



REGULAR MEETING OF THE MILPITAS CITY COUNCIL

AGENDA

TUESDAY, AUGUST 15, 2017

455 EAST CALAVERAS BOULEVARD, MILPITAS, CA

5:00 P.M. (CLOSED SESSION)

7:00 P.M. (PUBLIC BUSINESS)

SUMMARY OF CONTENTS

I. CALL TO ORDER by Mayor and ROLL CALL by City Clerk

(a) CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING

Pursuant to California Government Code Section 54957.6

City Negotiator: Tina Murphy

Employee Groups: Milpitas Employees Association

Under Negotiation: Wages, Hours, Benefits, and Working Conditions

(b) CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION

Pursuant to California Government Code section 54956.9(d)(4) - City as Plaintiff

(c) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to California Government Code section 54956.9(d)(1)

Tom Williams v. City of Milpitas, et al. - Santa Clara County Superior Court Case No. 17CV309235

(d) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to California Government Code section 54956.9(d)(1)

First Amendment Coalition v. City of Milpitas – Santa Clara County Superior Court Case No. 17CV310994

(e) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to California Government Code section 54956.9(d)(1)

Tom Williams v. City of Milpitas, et al. - American Arbitration Case No. 01-17-0003-5823

(f) PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to California Government Code Section 54957. Position: City Manager

(g) PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

Pursuant to California Government Code Section 54957

Number of employee(s) affected: 1

II. CLOSED SESSION ANNOUNCEMENT: Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote or abstention of each member present

III. PLEDGE OF ALLEGIANCE (7:00 p.m.)

IV. INVOCATION (Vice Mayor Grilli)

V. PRESENTATIONS

- Commend new Eagle Scout Hyrum Pascual Villanueva

- Proclaim September 4-8, 2017 as *National Payroll Week*
- Proclaim City of Milpitas as an *Age-Friendly Community*
- Proclaim August 26 as *National Women's Equality Day*
- Recognize Leaders of National Night Out events held on August 3, 2017
- Recognize Silicon Valley Mathematics Initiative and Milpitas Unified School District students

VI. PUBLIC FORUM

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an item not listed on the agenda, no response is required from City staff or the Council and no action can be taken. However, the Council may instruct the City Manager to place the item on a future meeting agenda.

VII. ANNOUNCEMENTS

VIII. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

IX. APPROVAL OF AGENDA

X. CONSENT CALENDAR (Items with asterisks*)

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 member of the City Council, 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. If removed, this item will be discussed in the order in which it appears on the agenda.

XI. SCHEDULES OF MEETINGS – COUNCIL CALENDARS

- *1. Calendars for August and September 2017**

XII. APPROVAL OF MEETING MINUTES

- * 2. Approve City Council Meeting Minutes of August 1, 2017**

XIII. UNFINISHED BUSINESS

- 3. Receive Additional Information Requested by Council Relative to Specific Location and Radio Frequency Impact, and Approve the Agreement Between the City of Milpitas and Mobilitie to Install Small Cell Antennas on Municipal Facilities (Staff Contact: Mike Luu, 408-586-2706)**

XIV. REPORTS

- *4. Per Recommendation of Mayor Tran, Appoint Councilmember Nuñez to Serve on the County Expressway Plan 2040 Policy Advisory Board (Contact: Mayor Tran, 408-586-3029)**
- *5. Per Request of Veterans Commission, Approve Allocation of Funds from City Council Unallocated Community Promotions Budget for the 2nd Annual Veterans Appreciation Lunch (Staff Contact: Dale Flunoy, 408-586-3228)**

XV. NEW BUSINESS

- 6. Receive Report from Human Resources Director on City-wide Classification and Compensation Study (Staff Contact: Tina Murphy, 408-586-3086)**

- *7. Approve Request for a Fee Waiver of Park Rental Fee for Girl Scout Troop #61156 for the Silver Luna Project at Augustine Park (Staff Contact: Mary Lavelle, 408-586-3001)**

XVI. ORDINANCES

- 8. Waive the Second Reading and Adopt Ordinance No. 293 Restricting Expanded Polystyrene (EPS) Foam Food Ware Use (Staff Contact: Leslie Stobbe, 408-586-3352)**
- *9. Waive the Second Reading and Adopt Ordinance No. 65.146 Relating to Expedited Permitting Procedures for Electric Vehicle Charging Stations (Staff Contact: Keyvan Irannejad, 408-586-3244)**

XVII. RESOLUTIONS

- *10. Adopt a Resolution and Authorize the Sole Source Purchase of the Lenco BearCat MedEvac Emergency Rescue Vehicle for the Police Department for an Amount Not to Exceed \$382,308.51 (Staff Contacts: Chris Schroeder, 408-586-3161 and Henry Kwong, 408-586-2419)**
- *11. Adopt a Resolution Awarding a Contract to Alaniz Construction, Inc. for the Park Access Improvement and Resurfacing, Project No. 5105, and Americans with Disabilities Act Curb Ramp Transition Program, Project No. 4283, and Authorize Director of Engineering/City Engineer to Execute Contract Change Orders (Staff Contact: Steve Chan, 408-586-3324)**
- 12. Receive Updated Information Responding to Council Input and Consider Adopting a Resolution to Amend the By-Laws of the Milpitas Planning Commission (Staff Contact: Bradley Misner, 408-586-3273)**

XVIII. AGREEMENTS

- *13. Approve Amendment No. 1 to the Agreement with MuniServices LLC and Authorize the City Manager to Execute the Amendment to Decrease the Contingency Fee for Sales and Use Tax Audit (SUTA) Services from 25% to 15% for the First \$2 Million in Sales, Transactions and Use Tax Recovered; 10% for Recoveries \$2 Million to \$3 Million; and 5% on Recoveries over \$3 Million (Staff Contact: Will Fuentes, 408-586-3111)**
- *14. Approve and Authorize the City Manager to Execute a Contract with Insight Public Sector for Avolve Software Corporation's ProjectDox Software for Total Amount of \$340,656.20 to Assist Staff with Software Implementation (Staff Contacts: Chris Schroeder, 408-586-3161 and Mike Luu, 408-586-2706)**
- *15. Approve Amendment No. 1 to the Agreement with Page & Turnbull to Increase Compensation in the Additional Amount of \$197,485 for the Alviso Adobe Renovation, Phase 5, Project No. 5055 (Staff Contact: Steve Erickson, 408-586-3301)**
- *16. Approve Amendment No. 3 to the Agreement with Matthew W. Adams, an Individual Doing Business as All-Line Uniform Sales, and Authorize the City Manager to Execute the Amendment Increasing Total Compensation by \$18,000 to Accommodate Increases in Public Works Staffing (Staff Contact: Chris Schroeder, 408-586-3161)**
- *17. Approve the Revised Joint Exercise of Powers Agreement for the Workforce Development Services for North Valley Job Training Consortium to Include San Mateo County (Staff Contact: Edesa Bitbadal, 408-586-3052)**

- *18. Approve an Amendment to Agreement with Republic Services for Continued Solid Waste Collection Services through November 30, 2017 (Staff Contact: Chris Diaz, 408-586-3040)**

XIX. REPORTS OF MAYOR & COUNCILMEMBERS – from the assigned Commissions, Committees and Agencies

XX. ADJOURNMENT

NEXT REGULAR CITY COUNCIL MEETING
TUESDAY, SEPTEMBER 5, 2017

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 agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the 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: cdiaz@ci.milpitas.ca.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.ci.milpitas.ca.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 the City website.

All City Council agendas and related materials can be viewed online here:
www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp (select meeting date)

APPLY TO SERVE ON A CITY COMMISSION

Current vacancies on:
Arts Commission
Bicycle Pedestrian Advisory Commission
Community Advisory Commission
Economic Development Commission
Emergency Preparedness Commission
Library Commission
Parks, Recreation & Cultural Resources Commission
Recycling & Source Reduction Advisory Commission
Sister Cities Commission
Telecommunications Commission
Youth Advisory Commission

Commission application forms are available online at www.ci.milpitas.ca.gov or at Milpitas City Hall.
Contact the City Clerk's office at 408-586-3003 for more information.

For assistance in the following languages, you may call:

Đối với Việt Nam, gọi 408-586-3122

对中国人来说，请用 408-586-3263

Para sa mga Tagalog, tawagan 408-586-3051

Para español, llame 408-586-3232

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, call the City Clerk at 408-586-3001 or send an e-mail to mlavelle@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the City Council Chambers for all meetings.

AGENDA REPORTS

XIII. UNFINISHED BUSINESS

3. **Receive Additional Information Requested by Council Relative to Specific Location and Radio Frequency Impact, and Approve the Agreement Between the City of Milpitas and Mobilitie to Install Small Cell Antennas on Municipal Facilities (Staff Contact: Mike Luu, 408-586-2706)**

Background: Mobilitie requested a Conditional Use Permit for the construction of a new small cell site within the public right of way of existing street light pole. The equipment associated with the cellular antenna would be installed to the pole between seven and 24 feet above ground level. Planning Commission approved four Resolutions 16-025, 16-026, 16-027, 16-029 for four sites. These small cell sites do not necessarily provide WiFi capability. The proposed agreement will allow for the installation of four small cell antennas at four municipal facilities. Any future small cell antenna installation by Mobilitie will be requested via additional site supplement.

Fiscal Impact: As part of the agreement, Mobilitie LLC agreed to pay an annual fee of \$1500.00 for the use of each authorized installation of Small Cell Equipment.

Recommendations:

- 1) Receive additional information requested by Council relative to specific location and radio frequency impact.
- 2) Approve the Agreement between the City of Milpitas and Mobilitie LLC for the use of municipal facilities to install small cell antennas and associated equipment.

Attachments:

- a) Small Cell License Agreement with Mobilitie
- b) Senate Bill 649
- c) Location and Radio Frequency information

XIV. REPORTS

- *4. **Per Recommendation of Mayor Tran, Appoint Councilmember Nuñez to Serve on the County Expressway Plan 2040 Policy Advisory Board (Contact: Mayor Tran, 408-586-3029)**

Background: The county's Policy Advisory Board (PAB) monitors progress and guides direction for the Expressway Plan 2040 process. County staff has inquired if Milpitas City Council has a member to serve on the PAB. The Board meets occasionally throughout the year and will hold its next meeting on September 18 at 3:30 PM. City of Milpitas has a current interest in having the County complete the Montague Expressway widening within Milpitas city limits, and that is a first priority project on the Plan 2040 list.

Recommendation: Appoint Councilmember Bob Nuñez to serve on the County Expressway Plan 2040 Policy Advisory Board.

Attachment: None

- *5. **Per Request of the Veterans Commission, Approve Allocation of Funds from City Council Unallocated Community Promotions Budget for 2nd Annual Veterans Appreciation Lunch (Staff Contact: Dale Flunoy, 408-586-3228)**

Background: The Veterans Commission, per the adopted work plan, has planned its second annual Veterans Appreciation Lunch on November 18, 2017. For the second year, the

Milpitas Veterans Commission is requesting funds for the Veterans lunch in the amount of \$1,800 from the City Council Unallocated Community Promotions Budget. The Veterans Commission is also securing matching donations to help reach its event budget goal of \$3,600. Event budget monies are used for a catered lunch for attending Veterans and their guest, decorations, entertainment and raffle prizes.

Fiscal Impact: \$1,800 from City Council Unallocated Community Promotions line item in the FY 2017-18 adopted budget. If approved, \$18,200 would remain in that budget line.

Recommendation: Approve the transfer of \$1,800 from the City Council Unallocated Community Promotions funds to the Recreation Services Special Events operating budget in the FY 2017-18 budget for the 2nd Annual Veterans Commission - Veterans Appreciation lunch on November 18, 2017.

Attachment: Budget Change Form

XV. NEW BUSINESS

6. Receive Report from Human Resources Director on City-wide Classification and Compensation Study (Staff Contact: Tina Murphy, 408-586-3086)

Background: The City sent out a Request for Proposals for a Comprehensive City-wide Classification and Compensation study to evaluate all non-sworn positions to meet one of the requirements of the applicable Memoranda of Understanding. The City entered into a contract with Ralph Andersen & Associates in September 2016.

Consultants from Ralph Andersen & Associates met with Human Resources staff, the City's management team, with the bargaining groups and with interested employees to discuss the study, hold "briefing sessions" or kick-off meetings, and answer questions. Following the meeting, all employees were asked to complete Job Analysis Questionnaires. The consultants came back on site in December 2016 to conduct interviews with employees to be able to finalize their proposed job description changes.

Draft job descriptions were shared with the bargaining units and employees in April 2017, and employees were able to provide feedback on the draft job descriptions. Based on this feedback, the consultants were able to compare salaries for comparable agencies. The City received draft compensation study results at the end of July.

The job descriptions will be discussed with the bargaining units to ensure that all of the changes meet their needs and accurately reflect the current job duties and requirements. Discussions regarding impact of potential salary changes will occur at a future closed session.

Fiscal Impact: None

Recommendation: Receive a report from the Human Resources Director on the City-wide Classification and Compensation Study and provide direction, as appropriate.

Attachment: None

***7. Approve Request for a Fee Waiver of Park Rental Fee for Girl Scout Troop #61156 for the Silver Luna Project at Augustine Park (Staff Contact: Mary Lavelle, 408-586-3001)**

Background: On August 7, 2017, the City Clerk received a request for a fee waiver from the Girl Scouts Troop #61156 for the \$60 cost to rent Augustine Park for its "Silver Luna" project scheduled on Sunday, August 20, 2017. The special event will collect items to be

shared with women and families in need. The Girl Scouts are a non-profit organization and will provide the IRS letter of determination to the City Clerk.

Fiscal Impact: \$60. If another item on this agenda and this one are approved by City Council, \$18,140 would remain in City Council Unallocated Community Promotions budget.

Recommendation: Waive the \$60 fee to rent Augustine Park for the Girl Scouts Troop #61156 for its Silver Luna Project scheduled on August 20, 2017.

Attachment: Fee Waiver request form

XVI. ORDINANCES

8. Waive the Second Reading and Adopt Ordinance No. 293 Restricting Expanded Polystyrene (EPS) Foam Food Ware Use (Staff Contact: Leslie Stobbe, 408-586-3352)

Background: At the May 16, 2017 City Council meeting, Ordinance No. 293 was introduced to restrict the use of EPS foam food ware in food establishments. At its May 16, 2017 meeting, the Council reviewed regional studies and staff reports quantifying the problems of EPS foam food ware in the local environment. Milpitas' trash reduction efforts were presented along with mandated requirements of the Municipal Regional Stormwater Permit (MRP). As a result of implementing requirements, except the EPS ordinance, the City achieved a 70% trash reduction from stormwater in July 2017. In an effort to achieve the 80% compliance target by July 2019, staff recommends implementation of the EPS ordinance and to increase the number of creek cleanups conducted by the City. At the June 6, 2017 Council meeting, the Ordinance was presented for its second reading. The Council chose to defer the second reading and requested additional research and possible revision.

Stakeholder Research

Based on inquiries and direction from Council on June 6, staff contracted with Green Pro Network to administer a survey to owners and managers to determine use of EPS foam food ware in Milpitas food establishments and identify economic concerns and acceptance levels of the EPS ordinance. There are 376 food establishments with a business license in Milpitas. After removing 15 known corporate owned businesses that do not use EPS foam food ware and adding gas stations with a convenience store, 367 food establishments remained with possible use of this material. Green Pro Network interviewed 281 owners or managers which represent 76% of the food establishments relevant to this survey. Surveys were conducted in English (176), Cantonese or Mandarin (55), Vietnamese (46) and Spanish (4). Because of this impressive amount of completed interviews, there is a 95% confidence level and 2.85% confidence interval for this survey. For example, the result that 48% of food establishments do not use EPS foam food ware has a confidence rate of +/- 2.85%. The survey report is included in the agenda packet.

Survey results show that 52% of food establishments in Milpitas use EPS foam food ware. Of these businesses, most stated that the greatest impact is the cost to use alternative containers. However, despite the overwhelming evidence that financial impact is the main concern, 58% of survey participants still using EPS foam indicated the Ordinance would be a positive change. In addition, data clearly shows that nearly one year to prepare for the ordinance would be sufficient time for businesses still using EPS foam containers to prepare for compliance by July 1, 2018. Out of these 148 food establishments, only five stated that they needed more time.

Community Outreach & Exception Process

The outreach plan (copy in the Council agenda packet) outlines mailings that would advise stakeholders about the ordinance, how to apply for the exemption process, and provide reminders of the July 1, 2018 effective date. For the exemption process, food establishment

owners and managers can apply for a three-month extension to deplete EPS foam food ware inventories until October 1, 2018. The inventory must have been purchased and the exception application submitted to the City by December 31, 2017.

Proposed Actions

Based on the research results, the ordinance is presented for its second reading and adoption without changes. It would prohibit all food vendors from providing EPS foam disposable food service ware to customers. This would include “take out” containers as well as the use of EPS foam disposable food ware for on-site consumption. The new ordinance would become effective on July 1, 2018 to allow sufficient time for food establishments to deplete current inventories and for the outreach effort.

Alternative: If the City Council does not adopt Ordinance No. 293 restricting the use of EPS foam disposable food service ware, the City would face non-compliance of meeting mandatory litter control requirements under its stormwater permit and to reduce environmentally harmful trash in City storm drains and creeks.

Fiscal Impact: Adoption of the EPS ordinance would cost approximately \$23,600 during FY 2017-18 to conduct outreach targeted to local food establishments (\$19,600) and to conduct additional creek cleanups (\$4,000). The \$23,600 is included in the Engineering Department’s FY 2017-18 budget.

Recommendation: Waive the second reading and adopt Ordinance No. 293 amending the Milpitas Municipal Code to restrict EPS foam food ware use.

Attachments:

- a) Ordinance No. 293 for adoption
- b) Survey Report
- c) FY 2017-18 Outreach Plan

- *9. Waive the Second Reading and Adopt Ordinance No. 65.146 Relating to Expedited Permitting Procedures for Electric Vehicle Charging Stations (Staff Contact: Keyvan Irannejad, 408-586-3244)**

Background: On August 1, 2017, the City Council introduced Ordinance No. 65.146 to implement Assembly Bill 1236 relating to expedited permitting procedures for Electric Vehicle charging stations. No changes were made to the ordinance since its first reading.

Fiscal Impact: There is no fiscal impact from the recommended action.

Recommendation: Waive the second reading and adopt Ordinance No. 65.146.

Attachment: Ordinance No. 65.146 for adoption

XVII. RESOLUTIONS

- *10. Adopt a Resolution and Authorize the Sole Source Purchase of the Lenco BearCat MedEvac Emergency Rescue Vehicle for the Police Department for an Amount Not to Exceed \$382,308.51 (Staff Contacts: Chris Schroeder, 408-586-3161 and Henry Kwong, 408-586-2419)**

Background: On May 2, 2017, the City Council unanimously approved the mid-year budget appropriation for Capital Improvement Project 3432 Police Department MedEvac Vehicle for the purchase of a BearCat MedEvac Emergency Rescue Vehicle and corresponding storage structure.

Per Milpitas Municipal Code Section I-2-3.09 Sole Source Procurement, the Purchasing Agent determined that Lenco Industries, Inc., based in Pittsfield, Massachusetts, is the sole manufacturer of the MedEvac Emergency Rescue Vehicle, which is the medical variant of the BearCat line of armored vehicles. After a review of existing similar vehicles, as well as training exercises and actual operations conducted with similar vehicles owned by other law enforcement agencies, the Milpitas Special Weapons and Tactics Team determined the BearCat MedEvac Emergency Rescue Vehicle best suits the Department's need for an armored emergency rescue vehicle.

Three features make the Bearcat MedEvac Emergency Rescue Vehicle by Lenco Industries, Inc. the sole source vehicle of choice. Each feature is critical to the mission of the Special Weapons and Tactics Team. The Lenco BearCat is the only vehicle of its type on the market that includes all three.

Feature number one: After a nationally advertised solicitation/test conducted in September of 2016, which was open to all commercial armored vehicle builders in the US, armored vehicles by Lenco Industries, Inc. were designated by the US State Department as "Armor Level E," the highest level of ballistic protection available for vehicles of this type/class. Level E meets the following minimum ballistic requirements:

- BMG 50 Cal. M33 Ball, 2700-2800 fps, 1 shot with no particle penetration
- Armor ballistic resistance test- 50 Cal. M2 Ball- 5shots, 50 Cal. M33 Ball-5 shots (10 shots total), 2,800-2,900 fps with no particle penetration.
- Fully Armored Hood
- Blast Resistant Floor material with mil spec steel
- All exterior Lights backed with mil spec steel
- All doors and windows overlapped with .5 inch mil spec steel

This minimum level of ballistic protection is necessary to protect the community and public safety personnel while retrieving and treating injured citizens, apprehending violent armed criminals, and responding to terrorist threats.

Feature number two: Armored vehicles by Lenco Industries, Inc. are also the only vehicles that passed the "Aberdeen Performance Field Test Operations Procedures" (TOP) 2-2-610 gradeability and side slope performance test with a minimum 36.4 – 36.8 degree side slope. This important feature will allow personnel to respond to emergencies or disasters occurring in off road and hill conditions.

Feature number three: Armored vehicles by Lenco Industries, Inc. are the only vehicles with a wheelbase of 126'' – 131'' and a turning radius of 17'8." The turning radius is shorter than the overall length of the vehicle. The police department needs a vehicle designed to operate in higher density areas with a wheelbase designed for a tighter turning radius in order to respond to emergencies in the new higher density developments citywide as well as older areas of the city such as south east Milpitas from Yosemite between South Park Victoria and Piedmont Rd. through the Piedmont corridor to Landess Ave. which also contain narrow streets and tight turning dimensions.

Additionally, the BearCat MedEvac Emergency Rescue Vehicle has increased interior height and wider rear doors than other similar vehicles making it ideally suited to accommodate Tactical Emergency Medical Support (TEMS) during high-risk tactical operations. The TEMS equipment on the BearCat MedEvac Emergency Rescue Vehicle includes a medic work station, 2 jumbo D oxygen tanks, six overhead trauma lights, 2 extra wide bench seats with under seat cabinets. The benches are designed to seat 8 (4 per side) or accommodate two full size tactical litters carrying injured people, one secured to each bench and a third on the floor between the two benches. Thus it allows personnel from the Police and Fire

Departments to actively collaborate in rescue operations in a volatile and dangerous environment while providing immediate medical attention to injured persons. Research by staff determined that there are no other such armored vehicles that are specifically designed to support Tactical EMTs or medics.

Also, jurisdictions surrounding Milpitas such as San Jose, Fremont, Santa Clara, and Sunnyvale are also using Lenco vehicles. Having the same equipment in Milpitas will allow a smooth transition of personnel during emergency mutual aid situations and avoid confusion with operation of equipment thus reducing the danger to the lives of public safety personnel.

The BearCat MedEvac Emergency Rescue Vehicle will be outfitted with four-wheel drive, LED light bar, Pan/Tilt 26x color camera, backup camera, winch, 22.5" Run-Flat tires, intercom system (inside to outside), roof mounted remote control spot light, hydraulic ram with gas injector, water monitor, and Tactical Emergency Medical Support option for a total not-to-exceed amount of \$382,308.51.

Fiscal Impact: None. Sufficient funding is in CIP Project No. 3432 Police Department MedEvac Vehicle for this purchase.

Recommendation: Adopt a resolution authorizing the sole source purchase of a Lenco BearCat MedEvac Emergency Rescue Vehicle for the Milpitas Police Department for an amount not to exceed \$382,308.51.

Attachments: Resolution + Lenco quote

- *11. Adopt a Resolution Awarding a Contract to Alaniz Construction, Inc. for the Park Access Improvement and Resurfacing, Project No. 5105, and Americans with Disabilities Act Curb Ramp Transition Program, Project No. 4283, and Authorize Director of Engineering/City Engineer to Execute Contract Change Orders (Staff Contact: Steve Chan, 408-586-3324)**

Background: On June 20, 2017, the City Council approved plans and specifications, and authorized the advertisement for construction bid proposals for the Park Access Improvement and Resurfacing, Project No. 5105, and Americans with Disabilities Act Curb Ramp Transition Program, Project No. 4283.

The work will include repair and resurface of park parking lots, walking pathways and installation of ADA compliant access ramps on the following parks:

- 1) Dixon Landing Park
- 2) Peter Gill Memorial Park
- 3) Milpitas Sport Center
- 4) Murphy Park

This project will also include localized repair of failed asphalt concrete pedestrian pathway adjacent to Able Street Overpass.

The project was advertised in the local newspaper for two consecutive weeks and Notice Inviting Bids along with bid documents were also sent out to 13 Builder Exchanges. Two sealed bid proposals were received on June 25, 2017. The bid pricing ranged from \$697,931.50 to \$984,805.00. The lowest responsible bidder submitting a responsive bid Alaniz Construction, Inc. in the amount of \$697,931.50. The Engineer's estimate for the project is \$700,000. No bid protests were filed with the City in regards to this project.

In addition, staff requests use of the change order policy (a copy is included in the Council agenda packet) previously approved to complete recent projects with tight completion schedules. This policy allows for the timely completion of the project, swift responses to

construction conditions and necessary change order approvals in order to limit potential claims or risk to the City. The construction contingency established for this project is \$100,000, approximately 15% of the total contract value. The change order authority would not exceed this amount and would not require an additional appropriation.

California Environmental Quality Act: This project is categorically exempt under Section 15301 of CEQA guidelines for maintenance of existing facilities.

Fiscal Impact: None. Sufficient funds are available in the project budget.

Recommendations:

- 1) Adopt a resolution awarding a contract to Alaniz Construction, Inc. for the Park Access Improvement and Resurfacing, Project No. 5105, and ADA Curb Ramp Transition Program, Project No. 4283, in the amount of \$697,931.50.
- 2) Authorize the Director of Engineering/City Engineer to execute contract change orders for the project in an aggregate amount not to exceed the construction contingency of \$100,000.

Attachments:

- a) Resolution
- b) Bid results
- c) Change order policy

12. Receive Updated Information Responding to Council Input and Consider Adopting a Resolution to Amend the By-Laws of the Milpitas Planning Commission (Staff Contact: Bradley Misner, 408-586-3273)

Background: Per the Planning Commission's request in September 2016 to consider potential amendments to its rules and regulations, staff worked with Planning Commissioners to clean up existing language and draft a revised version of the by-laws. On August 1, 2017, the Planning Commission's recommendations were discussed by the Milpitas City Council. Council directed to staff to bring forward a Resolution to effectuate the proposed by-law amendments. Council is requested to adopt a resolution approving all amendments to the by-laws.

Included (in the agenda packet) are copies of the by-laws showing all tracked changes and a final revised version.

Fiscal Impact: None

Recommendations:

- 1) Receive updated information in response to questions from the City Council.
- 2) If desired, adopt a resolution approving the updated By-Laws of the Milpitas Planning Commission.

Attachments:

- a) Resolution + Exhibit (final copy of PC By-Laws)
- b) Red-lined edition of Planning Commission By-Laws

XVIII. AGREEMENTS

- *13. Approve Amendment No. 1 to the Agreement with MuniServices LLC and Authorize the City Manager to Execute the Amendment to Decrease the Contingency Fee for Sales and Use Tax Audit (SUTA) Services from 25% to 15% for the First \$2 Million in Sales, Transactions and Use Tax Recovered; 10% for Recoveries \$2 Million to \$3 Million; and 5% on Recoveries over \$3 Million (Staff Contact: Will Fuentes, 408-586-3111)**

Background: The City of Milpitas entered into a contingency fee contract with MuniServices LLC on July 1, 2015 to provide Sales and Use Tax Audit (SUTA) services. Sales Tax generators often misreport, underreport, report for the wrong jurisdiction, or fail to report sales tax transactions to the State Board of Equalization (BOE). This can cause the City to lose out on valuable sales tax revenues.

MuniServices is a leader in the field of discovering this potentially lost sales tax revenue and correcting them with the BOE for the benefit of local municipalities. The use of such contractual services is common practice for local municipalities since they normally don't have the staff, time, or expertise to address sales and use tax errors internally. The fees charged for these services are completely offset several times over by lost sales tax revenue recovered by the vendor. However, the contract implemented on July 1, 2015 called for a 25% contingency fee for all sales and use tax errors discovered and corrected. Staff is aware that other cities have recently agreed to contracts with a lower contingency fee rate. Thus, staff has negotiated with MuniServices to amend their contract to an updated cost structure more in line with other similar sized jurisdictions.

Effective April 1, 2017, the contingency fee rate charged by MuniServices will move from its current 25% for all sales and use tax errors recovered to a tiered model. MuniServices will receive 15% for the first \$2 million in sales and use tax errors recovered; 10% for recoveries \$2 million to \$3 million; and 5% on recoveries over \$3 million. Amounts discovered in any one year can vary greatly, however staff estimated that the newly negotiated tiered model potentially will save the City \$50,000 to \$75,000 per fiscal year depending on amount of sales and use tax errors discovered and corrected by MuniServices.

Fiscal Impact: None. Funds for contract are fully offset by sales tax revenues generated. The newly negotiated decrease in contingency fee rate will increase captured sales tax revenue by the City.

Recommendation: Approve Amendment No 1 and authorize the City Manager to execute the amendment with MuniServices LLC to decrease contingency rate for Sales and Use Tax Audit (SUTA) services from 25% to 15% for the first \$2 million in sales, transactions and use tax recovered; 10% for recoveries \$2 million to \$3 million; and 5% on recoveries over \$3 million.

Attachment: Amendment No. 1 to Agreement with Muni Services LLC

- *14. Approve and Authorize the City Manager to Execute a Contract with Insight Public Sector for Avolve Software Corporation's ProjectDox Software for Total Amount of \$340,656.20 to Assist Staff with Software Implementation (Staff Contacts: Chris Schroeder, 408-586-3161 and Mike Luu, 408-586-2706)**

Background: On June 20, 2017, the City Council unanimously approved a resolution authorizing the purchase of Avolve ProjectDox software from Insight Public Sector for the amount of \$344,626.20. The purchase is through a cooperative purchasing program through U.S. Communities, of which the City is a member.

ProjectDox is the only electronic plan review solution with a proven two-way integrations with CRW systems, which the City currently uses for its permitting tracking system. The initial cost of the software and first year's maintenance and support is \$216,630.00. The cost of maintenance and support for years two through five is \$29,506.55 per year, for a total contract amount of \$334,656.20. Additionally, \$6,000 is required for Avolve staff to travel to the City of Milpitas to assist with the implementation of the implementation, configuration and launch of the ProjectDox software.

Fiscal Impact: None. Funding for the project is budgeted in the Permitting Technology Improvement Project, CIP No. 3434.

Recommendation: Approve and authorize the City Manager to execute a contract with Insight Public Sector for Avolve Software Corporation's ProjectDox Software in the amount of \$334,656.20 and \$6,000 for travel expenses to assist staff with implementation of the software for a total of \$340,656.20.

Attachment: Avolve Software Corp. Purchase of Service Contract

***15. Approve Amendment No. 1 to the Agreement with Page & Turnbull to Increase Compensation in the Additional Amount of \$197,485 for the Alviso Adobe Renovation, Phase 5, Project No. 5055 (Staff Contact: Steve Erickson, 408-586-3301)**

Background: On August 16, 2016, the City entered into a consultant agreement with Page & Turnbull in the amount of \$350,000 to prepare plans and specifications to restore the interior first floor of the Alviso Adobe building to reflect the Spanish-Mexican Era and the Monterey style architecture of the historic period of the Alviso Adobe.

Additional contract services are now requested for design of the exhibits that include period correct interior furnishings, interactive displays, interpretative signage which will enhance the restored interior and allow the public to view the Adobe interior and experience what life was like in the 1840s -1940s. Exhibit funding is now included in the FY 2017-22 CIP. The exhibit design will be coordinated with the interior restoration and will be installed at the completion of the renovation work.

Staff recommends that Page & Turnbull perform these additional design services. Staff negotiated a scope and fee for these services not to exceed \$197,485, which is considered reasonable for the work. Approval of this agreement amendment brings the total agreement amount to \$547,485.00.

Alternate: Failure to approve the amendment will not allow proceeding with the work and result in exhibits not being completed and the Adobe not being opened to the public for tours.

California Environmental Quality Act: A mitigated Negative Declaration was completed in 2009 for the Alviso Adobe project.

Fiscal Impact: None. Sufficient funds are available in the project budget for these consulting services.

Recommendation: Approve Amendment No. 1 to the Agreement with Page & Turnbull to increase compensation in the additional amount of \$197,485 for Alviso Adobe Renovation, Phase 5, Project No. 5055.

Attachment: Amendment No. 1 to Agreement with Page & Turnbull

***16. Approve Amendment No. 3 to the Agreement with Matthew W. Adams, an Individual Doing Business as All-Line Uniform Sales, and Authorize the City Manager to Execute the Amendment Increasing Total Compensation by \$18,000 to Accommodate Increases in Public Works Staffing (Staff Contract: Chris Schroeder, 408-586-3161)**

Background: The City of Milpitas issued an Invitation for Bid to provide Annual Clothing Requirements for City Employees on May 30, 2014. All-Line Uniform Sales was selected as the successful bidder and entered into an agreement with the City on August 6, 2014 for \$14,434 per year for a total contract amount of \$72,170. The parties entered into Amendment No. 1 on July 1, 2015 which increased the annual amount of the contract to \$15,500.00 for all

five years of the contract, due to changes in City staffing levels, cost increases, and seasonal changes in garment availability. The parties entered into Amendment No. 2 on June 20, 2017 increasing compensation to \$23,085.00 in Contract Year 4 and to \$27,000.00 in Contract Year 5 to provide Recreation Services with t-shirts for lifeguards, the After the Bell program and the Summer Camp program.

The number of MEA employees requiring uniforms is increasing this year from 34 to 52 (50 in Public Works and two in Finance). On average, meeting MOU requirements for clothing costs \$475.00 per year per employee plus the cost for possible larger sizing. To accommodate the increasing staffing levels, staff now desires to amend the agreement to increase the annual amount of the contract for Contract Year 4 by \$9,000.00, and Contract Year 5 by \$9,000.00 for a total contract not-to-exceed amount of \$126,085.00.

Fiscal Impact: None. Funds for this purchase are available from the Public Works budget beginning in Fiscal Year 2017-18.

Recommendation: Approve Amendment No. 3 and authorize the City Manager to execute the amendment with Matthew W. Adams, an individual doing business as All-Line Uniform Sales to increase the total amount of compensation by \$18,000 to accommodate increases in Public Works staffing.

Attachment: Amendment No. 3 to Agreement with All-Line Uniform Sales

- *17. Approve the Revised Joint Exercise of Powers Agreement for the Workforce Development Services for North Valley Job Training Consortium to Include San Mateo County (Staff Contact: Edesa Bitbadal, 408-586-3052)**

Background: In 1983, the North Valley (NOVA) Job Training Consortium was created through a Joint Exercise of Powers Agreement (JPA) consisting of the Cities of Cupertino, Los Altos, Mountain View, Palo Alto, Santa Clara and Sunnyvale to offer employment training services provided through the Job Training and Partnership Act (JTPA). In 2000, the City of Milpitas was added to the JPA as part of the transition from JTPA to Workforce Investment Act (WIA). In 2014, Congress passed the Workforce Innovation and Opportunity Act (WIOA), which replaced WIA as the governing legislation for local workforce investment systems, such as NOVA. In 2015, the City of Sunnyvale, as Joint Powers Agency for the JPA, approved the inclusion of San Mateo County at its meeting on February 24, 2015. Because of the inclusion of San Mateo County, the JPA with each existing City needed to be updated. Therefore, the City of Milpitas needs to renew and join the JPA again, with the inclusion of San Mateo County.

Since its inception, NOVA has been successful in providing innovative services for the community's job seekers and businesses. NOVA services include: one-on-one and group career advising, job search techniques and strategies, LinkedIn profile development, comprehensive skills assessments, training in demand-driven occupations to address skill gaps, access to labor market intelligence and trends, computer classes and computer lab, award-winning Promatch program that focuses on building contacts and job leads through networking, and a variety of workshops to prepare job seekers for their job search and success in the workplace.

NOVA is highly recognized both locally and nationally. It has received high ratings in customer satisfaction, and achieved numerous commendations and awards. In 2014, the state recognized the NOVA Workforce Board with the High Performing Board designation, one of just 16 honored out of 49 workforce boards across the state. In 2016, with an operating budget of approximately \$10.5 million, NOVA effectively served 4,345 customers, providing a total of 54,984 services. In addition to serving the consortium, NOVA has provided

leadership on a number of regional initiatives targeting disadvantaged workers and the long-term unemployed.

A revised JPA has been prepared to incorporate WIOA terminology and to include the addition of San Mateo County to the NOVA Consortium. Economic Development staff support NOVA because it provides needed services to community members in distress. Through this JPA, the Economic Development Division will begin a new program that will include collaboration with local companies, school districts, and the City of Milpitas in providing at-risk youth trainings.

Fiscal Impact: Since the Sunnyvale City Council will serve as the Chief Local Elected Official for the NOVA Consortium, with the City of Sunnyvale functioning as the administrative entity for the services offered through NOVA, the City of Sunnyvale assumes all financial risk for the NOVA Consortium. Therefore, there is no fiscal impact to the NOVA Consortium jurisdictions other than to the City of Sunnyvale.

Recommendation: Approve the revised Joint Exercise of Powers Agreement: Workforce Development Services for the NOVA Consortium to include the addition of San Mateo County.

Attachment: Joint Exercise of Powers Agreement; Workforce Development Services

***18. Approve Amendment to Franchise Agreement with Republic Services for Continued Solid Waste Collection Services Through November 30, 2017 (Staff Contact: Christopher Diaz, 408-586-3040)**

Background: The City Council previously undertook an extensive competitive process to seek solid waste services. At the conclusion of that process, the Council selected Garden City Sanitation, now doing business as Milpitas Sanitation, to serve as the City's new solid waste collector. The Council also executed an agreement with Waste Management services for all waste to be disposed of at Kirby Canyon landfill.

The City of Milpitas' current franchise agreement with Republic Services is set to expire on September 5, 2017. Milpitas Sanitation is not expected to begin solid waste collection services until December 1, 2017. Republic Services has agreed to continue to provide services to the City of Milpitas through November 30, 2017 on the same terms and conditions of the existing franchise agreement set to expire on September 5, 2017. Council's approval of the Amendment will ensure continued services from Republic Services through November 30, 2017.

Fiscal Impact: None. Republic Services will continue to provide services to the City of Milpitas on the same terms and conditions of the City's existing franchise agreement. Thus, no financial changes are anticipated.

Recommendation: Approve the amendment to the franchise agreement with Republic Services for continued solid waste collection services through November 30, 2017, on the same terms and conditions of the existing franchise agreement.

Attachments:

- a) Amendment to Agreement with Republic Services for Collection and Disposal of Solid Waste
- b) Letter from Republic's Mike Caprio to City of Milpitas

XIX. REPORTS OF MAYOR & COUNCILMEMBERS – from the assigned Commissions, Committees and Agencies

XX. ADJOURNMENT

NEXT REGULAR CITY COUNCIL MEETING

TUESDAY, SEPTEMBER 5, 2017