorney's Office has prepared a confidential memorandum regarding potential legal issues and implementation of a food delivery cap. As stated in that memorandum, should the Council wish to move forward with a cap, the next step will be to authorize the retention of a consultant to determine if a factual basis exists to support the need for a further food delivery cap. Staff would like direction on whether the City Council would like retain a consult to determine whether the necessary factual basis exists within the City.

Policy Alternative:

Not applicable

Fiscal Impact:

For six Group 1 items, the total annual ongoing costs are estimated to be \$2.8 million to \$3.3 million and one-time costs would range from \$2.4 million to \$2.5 million. It should be noted that the majority of these costs are due to the Navigation Center costs. A breakdown of costs per item is included in the analysis section of this report. Based on Council direction, staff will consider prioritized items that require new funding as part of the FY 2024-2025 budget process.

California Environmental Quality Act:

This item is not a Project under CEQA in accordance with CEQA Guidelines Section 15061(b)(3) (Common Sense Exemption) as it can be seen with certainty that a general discussion of funding priorities by the City Council will not have a significant effect on the environment. Further, the item is also not a Project pursuant to CEQA Guidelines Section 15378(b)(4) as it is a government fiscal activity that does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. Although the use of funding will be discussed for various potential projects, any project scope and potential environmental analysis would be speculative to analyze at this time and future environmental analysis will be conducted for the various potential projects prior to the City making any commitment or approval of any project.

Recommendation:

1. Review list of agenda item requests from individual Councilmembers and providedirection to staff, through the prioritization process, on which Group 1 items should be advanced.
2. Provide additional input to staff, if any, on Group 1 items that received Council direction to advance and all Group 2 items.
3. Provide additional direction on Group 3s, including the food delivery cap.

Attachments:

1. List of Councilmember Agenda Item Requests
2. Information on Group 1 items
3. List of Completed, Postponed Indefinitely, or Withdrawn Items
4. Links to Prior Prioritization Reports and Minutes
 - [March 16, 2021 Agenda and Minutes](#)
 - [August 9, 2021 Agenda and Minutes](#)
 - [January 11, 2022 Agenda and Minutes](#)

- [May 3, 2022 Agenda and Minutes](#)
- [September 6, 2022 Agenda and Minutes](#)
- [February 7, 2023 Agenda and Minutes](#)

Attachement 1
List of Councilmember Agenda Item Requests

Item # 20.

No.	Topic	Requested By	Date Requested	Requires more than 4 hours of additional staff time	Department / Office	Council Priority Area(s)	Status	Additional Resources/Funding Needed or Deferral of Council Approved Programs
Group 1 – Items that have not been initiated; will require more than four hours of staff time; and may require additional funding or resources.								
Ordinances and Policies								
None								
Projects and Programs								
1	Identify a month and day to celebrate an International Cultural Festival on Main Street.	Lien	2/7/2023	Yes	Recreation & Community Services		June 2023 update: see attached writeup	
2	Look into possibility of Senior citywide discount from all Milpitas businesses.	Barbadillo	2/7/2023	Yes	City Attorney/Recreation & Community Services		June 2023 update: see attached writeup	
3	Add larger electronic outdoor sign at Milpitas Library	Montano	2/7/2023	Yes	Engineering		June 2023 update: see attached writeup	
4	Navigation Center	Montano	2/28/2023	Yes	Housing		June 2023 update: see attached writeup	
5	Satellite Consulate Office	Montano	2/28/2023	Yes	Economic Development		June 2023 update: see attached writeup	
6	Appraise City owned parcels 2 & 3 on Main Street	Montano	4/18/2023	Yes	Economic Development		June 2023 update: see attached writeup	
Miscellaneous								
None								
Group 2 – items that have not been initiated but will require less than 4 hours of staff time								
7	City Employment Job Fair at City Hall	Chua	5/2/2023	No	Human Resources		June 2023 update: Staff is evaluating synergies with existing Economic Development activities and endeavors to which recruiting efforts can be incorporated and creates space for multiple events throughout the year increasing overall exposure to local talent.	
Group 3 - Items that are currently underway and/or already included in workplan								
8	City Manager to look into defining either a standalone teen center or updating information to indicate the Senior Center also functions as a Teen Center	Chua	9/20/2022	Yes	Recreation and Community Services		June 2023 update: A Teen Center Survey has been released and is currently gathering responses. It is anticipated that data on the use of the center and/or its programs relative to it's proximity to home and/or school, and the type of programming desired will provide the input needed for the resolution to this request.	
9	City Manager to look into implementing a workshop for small businesses on the bidding process for projects in the city.	Chua	8/9/2022	Yes	CMO/Economic Development/Public Works/Engineering		June 2023 update: Staff was scheduled to provide a report to the Economic Development and Trade Commission on June 12, 2023 however that meeting with postponed due to lack of quorum. Staff will present to the Commission at the next available date. Further analysis on options and alternatives to connect more local and local small City of Milpitas businesses to our procurement processes will continue through 2023.	

Attachement 1
List of Councilmember Agenda Item Requests

Item # 20.

No.	Topic	Requested By	Date Requested	Requires more than 4 hours of additional staff time	Department / Office	Council Priority Area(s)	Status	Additional Resources/Funding Needed or Deferral of Council Approved Programs
10	Discuss converting vacant lot that was a basketball court into a community garden at Vasona and Adobe.	Montano	8/16/2022	Yes	Recreation and Community Services/Engineering		June 2023 update: Staff conducted a survey of residents within an 800 foot radius from Adobe Ave., asking for feedback on potential recreational improvements to the area. Notification was sent via postcard to individual homes, NextDoor, Facebook, and Instagram. The survey was out for 3 weeks and 43 responses were received. Of those received, 16 identified themselves as living in the Adobe Ave/Vasona St. Neighborhood. The majority of residents currently use Adobe Ave to walk to school (Curtner Elementary) and as a pedestrian trail for fitness. Survey takers responded most favorably to turning the area into a parklet with some benches and greenery, followed by interest in a community garden. Residents indicated some concern over new uses of the area creating a noise and loitering issue in the neighborhood. Staff will present consolidate responses to the Mayor and City Council to receive further direction at the next priority setting meeting.	There is currently no budget allocation for improvements to this area. Should the City Council want to move forward with this priority request in response to survey input, direction on the type of improvements are needed so staff can conduct an estimate of costs for those improvements and present this in a future budget process.
11	Police Substation Feasibility Analysis in Metro Area	Montano	2/28/2023	Yes	Engineering		June 2023 update: Feasibility study for PD substation on City Parcels 2 and 3 at Main Street is underway and is anticipated to be completed by December 2023. Staff is also exploring alternative location for the substation.	
12	Pickleball Pilot Project	Chua	2/28/2023	Yes	Recreation & Community Services		June 2023 update: The Pickleball Pilot program concludes at the end of July. Due to it's documented success, City Council has provided budget allocations of \$100,000 for permanent pickleball courts. Until such time as the court system(s) are in place, pickleball will continue as operating at Hall Park Tennis Courts and Gill Park Handball courts. Additionally, staff will work to phase out Pickleball at the Browne Tennis Courts, based on feedback by City Council at the approval of the Pickleball Pilot Program.	
13	Main Street Infrastructure Projects	Montano	2/28/2023	Yes	Engineering		June 2023 update: As part of the 2023 State and Federal appropriations processes, both State Assemblymember Alex Lee and Federal Representative Ro Khanna have requested funding for Main Street infrastructure improvements. Further information on whether these appropriation requests are approved will be available in late 2023.	
14	Main Street Flooding at Library	Chua	2/28/2023	Yes	Public Works		June 2023 update: Staff will continue to explore short-term mitigation as part of the FY 23/24 CIP program. Funds have been budgeted in FY 23/24 for the possible replacement/removal of the flap gate, should that be determined to be a viable option. Furthermore, three very small CIPs to address existing undersized pipes have been identified in the Downtown Specific Plan area which could improve flow. Those will be investigated as well in FY 23/24.	
15	Amendment to the existing ordinance for third-party food delivery vendor services to prohibit regulatory response fees (City Council Direction requested in Agenda Report)	Phan	2/16/2021	Yes	Economic Development; Finance		June 2023 update: The City Attorney's Office has prepared a confidential memorandum regarding potential legal issues and implementation of a food delivery cap. As stated in that memorandum, should the Council wish to move forward with a cap, the next step will be to authorize the retention of a consultant to determine if a factual basis exists to support the need for a further food delivery cap. Prior updates: See update to item titled "Request for the City to make the temporary third-party food deliver fee caps permanent and add additional provisions for enforcement". Agendized for discussion on 3/16/2021, deferred to 4/06/2021; CC direction for City Attorney to prepare a report.	

Attachement 1
List of Councilmember Agenda Item Requests

Item # 20.

No.	Topic	Requested By	Date Requested	Requires more than 4 hours of additional staff time	Department / Office	Council Priority Area(s)	Status	Additional Resources/Funding Needed or Deferral of Council Approved Programs
16	Request for the City to make the temporary third-party food deliver fee caps permanent and add additional provisions for enforcement (City Council Direction requested in Agenda Report)	Phan	11/16/2021	Yes	Economic Development, Finance, City Attorney		June 2023 update: The City Attorney's Office has circulated to the City Council a confidential memorandum regarding the next steps for enacting a further food delivery cap. Should the Council wish to move forward, it will need to authorize the retention of a consultant to conduct fact finding to determine whether a factual basis exists to support a further food delivery cap. Prior updates: Requires legal analysis of 1:21-cv-07695-AT-SLC DoorDash, Inc. v. City Of New York and 3:21-cv-05502-EMC Doordash, Inc. et al v. City and County of San Francisco. Doordash v. NYC remains pending and may settle the law on the matter. CAO will prepare confidential memorandum for the council. Discussed at Spring Quarterly City Council Workplan Items Prioritization Discussion; Approved to move forward at the 5/03/2022 meeting	
17	Create a plan for future solar paneling at City facilities	Montano	3/1/2022	Yes	Public Works		June 2023 update: As part of the 2023 Federal appropriations process, the City has requested for funding for solar panels and a microgrid system at the Police, Public Works, IT Building. Both Senators Feinstein and Padilla have moved this request to the Federal appropriations committee. Further information on whether this request receives funding will be available in late 2023. Prior Updates: As discussed with the City Council at the 1/31/2023 Budget Study Session, staff will continue to explore grant opportunities to install additional solar panels on City facilities. However, staff will only proceed with further development if this grant funding is identified so work (other than reviewing grant opportunities) is on hold at this time. Discussed at Spring Quarterly City Council Workplan Items Prioritization Discussion; Approved to move forward at the 5/03/2022 meeting; Discussed at the May 10 budget meeting and approved funding of \$25,000 in the 2022-23 budget. Discussed at 1/31/2023 Budget Study Session, Council directed staff to seek grant funding to move this item forward.	
18	Establish State historical designation for the Sunnyhills community	Tran	6/7/2022		Recreation, City Manager		June 2023 update: Request is being included with the Historic Resources Master Plan project approved as part of the 2023-2027 Capital Improvement Program. Prior updates: Based on staff research, the best way to try for a Historical District Designation is at the National Level. This can be wrapped into the approved CIP for the Historical Resources Plan update or through grant consultant California Consulting. Request will be included with the Historic Resources Master Plan project approved as part of the 2023-2027 Capital Improvement Program.	
19	Explore an ordinance or policy to reduce thefts and increase security in the commercial retail parking areas	Chua	4/5/2022		Police, Economic Development		June 2023 update: Security measures can be mandated for new or renovating development projects but cannot be mandated for existing businesses. The Police Department has taken action to partner with existing businesses, including McCarthy Ranch and the shopping center at Barber Lane with regard to education and deterrence, including placement of signage and cameras. Prior updates: CAO conducting legal review of policies requiring businesses to hire security/install cameras. Item will be brought forward as part of the next City Council additional workplan items prioritization in August/September	Additional Staff Resources and Funding Needed

Attachement 1
List of Councilmember Agenda Item Requests

Item # 20.

No.	Topic	Requested By	Date Requested	Requires more than 4 hours of additional staff time	Department / Office	Council Priority Area(s)	Status	Additional Resources/Funding Needed or Deferral of Council Approved Programs
20	Explore the policy for locking mechanisms on shopping carts for large commercial businesses	Tran	4/19/2022		Bldg. Safety & Housing, Planning, Economic Development		June 2023 update: No change in status. Prior updates: MMC V-13-140 Mandatory Plan to Prevent Cart Removal includes requirement for physical measures to prevent cart removal however V-13-120 provides an exemption for cart owner that agrees to enter into a contract with a City-designated retrieval service. Staff suggestion to Council is to review this exemption and repeal it which would require all cart owners to have physical measures to prevent cart removal. Business outreach was conducted to grocery store operators in Q2 of 2022 to inquire about shopping cart removal and theft. Grocery stores contacted were Ocean Supermarket, Seafood City Supermarket, Chung Chou City, Milpitas Grocery Outlet, and 99 Ranch Market.	
21	Evaluate reopening the childcare center with a non-profit organization running the center	Montano	2/1/2022		Recreation		June 2023 update: Staff are currently working on this request, identifying the improvements to the Sal Cracolice Recreation Facility that would be required for a licensed childcare provider to operate in the building. Prior updates: No additional funds required to complete the internal review. Internal review can be done by late 2023. Approved during Spring Quarterly City Council Workplan Items Prioritization Discussion on 5/03/2022.	
22	Have a picture of Albert Vogel Sr. put up in the Senior Center & Include Maria Lemire on the Mural in front of the Senior Center	Montano	10/19/2021 & 8/17/2021		Recreation		June 2023 update: The approved CC request included to add Maria Lemery and Albert Vogel to the Mural at the Senior Center. Staff has spoken to the artist and confirmed that additional images would not fit with the existing piece. However, due to the location of the current mural, additional mural panels featuring additional people could be added to the senior center entry way. Staff received interest from Mayor Montano to add Joanne Sousa to this request. Prior updates: No additional funding needed. Need final names from City Council. . Approved to move forward at the 1/11/2022 Council meeting; Staff engaged the artist of the existing mural regarding this Council approved item.	Should the Council want to consider adding additional people to this request, a new vote to confirm the project scope is required. Staff does not anticipate additional monies would be needed to the addition of one (1) person to this project scope. Monies for this project are available in the Public Art Fund.
23	Memorial Plaque in honor of youth skateboarder that passed away	Montano	6/7/2022		Recreation		June 2023 update: This request was approved as part of the FY23-24 Budget. Staff will begin working with the family in Fall 2023. Prior update: At the January 31 2023 City Council budget hearing, City Council votes to consider this item in the FY 2023-24 budget development. . Item will be brought forward as part of the next City Council additional	
24	Present Quarterly or Monthly crime statistics on the Homekey Project	Chua	6/7/2022		Housing		June 2023 update: Next presentation is scheduled for June 20, 2023 City Council meeting. Prior update: Presentation is scheduled for the August 16 City Council Meeting as part of the Project Homekey item. Quarterly reporting started in August 2022.	

Attachement 1
List of Councilmember Agenda Item Requests

Item # 20.

No.	Topic	Requested By	Date Requested	Requires more than 4 hours of additional staff time	Department / Office	Council Priority Area(s)	Status	Additional Resources/Funding Needed or Deferral of Council Approved Programs
25	Request for Crossing Guards at McCandless and Montague Expressway and review wages for Crossing Guards	Montano	4/5/2022		Police		June 2023 update: Program is transitioning to a contract service. This location was recommended for a guard placement in the 11/2022 traffic survey. We will work with the contract service to ensure a guard is placed at this location. Prior updates: Info Memos were sent to the City Council on 6/13/2022 and 1/27/2023. At the January 31st budget study session, council voted to move to a contract model. A citywide traffic study, which includes school aged pedestrian counts around schools in the City including the McCandless and Montague Expressway intersection has been conducted. Per the Information Memorandum issued on June 13, the City will perform school aged pedestrian counts around schools in the City including the McCandless and	
26	Requested an appropriation in an amount not to exceed \$250,000 to procure a contract to address the streetlights that are pending fieldwork.	Tran	2/1/2022		Public Works		June 2023 update: At this time, staff has sufficient Council approved resources to address the remaining streetlight outages; however, will bring relevant actions for Council consideration, if needed. Prior update: At this time, staff has sufficient Council approved resources to	
27	Staff to create a plan on how to increase the number of local businesses doing business with the City	Chua	4/6/2021		Economic Development		June 2023 update: See update to prior item titled "City Manager to look into implementing a workshop for small businesses on the bidding process for projects in the city." Prior updates: Staff is tracking this local business participation item as part of Council Priority Item 3 in Group 1 on this list. At the 8/9/2021 Council meeting, Council voted that this item may have to come back for additional	
28	Staff to look into mural Art on Great Mall Parkway on the VTA owned Light rail pillars	Montano	11/16/2021		Recreation & Community Services		June 2023 update: Staff was able to meet with and get approval from VTA in May 2023. Staff are currently completing the appropriate permits associated with this project for VTA approval. Monies for this project are available in the Public Art Fund. Prior updates: VTA is not responsive to requests from the City to meet on this project. A discussion on other locations or projects with Council may be needed. . Discussed at Spring Quarterly City Council Workplan Items	
29	Staff to provide information on a landmark policy for the City of Milpitas	Tran	3/16/2021		Recreation & Community Services		June 2023 update: Request is being included with the Historic Resources Master Plan project approved as part of the 2023-2027 Capital Improvement Program. Prior updates: This is part of the CIP for updating the Historic and Cultural Resources Plan. 8/09/2021 Council voted 5-0 to move this item forward; this item will be included for funding consideration in the development of the FY 2023-27 CIP for assessment of historical and cultural resources and development of landmark policy; The funding for the assessment of historical and cultural resources and development of a landmark policy will be included in the 2023-2027 Capital Improvement Program scheduled for adoption on May 3, 2022. This project will be scheduled to begin in FY 2022-23.	Item was brought to Council during the the 2023-27 5-Year CIP adoption process, however Council determined not to fund or advance this task.
Group 4 – items that have been completed, postponed indefinitely, or withdrawn since last City Council update								

Attachement 1
List of Councilmember Agenda Item Requests

Item # 20.

No.	Topic	Requested By	Date Requested	Requires more than 4 hours of additional staff time	Department / Office	Council Priority Area(s)	Status	Additional Resources/Funding Needed or Deferral of Council Approved Programs
30	Look into the impact of and how the City can compensate for the massive number of layoffs in the Bay Area. Staff consider how the City can help residents affected by layoffs, reach out to those affected and show them city programs.	Vice Mayor Evelyn Chua	12/6/2022	Yes	Economic Development and Finance		Prior update: Staff, in partnership with NOVAworks, provided information about past and upcoming layoffs, wage and labor data as well as job and career resources available to Milpitas residents and businesses at the Economic Development and Trade Commission meeting on January 9, 2023. City staff partnered with NOVAworks by promoting the layoff assistance webinars to assist with career transition and unemployment services and resources on January 24, February 7, February 21, May 23, and June 6. Staff will also promote the upcoming June 20 layoff assistance webinar.	
31	Requested an appropriation in an amount not to exceed \$250,000 to procure a contract to address the streetlights that are pending fieldwork.	Tran	2/1/2022		Public Works		Prior update: At this time, staff has sufficient Council approved resources to address the remaining streetlight outages; however, will bring relevant actions for Council consideration, if needed.	
32	Gill Park and other park lighting	Chua	2/28/2023	No	Public Works		June 2023 update: On April 13, 2023, the City Manager's Office distributed an info memo with details on ARPA funding for park improvements as well as a list of parks with night use lighting in Milpitas.	
33	Prepare a brief summary of previous Council action related to Sunnyhills from the first renewal to present day	Barbadillo	12/20/2022	No	Building Safety and Housing		June 2023 update: JMK Investments received preliminary approval February 9, 2023 and final confirmation of approval on March 7, 2023 from HUD on the renewal contract. Prior update: On December 19, 2022, the City sent a letter to HUD in support of the owner's 5-year renewal of its HUD contract. And on December 29, 2022, an Info Memo was sent to the City Council with the	
34	Provide information on the grant to the Chamber of Commerce and Staff to meet with Chamber to discuss ARPA funding	Barbadillo	2/7/2023		Economic Development		June 2023 update: On February 2, 2023, staff emailed Councilmember Barbadillo a Chamber of Commerce update and the City Council Info Memo issued on October 19, 2022 regarding the proposed ARPA funding of \$200,000. Additionally, the City Council reallocated this funding to other programs.	
35	City Manager to draft congratulatory letter to new County sheriff and express support for certain platforms	Chua	2/7/2023		Police		June 2023 update: Completed and sent on February 22, 2023.	
36	Establish a fund for real estate acquisitions	Montano	6/7/2022		Economic Development, Finance		June 2023 update: The creation of a fund for land acquisitions was approved and added to the City's Fiscal Policies as part of the Fiscal Year 2023-2024 Budget adoption on June 6, 2023. Prior updates: At the January 31, 2023 City Council budget hearing, staff was directed to update the City's Fiscal Policies to provide an option for a portion of future surplus funding to be reserved for real estate acquisition. Staff will include this edit to the Fiscal Policies as part of the Proposed Fiscal Year 2023-2024 Operating Budget.	
37	Crossing Guard Program	??	1/31/2023		Police		June 2023 update: Transitioning to a contract service effective 7/1/2023, pending approval of the contract at the 6/20/2023 City Council meeting.	
38	City Manager to look into underutilized areas of parks or a portion of parks not being used and develop for use in the future.	Chua	8/16/2022	Yes	Engineering/Recreation and Community Services		June 2023 update: At the February 7, 2023 City Council meeting this request was withdrawn as this review is available in the Parks Master Plan document. Prior update: Item will be brought forward as part of the next City Council additional workplan items prioritization in February	

Attachement 1
List of Councilmember Agenda Item Requests

Item # 20.

No.	Topic	Requested By	Date Requested	Requires more than 4 hours of additional staff time	Department / Office	Council Priority Area(s)	Status	Additional Resources/Funding Needed or Deferral of Council Approved Programs
39	Schedule an additional ADU workshop	Chua	9/6/2022	No	Recreation and Community Services		June 2023 update: On May 13, 2023 an ADU workshop was held at the Milpitas Community Center by the nonprofit organization FAREPA Silicon Valley. Prior update: Similar to last year, staff will support any webinar hosted by a community partner.	
40	Staff explore eliminating or waiving the fee for the gym at the Milpitas Senior Center	Chua	10/18/2022	No	Recreation and Community Services/Finance		June 2023 update: On April 18, 2023 the separate fee for the gym at the Milpitas Senior Center was removed as part of the City Council's adoption of the Fiscal Year 2023-2024 Fees & Charges. Prior update: Staff will evaluate this item consistent with the Recreation and Community Service Cost Recovery City Council Policy and bring it back to Council for consideration as part of approval of the FY 2023-24 Proposed Master Fee Schedule.	
41	Look into bringing back a roller rink	Montano	8/5/2021		Recreation		June 2023 update: This will be part of the "retro milpitas" event in August 2023. Prior updates: Monies budgeted. Roller Rink bids coming back end of Feb/early March. Event schedule for August 4 & 5, 2023.. Approved to move forward at the 1/11/2022 Council meeting. Funding for the program will need to be prioritized through the FY 22-23 budget process; Discussed at	
42	Look into opening up the Senior Center on Saturdays for half a day	Chua	8/5/2021		Recreation		June 2023 update: This was included as a proposal in the Adopted Fiscal Year 2023-2024 Budget approved by the Mayor and City Council on June 6, 2023. Prior update: Funding for Senior Center hours will be incorporated in the FY23-24 budget.. As presented by staff on 1/11/2022, this pilot is scheduled for completion in fall 2022. In preparation for the pilot, staff will issue a survey to seniors asking for the types of services they are seeking; hire staff based on the feedback; and start the three-month pilot in September 2022 until mid November 2022.	
43	City Attorney or City Manager to draft a written policy regarding foreign language spoken at the dais	Chua	9/20/2022	Yes	CAO/CMO		June 2023 update: On February 21, 2023, the City Council approved amendments to the City Council Procedures and Protocols Handbook to set forth the Council policy on language used at City Council meetings. Prior update: Item will be brought forward as part of the next City Council additional workplan items prioritization in February	

Attachment 2 – City Council Referral #01

(requires more than 4 hours of staff time)

Item # 20.

Category and Topic No.	Topic:	Requested by:
PROJECTS AND PROGRAMS CC01	International Festival	Councilmember Lien
Lead Department/Office	Supporting Department(s)/Office(s)	
Recreation and Community Services	Public Works, Police Department, Economic Development	
Council Priority Areas	Estimated Completion Date	Estimated Cost
Community Wellness and Open Space	Fiscal Year 2024-2025	\$0 for options 1 and 2; \$48,000 for option 3
		Funding Needed
		\$0 for options 1 and 2; \$48,000 for option 3
Description of Required Work Effort		
At the February 7, 2023 City Council hearing during “Announcements and Future Agenda Items,” Councilmember Hon Lien requested that staff review a potential International Cultural Festival on Main Street. Although the cost of this referral is dependent on the Council directed scope, staff has developed the following options: (1) An annual one evening event on Main Street such as a movie and/or concert; or (2) Integration of a multicultural theme into an already existing event organized by the City; or (3) A new one or two-day festival celebrating the multi-culturalism of Milpitas with special event activities such as but not limited to children’s activities, food, music, art, and performances.		
Status Update as of June 2023		
Staff has performed a preliminary review of options that may meet the goals of this City Council request. These options are presented below: Option 1: Schedule an existing Movie or Summer Concert Series night to be on Main Street with movie/music theme and food truck(s) to have cultural themes. For this option, staff recommends that the location for an existing Summer 2024 concert or movie be shifted over to Main Street for a one evening event. This would not require any additional staffing resources or funding as it would be a change in location for one night of an existing event series. This option would allow the City to showcase Main Street and be a temporary boost for restaurants and businesses by drawing customers to the street. Typically there are four (4) concerts and four (4) movies in a summer series. If it is desired to hold this		

Attachment 2 – City Council Referral #01

(requires more than 4 hours of staff time)

Item # 20.

event in addition to the existing series, staff would return with further analysis of the costs based on Council input and direction.

Option 2: Integrate a multicultural theme into an already existing event

For this option, staff recommends that an existing, established event, for example the annual Tree Lighting Ceremony, be themed to include a multicultural theme, showcasing the myriad of winter cultural holiday traditions through storytelling, song, and performances. No additional monies are anticipated for this option.

If the City Council were to support option 2, staff would incorporate this new theme into an existing event and execute as part of the Fiscal Year 2023-2024 event calendar.

Option 3: A new 1 or 2-day International Cultrual festival

A third option would be for the City to host a brand new 1 or 2 day festival focused on multiple cultures. Considerations for this type of event are listed below:

- (1) Costs: Staff costs for setting up the event program would be approximately \$15,000. The cost of special event activities (performers, equipment, etc.) is estimated at \$25,000. Overnight security for the event area would also be required for approximately \$8,000. Therefore, the cost estimate without staff overtime and without revenue estimates is about \$48,000. Revenue estimates cannot be determined at this time.
- (2) Location: Given the potential size of the event, this would likely need to be held at the Civic Center Plaza, Milpitas Sports Center, or Main Street. The location of the event determines the level of staff support from Recreation and Community Services as well as other departments. For example, events located in areas requiring street closures require additional costs due to major support from the Public Works Department and Police Department for street closures and traffic management.
- (3) Considerations: Special Events programming is currently at capacity. Adding a new one or two day festival without any adjustments to the existing events scheduled would not be feasible for the following reasons.
 - The event calendar is currently at capacity. If the City were to hold another multi day event, it would be difficult to find a date on the calendar that isn't already taken or close to one of the existing City-run events. If the City Council would like to proceed with this event, existing events regularly scheduled near this new event would need to be discontinued or reduced in order to stage and support the International Festival.
 - Staff resources are currently at capacity for events. With over 40 events currently held throughout the year, staff is not able to add additional events without also adding funding for supporting staff in the events program area .
 - Six (6) events are currently ARPA funded and ongoing funding will need to be provided for them beginning in 2025. Adding another event would cause it to compete with funding for the existing ARPA funded events as well as creating a saturation of event themes for audiences. Additionally, City Council added a new event during the approval of the Fiscal Year 2023-2024 budget, Black April, to the event calendar to occur on April 30th of each year.

Attachment 2 – City Council Referral #01

(requires more than 4 hours of staff time)

Item # 20.

Council Clarification/Further Direction Requested

If it is desired to move forward, staff would like clarification on whether the City Council supports Options 1, 2 or 3 listed above. Both options 1 and 2 can proceed without additional funding or direction. If Option 3 is desired, staff will return to the City Council with alternatives by Fall 2024.

Other Considerations

For reference during the City Council discussion, staff has provided a list of current events as an attachment to this document.

Attachment 2 – City Council Referral #01

(requires more than 4 hours of staff time)

Item # 20.

Listing of Events for a Standard Fiscal Year, using Anticipated Fiscal Year 2023-2024 Anticipated Events as an Example (event time and details subject to change)

	Event Name	Month	Event Type	Cultural Event (not including flag raisings)	Time Limited Funding?
1	Fourth of July Pool Party	July	Citywide (ticketed)		
2	Fourth of July Concert & Fireworks	July	Citywide (ticketed)		
3	Movie Night Series - Movie #3	July	Citywide (free)		
4	Summer Concert Series - Concert #3	July	Citywide (free)		
5	Movie Night Series - Movie #4	July	Citywide (free)		
6	Summer Concert Series - Concert #4	August	Citywide (free)		
7	Family Bike Day	August	Commission Event - CityWide (free) (Parks, Recreation and Cultural Resources)		
8	Retro Milpitas	August	Citywide (ticketed)		Yes, General Fund (planned for one year only)
9	India Independence Day	August	Flag Raising	Yes	
10	ArtWalk	September/ October	ARPA Event - CityWide (free)		Yes, ARPA

Attachment 2 – City Council Referral #01

(requires more than 4 hours of staff time)

Item # 20.

	Event Name	Month	Event Type	Cultural Event (not including flag raisings)	Time Limited Funding?
11	Lantern Festival	September	ARPA Event - CityWide (free; some paid areas)	Yes	Yes, ARPA
12	Hispanic Heritage Month	September	Flag Raising (no event in FY 22-23)		
13	Mexican Independence Day	September	Flag Raising		
14	Pumpkins in the Park	October	Citywide (free; some paid areas)		
15	Delano Manongs Park Grand Opening	October	Citywide (free)	Yes	
16	Filipino American History Month	October	Flag Raising		
17	Dia De Los Muertos	October/Nov ember	APRA Event- CityWide (free)	Yes	Yes, ARPA
18	Native American Heritage & Culture Month	November	Flag Raising		
19	Veterans Day	November	Citywide (free)		
20	Veterans Lunch	November	Commission Event - Milpitas Veterans (Veterans Commission)		
21	Tree Lighting	December	Citywide (free; some paid areas)		
22	Milk & Cookies with Santa	December	Citywide (ticketed)		
23	Lunar New Year	January	Citywide (free)	Yes	
24	Youth Coding Competition	February	Commission Event - Milpitas Youth (Youth Advisory Commission)		
25	Black History Month	February	Flag Raising (no event in FY 22-23)		

Attachment 2 – City Council Referral #01

(requires more than 4 hours of staff time)

Item # 20.

	Event Name	Month	Event Type	Cultural Event (not including flag raisings)	Time Limited Funding?
26	Youth Spelling Bee	March	Commission Event - Milpitas Youth (Youth Advisory Commission)		
27	Family Game Night	March	Citywide (free)		
28	Cesar Chavez Day	March	Flag Raising (no event in FY 22-23)		
29	Holi Festival	March	APRA Event- CityWide (free)	Yes	Yes, ARPA
30	Black April Event	April	Citywide (free)	Yes	Yes, General Fund
31	Earth Day	April	ARPA Event - CityWide (free)		Yes, ARPA
32	Commissioners' Recognition Event	April	City Commissioners		
33	Big Bunny Scramble	April	Citywide (ticketed)		
34	Vietnamese American Heritage Month	April	Flag Raising (no event in FY 22-23)		
35	Public Safety Day	May	Flag Raising (no event in FY 22-23)		
36	Bike to Wherever Day	May	Commission Event - CityWide (free) (Parks, Recreation and Cultural Resources)		
37	Asian Pacific American Heritage Month	May	Flag Raising (no event in FY 22-23)		
38	Eritrea Independence Day	May	Flag Raising		
39	Memorial Day	May	Citywide (free)		
40	Milpitas Family Campout	June	ARPA Event (ticketed)		Yes, ARPA

Attachment 2 – City Council Referral #01

(requires more than 4 hours of staff time)

Item # 20.

	Event Name	Month	Event Type	Cultural Event (not including flag raisings)	Time Limited Funding?
41	State of the City Address	June	Citywide (free)		
42	Movie Night Out #1	June	Citywide (free)		
43	Summer Concert #1 (Juneteenth Themed)	June	Citywide (free)		
44	Movie Night Out #2	June	Citywide (free)		
45	Juneteenth Flag Raising	June	Flag Raising (no event in FY 22-23)		
46	Philippine Independence Day	June	Flag Raising		
47	LGBTQ Pride Month	June	Flag Raising		

Footnotes:

*Does not include Milpitas
Community Concert Band Concerts
(3 concerts a year), Theater
productions or all support
commission specific events.

*Shaded events are flag raisings
that did not have an event
associated with them in FY 2022-
2023. Flag raising events are co-
organized by community partners.

City Council Referral
(requires more than 4 hours of staff time)

Item # 20.

Category and Topic No.	Topic:	Requested by:	
Projects and Programs CC02	Citywide Senior Discount	Councilmember Barbadillo	
Lead Department/Office	Supporting Department(s)/Office(s)		
City Attorney	Recreation and Community Services		
Council Priority Areas	Estimated Completion Date	Estimated Cost	
Community Wellness and Open Space	TBD	\$0 for option 1 \$500,000 annually for option 2	
		Funding Needed	
		\$0 for option 1 \$500,000 annually for option 2	
Description of Required Work Effort			
At the January 31, 2023 budget study session, Councilmember Gary Barbadillo requested that staff review a potential Citywide Senior Discount. This request was repeated by Councilmember Barbadillo at the February 7, 2023 City Council hearing during “Announcements and Future Agenda Items.” A program for Senior Discounts could focus on amplifying and modifying currently existing City, AARP and other offerings to seniors. Alternatively, it could consist of a Citywide grant program to businesses. Further details on these options are discussed below,			
Status Update as of June 2023			
Staff has performed preliminary research on potential alternatives to provide more opportunities for Seniors to receive discounted services in the City of Milpitas, as discussed below. Discount opportunities currently exist for Seniors in Milpitas, through a combination of public and private programs. For the City of Milpitas in particular, multiple approaches are taken: 1) Specific offerings such as free daily lunch Monday through Friday at the Senior Center; 2) Discounted programs and fees such as recreation and community services programs; 3) Connections through our Senior Center team to other non-city programs such as PG&E’s payment assistance program. The City currently offers senior discounts on recreation and community services programs and services of 25%. The Milpitas Assistance Program (MAP) whose qualifying income levels include several senior households, provides subsidies on Recreation programs of up to 75% and water utility bills of			

City Council Referral

(requires more than 4 hours of staff time)

approximately \$22 per bill. Also, seniors have access to the Rental Assistance Program, and those seeking permits (and eligible for MAP) for the installation or improvement of home HVAC systems receive 100% off their permitting fees.

In addition to City of Milpitas specific programs, Recreation and Community Services Staff conducted a cursory review of 97 Milpitas businesses ranging from food, retail, grocery, health and fitness, and transportation on existing senior discounts. 37% of those businesses contacted provide some kind of discount or special service for seniors. While the actual discounts varied, staff found that many retailers that offered discounts typically offered around 10% off on food or services for seniors. Additionally, AARP maintains a website (<https://www.aarp.org/membership/benefits/all-offers-a-z/>) that contains a listing of benefits and discounts for AARP members. This website allows a user to enter their zip code to identify discounts nearby their locations.

Another alternative for Senior Discounts would be for the City to have a grant program that would, in effect subsidize businesses who offer discounts to seniors. The program could be either mandatory or voluntary, but, in either case, would have to be paid for by the City. The Office of the City Attorney conducted an analysis review of the jurisdiction mandating senior discounts, including the jurisdiction mentioned by Councilmember Barbadillo. It provided that review to the Council on April 1, 2023. The senior discount in the jurisdiction that mandated that private entities provide a discount was entirely subsidized by the mandating agency. Any senior discount implemented by the City would require funding to subsidize the businesses mandated to provide the discount. In addition to funding the necessary subsidies, the implementation and oversight of a senior discount program would require substantial staff resources. With thousands of businesses in the City of Milpitas, the logistics of managing a program to subsidize senior discounts would take considerable staff time (initially estimated at one full time position, pending further clarification on the scope of work) as this program would not be able to be administered with existing staffing resources. Additionally, funding to provide the subsidy would need to be identified. A preliminary estimate for a Senior Discount program in which the City provides a subsidy for businesses would be approximately \$500,000 annually.

Council Clarification/Further Direction Requested

If this item were to proceed, staff would like to receive clarification from the Mayor and City Council regarding their preference as to which of the below alternatives is preferred:

- 1) Continued coordination between City staff, AARP and other providers to ensure that City of Milpitas Seniors are made aware of, and connected to, discounts and offerings; or
- 2) Creation of a Senior Discount subsidy program for Milpitas residents and businesses.

If Item #1 above is preferred, staff can proceed with this effort as it is already aligned with the City's current focus on connecting Seniors to existing resources. If Item #2 above is preferred, additional

City Council Referral
(requires more than 4 hours of staff time)

Item # 20.

funding will be needed and staff would recommend that this item be discussed in a future budget process.

Other Considerations

Attachment 2 – City Council Referral #03

(requires more than 4 hours of staff time)

Item # 20.

Category and Topic No.	Topic:	Requested by:
Projects and Programs CC03	Electronic Sign at Milpitas Library	Mayor Carmen Montano
Lead Department/Office	Supporting Department(s)/Office(s)	
Engineering	Recreation & Community Services, Information Technology Department	
Council Priority Areas	Estimated Completion Date	Estimated Cost
Community Wellness and Open Space	Fiscal Year 2024-2025	\$50,000 to 100,000
		Funding Needed
		\$50,000 to 100,000
Description of Required Work Effort		
At the February 7, 2023 City Council priority setting session, Mayor Carmen Montano requested that staff review the possibility of upgrading the digital sign at the Milpitas Library. The digital information sign in front of the Milpitas Library is small and difficult to see from a distance. Staff estimates that to cost of a larger new sign could range from approximately \$50,000 to \$100,000, including staff time to manage the project.		
Status Update as of June 2023		
No action has been taken on this item to date.		
Council Clarification/Further Direction Requested		
If the Mayor and City Council would like to proceed with this item, staff would like clarification on which of the below alternatives would be preferred: (1) Staff would work with the County of Santa Clara to request that the County provide the funding for installation of a new sign; or (2) Staff would look to identify funding for this installation of a new sign during the next City CIP budget process.		
Other Considerations		

Attachment 2 – City Council Referral #04

(requires more than 4 hours of staff time)

Item # 20.

Category and Topic No.	Topic:	Requested by:
Projects and Programs CC04	Navigation Center	Mayor Carmen Montano
Lead Department/Office	Supporting Department(s)/Office(s)	
Housing	City Manager’s Office	
Council Priority Areas	Estimated Completion Date	Estimated Cost
Neighborhoods and Housing	TBD	TBD
		Funding Needed
		TBD
Description of Required Work Effort		
At the January 24, 2023, Special Meeting, the City Council adopted the Milpitas Housing Element Update, General Plan Resolution, and approved the Addendum to the General Plan Update Environmental Impact Report. At the meeting, Mayor Montano asked for staff to review a potential Navigation Center to assist the unhoused. At the February 28, 2023, Special Meeting, the City Council “Received a Presentation on Proposed 5-Year 2024-2028 Capital Improvement Program and Projects to be Funded through American Rescue Plan Act and Provided Feedback to Staff.” While referring to a Navigation Center, Mayor Montano suggested working with churches. Then Assistant City Manager Ashwini Kantak noted that staff was planning to return with the Navigation Center item at the next prioritization session in June 2023.		
Status Update as of June 2023		
On March 14, 2023, Mayor Montano, Vice Mayor Chua, and executive City staff toured the City of Fremont’s Navigation Center to learn more about Navigation Centers and how they operate and assist unhoused individuals. The purpose of the City of Fremont’s Navigation Center is to assist with the growing crisis of homelessness in their community. They focus on providing a clean, safe, and flexible environment focused on temporary and long-term housing solutions. The aim is to transition the vulnerable unhoused population into permanent housing options to end homelessness. As of mid-March, Fremont reported having approximately 1,000 people who are unhoused. Their Navigation Center capacity is up to 45 people, which can all be served at once. The Navigation Center currently has a waitlist of 35 people. The Fremont Navigation Center office is open 24 hours a day/7 days per week, and staff helps individuals with basic needs, long-term housing solutions, employment, and other social service needs. The separate living quarters for men and women each have 20 beds. At the foot of every bed are lockboxes for storing personal belongings. Bathrooms, showers, and laundry room are available 24		

Attachment 2 – City Council Referral #04

(requires more than 4 hours of staff time)

Item # 20.

hours a day/7 days per week. The community room offers humanization space, kitchen/dining to enjoy meals/coffee, and office area computers available for job searches. The Navigation Center also provides Individual Placement Services (IPS) where an employment specialist helps with resume development, mock interviews, and on the job training.

There are exterior outdoor gathering green spaces, tables and chairs, and colorful murals located along the fence. In addition, there are external personal outdoor storage metal containers so that individuals do not have to worry about losing their possessions or leaving them on the street. Clients have in and out privileges of the Navigation Center.

The City of Fremont's Human Services Department oversee the Navigation Center. Based on information received from the City of Fremont's Human Services Department on June 14, 2023, the total construction costs (including facilities, landscaping, utilities, security cameras, permits, and staffing) equaled \$2.8 million. The current annual operations of \$1.7 million assumes a partial capacity of 35 residents due to COVID-19 protocol. But the City of Fremont is in the process of filling up to full capacity of 45 residents, with an annual operations assumption of \$2.3 million.

With regards to other efforts underway for temporary housing options, at the April 19, 2022, City Council meeting, staff presented the Homelessness Taskforce options for Council consideration and direction. The City Council authorized staff to proceed with a Tiny Homes Village Feasibility Study. Staff executed a contract with Leadbetter Consulting to conduct a Tiny Homes Village Feasibility Study, which is currently underway. Staff will return to the City Council with a draft of the Tiny Homes Village Feasibility Study Report in late summer or early fall 2023.

Council Clarification/Further Direction Requested

Other Considerations

If the Mayor and City Council direct staff to continue forward with this opportunity, the following steps would need to be taken:

- 1) Outreach and evaluation process to identify a potential site
- 2) Identification of one-time funding for site design and construction
- 3) Identification of ongoing funding for site operations, maintenance and repairs.
- 4) Identification of a potential partner for the operations of the site.

Attachment 2 – City Council Referral #05

(requires more than 4 hours of staff time)

Item # 20.

Category and Topic No.	Topic:	Requested by:
Projects and Programs CC05	Satellite Consulate Offices	Mayor Carmen Montano
Lead Department/Office	Supporting Department(s)/Office(s)	
Economic Development	Public Works/Recreation and Community Services	
Council Priority Areas	Estimated Completion Date	Estimated Cost
Governance and Administration	N/A	TBD
		Funding Needed
		TBD
Description of Required Work Effort		
The work effort required will be contingent on council direction and interest from consulate offices. It could involve a project that creates and/or modifies existing office space or it could involve the City offering temporary community center facilities for intermittent use.		
Status Update as of June 2023		
The City Council has discussed the possibility of creating an office space at City Hall for one or more consulate offices to provide direct services to residents. The City Council directed staff to contact consulate offices to gauge interest in either locating a satellite office at the Milpitas City Hall or discuss other areas of collaboration. Staff is in the process of outreach to various consulate offices to gauge their interest in potential collaborations. On May 9, 2023, staff emailed the Consulate General of India, Consulate General of the People’s Republic of China, Consulate General of the Socialist Republic of Vietnam, and the Republic of the Philippine Consulate General to gauge interest in either locating a satellite office at Milpitas City Hall or discuss other areas of collaboration. On May 11, 2023, staff met with a representative of the Republic of the Philippine Consulate General. The representative is the Head of Consulate Section and is responsible for passports, dual citizenship, and office services. Staff learned that the Philippine Consulate General located in San Francisco provides service for ten western states and northern California. Due to their significant geographic sphere of influence, the Philippine Consulate General does seek opportunities to provide services in various states and even in northern California through satellite offices once or twice per year. The Philippine Consulate General representative expressed interest in satellite services in Milpitas due to demand for their services, but there is not enough demand for a permanent office. There is interest in setting up a satellite office once or twice per year to serve the Philippine community in Silicon Valley by offering passports and dual citizenship services on weekends for free as a benefit to applicants.		

Attachment 2 – City Council Referral #05

(requires more than 4 hours of staff time)

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For outreach services, the Philippine Consulate General has a limited budget and therefore go to locations that offer free space. The Philippine Consulate General needs approximately 1,000-1,500 square feet of office space, suitable parking available, access to public transit, and office equipment such as photo copiers. They can provide service on weekends from 8:00 am – 5:00 pm once or twice per year. In addition, a three-month lead time for posting that there will be service at the location is standard.

Staff has not heard back from the Consulate General of India, Consulate General of the People's Republic of China, and Consulate General of the Socialist Republic of Vietnam. However, additional outreach is being performed to determine if there is an interest in providing direct services in Milpitas.

If this item is prioritized by the Mayor and City Council, staff will continue conversations with the Philippine Consulate General's office, in addition to any other consulates that may respond to our prior inquiries. Given the infrequency nature of the need, it is possible that staff could identify an alternative where the consulate is able to set up in a community center or senior center classroom on a temporary basis, as opposed to a more permanent (and costly) room renovation.

Council Clarification/Further Direction Requested

If the City Council prioritizes this request, staff would like to confirm if the City Council is supportive of staff exploring the option of a consulate temporarily setting up in a community center or senior center classroom given the infrequent nature of their potential use? If conversations result in the need for a more permanent space, staff would return to the Mayor and City Council with potential costs in a future budget process. Preliminarily it is expected that permanent renovations could cost approximately \$100,000.

Other Considerations

Attachment 2 – City Council Referral #06

(requires more than 4 hours of staff time)

Item # 20.

Category and Topic No.	Topic:	Requested by:
Projects and Programs CC06	Appraise City Owned Parcels #2 and #3	Mayor Carmen Montano
Lead Department/Office	Supporting Department(s)/Office(s)	
Economic Development	Engineering, Planning, and Housing	
Council Priority Areas	Estimated Completion Date	Estimated Cost
Economic Development and Job Growth, Neighborhoods and Housing, and Governance and Administration	TBD	\$68,0000
		Funding Needed
		\$68,000
Description of Required Work Effort		
At the December 7, 2021, meeting, the City Council directed staff to return for consideration on how to proceed on parcels #2 and #3 after the Milpitas Metro Specific Plan was adopted, which took place in February 2023. At the April 18, 2023, City Council meeting, while considering the Agenda Item “Hold a Public Hearing and Adopt a Resolution Approving the Proposed 2024-2028 Capital Improvement Program,” Mayor Montano requested that staff appraise City-owned Parcels #2 and #3. Completion of an appraisal, including appropriate environmental assessments for Parcels #2 and #3 at 1452-1482 and 1452-1482 South Main Street, respectively, would take approximately 9 months and cost approximately \$68,000. Environmental assessments would include a Phase II soils and groundwater evaluation along with surveys of any potential Asbestos or Lead-Based Paint on the property. These additional environmental study costs are necessary in order to ensure that an accurate appraisal is performed. The entire process is expected to take approximately 9 months once funding is identified. Funding may originate from the General Fund.		
Status Update as of June 2023		
No work on this appraisal has been performed, however a similar effort on Parcel #1 on Main Street has been performed and the status and process is included below for reference. At the December 7, 2021, meeting, the City Council directed staff to proceed with the disposition of parcel #1. Disposition processes usually commence with appraisal services to determine the latest value of the subject property. The information that follows provides background on the appraisal process for parcel #1, which would be replicated for parcels #2 and #3 if the City Council desires. Staff retained Associated Right of Way Services, Inc. (AR/WS) to provide appraisal services to determine the market value for the proposed sale of Parcel #1 (1432-1446 South Main Street). The appraisal and report were completed in December 2022. The appraisal analyzed the highest and best use as currently improved, in the property’s as-is condition. AR/WS appraisers inspected the property,		

Attachment 2 – City Council Referral #06

(requires more than 4 hours of staff time)

Item # 20.

gathered pertinent information such as comparable land sales, market data research, and other data relevant to the valuation and analyzed the data to reach conclusions on the fair market value of the property. The appraisal report contains a description of the subject property, the property rights to be acquired, preliminary title report, a valuation conclusion for the property to be acquired and an estimate of just compensation. If the Mayor and City Council approve an appraisal to be performed on parcels #2 and #3, staff will enter into a contract with an appraiser such as AR/WS to commence the appraisal process

Another effort underway related to Parcels 2 and 3 on Main Street is the evaluation of a potential police substation. At the February 28, 2023, proposed 5-Year 2024-2028 Capital Improvement Program meeting, the City Council directed staff to proceed with a formal Police Department substation feasibility study. In this regard, a feasibility study for a potential Police Department substation located on City-owned parcels #2 and/or #3 is underway and is anticipated to be completed by December 2023. Work completed to date includes outreach to internal departments and drafts of conceptual layouts developed by SKA Architects. Staff is also exploring alternative locations for the Police Department substation within the Milpitas Metro Specific Plan area.

Parcels #2 and #3 are owned by the City of Milpitas and thus subject to the Surplus Land Act ((SLA). The SLA is a “right of first refusal” law that requires all public agencies to offer surplus land for sale or lease to affordable housing developers before selling or leasing land to any other individual or entity.

Council Clarification/Further Direction Requested

Staff would like City Council clarification or direction on the following questions:

- Is the the appraisal intended to facilitate a sale or long-term ground lease of parcels #2 and/or #3?
- Should staff continue to evaluate a police substation at parcels #2 and/or #3 as a potential use in both the short and/or long term?

Other Considerations

Parcels #2 and #3 are zoned R4-Transit Oriented Development - Very High-Density Residential per the recently approved Milpitas Metro Plan Specific Plan. That includes 40-85 residential units per acre with a maximum height of 35-75 feet.

If the City Council is interested in the disposition of these two parcels, they are subject to the SLA. As described above, the SLA law requires that the City offer parcels #2 and #3 for sale or lease to affordable housing developers before selling or leasing these properties.

Attachment 2 – City Council Referral #06

(requires more than 4 hours of staff time)

Item # 20.

Staff has recently executed a contract for property management services for parcels #2 and #3. There are currently five businesses operating on parcels #2 and #3 under month-to-month leases. As described above, staff is also conducting a feasibility study for a potential Police Department substation at these two parcels.

Another important consideration for the City Council is whether parcels #2 and #3 should be disposed while the City is simultaneously establishing the Strategic Property Acquisition Revenue (SPAR) fund for future land acquisition and revenue generation.

Attachment 3
List of Completed, Postponed or Withdrawn Items

Item # 20.

Group 4 – items that have been completed, deferred, or withdrawn						
1	Add Green Bike Lanes	Tran, Montano	9/17/2019	N/A	Engineering	Included in CIP
2	Adopt Resolution similar to County's re: xenophobia, discrimination	Dominguez	4/21/2020	N/A	CMO, CAO	Added to the consent calendar and adopted Resolution on 5/5/2020
3	Agendize a Flag Raising for India Independence Day	Tran	6/14/2022		Recreation	Item added to 6/21/2022 Consent Calendar
4	Agendize an update to the Lobbyist Ordinance for the next meeting	Chua	3/1/2022		City Attorney	Discussed at 3/15 City Council Meeting; At the 3/15/2022 Council Meeting, City Attorney was directed to bring back a proposed ordinance amendment for further discussion; Council approved the ordinance on 6/7/2022
5	Amend Accessory Dwelling Units (ADU) ordinance to address unpermitted ADUs	Chua	1/5/2021	Yes	Building Safety & Housing, Planning	Safe ADU Legalization Program is launched on 3/24/2022, utilizing ARPA funding. No Ordinance amendment is necessary.
6	Amend Ordinance to remove affordable housing in-lieu fee	Chua	12/15/2020	Yes	Building Safety & Housing, CAO	Amended Affordable Housing Ordinance adopted on 2/1/2022.
7	Below Market Rate (BMR) units - process for selecting applicants	Chua	10/19/2021	Yes	Building Safety and Housing, CAO	Info Memo sent to Council on 1/14/2022 and 3/17/2022.
8	BMR Homes sub-lease option during COVID-19	Chua	1/19/2021	No	CAO, Building & Housing	Info Memo sent on 4/26/2021
9	Bring back a conversation in the budget meeting to fund "walking beats" in the commercial and high crime areas	Dominguez	4/5/2022		Police	At the 4/5/2022 City Council meeting, this item was discussed and there was direction from Councilmember Dominguez to work with the City Manager to find funding sources
10	Bring back update report & discuss status of playing fields for girls' softball in Milpitas	Dominguez	10/20/2020	N/A	CMO, Recreation	Discussed on 02/11/2021, amended JUA for Russell approved on 6/15/2021
11	Celebrate Mexican Independence Day annually on September 16	Montano	6/2/2020	N/A	Recreation	Approved on consent 8/18/2020
12	City to highlight mental health resources on the website	Dominguez	8/17/2021		Recreation	Staff will issue an email this week (week of 7/25)
13	Community Theatre, perhaps with MUSD	Nuñez, Phan	8/20/2019	N/A	Recreation, CMO	Discussed @ CIP Study Session on 4/14/2020; councilmembers asked outdoor amphitheater to be placed into the tail end of 5 year CIP
14	Community Workforce Agreement (PLA)	Phan	2/18/2020	Yes	CMO, CAO, Engineering	Council voted to remove this item from the list on 2/02/2021 per CM Phan's request
15	Consider "Old Town" Main St. revitalization, funding, economic dev., improve area	Montano	12/15/2020	Yes	CMO, Planning, Engineering, Finance	Council provided direction to move forward with revitalization efforts on May 11, 2021. Staff is working on various items related to revitalization and have provided subsequent updates to the Council in October and to the Main Street Revitalization Subcommittee in September and November.
16	Consider adding state certification NEC for electrical work done in the City (safety)	Dominguez	6/30/2020	N/A	Building & Housing	Not needed, staff is certified
17	Consider change in Commission structure, on term limits	Tran	12/15/2020	N/A	Recreation, CMO	Completed on 1/19/2021
18	Consider change in term limits for Mayor + Councilmembers	Montano	6/16/2020		City Attorney, City Manager	8/4/2020: Voted 3 -2 to pursue; 2/02/2021 to agendize for a future meeting; 3/16/2021 voted 3-1-1 to move forward. Scheduled for 3/15/2022; rescheduled for 4/05/2022; 4/05/2022 could have given direction to move forward with Councilmember term limits and discuss the Mayoral seat at a later date; Discussed at the 5/10/2022 budget meeting and had a consensus not want to move forward with a ballot measure for the Mayor term limit; Councilmember term limits scheduled for June 7; Scheduled for June 21 meeting
19	Consider Community Museum and Park on Main St.	Phan	8/20/2019	N/A	CMO	To be considered as part of Specific Plan process
20	Consider expanding the Fee Waiver Policy eligibility to non-profit organizations outside of Milpitas but the events are specific to Milpitas residents	Chua	3/15/2022		Recreation	Council approved the policy revision at the June 21 2022 City Council meeting.
21	Consider funding to implement and create a homelessness encampment response team to be dispatched to encampment sites to address concerns, talked about creating a position to provide mental health assistance, and would like this to be brought back for discussion at the budget meeting	Dominguez	3/15/2022		City Manager, Public Safety, Recreation, Public Works	Direction from Council to bring forward as part of FY 22-23 budget discussion; at the May 10 Budget Study Session Council did not direct to do any further work on this item.
22	Consider naming "Milpitas Hills"	Dominguez	10/20/2020	Yes	Econ. Dev.	Deferred indefinitely on 2/02/2021; did not receive a majority vote from 2/02/2021 council meeting
23	Consider rescinding direction given on 1355 California Circle project and allow the project application to move forward without being tied to a specific plan (Original request was for item to be placed on November 2 agenda)	Chua	10/19/2021		Planning, CAO	Staff is working with the developer on options to move the project forward.
24	Consider satellite consular offices (post Covid)	Montano	6/2/2020	Yes	CMO	Deferred indefinitely per VM Montano's request on 2/02/2021 council meeting
25	Create an "Incentive Corner," which will be a sub-page with links to different freebies, grants, and incentives from the City and the regions, including the Water District and Silicon Valley Clean Energy	Chua	8/17/2021	No	Information Technology, Public Works	"Incentive Corner" webpage is live on the City's website. Banner posted on 3/28/2022.
26	Designate the California Oak Tree as the City's official heritage tree	Montano	2/1/2022		Recreation	Council approved at the 6/7/2022 meeting.
27	Discuss a "safety first" or other event in lieu of National Night Out (per CAC)	Phan	10/20/2020	Yes	Building & Housing, Police	Remove from the list per CM Phan's request on 2/02/2021 council meeting
28	Discuss budget reductions in next FY with input from residents, employees	Nuñez	10/6/2020	N/A	Finance, CMO	On 10/20/2020, to 11/10, 11/17
29	Discuss having 4th of July parade	Nuñez	2/18/2020	N/A	Recreation	No longer under discussion

Attachment 3
List of Completed, Postponed or Withdrawn Items

Item # 20.

Group 4 – items that have been completed, deferred, or withdrawn						
30	Discuss potential litigation - re: govts' action on Jamboree-Project Homekey	Tran	10/6/2020	N/A	Building & Housing, CMO, CAO	Multiple Closed Sessions - Oct. 2020
31	Discussion in the next fiscal year, to have a sliding scale permitting program for seniors and low-income residence for necessary safety renovations	Tran	5/4/2021		Building Safety & Housing, Planning	8/09/2021 Council voted 5-0 to move this item forward and modify the existing Milpitas Assistance Program to include seniors; MAP continues to be available for low income seniors and sufficient funding was budgeted for FY 2022-23.
32	Discussion of campaign finance reform and/or Open Government Ordinance	Phan	6/30/2020	N/A	City Clerk, CAO	Withdrawn @ 8/4/2020 CC meeting
33	Discussion of Minute Man as City's image, when City branding comes back	Phan	8/18/2020	N/A	CMO	Staff and consultant presented the item on 5/4/2021, due to the late hour it was deferred to a future meeting. Council provided input that the Minute Man discussion will not be pursued further.
34	Discussion on possible tax measures	Tran, Phan	4/21/2020	N/A	Finance	Done on 5/15/2020
35	Discussion to reduce the City's Senior Center facilities deposit	Montano	5/4/2021		Recreation, Finance	8/09/2021 Council voted 5-0 to refer this item as part of the development of the FY 2022-23 Master Fee Schedule; Council approved the item on 4/19 as part of the adoption of the Master Fee Schedule
36	Discussion/staff report on Beautify Milpitas, graffiti abatement, resources	Montano	6/30/2020	Yes	CMO, PW	City Council approved the Beautify Milpitas program on June 1, 2021
37	Donate old, obsolete, noncompliance items from the Fire Department to Sister City Dagupan Philippines	Chua	8/9/2021	Yes	Fire, CAO, Finance	Council approved the resolution for donations of personal protective equipment on March 1, 2022 and staff implemented the program by the end of March.
38	Economic Development Corporation (EDC)	Montano	12/15/2020, 01/05/2021, 01/19/2021, 01/26/2021	Yes	CMO, Econ. Dev.	Deferred on 4/20/2021
39	Emergency item for next agenda: extend tenant eviction protections	Dominguez	6/16/2020	N/A	Building & Housing, CAO	Withdrawn, covered by other govt
40	Emergency request to cap rents on small businesses (tenants) in Milpitas	Dominguez	10/6/2020	N/A	Econ. Dev., CAO	On 12/01/20. Not supported
41	Establish "ADU Mondays"	Chua	1/5/2021	No	Building & Housing, Planning	Launched in March 2021
42	Establish a Day Worker Program	Montano	6/16/2020	Yes	CMO	Mayor & Vice Mayor to brainstorm in future; Council voted to remove this item from the list on 2/02/2021 per VM Montano's request
43	Establish Milpitas coronavirus testing site	Phan	4/7/2020	N/A	FCMO, Fire, CAO	Completed
44	Expedite process for Measure F Oversight Committee	Chua	12/15/2020	N/A	Finance	Staff explained planned process, appts. were approved by Council in March 2021
45	Explore a lease for the vacant land adjacent to the Library for City use	Tran	1/18/2022		City Manager, Economic Development, City Attorney	February 2023 update: At the January 31, 2023 City Council Budget Study Session staff was directed to drop this item from the priority list. Prior Updates: Discussed at Spring Quarterly City Council Workplan Items Prioritization Discussion; Approved to move forward at the 5/03/2022 meeting.
46	Explore increasing the Conferences/Meetings/Memberships allowance for each Councilmember to \$10,000	Chua	5/17/2022		City Manager	On 6/07/22, City Council did not approve increasing the allowance as part of the adoption of the FY 2022-23 Budget; however, Council provided direction to review funding need as part of the FY 2022-23 mid-year budget review.
47	Extend the outdoor dining options through March of next year	Phan	9/21/2021	No	Planning	Planning Director to provide information on current outdoor dining extension
48	Fee waiver for the Chamber of Commerce for either the Oktoberfest or Arts and wine Festival	Montano	3/1/2022	Yes	Recreation	Staff reached out to the Chamber of Commerce. The Chamber may seek a fee waiver next fiscal year.
49	Fee waiver for the Christian Worship Center's Easter Egg Hunt event	Tran	3/1/2022		Recreation	The City Council approved a fee waiver for this event on April 5, 2022.
50	Fee waiver for the Filipino American South Bay Community to hold pop-up resource fair at a City Park	Dominguez	3/1/2022		Recreation	Staff engaged organizers of the event; event was held on June 19; organizers did not request a fee waiver.
51	Fee waiver for the Kiwanis Annual Crab Feed event	Tran	3/1/2022		Recreation	Approved at the 3/15/2022 Council Meeting
52	Form "Beautify Milpitas" subcommittee - for a future Task Force or Commission	Chua	12/15/2020	Yes	CMO, PW	Council approved the Beautify Milpitas program on June 1, 2021. No subcommittee to be formed.
53	Form a Historical Commission	Montano	6/2/2020	N/A	Recreation, CMO	Already part of PRCRC. Commission discussed on 01-05- 2021, no change
54	Form a Homelessness Task Force	Tran	12/15/2020	N/A	CMO	Approved by Council on 1/5/21
55	Guide small businesses on ADA (Americans with Disabilities Act) requirements due to the quick changes made to facilities during the pandemic	Chua	8/5/2021	No	Economic Development	SVEDA/SV Joint Venture hosted the "SV Small Businesses & ADA Compliance" webinar on 11/3/21. Several Milpitas business reps, & staff from Econ. Dev. & Building participated. Staff met with reps from CA Comm. on Disability Access to discuss business education & outreach.
56	Host a Townhall at City Hall in January, February, and March for the community to share comments about the issue of the unhoused	Tran	11/2/2021	Yes	CMO, CAO, Police, Public Works	Deferred by Mayor Tran because of public health status
57	Illegal dumping	Phan	10/5/2021	Yes	Public Works	Info Memo sent to Council on 2/25/2022
58	Incorporate a Press Release Policy (if there is an existing policy) in the City Council Handbook	Tran	8/17/2021	Yes	CMO, CAO	The City Council Handbook was adopted at the Jan. 11, 2022 City Council meeting.

Attachment 3
List of Completed, Postponed or Withdrawn Items

Item # 20.

Group 4 – items that have been completed, deferred, or withdrawn						
59	Increase number of commission members from seven to nine on the Parks, Recreation and Cultural Resources Commission	Montano	10/5/2021	Yes	CMO, Recreation, City Clerk	Council approved Bylaw changes at the April 19 Council meeting
60	Increase the City's rebate program to match Valley Water's two dollars rebate increase and look into expanding the "Lawn Buster" program to more residents based on income	Chua	6/15/2021	Yes	Public Works	On October 19, 2021, the Council approved a contract amendment with the Santa Clara Valley Water District (District) to match the District's rebate amount and to authorize the City to manage the "Lawn Buster" program with "Our City Forest" on behalf of the District. On December 14, 2021, Council approved a contract with "Our City Forest."
61	Increase the number of local businesses doing business with the City	Chua	4/6/2021	Yes	CMO, Economic Development, Finance	At 8/9/2021 Council meeting, Council voted that this item may have to come back for additional discussion because there may be some legal considerations.
62	Info. on new SB 50 (housing, transit bill)	Phan	1/7/2020	N/A	Building & Housing	Sent memo to City Council
63	Job fair with 20 local businesses to be held soon and an additional one in the fall with the Chamber taking a larger role and the City providing some support	Chua	6/1/2021	Yes	Economic Development	
64	Letter from City Council opposing AB 2181 (Berman) regarding VTA's Board Composition	Tran	6/7/2022		City Manager	Per the email sent to Council on 6/17/2022, consistent with the Council approved Legislative Advocacy Policy, Mayor Tran signed a letter opposing the legislation unless amended.
65	List of city charges/costs that could be waived for small businesses	Dominguez	6/16/2020	N/A	Finance, Econ. Dev.	6/30/2020 info memo
66	Local Boy Scouts Fee Waiver for Eagle Scout Ceremony	Tran	6/7/2022		Recreation	Fee waiver was approved on September 20, 2022.
67	Look into allowing outdoor music and would like the ordinance brought back to Council.	Montano	8/5/2021		Planning	Zoning Ordinance Text Amendment adopted 08/16/2022
68	Look into how the City can be a resource for small businesses to help guide them on what to do in terms of ADA (Americans with Disabilities Act) requirements due to the quick changes made to facilities during the pandemic	Chua	8/5/2021		Economic Development	SVEDA/SV Joint Venture hosted the "SV Small Businesses & ADA Compliance" webinar on 11/3/21. Several Milpitas business reps, & staff from Econ. Dev. & Building participated. Staff met with reps from CA Comm. on Disability Access to discuss business education & outreach.
69	Look into reducing rates for the seniors and low-income families for Sports Center activities	Montano	2/1/2022	Yes	Recreation, Finance	The FY2021-22 Adopted Fee Schedule includes discounted membership and fitness passes for Seniors; low-income families can apply for membership and fitness pass discounts through the Milpitas Assistance Program
70	Maintain Dagupan, P.I. as a Sister City	Tran, Montano	9/17/2019	N/A	CMO	Approved the renewed MOU continuing the Sister City relationship on 12/17/2019
71	Mayor shall recommend a Milpitas resident to serve on VTA Bike Committee	Dominguez	11/17/2020	N/A	Engineering	12/15/20: resident Kristal Caidoy appointed to VTA BPAC
72	Memorialize those that have passed due to COVID-19 in Milpitas	Dominguez	3/2/2021	Yes	CMO, Recreation	At 8/9/2021, Council provided input that COVID-19 had not yet passed and that the discussion about a memorial should be had at a future time.
73	Mini-libraries in the low-income areas of the City	Montano	4/20/2021	Yes	Planning, Recreation	Discussed on 8/9/2021, staff to follow up with Vice Mayor Montano on specific vision. Staff met with the Vice Mayor. The City will continue to facilitate libraries as needed but will not take a lead role in funding or operating them.
74	No on possible ban on vaping, yes on restricting smoking in multi-unit bldgs	Montano	1/7/2020	Yes	Planning, Recreation, CAO	Ordinance for multi-unit buildings adopted on 6/15/2021
75	Opportunity to share ideas for US census & on City "sponsored" events	Dominguez	9/1/2020	N/A	CMO	12/01: remove census topic, move events to CC retreat 2021; at 1/12 retreat Council direction to cease
76	Ordinance to ban vaping in the City	Montano	12/15/2020		Planning	Study session with Council held 6/21/2022. Tobacco Retail Permitting program has been drafted, but there are unresolved issues with enforcement by Santa Clara County.
77	Outreach to notify the community of the trash voucher program	Chua	9/7/2021	No	Public Works	Staff provided an Information Memorandum regarding the pilot program on April 6, 2022.
78	Parade for MHS Trojans Football	Tran, City Manager	1/21/2020	N/A	Council	Completed 1/28/2020
79	Partner with the Rotary Club of Silicon Andhra to promote the stem cell donor outreach with a webinar and campaign to help increase the number of donors	Chua	8/17/2021		Recreation	Staff will include the stem cell donor information in regularly scheduled wellness event
80	Performance Evaluation (Contract) of City Attorney	Tran	1/5/2021	N/A	Council, CAO	Multiple Council closed session discussions held. Council voted to move to a full time in-house City Attorney on 6/21, additional direction on next steps to be provided to staff in August.
81	PG&E power outage plan presentation to Council	Tran	1/19/2021	No	CMO	Presented to Council on 3/16/2021
82	Plan to put utility fines into a fund to help small businesses in the City	Montano	12/15/2020	N/A	Finance	Directed staff on 2/02/2021 to approve policy recommendations temporarily suspending penalties for delinquent fire permit fees, and delay or waive business lic. tax collections but no direction to create a separate fund. On 2/16/2021 Council approved waiving business license penalty between Jan 1 - May 31, 2021. Also, the utility late fee and water shut off have been suspended consistent with State Emergency Order (through Sept 31, 2021). Also, Council allocated ARPA funds to assist small businesses.
83	Policy for Proclamations and Commendations	Nuñez, Phan	8/20/2019	N/A	CMO	Withdrawn 6/2/2020
84	Policy for Social Media	Nuñez, Phan	8/20/2019	N/A	CMO, CAO	Withdrawn 6/2/2020; policy already approved by Council

Attachment 3
List of Completed, Postponed or Withdrawn Items

Item # 20.

Group 4 – items that have been completed, deferred, or withdrawn						
85	Pollination protection	Dominguez	1/5/2021	Yes	CMO	Deferred on 2/02/2021; did not receive a majority vote on 2/02/2021 council meeting
86	Postponement (not waiver) of penalties related to City business fees	Tran	1/5/2021	N/A	Finance	On 2/16/2021 Council approved waiving penalties until May 31. The suspension of penalties is now no longer in effect.
87	Prepare a report on ghost guns; engage in legislative advocacy regarding ghost guns; and incentivize ghost gun buybacks at the May buyback event.	Dominguez Tran	4/5/2022		Police	An Information Memorandum was distributed on August 12, 2022.
88	Prepare Vision Zero Action Plan	Tran	6/7/2022		Engineering, Police	February 2023 update: At the January 31, 2023 City Council budget hearing, the City Council supported staff's recommendation to drop this item from the priority list due to the expense of the study as well as the fact that many traffic safety initiatives and projects are already underway in the City of Milpitas.
89	Proclaim Saturday, March 19, 2022 as Chez the Ice Cream Man Appreciation Day	Tran	3/1/2022	No	City Clerk	Proclaimed at the 3/15/2022 Council Meeting
90	Proclamation and support for face coverings	Montano	4/7/2020	N/A	CMO, CAO	4/21/2020. CC directed City Manager to issue regs
91	Propose building height limits in area east of Milpitas Blvd.	Tran	12/15/2020	Yes	Planning	City Council adopted Zoning Ordinance amendment to limit bldg heights in commercial areas adjacent to low-density residential area, including east of Milpitas Blvd. on 10/04/2022.
92	Provide Commissioners appreciation gifts	Chua	10/19/2021	Yes	CMO, Finance	Staff placed the order of fleece jackets the week of March 14th. Depending on the stock, the appreciation gifts will be distributed during the first two weeks in April 2022.
93	Read "Code of Conduct" aloud prior to each City Council meeting	Montano	6/2/2020	N/A	CAO	Approved 8/18/2020. City Attorney began this practice 9/01/20
94	Reduce the City's Senior Center facilities deposit for the Auditorium/Community Room	Montano	5/4/2021	Yes	Recreation, Finance	Council approved the reduction of the facilities deposit as part of the adoption of the FY 2022-23 Master Fee Schedule Resolution. Will be brought forward on 4/19 as part of Master Fee Schedule discussion.
95	Reduce the park rental fees for the Samuel Ayer High School reunion	Montano	2/1/2022	No	Recreation	Approved at 3/15/2022 Council meeting. Info Memo on City Council Policy on Fee Waivers & Reductions was sent out on 3/8/2022
96	Rename Augustine Park to include "Sunnyhills"	Tran, Montano	9/17/2019	N/A	Recreation	Approved on 2/4/2020
97	Rename portion of Dixon Landing Rd., as Barack Obama Boulevard	Nuñez, Phan	8/20/2019	N/A	Planning, CMO	Deferred indefinitely
98	Report from staff on 2nd federal stimulus package - action plan on funds	Chua	12/15/2020	N/A	CMO, Finance	Info Memo sent to Council on 12/23/2020
99	Report on parking in The Pines	Nuñez	1/7/2020	N/A	Engineering	2/18/2020
100	Report on speed cameras like Fremont (radar displays) - no enforcement	Phan	1/7/2020	N/A	Police	1/28/2020, 3/24/2020, 4/14/2020
101	Request for Dumpster Days	Tran	1/7/2020	N/A	PW	Program initiated in Spring 2021
102	Requested a meeting for the subcommittee for the Old Town Main Street be scheduled next month	Montano	1/18/2022	No	CMO	The Subcommittee meeting was held on April 12 at 4:30pm.
103	Requested an agenda item on November 2 Council meeting allowing the Council to rescind direction given to 1355 California Circle and include direction to allow the project application to move forward without being tied to a specific plan	Chua	10/19/2021		Planning	At the 1/18/2022 council meeting, Council voted 4-1 to rescind the direction and direct staff and the application to explore option one in the presentation to amend the General Plan and remove Council policy for the preparation of a Specific Plan
104	Requested discussion and for staff to look at creating a pilot project to accommodate pickleball at Peter Gill Park and would like a feasibility study with a goal of making these courts multi-purpose	Chua	11/16/2021 1/18/2022	Yes	CMO, Recreation, Engineering, Public Works	City Council approved the pilot on 3/15/2022
105	Requested staff work with the Vice Mayor and Mayor to explore and discuss building height limits near the hillside by January 2022	Tran	9/21/2021		Planning	Second reading of draft Zoning Ordinance scheduled for 08/16/2022
106	Requested that staff study the placement of a City sign for the Milpitas Police Department and explore the cost of a new sign	Dominguez	1/18/2022		Public Works, Police	Lighted signage for the Police Department and Public Works and IT was installed and completed the week of January 24th 2023. Landscaping was completed in the Summer of 2022. This item is completed.
107	Requested that the City have mini-libraries in the low-income areas of the City.	Montano	4/20/2021		Planning	8/09/2021 Council voted 3-1-1 to move this item forward, staff to follow up with Vice Mayor Montano on specific vision. Staff met with the Vice Mayor. The City will continue to facilitate libraries as needed but will not take a lead role in funding or operating them.
108	Requested the City Attorney's office explore encampment ordinances from the City of Oakland, Los Angeles, or other regional cities and would like a discussion on the existing policies to be brought back before the July recess.	Tran	2/15/2022		City Attorney	4/19/2022 direct the City Attorney to make the recommended changes to the Municipal Code to remove and prohibit property in public; the City Attorney will bring forward an ordinance in September 2022.
109	Requested the City create a youth scholarship fund for under privileged kids to play sports	Montano	5/17/2022		Recreation	As part of the adoption of the FY 2022-23 Budget, the City Council allocated \$20,000 for this program. Staff will bring forward a policy framework for this program for Council approval in September 2022.
110	Requested the City extend the outdoor dining options through March of next year	Phan	9/21/2021		Planning	Emergency Outdoor Dining program extended. Draft zoning ordinance with standards for permanent outdoor dining prepared and now under review. Planning expects bring forward draft ordinance for PC and Council consideration before the end of 2022.
111	Require implicit bias training for City Council, Commissioners & staff	Dominguez	6/16/2020	N/A	Human Resources	This item has been completed. The training was held on January 7, 2022 (for City Council) and various dates for staff. Training information was also sent to all Commissioners.

Attachment 3
List of Completed, Postponed or Withdrawn Items

Item # 20.

Group 4 – items that have been completed, deferred, or withdrawn						
112	Resolution in support of elimination of discrimination v. women	Dominguez	1/7/2020	N/A	CMO, CAO	5/19/2020 Reso. Adopted 8/04/2020 Ord. adopted