



**JOINT MEETING OF THE
MILPITAS CITY COUNCIL,
HOUSING AUTHORITY COMMISSION, AND
SUCCESSOR AGENCY TO THE FORMER
REDEVELOPMENT AGENCY
MEETING AGENDA**

TUESDAY, JUNE 21, 2016

455 EAST CALAVERAS BOULEVARD, MILPITAS, CA

6:00 P.M. (CLOSED SESSION)

7:00 P.M. (PUBLIC BUSINESS)

SUMMARY OF CONTENTS

- I. CALL TO ORDER OF THE CITY COUNCIL, HOUSING AUTHORITY and SUCCESSOR AGENCY by the Mayor.** City Clerk will note the Roll for all three entities.
- II. ADJOURN TO CLOSED SESSION (6:00 p.m.)**
 - (a) CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION**
Pursuant to California Government Code Section 54956.9 - City as Plaintiff
 - (b) CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION**
Pursuant to California Government Code Section 54956.9 - City as Defendant
 - (c) CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**
Pursuant to California Government Code section 54956.9(d)(1)
American Arbitration Association Case No. 01-16-0000-4753
- III. 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
- IV. PLEDGE OF ALLEGIANCE** (7:00 p.m.)
- V. INVOCATION** (Vice Mayor Montano)
- VI. APPROVAL OF COUNCIL MEETING MINUTES** June 7, 2016
- VII. SCHEDULE OF MEETINGS – COUNCIL CALENDAR** June and July 2016
- VIII. PRESENTATIONS**
 - Proclaim June as *Parks & Recreation Month*
 - Present Youth Advisory Commission Scholarship for 2016 to Amanda Nguyen
 - Recognition of Milpitas High School Principal Cheryl Lawton
 - Recognition of Campaign Finance Reform Committee members
- IX. 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.

X. ANNOUNCEMENTS

XI. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

XII. APPROVAL OF AGENDA

XIII. 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.

XIV. PUBLIC HEARINGS

- 1. Conduct a Public Hearing and Adopt a Resolution Approving the Site Development Permit, Conditional Use Permit, Tentative Subdivision Map and Environmental Assessment for the McCarthy Creekside Development Located at 625 North McCarthy Boulevard (Staff Contact: Michael Fossati, 408-586-3274)**
- 2. Conduct a Public Hearing and Adopt a Resolution Approving Environmental Assessment, Site Development Permit and an Exception to the City's Supplemental Water Use Restrictions for the Anton Mixed-Use Apartment Development at 730 - 750 E. Capitol Avenue, Pursuant to CEQA Guidelines (Staff Contact: Bradley Misner, 408-586-3273)**
- 3. Conduct a Public Hearing and Adopt a Resolution Approving the Annual Engineer's Report and the Levying of Assessment for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch (Staff Contact: Nina Hawk, 408-586-2603 and Steven Machida, 408-586-3355)**
- 4. Conduct a Public Hearing and Adopt a Resolution Approving the Annual Engineer's Report and the Levying of Assessment for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon (Staff Contact: Nina Hawk 408-586-2603 and Steven Machida, 408-586-3355)**
- 5. Conduct a Public Hearing and Adopt a Resolution Approving Updates and Additions to Recreation Fees (Staff Contact: Renee Lorentzen, 408-586-3409)**

XV. UNFINISHED BUSINESS

- 6. Receive Report Regarding Water Rates Economics (Staff Contact: Steven Machida, 408-586-3355)**
- 7. Receive Water Rate Fact Sheet (Staff Contact: Steven Machida, 408-586-3355)**
- 8. Receive Solid Waste Disposal Fact Sheet (Staff Contact: Steven Machida, 408-586-3355)**
- 9. Receive Update on Capital Projects in the Transit Area Specific Plan area (Staff Contact: Steven Machida, 408-586-3355)**
- 10. Receive Status Report of City Affordable Housing Nexus Study (Staff Contact: Brad Misner, 408-586-3273)**

XVI. REPORTS OF OFFICERS AND COMMISSIONS

- *11. Consider Mayor's Recommendations for Appointments to City of Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**
- 12. Consider Request of Councilmember Barbadillo to Study the Issue of Rent Control in Milpitas (Contact: Councilmember Barbadillo, 408-586-3024)**
- *13. Approve Park & Recreation Donation of an Historic Rail Farm Cart for the Alviso Adobe Park, as Recommended by the Parks, Recreation and Cultural Resources Commission (Staff Contact: Renee Lorentzen, 408-586-3409)**

XVII. NEW BUSINESS

- 14. Receive a Report on Water System Losses (Staff Contact: Steven Machida, 408-586-3355)**
- 15. Receive Evaluation Committee Report, Identify Elements of the Future Collection Services Package, and Authorize the City Manager to Negotiate a Solid Waste Collection Agreement with the Shortlisted Proposers and Narrow the Number of Proposers for Negotiations if Unable to Complete Successful Negotiations (Staff Contact: Steven Machida, 408-586-3355)**
- 16. Receive a Report from City Clerk on Initiative Petition for a Ballot Measure Related to Tiered Water Rates and Accept Certification of Signatures (Staff Contacts: Mary Lavelle, 408-586-3001 and Christopher J. Diaz, 408-586-3040)**
- *17. Consider Requests from American Cancer Society and St. Elizabeth Catholic Church to Waive Fees for Annual Relay for Life and for the Church's Parish Festival (Staff Contact: Mary Lavelle, 408-586-3001)**
- *18. Approve Updated City of Milpitas Facility Use Manual (Staff Contact: Renee Lorentzen, 408-586-3409)**
- *19. Approve Healthy Food and Drink Vending Machine Policy as Part of the Partnerships to Improve Community Health (PICH) Grant (Staff Contact: Renee Lorentzen, 408-586-3409)**
- *20. Approve Out-of-State Travel for City Employees in FY 2016-17 (Staff Contact: Russell Morreale, 408-586-3111)**
- *21. Approve Final Map Tract 10324 for a 489-unit Residential Development at 450 Montague Expressway, Authorize the City Manager to Execute the Subdivision Improvement Agreement and the Density Average Agreement, and Modify Project Conditions of Approval (Staff Contact: Judy Chu, 408-586-3325)**

XVIII. ORDINANCES

- 22. Waive First Reading and Introduce Ordinance No. 201.6 Amending Milpitas Municipal Code Title X, Section X-2-4.02 and Section 9.01 to Require Replacement Trees to be Planted at a 2 to 1 Ratio When a Protected or Heritage Tree is Removed From Private Property in Conjunction with New Development (Staff Contact: Bradley Misner, 408-586-3272)**
- 23. Authorize the City to Utilize the California Uniform Public Construction Cost Accounting Act (CUPCCA) Effective September 1, 2016 and Adopt a Resolution, Waive the First Reading, and Introduce Ordinance No. 23.14 Authorizing the City to Utilize CUPCCA (Staff Contact: Russell Morreale, 408-586-3111)**

XIX. RESOLUTIONS

- 24. Adopt a Resolution Opposing the 0.5% Sales Tax Ballot Measure on November 8, 2016 Put Forth by the Santa Clara Valley Transportation Authority (Staff Contact: Chris Diaz, 408-586-3040)**
- *25. Adopt Resolutions Calling for Three Ballot Measures Related to Land Use for the November 8, 2016 Election (Staff Contact: Christopher Diaz, 408-586-3040)**
- *26. Adopt a Resolution Approving Memorandum of Understanding with the Milpitas Professional and Technical Group (Staff Contact: Tina Murphy, 408-586-3086)**
- *27. Adopt a Resolution Approving Memorandum of Understanding with the Mid-Management and Confidential Unit (Staff Contact: Tina Murphy, 408-586-3086)**
- *28. Adopt a Resolution Annexing Real Properties Within Tract No. 10328 into Community Facilities District No. 2005-1, Approve Final Map Tract 10328, for 25 Residential Units including 5 Live-Work Units, located at 75 South Milpitas Boulevard, and Authorize the City Manager to Execute the Subdivision Improvement Agreement (Staff Contact: Judy Chu, 408-586-3325)**

XX. AGREEMENTS & BIDS

- *29. Approve the McCandless Property Joint Use Agreement between the City of Milpitas and Milpitas Unified School District (Staff Contact: Renee Lorentzen, 408-586-3409)**
- *30. Authorize the City Manager to Execute an Agreement with the County of Santa Clara for the FY 2016-17 Senior Nutrition Program (Staff Contact: Renee Lorentzen, 408-586-3409)**
- *31. Approve Amendment No. 2 to the Agreement with MIG for Planning Services, and Amendment No. 3 to the Agreement with M Group for Planning Services, Extending the Terms by One Year to June 30, 2017 and Adding \$150,000 to Each Agreement (Staff Contact: Bill Ekern, 408-586-3287)**
- *32. Authorize Renewal of an Agreement for Workers' Compensation Insurance Contracted via Brown & Brown of California and Authorize Payment (Staff Contact: Tina Murphy, 408-586-3086)**
- *33. Authorize Execution of an Agreement with San Jose Water Company for Design and Construction of a Recycled Water Intertie (Staff Contact: Steven Machida, 408-586-3355)**
- *34. Approve Plans and Specifications and Authorize Advertisement for Bid Proposals for Park Access Improvement and Resurfacing, Project No. 5105 and Americans with Disabilities Act (ADA) Curb Ramp Transition Program, Project No. 4283 (Staff Contact: Steve Chan, 408-586-3324)**
- *35. Approve Project Plans and Specifications, and Authorize Advertisement for Bid Proposals for Wrigley-Ford Creek Erosion Repair Project No. 3700 (Staff Contact: Steve Erickson, 408-586-3301)**
- *36. Authorize the City Manager to Extend for One Term the Current Agreement with Santa Clara County for Emergency Medical Services With an Expiration Date of June 30, 2019 (Staff Contact: Robert Mihovich, 408-586-2811)**

XXI. SUCCESSOR AGENCY

- *37. Authorize the City Manager/Executive Director of the Successor Agency of the Former Milpitas Redevelopment Agency or His Designee to Execute All Documents and Take All Action Necessary to Complete the Sale and Conveyance of Property at the Northwest Corner of Alder Drive and Barber Lane to Lodging Dynamics Development LLC (Staff Contact: Russell Morreale, 408-586-3111)**

XXII. HOUSING AUTHORITY

- *38. Approve Housing Authority Loan Write-Off Amount, Based on City Council Action on June 7, 2016 (Staff Contact: Russell Morreale, 408-586-3111)**

XXI. ADJOURN CITY COUNCIL, SUCCESSOR AGENCY & HOUSING AUTHORITY

**NEXT REGULAR CITY COUNCIL MEETING
TUESDAY, AUGUST 2, 2016**

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 vacancy on Telecommunications 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.

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

XIV. PUBLIC HEARINGS

- 1. Conduct a Public Hearing Adopt a Resolution Approving the Site Development Permit, Conditional Use Permit, Tentative Subdivision Map and Environmental Assessment for the McCarthy Creekside Development Located at 625 North McCarthy Boulevard (Staff Contact: Michael Fossati, 408-586-3274)**

Background: On May 11, 2016, the Milpitas Planning Commission held a public hearing on the proposed development in the City of Milpitas. The 44.17 acres project area is located north of State Route 237 and west of Interstate 880. The project proposes the construction and operation of five industrial buildings (Building A - 314,195 sq. ft.; Building B – 136,785 sq. ft.; Building C- 122,361 sq. ft.; Building D – 131,482 sq. ft.; Building E – 99,653 sq. ft.) totaling 804,476 square feet and one restaurant building (6,026 square feet). The five single story industrial buildings are intended to be used as warehouse, industrial, and office facilities. The single story restaurant will support the surrounding development and is anticipated to mostly serve patrons from the project site. The project also includes a Conditional Use Permit for the proposed restaurant and shared parking agreement.

The Milpitas Planning Commission voted unanimously to recommend City Council approval of the Site Development Permit, Conditional Use Permit, Tentative Subdivision Map, and Environmental Assessment, as conditioned, for the requested development. Commissioners added a condition that Jacaranda trees (not in a specific number) be added to the landscape pallet as an accent tree (see Condition #73) on site.

Fiscal Impact: The project will pay all development fees as required. The applicant has chosen to pay into the Public Art Fund in lieu of providing public art.

Attachments:

- A. City Council Resolution
- B. Milpitas Planning Commission Meeting minutes of 5-11-2016
- C. Milpitas Planning Commission Staff Report of 5-11-2016
- D. Adopted Planning Commission Resolution No. 16-017
- E. McCarthy Creekside Project Plans (separate bound document)
- F. Final Environmental Impact Report for McCarthy Ranch mixed use project

Recommendations:

1. Open the public hearing for any comments.
 2. Move to close the public hearing following any speakers.
 3. Adopt a Resolution approving the Site Development Permit, Conditional Use Permit and Tentative Map, subject to the Conditions of Approval, to subdivide the property into six parcels, allow the demolition of existing structures, removal of existing trees and construction of five industrial buildings totaling 804,476 square feet and one restaurant building of 6,026 square feet and allow shared parking, on a 44.17 acre site located at 625 North McCarthy Boulevard.
- 2. Conduct a Public Hearing and Adopt a Resolution approving Environmental Assessment, Site Development Permit and an Exception to the City's Supplemental Water Use Restrictions for the Anton Mixed-Use Apartment Development at 730 - 750 E. Capitol Avenue, Pursuant to CEQA Guidelines (Staff Contact: Bradley Misner, 408-586-3273)**

Background: On May 11, 2016, the Milpitas Planning Commission held a public hearing on the proposed development of two 5-story apartment structures containing a total of 582 units and approximately 5,000 square feet of ground floor commercial space. The building at 730 E.

Capitol Avenue is proposed to have 266 residential units and 1,800 square feet of ground floor neighborhood retail space. The building at 750 E. Capitol is proposed to have 316 units and 3,200 square feet of ground floor neighborhood retail. Parking would be provided onsite in each building. 730 E. Capitol will have a six level parking structure containing 385 vehicle parking spaces and 105 bicycle parking spaces. 750 E. Capitol will have 487 vehicle parking spaces on seven levels, as well as 130 bicycle parking spaces. The project also includes a variety of site improvements including the extension of Milpitas Boulevard; streetscape and landscape improvements along Capitol Avenue, the Milpitas Boulevard Extension and new private street connection from the adjacent Lennar project; a public park with pedestrian and bicycle paths along Penitencia Creek; and other associated site improvements.

The applicant also requests an exception to the Supplemental Water Use Restriction contained at VIII-6.5.00, including Section 5.03, to allow swimming pools/spas. The developer proposes to provide a roof-top swimming pool in each of the two buildings as an attractive amenity for the residents.

The Milpitas Planning Commission voted unanimously to recommend City Council approval of the Environmental Assessment, Site Development Permit and an exception to the Supplemental Water Use Restrictions related to swimming pools for the requested development.

Fiscal Impact: The project will pay all TASP fees and other assorted development fees.

Attachments:

- A. City Council Resolution
- B. Project Plans (separate bound document)
- C. Milpitas Planning Commission Meeting Minutes of 5-11-2016
- D. Milpitas Planning Commission Staff Report of 5-11-2016
- E. Adopted Planning Commission Resolution No. 16-018
- F. California Environmental Quality Act (CEQA) Exemption memo

Recommendations:

- 1. Open the public hearing for comments.
 - 2. Move to close the public hearing, following any speakers.
 - 3. Adopt a Resolution approving the Environmental Assessment No. EA16-0002, Site Development Permit No. SD15-0014 and an Exception to the City's Supplemental Water Use Restrictions for the Anton Mixed-Use Apartment Development at 730-750 E. Capitol Avenue in Milpitas, pursuant to California Environmental Quality Act Guideline 15168(c)(2).
3. **Conduct a Public Hearing and Adopt a Resolution Approving the Annual Engineer's Report and the Levying of Assessment for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch (Staff Contact: Nina Hawk, 408-586-2603 and Steven Machida, 408-586-3355)**

Background: On June 7, 2016, the City Council adopted Resolution of Intention No. 8551, which initially approved the Annual Engineer's Report, declared the intention to levy annual assessments for the Landscaping and Lighting Maintenance Assessment District No. 95-1, and set the time and place for the current public hearing. The District was created in 1995 and provides for servicing and maintenance of public landscaping and pedestrian lighting along North McCarthy Boulevard and the gateway features on Ranch Drive. An annual public hearing is necessary to adopt the Annual Engineer's Report to provide funds for the district.

The total assessment for the district in the Annual Engineer's Report is \$308,093.00 for FY 2016-17 and it is within the previously approved range of assessments.

Fiscal Impact: None.

Recommendations:

1. Open the public hearing to receive comments.
 2. Move to close the public hearing, following any speakers.
 3. Adopt a Resolution approving the annual Engineer's Report, confirming diagram and assessment and ordering levy of assessments for Fiscal Year 2016-17 for Landscaping and Lighting Maintenance Assessment District No. 95-1 (McCarthy Ranch).
4. **Conduct a Public Hearing and Adopt a Resolution Approving the Annual Engineer's Report and the Levying of Assessment for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon (Staff Contact: Nina Hawk 408-586-2603 and Steven Machida, 408-586-3355)**

Background: On June 7, 2016, the City Council adopted Resolution of Intention No. 8552 which initially approved the Annual Engineer's Report, declared the intention to levy annual assessments for the Landscaping and Lighting Maintenance Assessment District No. 98-1, and set the time and place for the current public hearing. The District was created in 1998 and provides for servicing and maintenance of public landscaping along Sinclair Frontage Road, Los Coches Creek and Berryessa Creek abutting the Sinclair Horizon residential subdivision. An annual public hearing is necessary to adopt the Annual Engineer's Report to provide funds for the district.

The total assessment for the district in the Annual Engineer's Report is \$39,121.60 for FY 2016-17 and it is within the previously approved range of assessments.

Fiscal Impact: None.

Recommendations:

1. Open the public hearing to receive comments.
 2. Move to close the public hearing, following any speakers.
 3. Adopt a Resolution approving the Annual Engineer's Report, confirming diagram and assessment, and ordering levy of assessments for Fiscal Year 2016-17 for Landscaping and Lighting Maintenance Assessment District No. 98-1 (Sinclair Horizon).
5. **Conduct a Public Hearing and Adopt a Resolution Approving Updates and Additions to Recreation Fees (Staff Contact: Renee Lorentzen, 408-586-3409)**

Background: Recreation Services Fees have not been reviewed in their entirety in several years. Staff has evaluated existing program and rental fees as well as additional fees required for new facilities, fields and amenities. Staff also reviewed the current rental structure for park picnic rentals.

In summary, the updates and additions to Recreation Fees will 1) allow some City-run programs to be near or at cost recovery; 2) increase revenue; and, 3) increase accessibility of park picnic areas to the public. A study of surrounding cities' fees was conducted and results were compared against the proposed Milpitas Recreation fees. It was found that the proposed Recreation fees were in-line with other cities' rates.

Fiscal Impact: Updates and additions to the Recreation fees will increase revenue.

Recommendations:

1. Open the public hearing, and move to close it, following any speakers.
2. Adopt a Resolution approving updates and additions to Recreation Fees.

XV. UNFINISHED BUSINESS

6. Receive Report Regarding Water Rates Economics (Staff Contact: Steven Machida, 408-586-3355)

Background: The City of Milpitas owns and operates a retail water distribution system. As a result, water system revenues and expenses are tracked through the Water Enterprise Fund for operations and maintenance to ensure safe, clean and reliable water. Periodically, the City Council sets water rates to pass on wholesale water purchase price and to ensure sufficient revenues to operate the water distribution system. The purpose of this report is to explain the factors affecting water rates.

In its simplest form, a unit water rate is calculated by dividing water system expenses by the water volume consumed. For example, if expenses are \$100 and the volume is 25 units, then the cost per unit of water would be \$4. This uniform rate is applied to each unit of water consumed whether it is the first unit or the 50th unit. The City's current fixed charges refer to rates imposed regardless of the volume of water consumed and are typically dependent upon the water meter size. Tiered rates, the City's previous rate structure, identify where the unit rate charged for water is dependent on the amount of water consumed and the unit rate increases as more water is consumed. Tiered rate systems were called into question by a recent court decision against City of San Juan Capistrano tiered rates. In response to this court decision, the City of Milpitas recently adopted a uniform rate. The consequence of this rate change increased the previous lower tiered rates and decreased the higher tiered rates. This change has caused some controversy in the community but was affirmed through the approved Proposition 218 vote.

Several factors, some in essence are fixed and others variable, affect water system expenses. These factors include but are not limited to: wholesale water purchase, weekly water quality testing, periodic specialized testing, pump stations, equipment maintenance, storage tanks, energy, pressure regulation, leak repair, long-term planning, water main replacement, conservation, regulatory inspections and reporting, regional coordination, and maintaining reserves for emergencies.

The water rate structure in place from 2011 to December 2015 included fixed charges and tiered rates that increased as more water was consumed. Lines 1 and 2 on the table below show the cost to purchase water from the City's wholesalers. Lines 3 through 8 show the retail water rates for the past four years. All units are hundred cubic feet (hcf), which is equal to 748 gallons. As noted, the higher tiered rates were in essence subsidizing the lower tiered rates.

Historical Water Rate History

Line #	Customer category	FY11-12	FY12-13	FY13-14	FY14-15
1	SFPUC*	\$2.63	\$2.93	\$2.45**	\$2.93
2	SCVWD*	\$1.54	\$1.66	\$1.79	\$1.94
3	Residential Tier 1	\$1.77	\$2.02	\$2.30	\$2.62
4	Residential Tier 2	\$2.76	\$2.98	\$3.22	\$3.48
5	Residential Tier 3	\$3.72	\$4.02	\$4.34	\$4.69
6	Residential Tier 4	\$4.17	\$4.50	\$4.86	\$5.29
7	Commercial, Industrial, Institutional	\$4.32	\$4.62	\$4.94	\$5.29
8	Irrigation	4.79	5.16	5.29	5.29
9	60% of Tier 1	\$1.06	\$1.21	\$1.38	\$1.57
10	60% of Tier 2	\$1.66	\$1.79	\$1.93	\$2.09

* These values represent the volumetric wholesale cost of water charged to the City of Milpitas. Fixed costs are not included.

** Beginning with FY 13-14, SFPUC capital costs were shifted from the wholesale volumetric cost to fixed costs and in current fixed rates.

The wholesale cost to purchase water is the single largest expense at 60% of the total expenses. Line 9 is calculated by taking 60% of the 1st tier rate, indicating the portion of the water rate that was available to offset the wholesale water cost. For FY11-12, the shortfall just to cover the cost of buying water for the community is \$1.57/hcf for 1st tier residential water volume consumed in the SFPUC service area (Line 1 – Line 9) and \$0.48 for 1st tier residential water volume consumed in the SCVWD service area (Line 2 – Line 9). Lines 10-12 provide a similar calculation for Tiers 2-4. It is important to note that most residential customers are located in the SFPUC service area. It is also important to note that most residential customers use 17 hcf per billing period, which is billed at Tier 1 and Tier 2 rates.

In response to the San Juan Capistrano decision against tiered rates, the City retained Bartle Wells Associates (BWA) to recommend a water rate structure in conformance with the final Proposition 218 requirements. BWA assigned 100% of wholesale water purchase costs and 25% of staffing, services, and supplies to be recouped by variable charges. Fixed charges were assigned to recoup 75% of staff, services, and supplies. Overall, 30% of water system costs are paid by fixed charges and 70% are paid by variable charges. The water rate report prepared by BWA documents these costs. The updated wholesale costs are shown in Lines 13 and 14 in the table below. The resulting uniform water rate and capital surcharge are shown in Lines 15-17.

Milpitas Potable Water Rates Currently In Effect (cost per hcf)

Line #	Customer category	FY15-16		FY16-17	
		Variable	Capital surcharge	Variable	Capital surcharge
13	SFPUC*	\$.375		\$4.10	
14	SCVWD*	\$2.28		\$2.69	
15	Residential	\$4.75	\$0	\$5.13	\$1.30
16	Commercial, Industrial, Institutional	\$4.75	\$0	\$5.13	\$1.30
17	Irrigation	\$4.75	\$0	\$5.13	\$1.30

The total wholesale cost of water is the largest single expense, accounting for 60% of the rate. Other expenses include salaries, administration, operations, repairs, maintenance and capital improvements. The cost of 1 hcf of water = \$6.43. The cost of 1 gallon of water = \$0.0086. The table below shows the prorated cost for water system expenses per hcf and per gallon.

Water Rate Components

Functions	Prorated Cost per hcf (1 hcf = 748 gallons)	Prorated cost per gallon of water
Salaries	\$0.73	\$0.00099
Administration	\$0.82	\$0.00110
Operations	\$0.19	\$0.00025
Repairs	\$0.29	\$0.00039
Maintenance	\$0.13	\$0.00019
Wholesale purchase (excludes water loss)	\$3.47	\$0.0046
Water loss	\$0.43	\$0.00057
Capital Improvement Program	\$0.37	\$0.0005
Total	\$6.43	\$0.0086

Adequate water program revenue is necessary to ensure safe, clean and reliable water.

Recommendation: Receive a report from Engineering staff regarding water rate economics.

7. Receive Water Rate Fact Sheet (Staff Contact: Steven Machida, 408-586-3355)

Background: The City Council adopted a new water rate structure on December 15, 2015. This water rate structure is in conformance with the final court interpretation of Proposition 218 (San Juan Capistrano) where water rates for each customer class generate the needed revenue to serve that customer class. Some residential customers are unhappy with the loss of a tiered rate structure. Subsequently, a petition was circulated collecting signatures to repeal the new water rate structure. The petition process is not addressed in this item. The City Council became aware that misinformation and confusion regarding water rates is widespread throughout the Milpitas community and directed staff to prepare a fact sheet for clarification.

California Environmental Quality Act: This report is exempt from CEQA as there will be no physical change to the environment.

Recommendation: Receive a report from City Engineering staff on the water rate fact sheet.

8. Receive Solid Waste Disposal Fact Sheet (Staff Contact: Steven Machida, 408-586-3355)

Background: The City's solid waste collection and disposal agreements with Republic Services (Newby Island) will expire in September 2017. The City has not sought a competitive bid for waste disposal and collection for more than 30 years. The City's process included soliciting separate competitive bids for disposal and collection. The City received two bids, one from Waste Management Inc. (Guadalupe Landfill) and the other from GreenWaste Recovery (Monterey Peninsula Landfill). It should be noted that the City's current vendor, Republic Services, did not submit a bid for disposal and, as such, was not considered in the competitive bid process. After a thorough evaluation of technical capabilities, services, and costs, the City Council awarded the disposal contract to Waste Management on March 15, 2016. Subsequently, the City Council became aware that misinformation regarding the RFP process and disposal award is widespread throughout Milpitas and San Jose communities and directed staff to prepare a fact sheet for clarification. A draft fact sheet is included in the Council packet for review.

California Environmental Quality Act: The report is exempt from CEQA as there will be no physical change to the environment.

Recommendation: Receive a report from City Engineering staff on the solid waste disposal fact sheet.

9. Receive Update on Capital Projects in the Transit Area Specific Plan Area (Staff Contact: Steven Machida, 408-586-3355)

Background: The City Council requested a presentation on the Capital Improvement Projects (CIP) in the Transit Area Specific Plan. The Council specifically wanted to review the project descriptions and project delivery schedule. The schedule was prepared in two parts, segregating projects that are: (1) to be delivered by City staff and (2) projects that are development driven and will be constructed by the developers building in the TASP area. Staff will present the CIP schedule at the Council meeting.

The CIP schedule will be expanded to include all projects throughout the City in the CIP. The CIP schedule will be web-based and placed on the City's web site for easy viewing.

Fiscal Impact: None.

Recommendation: Receive a report on capital projects in the Transit Area Specific Plan Area.

- * 10. **Receive Status Report of City Affordable Housing Nexus Study (Staff Contact: Bradley Misner, 408-586-3273)**

Background: At the June 7 Council meeting, Vice Mayor Montano requested information about the status of the City's Affordable Housing Nexus Study. The City has been actively participating in the preparation of the Nexus study. In June 2015, the City joined a multi-jurisdictional effort, comprising of Santa Clara County and Alameda County jurisdictions. By having multiple jurisdictions, the cost would be less since the consultant could use much of the same data for many or all of the jurisdictions. By participating in this effort, the City was able to save a minimum of \$25,000.

Even though the City is participating in this regional effort, the City will receive a Nexus Study specific to the City. Although some data could be applied to all jurisdictions, each City will receive a Nexus Study specific to their respective jurisdictions. It is not a "once size fits all" type study.

As stated, staff has working on this effort since last year. A more detailed timeline and summary has been attached for reference. A final draft is expected to be available by the end of June or early July. One final conference call will be held to discuss final steps. Following that, the consultant will follow up with each City to discuss each one's individual findings.

Staff anticipates that the Nexus Study will be presented to the Council as a Study Session sometime in the fall when the Council can become familiar with the study.

Recommendation: Receive a status report of City Affordable Housing Nexus Study.

XVI. REPORTS OF OFFICERS AND COMMISSION

- * 11. **Consider Mayor's Recommendations for Appointments to City of Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**

Background: Mayor Esteves recommends the following

Library Advisory Commission:

Re-appoint Trinidad Aolin, Elpidio Estioko, and Ha Phan to a new term of two years that will expire in June of 2018.

Parks, Recreation and Cultural Resources Commission:

Re-appoint Vishnu Mathur to a new term of three years that will expire

Move up Satish Bansal (current Alternate No. 1) to a voting seat to a term of three years that will expire in June of 2019.

Move up Samu Tiumalu (current Alternate No. 2) to the seat as Alternate No. 1 to a term of two years that will expire in June of 2018.

Newly appoint Aakar Shah as Alternate No. 2 to a term that will expire in June of 2017. A copy of his Commission application and one other on file is included in the agenda packet.

Veterans Commission: re-appoint Commissioner Andre J. Ramones to a new term of three years that will expire in February of 2019.

Recommendation: Receive Mayor's recommendations and approve re-appointments and one new appointment to City of Milpitas Commissions.

12. Consider Request of Councilmember Barbadillo to Study the Issue of Rent Control in Milpitas (Contact: Councilmember Barbadillo, 408-586-3024)

Background: At the City Council meeting on June 7, 2016, Councilmember Barbadillo queried staff on the concept of rent control for commercial buildings. Staff responded that there was not rent control in Milpitas for such tenants, nor for residential tenants. He suggested that may be a topic to study for consideration by the City Council.

The City Council Handbook states “If more than four hours of staff time will be required to complete the task/project, the item will be agendaized to ask the Council if time should be spent on preparing a report on the proposed item.” Staff now seeks direction from the Council on the topic raised by Councilmember Barbadillo.

Recommendation: Direct staff as desired, on the issue of considering rent control.

*** 13. Approve Park & Recreation Donation of an Historic Rail Farm Cart for the Alviso Adobe Park, as Recommended by the Parks, Recreation and Cultural Resources Commission (Staff Contact: Renee Lorentzen, 408-586-3409)**

Background: On May 2, 2016, the Parks, Recreation and Cultural Resources Commission voted to recommend that the City Council approve the Park & Recreation Donation Application from Bill Hare for a historic rail farm cart to be placed at the Alviso Adobe Park. This type of rail cart would have been used by farming families that lived on the Alviso Adobe property and is relevant to the site’s history.

Fiscal Impact: None.

Recommendation: Approve a Parks & Recreation donation of a historic rail farm cart for the Alviso Adobe Park to the City of Milpitas, based on the recommendation from the Parks, Recreation and Cultural Resources Commission

XVII. NEW BUSINESS

14. Receive a Report on Water System Losses (Staff Contact: Steven Machida, 408-586-3355)

Background: The City operates a potable water distribution system. Historically, this water system provides water for many purposes, including but not limited to: drinking, hygiene, food preparation, use in products, manufacturing processes, fire fighting, street sweeping, construction uses (compaction and dust control), maintenance flushing operations, and irrigation for landscapes and gardens. In addition to these known uses, water is lost during water main breaks, slow leaks, aging water meters, and unauthorized use.

Water loss is typically defined as the difference between the amount of water purchased or introduced into the distribution system and the water sold to customers. It can fluctuate annually depending on the amount of construction activity, water line breaks and meter reliability.

The City’s 2015 Urban Water Management Plan Table 4-4 reports water loss at 374,049 hcf, which is about 11%, with 2.2% accounted for.

Total water loss data is difficult to document. During emergency events, such as fires, the priorities are health, safety, and protection of property, not measuring the volume used. The frequencies and duration of emergencies occurrences are very dynamic, changing from year to year.

Staff has estimated the annual losses in millions of gallons as shown in the table below.

Line	Categories	Estimated % of total water purchased	Estimated HCF	Estimated MG
1	Fire fighting and fire flow testing	0.3	10,000	7.5
2	Known Water system breaks, including fire hydrant knock downs	1.4	50,000	35.7
3	Water system flushing	0.03	1,000	0.75
4	Construction meters	0.44	15,000	11.2
5	Street sweeping	0	60	0.005
6	Sanitary sewer system flushing	0.01	200	0.16
7	Subtotal calculated losses	2.2%	76,260	55
8	Under-registered customer meters	2-5	76,000	50-130
9	System leaks	3 to 6	220,000	75-150
10	Unauthorized use	<0.1	1,500	0.75
11	Subtotal estimated losses	8.8%	297,000	230
12	Total losses	11%	373,760	285

Lines 1-5 are calculations based upon the following reasonably known assumptions. Line 1 is estimated at 10 large events per year with 10,000 gallons per minute x 60 minutes and 30 smaller events with 1,600 gallons per minute x 30 minutes. Line 2 is estimated at 10 day time events per year with 8,500 gallons per minute x 60 minutes and 40 night time events per year x 90 minutes (longer response time). Line 3 is necessary to maintain water quality and is estimated at 10 events at 2,500 gallons per minute for 30 minutes each. Lines 4, 5, and 6 data is from construction meters that are not included in the “water sold” reports. The subtotal of calculated water losses is 55 million gallons per year (76,260 hcf) as shown in Line 7.

Lines 8-10 represent losses without reasonable assumptions to work with. As water meters age, they tend to under-register the amount of water used. Water meters may also under-register if customer demand does not fall within the meter’s recommended operating range. Staff’s best guess is that this is one of the largest components of water loss, as shown in Line 8. Line 9 represents small system leaks that exist due to shifting soils. Staff’s best guess is that this is the largest component of water loss, as shown in Line 9. Line 10 represents unauthorized use, which may be result from using hydrants without a construction meter. These categories represent most of the lost water and total about 230 million gallons per year (297,000 hcf), bringing the total lost water total to 285 million gallons per year (373,000 hcf).

Although confirmed calculated water loss is estimated at 2.2% (or 76,260 hcf), total known water loss is calculated to be 11% or 373,760 hcf. The 8.8% or 297,000 hcf differential can be assumed water loss through unmetered uses such as construction or theft. A capital improvement program Project No. 7121 is scheduled to replace all water meters over the next several years. These new meters employ smart technology to help customers understand their water use and detect on-site leaks. Staff is preparing a grant application to assist with funding. A second project, water system seismic improvements, is replacing backbone water pipelines with seismically-resistant joints to minimize the number of leaks expected with major ground movement. A third project in the capital improvement program is the Water Loss Study. This study may use ultrasound or other non-destructive technology to predict location of leaks.

Small leaks are common, yet are very difficult to locate. Once they have grown large enough to penetrate the surface, the leaks are more easily identified. However, in some instances the break is not in the location where the water surfaces. Leaks that have penetrated the surface are repaired. The cost to repair leaks depends upon the size and type of pipe failure and damage to the surrounding area. Sufficient revenue from water rates is an important, needed factor to ensure pipeline repair and replacement, which will improve the system and keep water loss down.

California Environmental Quality Act: This report is exempt from CEQA as there will be no physical change to the environment.

Fiscal Impact: None.

Recommendation: Receive report from Engineering staff on water system losses.

15. Receive Evaluation Committee Report, Identify Elements of the Future Collection Services Package, and Authorize the City Manager to Negotiate a Solid Waste Collection Agreement with the Shortlisted Proposers and Narrow the Number of Proposers for Negotiations if Unable to Complete Successful Negotiations (Staff Contact: Steven Machida, 408-586-3355)

Background: The current solid waste contract began in 1986 with basic garbage service. The contract expires on September 5, 2017. Over the years, residential programs have been added for recycling and residential yard trims and commercial programs have been added for recycling in response to waste diversion regulatory requirements. The Milpitas community is estimated to be at 60% rate of diversion, the percentage of material not placed in landfills compared to the total waste stream generated in the community. This level compares favorably with the 50% minimum now required under State law. Two recent added regulatory requirements include mandatory recycling (AB 341) and organics management (AB 1826), which expands recycling, green waste, and food scrap recycling for multi-family and commercial customers with three stages of implementation. The first stage went into effect in April 2016, and subsequent stages will take effect in 2017 through 2020. Diverting organic materials from landfill can help reduce greenhouse gasses, while producing a useful product, such as compost or energy. Future anticipated possible State mandates include a more stringent diversion target of 75% and possible ban on the landfill disposal of organic materials, however neither requirement has been adopted.

The solid waste field has experienced significant changes over the 30 year life of this contract and there are a variety of required and optional programs to choose from. A Request for Proposals (RFP) was developed in order to evaluate different solid waste management programs and select the most cost-effective high quality service for residents and businesses in the City.

The Evaluation Committee Recommendation includes descriptions of existing and proposed programs and is included in the Council packet.

The new agreement to provide collection and material processing services will be for a 10 year term beginning September 6, 2017 (immediately on the conclusion of the existing contract). The selected contractor will: collect garbage, recyclables, and organic materials; deliver garbage to the City's approved disposal contractor; and, process recyclables and organic materials. The City received collection and material processing proposals from six companies: California Waste Solutions; Garden City Sanitation; Green Team (Waste Connections); GreenWaste Recovery; Republic Services; and Waste Management. Collection and material processing proposers were invited to present their qualifications and technical approaches at the May 23, 2016 City Council study session and public meeting. As discussed in the Evaluation Committee Recommendation, the Committee created a shortlist of four proposers to receive a full evaluation, including Garden City Sanitation; Green Team (Waste Connections); GreenWaste Recovery; and Republic Services. It should be noted several of these companies only operate collection services and have indicated that they would not have submitted bids if the City's RFP did not specifically separate

collection from disposal. The City's process, therefore, attracted additional companies to compete.

The Director of Engineering and the City's consultant, HF&H, will present the scoring matrix. Qualitative criteria and weighing for collection services included: a) experience and qualifications, b) technical approach/plan for base collection services and alternate services, c) diversion plans and d) acceptance of RFP and franchise terms. The public opinion survey showed strong support for a residential cart system and four on-call bulky pick-ups (in lieu of Household Dump Day). The Evaluation Committee also recommends authorizing the City Manager to negotiate a collection agreement(s) with the shortlisted proposers for award in August or September. Also included in the Council packet is the solid waste procurement schedule, public opinion survey report, Recycling and Source Reduction Advisory Commission minutes, proposal summaries, power point presentations from May 23, 2016, and proposals. Contractor negotiations will focus on cost differences with relation to Council direction on the service package. Disclosure of details at this point may undermine the City's ability to negotiate, and for this reason the detailed costs and the agreement exceptions are not included with the contractor proposals that are included in the Council packet.

A summary of the ranking is shown below. The contract compensation as shown reflects service packages discussed in the Evaluation Committee Recommendation. Contract compensation is subject to change depending on program selection and outcome of negotiations. Contract compensation does not include costs for hauling, transfer, disposal or City fees.

Proposer	Evaluation Ranking	Contract Compensation
GreenWaste Recovery Base	85.3	\$13,924,764
GreenWaste Recovery Alternate	83.3	\$13,924,764
Republic Services Base	82.3	\$10,146,255
Republic Services Alternate	79.0	\$10,074,442
Green Team Base	66.7	\$13,610,324
Garden City Alternate	64.7	\$12,543,179
Garden City Base	62.7	\$13,264,543
Green Team Alternate	62.0	\$13,558,427

California Environmental Quality Act: The consideration of and negotiation with the field of proposed solid waste collection proposers is not subject to the provisions of the California Environmental Quality Act (CEQA) because it does not have the potential for causing any effect on the environment pursuant to CEQA Guideline § 15061(b)(3). The proposed actions do not authorize or commit the City to any definite course of action. As such, no effect on the environment could occur either directly or indirectly as a result the City's consideration of and negotiation with the proposers. Prior to awarding any contract for solid waste collection, the City will conduct CEQA review and, if necessary, analyze the potential environmental impacts of such an action.

Alternative: The City's current contract expires on September 5, 2017. Award of a contract is necessary to ensure continuity of service. Delay in negotiating the solid waste collection agreement will impact the schedule for award and implementation of the collection agreement.

Fiscal Impact: None. The cost of solid waste collection will be included in the solid waste customer rates.

Recommendations:

1. Receive the evaluation committee report.
2. Identify the elements of the future collection service package.

3. Authorize the City Manager to negotiate a solid waste collection agreement with the shortlisted proposers and narrow the number of proposers for negotiations if unable to complete successful negotiations.

16. Receive Report from City Clerk on Initiative Petition for a Ballot Measure Related to Tiered Water Rates and Accept Certification of Signatures (Staff Contacts: Mary Lavelle, 408-586-3001 and Christopher J. Diaz, 408-586-3040)

Background: On January 27, 2016, the City received a Notice of Intent to Circulate a Petition and proposed initiative measure (“Measure”) from Milpitas residents/proponents. The Measure would repeal the most recent City Council-approved flat water rate schedule (effective January 1, 2016), and return the City to its prior tiered water rate schedule. By doing so, the Measure titled “Initiative Measure Regarding the City of Milpitas Water Rates and Charges” would also repeal the capital surcharge entirely.

In accordance with the California Elections Code, the City Attorney’s office prepared and sent a ballot title and summary of the Measure to the proponents. The proponents then had 180 days to gather enough signatures to qualify the Measure for the ballot. On May 20, 2016, the proponents submitted a signed petition to the City Clerk’s office.

On June 2, 2016, the City Clerk (in conjunction with the Santa Clara Registrar of Voters) verified that the Petition contained 2,421 valid signatures to qualify the Measure for the ballot. The Elections Code normally requires the signatures of at least 10 percent of the City’s registered voters. However, because this concerns the repeal of a local property-related fee (water rates), California Proposition 218 applies and it significantly reduces the signature requirement - only five percent of Milpitas voters who voted for any gubernatorial candidate at the last election (November 4, 2014). The City Clerk confirmed that 13,386 Milpitas voters voted for a candidate at the last gubernatorial election, and therefore, only 669 valid signatures were required.

The City Clerk’s certificate of petition sufficiency is included in the agenda packet and staff is requesting that the City Council receive, file and accept the certificate as valid in all respects.

Since the Measure has obtained the required number of voter signatures, the City Council’s options under the Elections Code are as follows:

- a. Adopt the Measure as an ordinance, without alteration, or within 10 days thereafter;
- b. Submit the Measure to the voters at the next regular municipal election. A “regular election” is one where Councilmembers are elected so that would be November 8, 2016;
- c. Submit the Measure to the voters at a special election between 88 and 103 days after the Council calls the election (between September 17, 2016 and October 2, 2016); or
- d. Order staff to prepare a report analyzing the impact of the Measure on the City’s finances, ability to provide public services, etc. Staff must present the report not later than 30 days after it is ordered by the Council (at a July special City Council meeting). Once the 30 day report is presented to the City Council, the City Council should select one of options a. through c. above.

At the present time, it is uncertain what effect this Measure will have on the City’s ability to adequately provide water service, maintain and improve capital infrastructure, and comply with applicable law pertaining to water rates. Therefore, staff requests the City Council to direct staff to prepare a report analyzing the Measure’s impact, and present the report to the Council at a special meeting in July.

Recommendations:

1. Receive a report from the City Clerk and accept the City Clerk's certification of the sufficiency of petition signatures on the initiative petition submitted.
2. Because the impact of the Measure on the City is uncertain at this time, direct staff to prepare a report analyzing its impact, and present the report to the Council at a July Special City Council meeting.

*** 17. Consider Requests from American Cancer Society and St. Elizabeth Catholic Church to Waive Fees for Annual Relay for Life and for the Church's Parish Festival (Staff Contact: Mary Lavelle, 408-586-3001)**

Background: On June 6, 2016, the City Clerk received two Donation or Fee Waiver/Reduction Request Application Forms from St. Elizabeth Catholic Church and from American Cancer Society for its annual Relay for Life event. Both groups submitted the application form along with the required IRS letter demonstrating their non-profit status, as required.

The first request is for the City Council to waive two fees for the upcoming Parish Festival at St. Elizabeth Catholic Church on parish grounds on Sunday, August 14, 2016. Volunteers for the Festival applied for a Special Event Permit from the Planning Department. Fees to be waived are Special Event Permit (Planning Dept) \$250.00 and Fire Marshal's Temporary Fire Assembly permit (Fire Dept) \$523.77. Since no generator will be in use this year at the festival, there is no associated fee charged by Building Dept. as had been so in prior years.

The second request is for the City Council to waive several Recreation Services fees for the upcoming Relay for Life fundraising walk sponsored by the American Cancer Society at Murphy Park on July 9 – 10, 2016 this year. Staff and volunteers for the Relay applied for a Special Event Permit from the Planning Department. The location has been reserved and deposit fees paid toward costs for the park rental and use of the City's mobile stage. Relay for Life requests fees to be waived in total up to \$1,500, while the total cost for the event is \$1,650.

Fiscal Impact: \$20,000 was approved and included in the FY 2016-17 City budget for City Council's Unallocated Community Promotions. If the two fee waivers are approved by the Council, then \$17,726.23 would be the remaining balance for the new fiscal year.

Recommendations: (1) Waive \$1,500 in fees for costs related to the annual American Cancer Society's Relay for Life walkathon event at Murphy Park held July 9 - 10 2016. (2) Waive \$773.77 in fees for costs related to the annual St. Elizabeth Catholic Church Parish Festival held at the Church on Sunday, August 14, 2016.

*** 18. Approve Updated City of Milpitas Facility Use Manual (Staff Contact: Renee Lorentzen, 408-586-3409)**

Background: The City of Milpitas' Facility Use Manual is the guiding document for the general use and rules of the City's Indoor and Outdoor facilities, equipment, fields and parks. With the recent addition of new facilities, amenities and equipment, updates to the document are required. The Manual has been updated to remove outdated material, make rental timelines more customer friendly and reflect revisions of responsible City departments.

Recommendation: Approve the updated City of Milpitas Facility Use Manual.

*** 19. Approve Healthy Food and Drink Vending Machine Policy as Part of the Partnerships to Improve Community Health (PICH) Grant (Staff Contact: Renee Lorentzen, 408-586-3409)**

Background: The City of Milpitas applied for and won a Partnerships to Improve Community Health (PICH) Grant in the amount of \$35,000 from the County of Santa Clara. This grant encourages programs and collaborations to implement sustainable changes in communities where

people live, learn, work, and play. As part of this grant award, staff has updated the existing Recreation Services Healthy Vending Policy to a Citywide Healthy Vending Policy for all City facilities. The policy lays out healthful guidelines for food choices that will be available in our vending machines. The healthier options will be a benefit for both employees and the general public that visit our public centers.

Fiscal Impact: None.

Recommendation: Approve the City of Milpitas Healthy Food and Drink Vending Machine Policy as part of the Partnerships to Improve Community Health (PICH) Grant.

*** 20. Approve Out-of-State Travel for City Employees in FY 2016-17 (Staff Contact: Russell Morreale, 408-586-3111)**

Background: In accordance with the City's Travel and Expense Policy, Standard Operating Procedure No. 6-1, travel on official business outside of California must be recommended by the Department Heads and City Manager, and approved by the City Council. This is typically done at or about the time of budget adoption. A list of requested out of state travel by City employees between July 1, 2016 and June 30, 2107 is included in the Council's agenda packet.

Finance has reviewed all out of state travel for the current year and noted that approvals were obtained on an as-needed basis during the year rather than at time of budget adoption last May 2015. The second list in the agenda packet serves to report to City Council of current year out of state travel and finalize approval for all items through June of 2016. All but two items have had individual approvals via staff reports to Council during the year and all travel costs remained within departmental budget limits.

Fiscal Impact: None. Funding for employees' travel to conferences and meetings outside of California was included in the adopted FY 2016-17 Operating Budget.

Recommendation: Approve the list of anticipated out of state travel by city employees throughout the Fiscal Year 2016-17 and approve final reporting of out of state trips taken by employees in Fiscal Year 2015-16.

*** 21. Approve Final Map Tract 10324 for a 489-unit Residential Development at 450 Montague Expressway, Authorize the City Manager to Execute the Subdivision Improvement Agreement and the Density Average Agreement, and Modify Project Conditions of Approval (Staff Contact: Judy Chu, 408-586-3325)**

Background: On May 5, 2015, the City Council conditionally approved a Vesting Tentative Map (the "VTM") for a 489-unit residential development project at 450 Montague Expressway, located within the Transit Area Specific Plan (TASP) area, by Lennar Homes of California and LMC Milpitas Holdings I, LLC (the "Developers").

The City Engineer has examined the final map Tract 10324 (Attachment 1) and determined that the final map of Tract 10324 is substantially the same as the VTM, pursuant to California Government Code (GC) Section 66442. The City Council shall not deny approval of a final map if it has previously approved a tentative map for the proposed subdivision and if it finds that the final map is in substantial compliance with the previously approved tentative map pursuant to GC Section 66474.1. Therefore, once the City Engineer certifies the final map, there are no additional discretionary grounds for the City Council to disapprove the final map.

The developers have offered dedications to the City for public use, such as public street, public utilities, emergency vehicle access, public access and bridge improvements, as required by the project condition and as depicted on the final map. City Council shall accept, accept subject to

improvements, or reject any offer of dedication at the time of final map approval pursuant to Government Code Section 66477.1 and Milpitas Municipal Code (MMC) Section XI-1-5.05-2.

On March 23, 2016, the City Council's Facilities and Streets Naming Subcommittee reviewed and recommended approval of the street names as shown on the final map. Those private street names are Delano Street, Riesling Avenue and Vineyard Avenue without duplication. City Council shall approve all street names pursuant to MMC Section XI-1-7.01-8.

The City Engineer has also reviewed and approved public improvement plans (2-1202) pursuant to MMC XI-1-7.09-2. Developers have executed a Subdivision Improvement Agreement (Attachment 2) as approved by the City Attorney as to form and by the City Engineer as to substance, pursuant to MMC XI-1-17.01, paid all development fees and provided improvement securities (\$2,660,549 for faithful performance and \$2,660,549 for labor and materials) to guarantee completion of required public improvements.

The final map of Tract 10324 conforms to all of the requirements of the State of California Subdivision Map Act, and Milpitas Municipal Code Title XI, Chapter 1 Subdivisions.

As part of the project conditions of approval, the developers are required to execute a Density Average Agreement (Attachment 3) with the neighboring developer (LMC Milpitas Holdings I, LLC), by transferring the density that is available on one project site that is not being utilized to another project site, as long as combined density of the two projects when averaged conforms with overall development requirements. The "density averaging" process is permitted by Milpitas Zoning Code, state law and the Milpitas TASP (Policy 3.8).

As part of the project conditions of approval items 38.d.iii), 38.e.iii) and 39.1, the developers shall execute a Fee Credit Agreement, for improvements and designs performed by the developers that would otherwise be financed by the TASP fees, prior to final map approval. Both the City and the developers would need additional time to finalize the Fee Credit Agreement. Therefore, staff recommends that the above three project conditions be modified to allow developers to defer the execution of the subject Fee Credit Agreement to a later date mutually agreed upon.

Also as part of the project condition of approval item 43, the developers shall petition to annex the real properties within Tract 10324 into Community Facilities District 2008-1 concurrently with the final map recordation or prior to any building permit issuance, whichever occurs first. Due to State of California statutory requirement with public hearing due process, staff recommends that this project condition be modified to allow the subject CFD annexation to be completed within 120 days of this final map approval, contingent upon the restriction that the developers not market for sale or rental any of the units proposed, and not execute any purchase or rental agreements for the units proposed within Tract 10324 until the CFD annexation process is complete.

California Environmental Quality Act: Approval of final subdivision map is a ministerial action exempt from the CEQA pursuant to CEQA Guidelines Section 15268(b)(3). Approval of the Subdivision Improvement Agreement and the Density Averaging Agreement were requirements imposed through conditions of approval on the underlying development project, which was found to be consistent with the Transit Area Specific Plan EIR pursuant to CEQA Guideline 15168(c)(2). Modification of project conditions of approval associated with timing of compliance is not considered a project under CEQA as there will be no direct, or reasonable foreseeable indirect physical change in the environment.

Fiscal Impact: None.

Recommendations:

1. Approve the final map of Tract 10324, including approval of street names and acceptance of all offers of dedications as stated and depicted on the final map upon completion and acceptance of improvements; and
2. Authorize the City Manager to execute the Subdivision Improvement Agreement and the Density Average Agreement; and
3. Modify project conditions of approval items 38.d.iii), 38.e.iii) and 39.1 to allow the developers to defer execution of the Fee Credit Agreement to a later date mutually agreed upon; and
4. Modify project condition of approval item 43 to allow annexation of real properties within Tract 10324 into CFD 2008-1 be completed at a later date, contingent upon that developers are prohibited from sales of any real properties within Tract 10324 until the CFD annexation process is complete.

XVIII. ORDINANCES

22. Waive First Reading and Introduce Ordinance No. 201.6 Amending Milpitas Municipal Code Title X, Section X-2-4.02 and Section 9.01 to Require Replacement Trees to be Planted at a 2 to 1 Ratio When a Protected or Heritage Tree is Removed From Private Property in Conjunction with New Development (Staff Contact: Bradley Misner, 408-586-3272)

Background: A community concern has arisen related to the loss of mature trees in connection with private development projects. Because of this concern, on June 7, 2016, the City Council directed city staff to prepare an ordinance to address this issue.

Per Milpitas Municipal Code (MMC) Section X-2-4.02, a permit is required to remove any street tree, protected tree or heritage tree and that any permit would be issued by the Public Works Department. The code also indicates that when a tree is authorized for removal it may be replaced by the permittee through compensation methods. Historically, regulations within the Municipal Code to address tree preservation have not been addressed in the Zoning Ordinance, which governs the development of private property. Since a comprehensive review and update of the Zoning Ordinance would be initiated after the update of the City's General Plan, this Ordinance represents an amendment of the Streets and Sidewalks Code.

Given the existing legal framework for regulating tree removal and in order to preserve the substantial economic, environmental, and aesthetic importance of trees within the community, it is desirable to establish a replacement policy. Therefore, the proposed ordinance would stipulate that two trees of commensurate size with the tree being removed, shall be planted for every one protected tree, as defined in MMC Section X-2-7.01, legally authorized to be removed on private property. This provision would help to ensure that the loss of mature trees and their respective canopies, which provide shade to reduce the heat-island effect and other environmental benefits, would be offset into the future.

Lastly, in some instances, illegal removal of trees does occur whether through actual removal or damage to trees without a tree removal permit. In these instances, the City can seek cost recovery to discourage this situation. Ordinance No. 201.6 seeks to clarify and inform the public that City cost recovery can be assessed.

California Environmental Quality Act: The Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) in that this is a policy decision with no specific application to any specific tree permit or project. Further, the policy change would be more protective of trees ensuring replacement when removal occurs.

Fiscal Impact: None. The Ordinance will have no fiscal impact.

Recommendations:

1. Waive the first reading beyond the title of Ordinance No. 201.6 to add a section to the municipal code related to replacement of trees.
2. Move to introduce Ordinance No. 201.6.

23. Authorize the City to Utilize the California Uniform Public Construction Cost Accounting Act (CUPCCA) Effective September 1, 2016 and Adopt a Resolution, Waive the First Reading, and Introduce Ordinance No. 23.14 Authorizing the City to Utilize CUPCCA (Staff Contact: Russell Morreale, 408-586-3111)

Background: California law mandates that public contract projects over \$5,000 must be formally bid by the requirements outlined in the State Public Contract Code. The \$5,000 threshold has remained unchanged for decades and is applied consistently to cities regardless of the size of their respective budgets or capital improvement programs. While the formal bidding procedure is both prudent and appropriate for large dollar projects, it can be inefficient for small scale assignments, often causing them to be delayed for weeks or months. Many times these time delays do not result in cost savings for the City, especially in an economic growth period when cost inflation is prominent. Under this proposed model, price and service quotations and informal bidding remains a consistent standard to ensure price and service favorability. Furthermore, the City will continue to enforce standard contract and insurance requirements established by the City. Acting quickly on the Finance department's work plan item to review/enhance fiscal Standards of Operating Procedures (SOPS) and seek process efficiencies, this change in purchasing is being proposed for City Council consideration.

Fortunately, the California Public Contract Code does provide an effective and proven alternative for cities. This alternative is contained within the Uniform Public Construction Cost Accounting Act (the "Act" provisions, often referred to as the "Informal Bidding Act"). Under state law, Milpitas may elect, through adopting a resolution, to become subject to the Act. A high level summary of the provisions of the Act is presented below:

The key to enhancing work efficiencies is that the Act provides for three levels of bid processes, levels that recognize the varying fiscal scale of local government Capital Improvement Programs (CIP). Using this three-level model, the City of Milpitas will specifically be able to act more quickly and efficiently on small dollar projects that can help further advance the completion of small scale improvement projects particularly in the Public Works Arena. By way of example, park equipment improvements, small scale facility enhancements (roofing, etc.), and general public/community space improvements. In essence, this change will allow us to act more quickly while still achieving favorable pricing, maintaining risk management protections, and holding to budgetary controls. The three levels of bid, established and set by the Act, follow:

1) Up to	\$45,000	Negotiated purchase process
2) Up to	\$175,000	Informal bid process
3) At or over	\$175,000	Formal advertised bid procurement process

The negotiated purchase process is currently employed by the City for all purchases under \$5,000. The newly proposed model will allow staff to get quotes on smaller public works jobs through direct bid quotation (3 being recommended) without the lengthy formal bid process. This will save significant staff time and allow for projects to begin 30-60 days faster. When the contractor is selected, a public contract law bid contract would still be utilized to ensure the City is protected both financially and from a risk management perspective.

The Informal bid process, from \$45,000 to \$175,000, requires competitive bidding, but of an informal nature. The informal process is based on a required listing of prequalified contractors, maintained by the City's Purchasing Division (in coordination with Engineering and Public Works), to perform various types of projects. Interested contractors can be added to the list, categorized by contractor license classification, at any time. The Act requires that the City

advertise the opportunity to join the list annually in specific trade journals. The City will be developing an enhancement to the City's web site to facilitate easy access to and management of the required bidders lists. Again, this enhancement will do much to accelerate the completion of capital projects within this range of dollars.

All public works projects over \$175,000 will be bid formally using the same standard public bid process as utilized currently. As such, this process remains unchanged and is most appropriately applied to the City's high dollar construction projects typical of a City CIP that falls within the scope of Milpitas – \$43 million in FY 2016-17, and nearly \$300 million over a 5-year term.

The City expects other benefits including, decreased advertising costs, flexibility and efficiency in the execution of smaller public works contracts, and bidder list visibility through technology. Use of the Act would also allow the City to utilize its own staff (known as force account in the Act) to complete public works projects, a process that entails the implementation of additional accounting/tracking guidelines. However, given the City's current staffing levels, operating structure and financial models, staff will not activate this "force account" provision until a future date yet to be determined.

Utilizing the Act will not affect the City's general purchasing policies, although purchasing manuals and SOPS will be appropriately updated to communicate this new convention. The Act will impact only those projects that are defined as "public projects" per the State Public Contract Code and regulated by that Code. The related ordinance will not change the City Manager authority for approving contracts above the current level \$100,000. Using this model, City Council will continue to approve all public project awards above this level. As a new reporting feature, a quarterly reporting will be made to City Council of all projects that fall within the informal bid range of \$45,000 to \$175,000. It is important to note that no project expenditures, regardless of dollar magnitude, can proceed without first having City Council approved appropriations established in the Budget, CIP, or via the staff agenda report process.

A review of the attachment to this report, entitled "Participating Agencies" reveals that the use of the Act is widely spread statewide including: 209 Cities; 40 Counties; 39 Community Colleges; 322 School Districts; and 285 Special Districts, for a total of 895 agencies in California.

This staff report proposes an effective date of September 1, 2016. This time period is important to allow Finance, Engineering, Public Works, Information Systems, and legal, to develop a series of operational action items critical to ensure the proper launch of this new program. This is a team effort involving all related City sections as a necessary factor of success. Some of these action items include: updating internal Purchasing manuals and SOPS, staging adequate staff training, updating and enhancing standard contract templates for maximum protection and efficiency, defining departmental roles and setting up an effective bidder list on the City website.

Fiscal Impact: The City will realize staff time savings managing the bid process under this Act. Cost savings can also be expected with the smaller scale projects, as formal bidding often requires contractors to cover the cost of preparing the more extensive formal bids. Beyond cost, the focus of this change to utilizing the Act is realizing the expedited completion of projects for the ultimate benefit of the community.

Recommendations:

1. Adopt a resolution electing the City to become subject to the Uniform Public Construction Cost Accounting Act.
2. Move to waive first reading of Ordinance No. 23.14 beyond the title.
3. Introduce Ordinance No. 23.14 to facilitate implementation of the California Uniform Public Construction Cost Accounting Act effective September 1, 2016.

XIX. RESOLUTIONS

24. Adopt a Resolution Opposing the 0.5% Sales Tax Ballot Measure on November 8, 2016 Put Forth by the Santa Clara Valley Transportation Authority (Staff Contact: Chris Diaz, 408-586-3040)

Background: On June 7, 2016 Mayor Esteves inquired of the City Council if they would consider the impacts of a planned tax ballot measure by VTA in November, including a review of the projects planned with those funds that would benefit Milpitas residents. The City Council voted (3 in favor, 2 opposed) to direct the City Attorney to return on June 21, 2016 with a Resolution opposing this measure.

Recommendation: Adopt a Resolution opposing the SCVTA's ½ cent sales tax measure scheduled for voters in Santa Clara County on November 8, 2016.

*** 25. Adopt Resolutions Calling for Three Ballot Measures Related to Land Use for the November 8, 2016 Election (Staff Contact: Chris Diaz, 408-586-3040)**

Background: On August 4, 2015, the City Council directed staff to prepare ballot measures in 2016 for the extension of two land use ordinances previously approved by voters and due to expire in 2018. The Urban Growth Boundary was adopted by voters via Measure Z in November of 1998, and the Hillside ordinance was strengthened to require any change by voter action only, via Measure T in November of 2004. Both of these ordinances are scheduled to expire in 2018, and now at Council direction, these two topics (via new ordinances) are ready to be placed on the ballot anew on November 8, 2016.

Additionally, Mayor Esteves raised the concept of strengthening adopted Ordinance No. 38.820 which City Council adopted in 2015. It does not permit residential zoning in the Town Center zone. The Mayor asked his colleagues if they would consider a ballot measure sent to voters in 2016, directing that any change to the Zoning Ordinance or General Plan to allow residential would only be possible by the voters of Milpitas.

The City Attorney has prepared three Resolutions calling for the ballot measures on the ballot for November 8, 2016, consolidated with the scheduled municipal election on that same date.

Fiscal Impact: The City Clerk's budget anticipated two ballot measures for November 8, 2016 in addition to the scheduled candidate election for Mayor and two Councilmembers. Each additional ballot measure is estimated by the County Registrar of Voters to cost \$53,000.

Recommendations: Call for three measures to be voted upon by Milpitas voters on November 8, 2016 by consolidating three ballot questions with the scheduled municipal election, by voting to:

1. Adopt a Resolution calling for the Urban Growth Boundary to be extended until December 31, 2038.
2. Adopt a Resolution calling for the Hillside Ordinance to be extended until December 31, 2038.
3. Adopt a Resolution calling for a new Ordinance to allow residential development in the Town Center by voters only.
4. For each ballot measure, the Mayor and City Council may specify two City Councilmembers to submit ballot arguments in favor and, if appropriate, rebuttals to arguments opposed to the three measures.

*** 26. Adopt a Resolution Approving Memorandum of Understanding with the Milpitas Professional and Technical Group (Staff Contact: Tina Murphy, 408-586-3086)**

Background: The most recent Memorandum of Understanding (MOU) with the Milpitas Professional and Technical Group (ProTech) will expire on June 30, 2016. City representatives and representatives from ProTech met and conferred in good faith to negotiate a new contract.

Agreement has been reached with a new successor Memorandum of Understanding with effective dates of July 1, 2016 through June 30, 2019, which is included in the City Council's agenda packet. The draft MOU document was available for public review for the 10 day period required.

Fiscal Impact: Total cost for the three-year contract over current cost is approximately \$855,054.

Recommendation: Adopt a resolution approving the Memorandum of Understanding with the Milpitas Professional and Technical Group covering the period of July 1, 2016 through June 30, 2019.

*** 27. Adopt a Resolution Approving Memorandum of Understanding with the Mid-Management and Confidential Unit (Staff Contact: Tina Murphy, 408-586-3086)**

Background: The most recent Memorandum of Understanding (MOU) with the Mid-Management and Confidential Unit (MidCon) will expire on June 30, 2016. City representatives and representatives from MidCon met and conferred in good faith to negotiate a new contract. Agreement has been reached with a new successor Memorandum of Understanding with effective dates of July 1, 2016 through June 30, 2019, which is included in the City Council's agenda packet. The draft MOU document was available for public review for the 10 day period required.

Fiscal Impact: Total cost for the three-year contract over current cost is approximately \$517,901.

Recommendation: Adopt a resolution approving the Memorandum of Understanding with the Mid-Management and Confidential Unit covering the period of July 1, 2016 through June 30, 2019.

*** 28. Adopt a Resolution Annexing Real Properties Within Tract No. 10328 into Community Facilities District No. 2005-1, Approve Final Map Tract 10328, for 25 Residential Units including 5 Live-Work Units, located at 75 South Milpitas Boulevard, and Authorize the City Manager to Execute the Subdivision Improvement Agreement (Staff Contact: Judy Chu, 408-586-3325)**

Background: On January 6, 2015, the City Council conditionally approved a Vesting Tentative Map (the "VTM") for a 25-unit residential development project, including five live-work units at 75 South Milpitas Boulevard by Taylor Morrison, LLC (the "Developer").

The final map Tract 10328 is subject to annexation to the Community Facilities District No. 2005-1 (the "CFD 2005-1") as required by the project condition (Attachment 1).

The City Engineer has examined the final map Tract No. 10328 (Attachment 2) and determined that the final map Tract No. 10328 is substantially the same as the VTM pursuant to California Government Code (GC) Section 66442. The City Council shall not deny approval of a final map if it has previously approved a tentative map for the proposed subdivision, and if it finds that the final map is in substantial compliance with the previously approved tentative map pursuant to GC Section 66474.1. Therefore, once the City Engineer certifies the final map, there are no additional discretionary grounds for the City Council to disapprove the final map.

The Developer has offered dedications to the City for public use, such as public street, public utilities, emergency vehicle access, and public access, as required by the project condition and as depicted on the final map. City Council shall accept, accept subject to improvements, or reject any offer of dedication at the time of final map approval pursuant to GC Section 66477.1 and Milpitas Municipal Code (MMC) Section XI-1-5.05-2.

On June 3, 2016, the City's Facilities and Streets Naming Subcommittee reviewed and recommended approval of the private street name as shown on the final map. This private street name is Hearst Street without duplication. City Council shall approve all street names pursuant to MMC Section XI-1-7.01-8.

The City Engineer has also reviewed and approved public improvement plans (No. 2-1202) pursuant to MMC XI-1-7.09-2. The Developers have executed a Subdivision Improvement Agreement (Attachment 3) as approved by the City Attorney as to form and by the City Engineer as to substance pursuant to MMC XI-1-17.01, paid all development fees and provided improvement securities (\$115,000 for faithful performance \$115,000 for labor and materials, and \$2,000 for survey documentation) to guarantee completion of required public improvements.

The final map Tract No. 10328 conforms to all of the requirements of the State of California Subdivision Map Act and Milpitas Municipal Code Title XI, Chapter 1 Subdivisions.

California Environmental Quality Act: Approval of final subdivision map is a ministerial action exempt from CEQA, per Guidelines Section 15268(b)(3). Annexation to the CFD 2005-1 is exempt from CEQA as it does not cause any physical change to the environment.

Fiscal Impact: None.

Recommendations:

1. Adopt a resolution annexing real properties within Tract No. 10325 into Community Facility District 2005-1; and
2. Approve final map Tract No. 10328, including approval of street names and acceptance of all offers of dedications as stated and depicted on the final map upon completion and acceptance of improvements; and
3. Authorize City Manager to execute the Subdivision Improvement Agreement.

XX. AGREEMENTS & BIDS

*** 29. Approve the McCandless Property Joint Use Agreement Between the City of Milpitas and Milpitas Unified School District (Staff Contact: Renee Lorentzen, 408-586-3409)**

Background: The McCandless property, approximately 10.9 acres of land, has been designated to be a new elementary school and public park. In mutual agreement, representatives from the City of Milpitas and the Milpitas Unified School District met and identified areas of joint use to include basketball courts, field and south parking lot. These areas benefit both the new school student body and Milpitas residents at large.

A Joint Use Agreement was drafted to establish the areas of use, general terms and conditions, cost share, and to memorialize the formation of an "Operations Committee." The Operations Committee will consist of staff representatives from both the City and District and it will meet annually to establish a program schedule and maintenance and operations schedule for the joint use areas.

The Milpitas Unified School District Board of Education was scheduled to review and approve the Joint Use Agreement at its June 14, 2016 Board meeting.

Fiscal Impact: None.

Recommendation: Approve the McCandless Property Joint Use Agreement between the City of Milpitas and the Milpitas Unified School District.

- * 30. **Authorize the City Manager to Execute an Agreement with the County of Santa Clara for the FY 2016-17 Senior Nutrition Program (Staff Contact: Renee Lorentzen, 408-586-3409)**

Background: The City of Milpitas has contracted with the County of Santa Clara to help implement the Senior Nutrition Program since 1978. This program serves seniors, who are age 60 years and older, 249 days per year, an average of 89 meals per day, for a total of 22,209 meals per year. The total budget for the FY 2016-17 Nutrition Program is \$181,116. Under the proposed contract, the City of Milpitas and the County of Santa Clara would equally share the cost of the program for FY 2016-17, which would amount to a burden of \$90,558 each (after reimbursements), as outlined in Exhibit A and the Proposed Budget (included in the Council agenda packet). The City initially pays all costs and the County would reimburse the City its 50% cost share after the receipt of invoices and other documentation.

Fiscal Impact: Sufficient funds of \$181,116 have been budgeted and were approved in the Recreation Services Department FY 2016-17 operating budget.

Recommendation: Authorize the City Manager to execute an Agreement with the County of Santa Clara for the FY 2016-17 Senior Nutrition Program.

- * 31. **Approve Amendment No. 2 to the Agreement with MIG for Planning Services, and Amendment No. 3 to the Agreement with M Group for Planning Services, Extending the Terms by One Year to to June 30, 2017 and Adding \$150,000 to Each Agreement (Staff Contact: Bill Ekern, 408-586-3287)**

Background: Both planning firms were solicited through an RFQ (request for qualifications) process in 2015 to provide current planning support handling projects in the Transit Area Specific Plan (TASP) as well as the multitude of other development projects received by the City. Both groups have provided excellent support for the project proponents as well as in-house staff as needed and requested by the City. At present, the firms are processing development projects that will not be reviewed by the Planning Commission or City Council until after June 30, 2016, when both Agreements terminate. Consequently, staff recommends extending both Agreements for an additional year. Both Agreements have been amended (M Group on December 1, 2015 and April 5, 2016, and MIG on January 19, 2016) to add additional funds. These Amendments would become effective on July 1, 2016, using funds approved in the adopted FY 2016-17 budget. Because the firms work directly on projects, their costs are recoverable through the City's Project Job account system.

Fiscal Impact: Funding for the amendments is available in the adopted FY 2016-17 Budget.

Recommendations:

1. Approve Amendment No. 3 to Agreement with M Group for Planning Services, extending the term one year to June 30, 2017, and adding \$150,000 for a total not to exceed amount of \$440,000.
2. Approve Amendment No. 2 to Agreement with MIG for Planning Services, extending the term one year to June 30, 2017, and adding \$150,000 for a total not to exceed amount of \$270,000.

- * 32. **Authorize Renewal of Agreement for Workers' Compensation Insurance Contracted via Brown & Brown of California and Authorize Payment (Staff Contact: Tina Murphy, 408-586-3086)**

Background: The City carries excess workers' compensation insurance in accordance with state law and the City's insurance broker is Brown & Brown Insurance Services of California. Brown & Brown accepted bids from five carriers that have been known as the major writers of Municipal Excess Workers' Compensation coverage in California. The most competitive bid came from Safety National Casualty Corporation, which has been the city's carrier since 2008.

For the last Fiscal Year of 2015-16, the cost of the excess workers' compensation was \$132,691. The City's self-insured retention is \$1,000,000 for Safety employees and \$750,000 for Miscellaneous employees. The renewal premium for Fiscal Year 2016-17 is based on the City's payroll and will be \$144,433. The rate for Fiscal Year 2017-18 will not change and the premium will be based on next year's payroll.

Fiscal Impact: None. There are sufficient funds allocated in the Human Resources Department budget for Fiscal Year 2016-17. In addition, the two-year agreement will allow the City to skip the process of compiling renewal information and budget appropriately for Fiscal Year 2017-18.

Recommendation: Authorize the City Manager to pay Brown & Brown Insurance Services of California the premium rate of \$144,433 and authorize Safety National Casualty Corporation to provide for the City's excess workers' compensation insurance for Fiscal Years 2016-17 and 2017-18.

*** 33. Authorize Execution of Agreement with San Jose Water Company for Design and Construction of a Recycled Water Intertie (Staff Contact: Steven Machida, 408-586-3355)**

Background: The recycled water system within the City of Milpitas is connected to the South Bay Water Recycling supply at only one location. Since the beginning of recycled water service in 1997, the focus of the program was to connect as many large irrigation customers as possible. Therefore, the recycled water pipe alignment resembles a tree with many dead end branches rather than a more typical water distribution system with looping for redundancy. System outages have occurred whenever there was any work or line breaks along the major trunk line. The original plan accepted system outages of up to 72 hours since the targeted customers were irrigation meters.

There is currently one cooling tower connected to recycled water in Milpitas and two more are planned to convert from potable water to recycled water. These customers require a more reliable recycled water system since the cooling towers typically operate 24 hours per day 7 days per week. The need to improve reliability of the recycled water system was identified in the Water Supply Augmentation Study Work Plan presented to Council on May 5, 2015. The simplest and most economical method of providing redundancy to the Milpitas recycled water system is to install an intertie with the San Jose Water Company recycled water system at Trade Zone Boulevard and Ringwood Drive.

Staff negotiated an agreement with San Jose Water Company for the intertie. Each party will be responsible for 50% of the costs. Milpitas will provide environmental clearance, hydraulic modeling, plan review, and inspection. The San Jose Water Company will oversee pipeline design and construction. The first intertie will be installed at Trade Zone Blvd. and Ringwood Ave. and is estimated at a cost of \$300,000. Future additional interties are proposed along the Milpitas and San Jose border.

California Environmental Quality Act: This agreement is exempt from CEQA as there will be no physical change to the environment. A Notice of Exemption will be prepared during the design phase.

Alternative: Denial of this request will result in continued lack of reliability and redundancy of the recycled water system due to the single source connection.

Fiscal Impact: This work is included in the Recycled Water Pipeline Infill Project identified in the Draft 2016-21 Capital Improvement Program. The funding will be available on July 1, 2016.

Recommendation: Authorize execution of agreement with San Jose Water Company for design and construction of a recycled water intertie, with any amendments deemed necessary by the City Attorney.

- * 34. **Approve Plans and Specifications and Authorize Advertisement for Bid Proposals for Park Access Improvement and Resurfacing, Project No. 5105 and Americans with Disabilities Act (ADA) Curb Ramp Transition Program, Project No. 4283 (Staff Contact: Steve Chan, 408-586-3324)**

Background: Plans and specifications for Park Access Improvement and Resurfacing, Project No. 5105 and ADA Curb Ramp Transition Program, Project No. 4283 have been completed. The work will include localized repair of failed asphalt concrete pavement and resurface of parking lots and walking pathways for the following parks:

- 1) Dixon Landing
- 2) Gill Memorial
- 3) Hall Memorial
- 4) Hidden Lake
- 5) Murphy

Additionally, the work will include installation of federally mandated ADA compliant ramps in and near vicinity surrounding these parks. The project is categorically exempt under CEQA Article 19 Section 15301 for maintenance of existing public facilities.

The Engineer's Estimate for the project is \$400,000. A copy of the title sheet of the project plans is included in the Council's agenda packet, while the complete set of plans and specifications are available for review in the City Engineer's office.

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

Recommendations:

1. Approve plans and specifications for Park Access Improvement and Resurfacing, Project No. 5105 and ADA Curb Ramp Transition Program, Project No. 4283.
2. Authorize the advertisement for bid proposals.

- * 35. **Approve Project Plans and Specifications, and Authorize Advertisement for Bid Proposals for Wrigley-Ford Creek Erosion Repair Project No. 3700 (Staff Contact: Steve Erickson, 408-586-3301)**

Background: In February 2013, the City Council approved the completion of the Wrigley-Ford and Ford Creeks Maintenance project. This project provided debris, vegetation, and sediment removal to restore the creek channel and improve creek conveyance capacity. Permits were issued by the Regional Water Quality Control Board (RWQCB), U.S. Department of the Army Corps of Engineers (ACOE), and Department of Fish & Wildlife (DFW) and require ongoing ecological monitoring, reporting, and maintenance of the Riparian and wetland mitigation sites for a ten year period.

The mid-December 2014 storms caused considerable erosion damaged to a reach of the creek within the City's project limits, and the City is now required by Permit to make repairs. Due to the lengthy ACOE permitting process and the limited work window and we needed to protect nesting birds in the Creek, the City's contractor constructed temporary emergency improvements in the fall of 2015 to prevent further erosion damage to the site until the final permits could be obtained to complete the permanent repair.

Plans and specifications for the permanent repair for the Wrigley Creek Erosion Repair Project No. 3700 have been completed. The project will repair erosion gullies, remove and remaining sediment from the creek erosion event, and reseed and plant the area of the repair to provide bank stabilization.

Construction must be completed between September 1 and October 15, 2016, after the bird nesting season and prior to the start of the rainy season. The estimated cost of construction is approximately \$60,000.

A copy of the plan cover sheet is included in the Council's agenda packet and a complete set of plans and specifications are available for review in the office of the City Engineer.

Alternative: A denial of this request would result a violation of the project permits and potential fines to the City by the RWQCB, ACDE or DFW.

California Environmental Quality Act: The project has an approved Mitigated Negative Declaration.

Fiscal Impact: Adequate funds are available in the project budget for construction.

Recommendation: Approve the project contract documents for Wrigley Creek Erosion Repair Project No. 3700 and authorize advertisement for bid proposals.

- * 36. **Authorize the City Manager to Extend for One Term the Current Agreement with Santa Clara County for Emergency Medical Services With an Expiration Date of June 30, 2019 (Staff Contact: Robert Mihovich, 408-586-2811)**

Background: The City of Milpitas has been in contract with the Santa Clara County Emergency Medical Services agency since 2011. As the current agreement stands, the agreement for emergency medical services received by the County is set to expire on June 30, 2016. The current agreement allows for two extensions of term, up to three years each. Fire Department staff recommends extending this for one term, three years in length, with an expiration of June 30, 2019.

Fiscal Impact: None.

Recommendation: Authorize the City Manager to extend the agreement with Santa Clara County for Emergency Medical Services for one term with an expiration date of June 30, 2019.

XXI. SUCCESSOR AGENCY

- * 37. **Authorize the City Manager/Executive Director of the Successor Agency of the Former Milpitas Redevelopment Agency or His Designee to Execute All Documents and Take All Action Necessary to Complete the Sale and Conveyance of Property at the Northwest Corner of Alder Drive and Barber Lane to Lodging Dynamics Development LLC (Staff Contact: Russell Morreale, 408-586-3111)**

Background: On March 15, 2016, the City authorized the City Manager/Executive Director of the Successor Agency of the former Milpitas Redevelopment Agency to execute a Purchase & sale Agreement with Lodging Dynamics Development LLC for property located at the northwest corner of Alder Drive and Barber Lane This was pursuant to an action approved by the Successor Agency Oversight Board in line with the Long Range Property Management Plan ("LRPMP"). That transaction is proceeding as planned and this action tonight simply codifies the approval for the City Manager/Executive Director to take all actions to complete the transaction, including execution of the various escrow documents that will arise in the sale process. Escrow is planned to close on August 17, 2016.

Fiscal Impact: The City of Milpitas will receive approximately 16% of the net sales proceeds.

Recommendation: Authorize the City Manager/Executive Director of the Successor Agency of the Former Milpitas Redevelopment Agency, or his designee, to execute all documents and take

all action necessary to complete the sale and conveyance of the property located at the Northwest Corner of Alder Drive and Barber Lane (APN No. 086-02-086) to Lodging Dynamics Development LLC.

XXII. HOUSING AUTHORITY

*** 38. Approve Housing Authority Loan Write-Off Amount, Based on City Council Action on June 7, 2016 (Staff Contact: Russell Morreale, 408-586-3111)**

Background: On June 7, 2016, the City Council voted to approve write off of a number of accounts receivable items, one of which was related to a Housing Authority Loan in the amount of \$50,000. This resulted from a loan to a recipient that ultimately fell into foreclosure, during the real estate downturn, leaving the City in a subordinated position.

Pursuant to City Council's direction at that meeting on June 7, this request to the Housing Authority serves only as a follow-up action to have the Housing Authority board formally approve the write-off under its authority.

Fiscal Impact: The write-off of \$50,000 from the outstanding accounts receivable will reduce the full-accrual fund balances of the Housing Authority Fund

Recommendation: Approve Housing Authority loan write-off amount of \$50,000, consistent with action taken by the Milpitas City Council action on June 7, 2016.

XXI. ADJOURN JOINT MEETING

**NEXT REGULAR CITY COUNCIL MEETING
TUESDAY, AUGUST 2, 2016**