JOINT MEETING OF THE MILPITAS CITY COUNCIL, HOUSING AUTHORITY AND SUCCESSOR AGENCY TO REDEVELOPMENT AGENCY

AGENDA

TUESDAY, FEBRUARY 21, 2017

455 EAST CALAVERAS BOULEVARD, MILPITAS, CA
6:00 P.M. (CLOSED SESSION)
7:00 P.M. (PUBLIC BUSINESS)

Vice Mayor Marsha Grilli will participate by telephone conference
From StayBridge Suites, 501 Tchoupitloulas Street,
New Orleans, LA 504-571-1818

SUMMARY OF CONTENTS

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

CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION
Pursuant to Government Code Sections 54956.9(d)(2) and 54956.9(d)(4) - two cases:
One case City as Defendant; and one case City as Plaintiff

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

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

IV. INVOCATION (Councilmember Bob Nuñez for Vice Mayor Grilli)

V. SCHEDULE OF MEETINGS – COUNCIL CALENDARS - February and March 2017

VI. PRESENTATIONS

- Representatives of Insurance Services Office will present recognition to Building Department staff
- Announce Winners of the Martin Luther King Jr. / Black History Month essay contest

VII. 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.

VIII. ANNOUNCEMENTS

IX. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

X. APPROVAL OF AGENDA

XI. 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.

XII. APPROVE COUNCIL MEETING MINUTES - January 24 and February 7, 2017

XIII. PUBLIC HEARING

1. Conduct a Public Hearing and Adopt Interim Urgency Ordinance No. 291.1 Extending the Temporary Moratorium on Marijuana Uses Pending Enactment of an Update to the City's Municipal Code (Staff Contact: Christopher Diaz, 408-586-3040)

XIV. UNFINISHED BUSINESS

2. Receive Update on the Operation of the Community Access Television Channel 26 and Request Future Direction (Staff Contact: Mike Luu, 408-586-2706)

3. Receive Information on Nepotism Policy of the City of Milpitas (Staff Contact: Chris Diaz, 408-586-3040)

*** 4. Receive Report on In-House vs. Contract Printing Services, and Approve Amendment No. 3 to the Agreement with JP Graphics, Inc. for City-wide Printing Services (Staff Contacts: Chris Schroeder, 408-586-3162 and Jane Corpus, 408-586-3125)**

5. Waive Reading Beyond the Title and Adopt Urgency Ordinance No. 43.212 Amending Chapter 100 of Title V of Milpitas Municipal Code Relating to Overnight Parking Time Limits in any parking lots or designated areas adjacent to or at a City Park, Removal of Vehicles Unlawfully Parked or Standing in a City Park, and Parking Time Limits in Bob McGuire Park and on Streets Fronting Bob McGuire Park (Staff Contacts: Steve Chan, 408-586-3324 and Chris Diaz, 408-586-3040)

XV. REPORTS OF OFFICERS AND COMMISSION

*** 6. Consider Mayor's Recommendation for One Appointment to the Citizen's Task Force on Water Rates (Contact: Mayor Tran, 408-586-3029)**

7. Request to Authorize More than Four Hours of Staff Time to Explore Issue of Charter City Status (Contact: Councilmember Phan, 408-586-3032)

8. Per Request of Councilmember Phan, Receive City of Milpitas Flag Policy and Hear Request Regarding Flag of Vietnam (Contact: Councilmember Phan, 408-586-3032)

9. Per Request of Councilmember Phan, Discuss Topics of Sanctuary City Status and Possible Resolution of Opposition to President's Travel Ban (Contact: Councilmember Phan, 408-586-3032)

***10. Per Request of Councilmember Nuñez, Consider Naming of the Old Veterans Plaza in Honor of Cesar Chavez (Contact: Councilmember Nuñez, 408-586-3023)**

***11. Per Recommendation of the Arts Commission, Establish New Memorial Arts Scholarship in Memory of Arts Leader Larry Voellger and Allocate $2,000 to Fund the Scholarship (Staff Contact: Renee Lorentzen, 408-586-3409)**

XVI. NEW BUSINESS

12. **Discuss Status of the Milpitas Chamber of Commerce's International BBQ and Festival (Staff Contact: Tom Williams, 408-586-3050)**

***13.** **Receive Financial Status Report for the Six Months Ended December 31, 2016 (Staff Contact: Jane Corpus, 408-586-3125)**

***14.** **Move to Remove Alternate Member No. 1 from the Park, Recreation and Cultural Resources Commission (Staff Contact: Mary Lavelle, 408-586-3001)**

***15.** **Accept the State of California Board of State and Community Corrections City Law Enforcement Grant (Staff Contact: Henry Kwong, 408-586-2419)**

XVII. ORDINANCES

***16.** **Waive the Second Reading and Adopt Ordinance No. 38.827 Amending the Zoning Code to Allow Places of Assembly in the M1, M2, and MP Zoning Districts with a Conditional Use Permit and Amending Title XI, Chapter 10, Section 7.04 to Adopt Special Development and Performance Standards Applicable to Places of Assembly within Industrial Zones (Staff Contact: Bradley Misner, 408-586-3273)**

***17.** **Waive the Second Reading and Adopt Ordinance No. 38.828 Amending Title XI, Chapter 10, Section 6.04 of the Milpitas Municipal Code to Allow A Decrease in Densities for lots less than 20,000 square feet in size and located in the "Mixed-Use" Zoning District (Staff Contact: Michael Fossati, 408-586-3274)**

***18.** **Waive the Second Reading and Adopt Ordinance No. 292 Adding Chapter 31 to Title III of the Milpitas Municipal Code to Increase the Minimum Wage to $15.00 Per Hour by July 1, 2019 (Staff Contacts: Tom Williams, 408-586-3050 and Edesa Bitbadal, 408-586-3052)**

XVIII. RESOLUTIONS

***19.** **Adopt a Resolution Authorizing the Purchase of One Caterpillar Backhoe Tractor and Attachments for the Public Works Department from Peterson Caterpillar Through a Cooperative Agreement in the Amount of $161,000 (Staff Contacts: Chris Schroeder, 408-586-3161 and James Levers, 408-586-2648)**

***20.** **Consider Adopting a Resolution in Support of Authorizing the Implementation of the Upper Berryessa Creek Risk Management Project Without the Proposed Waste Discharge Requirements (Staff Contact: Nina Hawk, 408-586-2603)**

***21.** **Consider Adopting a Resolution Opposing an Increase to the San Francisco Public Utilities Commission and the Santa Clara Valley Water District Wholesale Water Rate (Staff Contact: Nina Hawk, 408-586-2603)**

XIX. AGREEMENTS

***22.** **Approve Amendment No. 8 to the Consultant Agreement with Schaaf & Wheeler to Extend the Term to March 1, 2018 for Storm Drain/Stormwater Program Documentation Review for the Silicon Valley Rapid Transit (BART), Program Berryessa Extension, Project No. 4265 (Staff Contact: Steve Chan, 408-586-3324)**

***23.** **Approve and Authorize City Manager to Execute an Agreement with IBI Group Architecture Planning for the McCandless Park Design and Approve a Budget Appropriation for Project No. 5102 (Staff Contact: Steve Erickson, 408-586-3301)**

***24.** **Approve and Authorize the City Manager to Execute Amendment No. 5 to the Consulting Service Agreement with Mott MacDonald, LLC to Increase Compensation in the Additional Amount of $210,000 Associated with Land Development Projects (Staff Contact: Greg Chung, 408-586-3355)**

***25.** **Approve Amendment No. 1 to the Agreement with the Law Firm of Liebert Cassidy Whitmore (Staff Contact: Tom Williams, 408-586-3050)**

***26.** **HOUSING AUTHORITY & SUCCESSOR AGENCY: Approve the Second Amendment to the Agreement with Richard E. De La Rosa doing business as Forest Consulting LLC for Successor Agency and Housing Authority Support Services, Increasing the Agreement to the Not-To-Exceed Amount of $50,000 Through the End of Fiscal Year 2016-17 (Staff Contact: Tom Williams, 408-586-3050)**

XX. DEMAND

***27.** **Authorize Payment to County of Santa Clara Registrar of Voters for November 2016 Election Costs (Staff Contact: Mary Lavelle, 408-586-3001)**

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

XXII. ADJOURN JOINT MEETING

NEXT REGULAR CITY COUNCIL MEETING: TUESDAY, MARCH 7, 2017

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

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

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

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3rd floor 455 E. Calaveras Blvd., Milpitas and on the City website.

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

APPLY TO SERVE ON A CITY COMMISSION

Current vacancy on: Emergency Preparedness 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.

XIII. PUBLIC HEARING

1. Conduct a Public Hearing and Adopt Interim Urgency Ordinance No. 291.1 Extending the Temporary Moratorium on Marijuana Uses Pending Enactment of an Update to the City's Municipal Code (Staff Contact: Christopher Diaz, 408-586-3040)

Background: On January 17, 2017, the City Council adopted Urgency Ordinance No. 291, pursuant to Government Code Section 65858, establishing a forty-five (45) day moratorium on all marijuana uses to the extent allowed by law in light of the passage of Proposition 64 in the state of California.

At this same meeting, the City Council established a subcommittee of two councilmembers to examine potential regulations regarding marijuana uses. The first subcommittee meeting was held on February 9, 2017 and the next meeting is scheduled February 27, 2017.

City staff, including the City Council subcommittee, is continuing to study the potential effects of various marijuana uses in the City. Each particular marijuana use is being evaluated to determine the potential risks and benefits to the City of allowing, regulating, or banning the use. It is anticipated that the Milpitas Planning Commission will consider proposed amendments to the Milpitas Municipal Code soon and subsequently be presented to the City Council for adoption.

While the amendments are being prepared and adopted, City staff believes it is critical that the moratorium be extended in accordance with Government Code Section 65858. The current Ordinance No. 291 is set to expire on March 3, 2017. Staff recommends extending the Ordinance for 10 months and 15 days.

Fiscal Impact: None.

California Environmental Quality Act: This Ordinance is not a project within the meaning of Section 15378 of the State CEQA Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The City Council further finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this Ordinance is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Recommendations:

1. Conduct a public hearing, and move to close it following any speakers.
2. Direct the City Attorney to read the title aloud of Ordinance No. 291.1.
3. Move to waive the reading beyond the title and adopt Interim Urgency Ordinance No. 291.1, extending the temporary moratorium on marijuana uses pending enactment of an update to the City's Municipal Code.

XIV. UNFINISHED BUSINESS

2. Receive Update on the Operation of the Community Access Television Channel 26 and Request Future Direction (Staff Contact: Mike Luu, 408-586-2706)

Background: In April of 2009, Council approved an agreement with Milpitas Community Television (MCTV) for operation of the Milpitas Public Access Channel and studio. The agreement was automatically renewed in April of 2012 for another three years. MCTV has been operating Channel 26 and the studio with funding from the City's franchise agreement

with Comcast Inc. As part of the agreement, MCTV operates the studio and the City maintains and upgrades the equipment. Staff presented Council with the recommendation for staff to go through with the Request for Proposal (RFP) process to obtain an operator for the management of the community access television channel and studio.

In summary, the RFP requested these goals for the operator to meet and adhere to:

- Implement a community television solution that is financially and operational stable.
- Provide techniques for assessing community needs and new opportunities.
- Provide opportunities for openness and transparency in the operation of the station.
- Increase community support.
- Provide innovations for advancing the station in the ever-changing technology of video and television production.
- Provide educational training programs, non-profit engagement and marketing that support community access television.
- Provide greater community station effectiveness to include independent art and cultural groups, entertainment groups, sports and recreation associations.

Recommendation: Receive the report on the responses to the RFP and provide direction to staff for next steps.

3. Receive Information on Nepotism Policy of the City of Milpitas (Staff Contact: Chris Diaz, 408-586-3040)

Background: On January 24, City Council asked for clarification regarding the City's nepotism policy. In general, the Municipal Code states that "[n]o person shall be disqualified for appointment as an employee of the City or disqualified from assignment or transfer for the sole reason that said person is a relative of another City officer or employee except in limited circumstances. Those limited circumstances would include where the person is subject to supervision, evaluation, discipline or having his/her compensation determined by a relative, where a department head is a relative of a person within that department, or where a division head is a relative of a person within that division." Generally, this language is consistent with the desire to limit situations where an employee is serving under the supervision or control of a relative as allegations of favoritism may result.

The City's Municipal Code further specifies that no relative of the City Manager or any Councilmember may serve in a City position except where either of the following two situations occur:

- The electorate shall still have the power to elect a Mayor or Councilmember, notwithstanding the fact that at the time of said election, said Mayor or Council member shall have a relative employed by the City; or
- Mayor or Council shall still have the power to appoint any Councilmember or other City officer, notwithstanding the fact that at the time of the appointment, the appointee has a relative employed by the City.

Noted is that nepotism policies generally are aimed at reducing situations where one relative has authority over another relative. It does not appear such authority would exist where a Councilmember appoints a relative to a task force as the task force works without City Council input and control and makes an independent recommendation to the City Council.

A copy of Milpitas Municipal Code VI-101-18.00 is included in the agenda packet.

Recommendation: to receive information on the policy on nepotism for the City of Milpitas, in response to Council's request.

*** 4. Receive Report on In-House vs. Contract Printing Services, and Approve Amendment No. 3 to the Agreement with JP Graphics, Inc. for City-wide Printing Services (Staff Contacts: Chris Schroeder, 408-586-3161 and Jane Corpus, 408-586-3125)**

Background: Prior to 2009, the City operated a print shop in the Public Works warehouse which was staffed by one full-time Printing Services Technician II. In the shop, two main pieces of equipment were an AB Dick Model 9985 two color press and a Kodak Image Source 110 copier. Other equipment in that shop included folding machines, booklet binders, cutters, binding device and plate makers. The City's print shop was limited in terms of what products it could produce, and so larger more complicated print jobs were outsourced. All of the equipment was ten or more years old. In 2009, the shop closed following lay-offs during the economic downtown. At the time, the shop was operated by one Printing Services Technician II, whose salary and benefits in 2009 cost $97,659.

Question – What would it cost to bring the print shop in house?
City staff requested a quote from PFS Print & Finishing Solutions, a vendor that specializes in printing equipment. To open up a new print shop, the City would need approximately 2,000 - 4,000 square feet to house the equipment. The total equipment purchase would cost between $1 to $1.6 million, depending on what type of print jobs were needed. Then, the City would need to determine the number employees to operate the equipment purchased.

Supplies needed would include different paper stock, ink colors, solvents, glue, envelopes, card stock, etc.

New Print Shop Start Up – Year One			**vs. Annual Out-Source to JP Graphics**
Maintenance Worker II – (Average)	$131,000		including amendment 3
Annual Amortized cost of the equip	$143,000(a)		
Supplies – paper, ink, etc	$ 60,000		
Annual Service contracts for equip	$ 40,000		
Total Estimate	$374,000	vs.	$155,000

(a) $1,000,000 of Equipment amortized for 7 years.

Expenses by Department
In 2015, the City's print contract was awarded to JP Graphics, the best value proposer after consideration of all evaluation criteria. First year costs were $172,872.35 including items that do not occur annually such as flag banners and Engineering Department's Proposition 218 mailings for utility rates. Below are the individual departments' costs on printing and mailing services for the past two years. Some increases were due to additional outreach to residents and businesses in the City.

	2/1/16-1/11/17	2/1/15-1/31/16
City Council	$1,644.85	$ 3,436.45
City Manager/Economic Development	2,381.54	13,993.54(b)
City Clerk	220.22	280.03
Human Resources	190.32	287.50
Recreation	18,210.97(c)	9,983.76
Finance	4,366.33	4,282.88
Public Works	8,584.69(d)	67.97
Engineering (Includes Postage)	57,686.99	83,485.95(e)
Planning	11,875.70	10,563.55
Building	894.48	1,463.38
Police	5,926.89	9,119.38
Fire	5,327.68	4,149.28
CIP	1,854.20	5,000.20
Flag Banners	0.0	24,179.13(f)

TOTAL	**119,164.86**	**172,872.38**
Less Postage	(18,185.15)	(31,236.53)(g)
Less Banners		(24,179.13)
Net Printing	**$100,979.71**	**$117,456.72**
Total number of pages	**837,955**	**786,971**
Average cost per page	**$0.120**	**$0.149**

(b) Sent out a Resident Newsletter, includes postage
(c) Sent out Safe Routes to School tips, bike maps, Healthy Eating brochures, Family bike rides, family picnic/pumpkin patch, senior newsletters
(d) Water conservation project
(e) Solid Waste RFP Post card, Recycled Household Hazard, Prop 218 Mailer, solid waste door hanger, "Reusable News Single Family Dwelling" newsletter, postage, business recycling program
(f) Flag banners for the City
(g) JP Graphics provides the City first class postage at $.41 and bulk rate postage at $.29 with no markup

Question - what is the cost per page?
It depends on a number of factors starting with what material is printed: a business card, a post card, a flyer, a brochure, etc, type of the paper used, number of impressions, and finishing. The average price per unit based on a combination of those factors listed earlier is:

Postcard - $0.08
Door hanger - $0.13
Multi-page Newsletter $0.36

Various City departments continue to use the City-wide printing and mailing services under the agreement resulting in a higher demand than anticipated and requiring a further increase in the agreement compensation amount to cover the additional services. Accordingly, staff requests the Council to approve amending the agreement to increase the maximum annual amount for years Three through Five by $20,000, resulting in a new total maximum five-year compensation amount of $780,010.

Fiscal Impact: None. This is a programmed expense in the each City department operating budget.

Recommendations:
1) Receive report on in-house versus contracted (outside) printing services.
2) Approve Amendment No. 3 to the Agreement with JP Graphics, Inc. for city-wide printing services, increasing the annual maximum compensation amount by $20,000 for contract years three through five, resulting in a five-year total maximum amount of $780,010.

5. Waive Reading Beyond the Title and Adopt Urgency Ordinance No. 43.212 Amending Chapter 100 of Title V of Milpitas Municipal Code Relating to Overnight Parking Time Limits in any parking lots or designated areas adjacent to or at a City Park, Removal of Vehicles Unlawfully Parked or Standing in a City Park, and Parking Time Limits in Bob McGuire Park and on Streets Fronting Bob McGuire Park (Staff Contacts: Steve Chan, 408-586-3324 and Chris Diaz, 408-586-3040)

Background: Bob McGuire Park is located on Garden Street in a new Transit Area residential district. The City opened Bob McGuire Park to the public on September 3, 2016. Since the park opening, staff observed vehicles are frequently stored within the park's vehicle

parking lot during overnight hours. Overnight storage of vehicles within the park presents a misuse of city park facilities.

In September and October, 2016, staff conducted outreach to residents and the leasing office of Amalfi development located adjacent to Bob McGuire Park by email and flyer explaining the observed misuse of park's parking lot during overnight periods. To prevent overnight parking, City Public Works placed temporary overnight parking restriction signage and temporary barriers at the park's parking lot entrances. This had little effect curbing continual overnight parking in the park. On January 23, 2017, chained posts were installed to physically restrict vehicles from entering the parking lot during overnight periods. On January 25, 2017, staff documented that vehicles drove through the chained parking lot entrances, damaging City property, and continued to park in the park's parking lot during the nighttime hours. Furthermore, there was evidence that vehicles drove onto the park's pedestrian walkways to bypass the closed parking lot entrances creating a public safety issue with vehicles driving in areas where pedestrians could be potentially injured. Staff recommends amending the Milpitas Municipal Code to prohibit overnight parking in city parks and authorize the removal of vehicles unlawfully parked or standing in city parks.

In addition, the public reported park access is difficult due to a shortage of vehicle parking in and around Bob McGuire Park during the park operation hours. Staff recommends limited time parking in Bob McGuire Park and on streets fronting Bob McGuire Park to create greater parking turnover and more opportunities for the public to access Bob McGuire Park. A 3-hour time limit is proposed in Bob McGuire Park parking lot and streets fronting Bob McGuire Park, including Garden Street and Merry Loop, during the periods between 6 AM and 9 PM every day unless a city park rental exception is applied. Overnight parking on Garden Street and Merry Loop will not be restricted between 9 PM to 6 AM.

For public safety, to prevent damage to City property and to create greater parking opportunity for public to access Bob McGuire Park, staff prepared Urgency Ordinance No. 43.212 amending Chapter 100 of Title V of the Milpitas Municipal Code to place overnight parking time limits in any parking lots or designated areas adjacent to or at a City Park, removal of vehicles unlawfully parked or standing in a City Park, and parking time limits in Bob McGuire Park and on streets fronting Bob McGuire Park.

This urgency ordinance requires a vote of 4/5 to pass and would become effective upon adoption. A copy of the proposed ordinance is included in the Council agenda packet.

Fiscal Impact: None.

Recommendations:

1. Following the City Attorney's reading of the title, move to waive the reading beyond the title of Ordinance No. 43.212.
2. Adopt Urgency Ordinance No. 43.212 by at least a four-fifths vote, effective immediately.

XV. REPORTS OF OFFICERS AND COMMISSION

* 6. Consider Mayor's Recommendation for One Appointment to the Citizen's Task Force on Water Rates (Contact: Mayor Tran, 408-586-3029)

Background: The Citizens Task Force on Water Rates was appointed by the previous City Council on September 20, 2016. This body has met twice to date. Each City Councilmember nominated two residents while the previous Mayor recommended three members.

In 2017, the City Council has considered adding additional members to this body. On January 17, one additional resident was appointed upon recommendation of a new Councilmember. Mayor Tran has a recommendation to add more additional member.

Recommendation: Per recommendation of Mayor Tran, appoint resident Jennifer Strohfus to the Milpitas Citizens Task Force on Water Rates.

7. Request to Authorize More than Four Hours of Staff Time to Explore Issue of Charter City Status (Contact: Councilmember Phan, 408-586-3032)

Recommendation: City Council heard the distinction between General Law and Charter City status for California municipalities from the City Attorney on January 24, and now may choose to authorize staff to spend more than four hours of time to study and report back on the matter of Charter City status.

8. Per Request of Councilmember Phan, Receive City of Milpitas Flag Policy and Hear Request Regarding Flag of Vietnam (Contact: Councilmember Phan, 408-586-3032)

Background: Councilmember Phan requested information on the city's policy regarding the flying of national flags. Staff provided both current Milpitas Municipal Code (from ordinance adopted in 2003) and the current application form for any organization or person requesting to fly the flag of another nation on City grounds.

Current policy mandates that any request to fly the flag of another nation on City grounds must be brought to the City Council at a public hearing for consideration and approval.

Councilmember Phan may describe his request regarding a proposal specifically regarding the flag of the nation of Vietnam.

Recommendation: Receive information on current City of Milpitas policy on flag flying, hear request of Councilmember Phan and direct staff, as appropriate.

9. Per Request of Councilmember Phan, Discuss Topics of Sanctuary City Status and Possible Resolution of Opposition to President's Travel Ban (Contact: Councilmember Phan, 408-586-3032)

Recommendation: Councilmember Phan would like to discuss with his colleagues the topics of sanctuary city status; and, a possible action in opposition to recent policy of the U.S. President. Direct staff, as appropriate.

***10. Per Request of Councilmember Nuñez, Consider Naming of the Old Veterans Plaza in Honor of Cesar Chavez (Contact: Councilmember Nuñez, 408-586-3023)**

Background: At the request of Councilmember Nuñez, City Council is asked to consider naming the former City Veterans Plaza, east of the Senior Center, in honor of Cesar Chavez, an American labor leader and civil rights activist. The plaza would be further utilized as a place to recognize other civil rights leaders through ceremonies, plaques and small events. Cesar Chavez is on the approved "Influential People" naming list and meets the City Streets, Parks and Facilities Naming Standard Operating Procedure Criteria, 1.C:

c. Historical or cultural significance: the name of a historical figure can be considered if the figure had a significant and extraordinary historical influence on the area, state, national or international level

Initial costs of naming the Plaza consist of decorative lettering and a plaque. An event would occur on Friday, March 31, 2017, Cesar Chavez's Birthday, to formally dedicate the space.

Fiscal Impact: $9,100 appropriation from General Government CIP to Special Events 100-167-4221.

Recommendation: Approve the naming of Cesar Chavez Plaza at the former Veterans Plaza site and approve a budget appropriation of an amount not to exceed $9,100.

***11. Per Recommendation of the Arts Commission, Establish New Memorial Arts Scholarship in Memory of Arts Leader Larry Voellger and Allocate $2,000 to Fund the Scholarship (Staff Contact: Renee Lorentzen, 408-586-3409)**

Background: The Arts Commission, per its approved 2016-17 work plan, recommends to the City Council to establish a Memorial Arts Scholarship in memory of MAFTA (Milpitas Alliance for the Arts) founding president, longtime Arts Commissioner, and local arts advocate Larry Voellger. At the January 23, 2017 Commission meeting, Commissioners unanimously approved the Larry Voellger Memorial Arts Scholarship Application and Criteria to honor his dedicated service to the arts in the City of Milpitas. Mr. Voellger was integral in establishing the first "Art in Your Park" public art program in Milpitas and supported quality, multicultural experiences in visual and performing arts in the city.

The proposed memorial scholarship is for graduating seniors who attend a Milpitas Unified School District high school (Milpitas High School and Calaveras Hills High School.) There will be four scholarship winners, each receiving $500. Applications will be reviewed and recommended for final City Council approval by a subcommittee of Arts Commissioners and a representative from the Voellger family.

Fiscal Impact: $2,000 from the City Council Unallocated Promotions Budget.

Recommendation: Approve the allocation of funds in the amount of $2,000 from the Council's Unallocated Community Promotions Budget for Arts Commisioner Larry Voellger Arts Scholarship.

XVI. NEW BUSINESS

12. Discuss Status of the Milpitas Chamber of Commerce's International BBQ and Festival (Staff Contact: Tom Williams, 408-586-3050)

Background: Over the past three years, the Milpitas Chamber of Commerce requested the City of Milpitas to co-sponsor the Chamber's International BBQ and Festival. As a co-sponsor, the City provided services and waived all associated fees in support of the Chamber's event. City fees included event preparation and staffing, staff overtime costs related to traffic control, event security staffing, fire protection, mobile stage rental, fire and building permits and inspections.

This year again, the City is anticipating the Chamber of Commerce to request a co-sponsorship waiving all City associated event permits, event staffing and inspection fees. As such, City staff is seeking to obtain direction from the City Council as to the level of involvement, decision making desired by the Council as a possible co-sponsor of the event, and cost benefit of co-sponsorship. It should be noted there has been no commitment by the City to co-sponsor this year's event.

Fiscal Impact: None at this time. Co-sponsorship of the event could cost the City from between $20,000 to $25,000.

Recommendation: Discuss and provide directions on co-sponsorship terms.

***13. Receive Financial Status Report for the Six Months Ended December 31, 2016 (Staff Contact: Jane Corpus, 408-586-3125)**

Background: This mid-year financial report places a focus on the City's major operating funds, including General, Water and Sewer. As of December 31, 2016, the General Fund received approximately $39.3 million in total revenue. This amount is $13.3 million more than the revenues received for the same period in FY 2015-16 primarily due to the $7.2 million reimbursement for the purchase of the property sold to the Milpitas Unified School District. Other areas of increase were in the sales tax revenue, building and fire permit fees, and transient occupancy tax revenue. Sales tax revenue was up by about $3.2 million from the same period last year. Building and fire permits increased by $3.5 million over last year due to increased development, and developers wanted to pay their fees before the building code changed on December 31. Staff anticipates that the overall General Fund revenue will be on track with the budget projection.

City departments' expenditures in the first half of the fiscal year were also on track with their budgets. Overall expenditures were at about 46.87% of the operating budget. Typically for the first half of the fiscal year and as noted, expenditures for some departments exceeded 50% for the first six months. However, these spending patterns are typical due to various invoices that need to be paid at the beginning of each fiscal year instead of being able to spread expenditures evenly throughout the year. Examples of such expenditures include software license maintenance fees which were paid from the Information Services Department budget. Other types of expenditures that caused some departments to exceed the 50% were due to retirement leave cash outs in Engineering and overtime in Fire that will be reimbursed by the state for mutual aid. Also, the City Attorney's department expenditures include charges that are reimbursable. In Non-departmental, there was a one-time reimbursement of $1.3 million for soil remediation completed by Milpitas Unified School District prior to the sale of property.

Putting general revenues and expenditure projections together displays a balanced equation at the end of the year. With that said, cost and budgetary control remain key in maintaining a sound fiscal plan for this year and as the City moves forward.

The Water and Sewer funds remain within the expected patterns in terms of revenue.

Fiscal Impact: None.

Recommendation: Receive financial status report for the six months ended December 31, 2016.

***14. Move to Remove Alternate Member No. 1 from the Park, Recreation and Cultural Resources Commission (Staff Contact: Mary Lavelle, 408-586-3001)**

Background: Samu Tiumalu was appointed as an Alternate Member of the Parks, Recreation and Cultural Resources Commission on February 3, 2015. During the past eight months on 2016 and 2017, he was unavailable and did not attend any Commission meetings.

City Clerk sent him a letter of inquiry earlier this month, to which he did not respond. Due to lack of attendance and perceived lack of interest to serve any longer on the Commission, City Council is asked to remove the Alternate Member. His current term will expire in June of 2018 and this action will create a vacancy on that Commission.

Recommendation: Vote to remove Alternate No. 1 Samu Tiumalu on the Recycling and Source Reduction Advisory Commission, creating one vacancy.

***15. Accept the State of California Board of State and Community Corrections City Law Enforcement Grant (Staff Contact: Henry Kwong, 408-586-2419)**

Background: The California State Legislature awarded a City Law Enforcement Grant in the amount of $108,568.32 to the City of Milpitas through the Board of State and Community Corrections (BSCC) by the 2016 Budget Act as authorized by Senate Bill 826. No City matching funds are required. The BSCC specifies that these funds must be used to increase positive outcomes between municipal law enforcement and high-risk populations in specified program areas.

The Milpitas Police Department recommends the use of the award in the following program areas pursuant to the BSCC City Law Enforcement Grant:

1. Homeless outreach teams
2. Crisis Intervention Training for officers
3. Resources for drug endangered children

Fiscal Impact: None. The State of California Board of State and Community Corrections (BSCC) City Law Enforcement Grant will cover the cost of the recommended program areas listed.

Recommendations:
1. Accept the Board of State and Community Corrections (BSCC) City Law Enforcement Grant in the amount of $108,568.32 to be utilized on identified police programs.
2. Approve a budget appropriation in the amount of $108,568.32 to the Police Department's operating budget.

XVII. ORDINANCES

***16. Waive the Second Reading and Adopt Ordinance No. 38.827 Amending the Zoning Code to Allow Places of Assembly in the M1, M2, and MP Zoning Districts with a Conditional Use Permit and Amending Title XI, Chapter 10, Section 7.04 to Adopt Special Development and Performance Standards Applicable to Places of Assembly within Industrial Zones (Staff Contact: Bradley Misner, 408-586-3273)**

Background: Following waiving of the first reading beyond the title, Ordinance No. 38.827 was introduced at the February 7, 2017 City Council meeting. This Ordinance has been updated, including the revised language change to Subsection B.(3)(d.) to ensure no new structure shall be constructed within the M1, M2, or MP zoning district for use as a place of assembly. The revised language was indicated and read into the record by the City Attorney on February 7, 2017. The Ordinance is now ready for its second reading and adoption.

Recommendation: Waive the second reading and adopt Ordinance No. 38.827 for amendments to zoning related to places of assembly.

***17. Waive the Second Reading and Adopt Ordinance No. 38.828 Amending Title XI, Chapter 10, Section 6.04 of the Milpitas Municipal Code to Allow A Decrease in Densities for lots less than 20,000 square feet in size and located in the "Mixed-Use" Zoning District (Staff Contact: Michael Fossati, 408-586-3274)**

Background: Ordinance No. 38.828 was introduced following the waiving of the first reading beyond the title at the February 7, 2017 City Council meeting. This Ordinance is now ready for its second reading and adoption. This Ordinance allows a decrease of residential units below the minimum standards for mixed-use development projects for certain sized lots within the "Mixed-Use" zoning district.

Recommendation: Waive the second reading and adopt Ordinance No. 38.828 amending Mixed-Use zoning regulation.

***18. Waive the Second Reading and Adopt Ordinance No. 292 Adding Chapter 31 to Title III of the Milpitas Municipal Code to Increase the Minimum Wage to $15.00 Per Hour by July 1, 2019 (Staff Contacts: Tom Williams, 408-586-3050 and Edesa Bitbadal, 408-586-3052)**

Background: Ordinance No. 292 was introduced following the waiving of the first reading beyond the title at the February 7, 2017 City Council meeting. The Ordinance was revised at the City Council meeting by removing all exemptions, including exemptions to small businesses and bargaining units. This Ordinance has been updated and is now ready for its second reading and adoption. Ordinance No. 292 is to set the minimum wage in the City of Milpitas to $15.00 per hour by July 1, 2019. The schedule of increases is included in the ordinance language.

Recommendation: Waive the second reading and adopt Ordinance No. 292 to implement a minimum wage of $15.00 per hour by July 1, 2019.

XVIII. RESOLUTIONS

***19. Adopt a Resolution Authorizing the Purchase of One Caterpillar Backhoe Tractor and Attachments for the Public Works Department from Peterson Caterpillar Through a Cooperative Agreement in the Amount of $161,000 (Staff Contacts: Chris Schroeder, 408-586-3161 and James Levers, 408-586-2648)**

Background: The City of Milpitas Public Works Department currently maintains four Caterpillar engines in its fleet at the Storm Water and Potable Water Pumping Stations. Public Works also has a backhoe tractor at the end of its life requiring frequent repairs and there is no local support or service available. This Caterpillar Backhoe Tractor would be a direct replacement. Public Works chose Caterpillar for two main reasons. First, the department's mechanics are trained on Caterpillar and are very familiar with required maintenance and repairs. Secondly, service by factory trained technicians and replacement parts are highly accessible due to Peterson Caterpillar's San Leandro, CA location. This provides continuity of the product line. Caterpillar backhoe tractors deliver the power and precise handling needed when operating in areas where using larger equipment is not practical. Because of their small frame size and versatility, Caterpillar backhoe tractors improve productivity and lower operating costs.

Section I-2-3.08 ("Cooperative Procurement") of the Milpitas Municipal Code authorizes the City Council to award contracts without competition, when the purchase is pursuant to a cooperative agreement by another public agency in California that used competitive negotiation or bidding procedures at least as restrictive as the City's.

Municipal Code Section I-2-3.08 ("Cooperative Procurement") specifically authorizes the Purchasing Agent to make such purchases based on an agreement or cooperative purchasing program entered into by any of the following public agencies, regardless of whether the City is a named party to the agreement or an actual participant in such a program: (a) Any public agency situated within the State, if the underlying purchase was made using competitive negotiation, or bidding procedures at least as restrictive as the City's, including the California Multiple Award Schedules (CMAS), the U.S. Communities Government Purchasing Alliance, National Joint Powers Alliance (NJPA), Western States Contracting Alliance (WSCA) or any California County contract; and (b) The Federal GSA Contracts.

A contract was awarded to Caterpillar, Inc. pursuant to the National Joint Powers Alliance Request for Proposal entitled "Heavy Construction Equipment with Related Accessories, Attachments, and Supplies." The Purchasing Agent reviewed all of the documentation related to the RFP and the original contract awarded to Caterpillar, Inc. and determined that the underlying purchase was made using competitive bidding procedures at least as restrictive as those of the City of Milpitas and that the competitive price for the backhoe is the same as that offered in the original contract. Peterson Caterpillar in San Leandro, CA is the NJPA assigned distributor for the local geographical region.

Fiscal Impact: None. Sufficient funding is in the FY 2016-17 Operating Budget for this purchase.

Recommendation: Adopt a resolution authorizing the purchase of one Caterpillar Backhoe Tractor and Attachments from Peterson Caterpillar through a cooperative agreement pursuant to Milpitas Municipal Code Section I-2-3.08 in the amount of $161,000.

***20. Consider Adopting a Resolution in Support of Authorizing the Implementation of the Upper Berryessa Creek Risk Management Project Without the Proposed Waste Discharge Requirements (Staff Contact: Nina Hawk, 408-586-2603)**

Background: The Santa Clara Valley Water District's Berryessa Creek Flood Risk Management Project is a flood control project that encompasses approximately 2.2 miles of Berryessa Creek from Calaveras Boulevard to Interstate 680. Upper Berryessa Creek has a history of flooding, having experienced major events within the project area in 1982, 1983, and 1998. In 1982, the bank overflowed south of Calaveras Boulevard. To date, the creek has a 25 percent chance of flooding each year. The proposed Upper Berryessa Creek flood protection project offers an opportunity for a multi-purpose project to increase flood protection, create recreational opportunities and improve the environment. The completed Upper Berryessa Creek Risk Management project is anticipated to offer flood protection from 100-year flood events for the new Milpitas BART station as well as 624 parcels in Milpitas and San Jose. The project is administered by the SCVWD and the U.S. Army Corp of Engineers (USACE).

Under section 401 of the Clean Water Act, the state must certify any activity subject to a federal permit meets all state water quality standards. Under the California Porter Cologne Water Quality Control Act, state regional boards regulate the "discharge of waste" to any waters of the state by issuing waste discharge requirements (WDR). In California, the Regional Water Quality Control Board (RWQCB) has the responsibility of issuing both the 401 Certification (401) and WDR's. RWQCB, USACE, and SCVWD staff have been engaged in discussions regarding both the 401 and WDR for the Project since 2015. A timeline is captured below:

- September 2015: The USACE submitted its 401 permit application. It was initially deemed incomplete, and several more discussions took place until such time as the RWQCB deemed the application complete and issued the original 401 certification for the project on March 14, 2016 to the USACE.

- August 22, 2016: The RWQCB staff issued a Waste Discharge Requirements (WDR) tentative order, which named both the USACE and SCVWD as dischargers and required approximately 20 acres of mitigation as the result of project impacts. USACE and SCVWD both objected via written comment, and the original proposed October 12, 2016 public hearing on the matter was postponed.

- November 2, 2016: The RWQCB staff issued a revised tentative order which combined the 401 certification and WDR into a single document naming both the

USACE and SCVWD as permittees, allowing RWQCB to rescind the original 401 certification. This item was to be considered at the December 14, 2016 RWQCB hearing. Once again, the USACE and SCVWD objected via written comment. The item was again postponed.

- January 5, 2017: The RWQCB staff posted a final revised tentative order (combining both the 401 and WDR) as well as the response to the public comments received from August 2015 from all of the previous proposed orders. A RWQCB hearing was held on January 11, 2017, at which the USACE, SCVWD, and several members of the community objected to issuance of the proposed revised tentative order, and the item was continued until the RWQCB's March 8, 2017 hearing.

SCVWD has indicated that if the original 401 certification is rescinded and the combined 401/WDR is approved, the USACE may stop work on the project while congressional reauthorization is explored. At which point the item cannot be resolved at the state level, it must be elevated to USACE headquarters in Washington D.C. Probable outcomes become difficult to forecast. The estimated cost for a 20 acre contiguous restoration project is difficult to forecast. Current general estimates place the cost of implementation in excess of $20 million.

Recommendation: Adopt a resolution in support of authorizing the implementation of Upper Berryessa Creek Risk Management Project without the proposed waste discharge requirements.

***21. Consider Adopting a Resolution Opposing an Increase to the San Francisco Public Utilities Commission and the Santa Clara Valley Water District Wholesale Water Rate (Staff Contact: Nina Hawk, 408-586-2603)**

Background: The City of Milpitas operates and maintains a potable water distribution system. The water rates charged to customers for the City's water distribution system are based on: 1) the cost of water charged by water wholesalers, 2) cost of services and delivery of water and 3) administration costs of the water utility system. On December 15, 2015, the City Council adopted Ordinance No. 120.47, "An Ordinance of the City Council of the City of Milpitas Amending Chapter 1 of Title VIII of the Milpitas Municipal Code Relating to Water Service Charges" to impose new water rates associated with delivering and providing safe potable water to the City's customers. On September 6, 2016, the City established a Citizens Task Force on Water Rates in order to address customer concerns regarding those increases to water rates.

The City of Milpitas receives all potable drinking water from the San Francisco Public Utilities Commission (SFPUC) and from the Santa Clara Valley Water District (SCVWD). The cost to purchase wholesale water from SFPUC and SCVWD is approximately 72% of the City's customer water rate. When water wholesalers increase their cost of water through a rate increase, this directly impacts the cost to purchase water. Both SFPUC and SCVWD are considering additional rate increases through fiscal year 2017-2018. The continuation of rate increases has a detrimental impact on low- and fixed-income households in the City of Milpitas who find their household budgets constrained as the cost of water increases.

Furthermore, wholesale water rate increases impact the City of Milpitas' ability to properly operate, maintain and deliver water, without increasing the City's municipal water rates.

Recommendation: Adopt a resolution opposing an increase to the San Francisco Public Utilities Commission and the Santa Clara Valley Water District Wholesale Water Rate.

XIX. AGREEMENTS

***22. Approve Amendment No. 8 to the Consultant Agreement with Schaaf & Wheeler to Extend the Term to March 1, 2018 for Storm Drain/Stormwater Program Documentation Review for the Silicon Valley Rapid Transit (BART), Program Berryessa Extension, Project No. 4265 (Staff Contact: Steve Chan, 408-586-3324)**

Background: The amendment is for a time extension only and no additional funds are requested at this time. Santa Clara Valley Transportation Authority (VTA) continues to move forward on the design and construction of the Bay Area Rapid Transit (BART) extension project. Engineering support is necessary as the Milpitas BART station and parts of the BART alignment are within a floodplain requiring relocation of existing and/or installation of new City storm drain pipes, and compliance verification with mandatory storm water program requirements.

On August 3, 2010, the City entered into a Master Agreement with the Santa Clara Valley Transportation Authority (VTA) for reimbursement of City work on the Silicon Valley Berryessa Extension project. On January 26, 2012, the City entered into a Consultant Services Agreement with Schaaf & Wheeler for professional engineering services for the BART extension project. Over the past four years, the City Council has approved seven amendments to the Consultant Agreement and extended the term through February 28, 2017 in an amount not to exceed $100,000. Amendment No. 8 would extend the term of the contract by 12 months to March 1, 2018 with no changes to compensation for additional services.

California Environmental Quality Act: The action is not considered a project under CEQA as there will be no direct, or reasonably foreseeable indirect physical change in the environment.

Alternative: If the amendment is not approved, staff will not be available to provide support to the project which will impact construction and inspection of City infrastructure.

Fiscal Impact: None. There are sufficient funds in the project budget. Consultant expenses and City staff labor are reimbursable under the VTA Master Agreement.

Recommendation: Approve Amendment No. 8 to the Consultant Agreement with Schaaf & Wheeler to extend the term to March 1, 2018 for Storm Drain/Stormwater Program Documentation Review for the Silicon Valley Rapid Transit (BART) Program Berryessa Extension, Project No. 4265.

***23. Approve and Authorize City Manager to Execute an Agreement with IBI Group Architecture Planning for the McCandless Park Design and Approve a Budget Appropriation for Project No. 5102 (Staff Contact: Steve Erickson, 408-586-3301)**

Background: The design and construction of McCandless Park, Project No. 5102, is in the approved 2016-2021 Capital Improvement Program. This project provides for a new public park adjacent to the new Milpitas Unified School District (MUSD) elementary school that will be constructed along McCandless Drive within the City's Transit Area. This four-acre park will be a joint use park benefitting the City and the School District, and will include a sports field, athletic court, picnic area, play structure, walking trail, and restrooms. The City is coordinating the design and construction of the park with the District's construction of the elementary school. The estimated cost to construct the park is $2.8 million, and the desire is to have construction completed by August 2018.

To meet this tight design and construction schedule and to better ensure harmony of design between the park and the elementary school, staff recommends use of the same design team

as used by the District for the elementary school. IBI Group Architecture Planning was hired by the District for design of the school, and IBI Group Architecture Planning is also on the City's list of approved architects obtained through the City's consultant selection process.

Staff negotiated a scope and fee for park design services with IBI Group for a not to exceed total of $544,994, which is considered reasonable for the work associated with this type of project. A budget appropriation of $400,000 from TASP Impact Fees is recommended for the award of the design contract with IBI Group Architecture Planning to start the park design process.

Alternative: Denial of this request would result in not moving forward with this project.

Fiscal Impact: A budget appropriation in the amount of $400,000 from the TASP Impact Fees into Project No. 5102 will be required to award this contract.

Recommendations:

1. Approve and Authorize the City Manager to execute an agreement with the IBI Group Architecture Planning, in the amount of $544,994 for Project No. 5102 as specified subject to approval as to form by the City Attorney.
2. Approve a budget appropriation in the amount of $400,000 from the TASP Impact Fees into Project No. 5102.

***24. Approve and Authorize the City Manager to Execute Amendment No. 5 to the Consulting Service Agreement with Mott MacDonald, LLC to Increase Compensation in the Additional Amount of $210,000 Associated with Land Development Projects (Staff Contact: Greg Chung, 408-586-3355)**

Background: In July of 2014 the City was experiencing a high demand for review of Land Development projects in the City. In response to this demand, the City entered into an agreement with Mott MacDonald, LLC (MMLLC) to provide staff that would sit in City offices and provide project management and plan review assistance. The majority (>90%) of the costs associated with these services were reimbursed to the City by the developers.

A summary of the contracts with MMLLC is summarized in the table below.

Date	Total Amount	Description
July 14, 2014 to June 30, 2015	$19,850	Original contract for assistance with Land Development Review and Land Surveying services
October 7, 2014 to June 30, 2015	$162,960	Amendment No. 1 for assistance with Land Development Review and Land Surveying services
May 19, 2015 to December 31, 2015	$271,200	Amendment No. 2 for assistance with Land Development Review and Land Surveying services
December 1, 2015 to June 30, 2016	$482,950	Amendment No. 3 for assistance with Land Development Review and Land Surveying services
June 1, 2016 to June 30, 2017	$932,950	Amendment No. 4 for assistance with Land Development Review and Land Surveying services
	$932,950	TOTAL Contract Amount to date

High demand for land development reviews and project management has been constant since July 2014 and is also reflected in the current number of projects that the Engineering Department is tracking, which is summarized in the table below.

Project Stage	**Number of Projects**
Entitlement Phase	8
Plan Check	21
Construction	16
TOTAL	45

During this time, the City was attempting to assess long-term staffing needs and was actively recruiting. However, due to a very demanding market for engineers, it has been challenging to find qualified candidates to fill positions. In January 2017, the Engineering Department was able to hire three new permanent staff in the Land Development section including one Associate Civil Engineer, one Assistant Engineer, and one Junior Engineer. New staff is currently taking over some of the Land Development project management and review responsibilities as well as Building Department review and counter coverage duties. Amendment No. 5 to the MMLLC agreement is needed for the remaining Fiscal Year 2016-17 to extend MMLLC's support services to facilitate continuity and transition to new staff and to provide additional staff capacity for the current Land Development review projects. MMLLC is also needed to provide map review and approval services, which is a highly specialized service that requires a licensed Land Surveyor.

On-boarding of new permanent City staff will include transferring 14 of the 29 projects that MMLLC is currently managing to the new City staff. Due to the stage of the project and high level of engagement of the MMLLC staff over the last two years, the remaining 15 projects will be completed by MMLLC staff. This arrangement will also allow for new projects to be started by the new permanent City staff. Also during this time, the City will continue to look for additional permanent staff to minimize the need for outside consultant support.

It is estimated that the total hours needed from MMLLC for the remaining FY is 1,325 hours, which results in an estimated expenditure of $210,000. Anticipated hours needed for this amendment are broken down in the table below.

Service Type	Approx. Hours/week	Duration (months)
Project Management and Plan Review	103 hrs/week with 2.5 consultants	2 months
Land Surveying	16 hrs/week	6 months

The proposed amendment is within the current Engineering Department budget for this function. Revenue from Land Development projects are anticipated to cover the majority of the costs associated with this amendment.

Staff recommends that the City Council approve Amendment No. 5 with an additional compensation in the amount of $210,000 with the total compensation not-to-exceed $1,142,950.

Alternative: Denial of this request will lead to delayed completion of some Land Development Engineering tasks and thus resulting in the City not being in compliance with the California Permit Streamlining Act. Denial of this request will also be inconsistent with the City's Strategic Plan Values for Superior Customer Service. Denial of this request will lead to ineffective project management due to ineffective project transfer and continuity resulting in higher cost for both the City and the developer, and dissatisfied internal and external customers.

California Environmental Quality Act: This action is not considered a project under CEQA as there will be no direct, or reasonable foreseeable indirect, physical change in the environment as this item concerns merely staff augmentation at the City.

Fiscal Impact: The additional cost of $210,000 will be offset by savings in expenditures and reimbursed by the developers through their private job accounts.

Recommendation: Approve and authorize the City Manager to execute Amendment No. 5 to the Consulting Services Agreement with Mott MacDonald, LLC to increase compensation in the additional amount of $210,000 associated with land development projects.

***25. Approve Amendment No. 1 to the Agreement with Liebert Cassidy Whitmore (Staff Contact: Tom Williams, 408-586-3050)**

Background: The City has historically contracted with the Liebert Cassidy Whitmore law firm on personnel matters. The firm has provided superior service during that period. It is requested that the firm's contract be increased by $75,000 to finalize and close out legal costs.

Fiscal Impact: $75,000 funding from contingency reserve.

Recommendation: Approve Amendment No. 1 to the agreement with the Liebert Cassidy Whitmore law firm

***26. HOUSING AUTHORITY & SUCCESSOR AGENCY: Approve the Second Amendment to the Agreement with Richard E. De La Rosa doing business as Forest Consulting LLC for Successor Agency and Housing Authority Support Services, Increasing the Agreement to the Not-To-Exceed Amount of $50,000 Through the End of Fiscal Year 2016-17 (Staff Contact: Tom Williams, 408-586-3051)**

Background: In February 2016, the City entered into an amendment agreement for professional consulting services including land disposition strategies, feasibility analysis and community outreach for properties owned by the former Milpitas Redevelopment Agency now held by the Milpitas Successor Agency. Richard E. De La Rosa, doing business as Forest Consulting LLC, has assisted the former Redevelopment Agency staff, now Successor Agency staff, with reviewing and preparing required documents, providing liaison and outreach with the Milpitas community and outreach to Santa Clara County in the management of the land disposition and sale of the four parcels listed above, as required by state law. In addition, the Housing Authority owns two parcels on South Main Street designated for affordable housing in the state-approved Long Range Property Management Plan but not subject to a forced sale or "clawback" by the Oversight Board if the properties are built out as affordable housing. These include 1504-1620 So. Main Street and 1440 So. Main Street.

The purpose of this amendment is to continue with consulting services to the Successor Agency through completion of the Long Range Property Management plan and disposition of the remaining affordable housing assets that are not subject to the "clawback" provision. The City will continue to expeditiously move forward in good faith per the dissolution law and have the necessary outreach efforts to the community and other governmental agencies.

Fiscal Impact: $50,000 is available in the operating budget.

Recommendation: Direct staff to proceed with Amendment No. 2 to the agreement with Richard E. De La Rosa doing business as Forest Consulting LLC in an amount not-to-exceed $50,000 for services related to the Successor Agency to the former Redevelopment Agency and Housing Authority.

XX. DEMAND

***27. Authorize Payment to County of Santa Clara Registrar of Voters for November 2016 Election Costs (Staff Contact: Mary Lavelle, 408-586-3001)**

Background: In January, the City Clerk received an invoice from the County of Santa Clara Registrar of Voters for its services for the November 8, 2016 municipal election. There were eleven candidates for office and four City ballot measures on the ballot. Candidates who chose to print a Candidate Statement in the sample ballot pamphlet paid the cost for that service by providing a check to the City in August of 2016. The City Clerk's budget is charged the cost for the remainder.

Fiscal Impact: None. $183,622 shall be paid out of the approved FY 2016-17 City Clerk's budget, less the amounts deposited by candidates.

Recommendation: Authorize payment in the amount of $183,622 to the County of Santa Clara Registrar of Voters for its services for the November 8, 2016 election.

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

XXII. ADJOURN JOINT MEETING

NEXT REGULAR CITY COUNCIL MEETING:
TUESDAY, MARCH 7, 2017