



**JOINT MILPITAS CITY COUNCIL
AND SUCCESSOR AGENCY
MEETING AGENDA**

TUESDAY, MARCH 15, 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/ROLL CALL by the Mayor**
- II. ADJOURN TO CLOSED SESSION (6:00 p.m.)**
 - a) CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**
Pursuant to California Government Code §54957.6, City Negotiator: Tina Murphy
Employee Group: Milpitas Employees Association (MEA)
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
 - a) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
Pursuant to California Government Code §54956.9(d)1
City of Milpitas v. City of San Jose Planning Commission; appeal of Planning Director Decision, San Jose Planning Commission, file no. PD 14-014
- 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 (Councilmember Barbadillo)**
- VI. APPROVAL OF COUNCIL MEETING MINUTES March 1, 2016**
- VII. SCHEDULE OF MEETINGS – COUNCIL CALENDARS March and April 2016**
- VIII. PRESENTATION**
 - Proclaim March as Arts Education Month
- 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 HEARING

- 1. Hold a Public Hearing and Adopt Interim Urgency Ordinance No. 270.4 Extending the Temporary Moratorium on Cannabis Dispensaries, Manufacturers, Cultivation and Delivery for 10 Months and 15 Days Pending Completion of Studies and Update to City's Municipal Code including Zoning (Staff Contact: Christopher Diaz, 408-586-3040)**

XV. REPORTS OF MAYOR & COUNCIL

- * 2. Consider Mayor's Recommendations for Appointments to City of Milpitas Commission (Contact: Mayor Esteves, 408-586-3029)**
- 3. Per Recommendation of the City Council Facilities Naming Subcommittee, Approve Revised Streets, Parks and Facilities Naming Standard Operating Procedures and Naming Lists; and, Approve a Memorial Bench in Augustine Park and Direct the Parks, Recreation and Cultural Resources Commission to Develop a Park Memorial Program (Staff Contact: Renee Lorentzen, 408-586-3409)**

XVI. NEW BUSINESS

- 4. Receive Information on the Silicon Valley Community Choice Energy Program (SVCCE) and if directed, Investigate the Process and Costs to Join the Local SVCCE Program and Report Back With Findings (Staff Contact: Steven Machida, 408-586-3355)**
- * 5. Authorize Application for an Assistance to Firefighters Staffing for Adequate Fire and Emergency Response (SAFER) Grant to Increase Staffing Levels of the Milpitas Fire Department from the Current 48 Operational Firefighters to 51 (Staff Contact: Geoff Maloon, 408-586-2800)**
- * 6. Authorize a Budget Appropriation in the Amount of \$19,844 to the Police Department Budget for Mandated Police Emergency Vehicle Driver Training (Staff Contact: Daryl Sequeira, 408-584-2434)**
- 7. Receive Update on the Silicon Valley Rapid Transit Extension Project for Bay Area Rapid Transit in Milpitas and Berryessa (Contact: Mayor Esteves, 408-586-3029)**

XVII. RESOLUTIONS

- * 8. Adopt Two Resolutions Related to the City's Groundwater and Conservation Technology Programs Authorizing 1) Filing a Financial Assistance Application for a Financing Agreement with the State Water Resources Control Board, and 2) City Manager to Execute Documents Relating to the State Water Resource Control Board Funding Program (Staff Contact: Steven Machida, 408-586-3355)**
- * 9. Adopt a Resolution Granting Final Acceptance of the Wrigley-Ford and Ford Creeks Maintenance, Project No. 3706 (Staff Contact: Steve Erickson, 408-586-3301)**
- *10. Adopt a Resolution Granting Initial Acceptance of and Reducing the Performance Bond for 2014 Road Rehabilitation, Projects No. 4270, No. 4264 and No. 3412 and Granting Authorization to the City Engineer to Issue the Notice of Final Acceptance after the One-Year Warranty Period and to Release the Performance Bond (Staff Contact: Steve Chan, 408-586-3324)**

- * 11 Adopt a Resolution Approving the Standardization of Drager Safety, Inc. Self-Contained Breathing Apparatus as the Standard for the City of Milpitas Fire Department (Staff Contact: Chris Schroeder 408-586-3161)**
- 12. Adopt a Resolution to Approve and Authorize the City Manager to Execute an Agreement with Waste Management Inc. for Solid Waste Procurement Disposal (Staff Contact: Steven Machida, 408-586-3355)**

XVIII. AGREEMENTS

- *13. Approve Amendment No. 2 to the Agreement with HMH Inc. for Additional Design Services and to Increase Compensation Additionally by \$11,390 for the Montague Expressway Widening, Project No. 4179 (Staff Contact: Steve Erickson, 408-586-3301)**
- *14. Approve Amendment No. 2 to the Agreement with Law Firm of Burke, Williams & Sorensen, LLP for Legal Services Regarding Elimination of Odor (Staff Contact: Christopher Diaz, 408-586-3040)**
- *15. Extend the Agreement with OfficeMax for the Citywide Purchase of Office Supplies for an Annual Amount Not to Exceed \$95,000 through June 30, 2018 (Staff Contact: Chris Schroeder, 408-586-3161)**

XIX. JOINT MEETING of the MILPITAS CITY COUNCIL and the SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY

CALL TO ORDER/ROLL CALL by the Chair

APPROVE AGENDA AND CONSENT CALENDAR

- *16. Authorize the Executor 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 (Staff Contact: Emma Karlen, 408-586-3145)**

XX. ADJOURN CITY COUNCIL AND SUCCESSOR AGENCY JOINT MEETING

**NEXT REGULAR CITY COUNCIL MEETING
TUESDAY, APRIL 5, 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 vacancies on:
Arts Commission (MUSD Board rep.)
Parks, Recreation and Cultural Resources Commission
Telecommunications Commission
Veterans 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 HEARING

- 1. Hold a Public Hearing and Adopt Interim Urgency Ordinance No. 270.4 Extending the Temporary Moratorium on Cannabis Dispensaries, Manufacturers, Cultivation and Delivery for 10 Months and 15 Days Pending Completion of Studies and Update to City's Municipal Code including Zoning (Staff Contact: Christopher Diaz, 408-586-3040)**

Background: On February 2, 2016, the City Council adopted an Interim Urgency Ordinance prohibiting medical marijuana dispensaries, manufacturers, cultivation and delivery. Pursuant to California Government Code Section 65858(d), the City must provide a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance. This report shall serve in that capacity.

The cultivation, transportation, and distribution of marijuana can create problems relating to public health and safety, crime, water and air quality, and energy consumption. Marijuana uses can create nuisance activity such as loitering and criminal activity in business and residential districts. Specifically, mobile delivery can create issues relating to responsibility and resources to monitor and enforce state law, questions of patient qualification, and risks relating to the high use of large sums of cash for mobile transactions. Cultivation can create air quality, energy, and water quality damage and impair building maintenance and safety. For example, increased moisture necessary to grow indoors can create excessive mold growth and structural damage. Additionally, the equipment utilized to grow indoors can pose a risk of fire and electrical hazards due to dangerous electrical alterations and use. Further, inadequate ventilation combined with the use of pesticides and fertilizers in an enclosed space can lead to chemical contamination within structures.

City staff, including the Police Department and the City Attorney's office, is continuing to study the potential effects of various medical marijuana uses in the City. Each particular medical 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. 270.3 is set to expire on March 18, 2016. Although Council may extend the Ordinance for up to an additional 22 months and 15 days, staff recommends extending the Ordinance for 10 months and 15 days.

California Environmental Quality Act: The Ordinance is not subject to environmental review under CEQA per Sections 15060(c)(2) (the activities will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15060(c)(3) (the activities are not "projects" as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because they have no potential for resulting in physical change to the environment, directly or indirectly and 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that it will not have a significant effect or physical change to the environment.

Fiscal Impact: None.

Recommendations:

1. Open the public hearing for comments.
2. Move to close the public hearing following any speakers.

3. Following a reading of the title by the City Attorney, move to waive the reading beyond the title of Ordinance No. 270.4.
4. Adopt Interim Urgency Ordinance No. 270.4, extending the prohibition of cannabis dispensaries, manufacturing, cultivation, or delivery of cannabis in Milpitas.

XV. REPORTS OF MAYOR & COUNCIL

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

Background: Mayor Esteves recommends the following:

Recycling and Source Reduction Advisory Commission:

Move Alternate No. 2 Manpreet Badesha to a seat as a voting member to a term that expires in October 2016.

Newly appoint Marta Martinez as a business representative voting member to a term that expires in October 2016.

Newly appoint Mandeep Singh as Alternate No. 1 to a term that expires in October 2017.

Newly appoint Yue George Liu as Alternate No. 2 to a term that expires in October 2016.

Recommendation: Receive Mayor's recommendations and approve appointments to the Recycling Commission.

3. Per Recommendation of the City Council Facilities Naming Subcommittee, Approve Revised Streets, Parks and Facilities Naming Standard Operating Procedure and Naming Lists; and, Approve a Memorial Bench in Augustine Park and Direct the Parks, Recreation and Cultural Resources Commission to Develop a Park Memorial Program (Staff Contact: Renee Lorentzen, 408-586-3409)

Background: The City Council Facilities Naming Subcommittee was formed on October 26, 2015 to review and recommend the naming of City streets, parks and facilities for final City Council approval. The Subcommittee reviewed and made revisions to the City Streets, Parks and Facilities Naming Standard Operating Procedure (SOP) from 2006. Per the Procedures and Criteria outlined in the Streets, Parks and Facilities Naming SOP, draft Naming Lists were developed to be used, as needed, for future naming selection. The Subcommittee is recommending the Streets, Parks and Facilities Naming SOP and Naming Lists for final approval.

The Facilities Naming Subcommittee also reviewed the Memorial Bench Donation application that was recommended for approval through the Parks, Recreation and Cultural Resources Commission from the Loughborough family. The Subcommittee reviewed the application and voted to recommend approval of the memorial bench donation for Charles Loughborough at Augustine Park. The Subcommittee further recommends that the City Council direct the Parks, Recreation and Cultural Resources Commission to develop a Park Memorial Program that will outline and define approved memorial locations, criteria, duration and cost.

Fiscal Impact: None.

Attachments:

- A) Standard Operating Procedure (SOP) – Streets & City Facilities Naming
- B) Naming List – Milpitas Historical Figures
- C) Naming List – Influential People
- D) Naming List – California Native Plants, Flowers, Trees
- E) Naming List – Presidents
- F) Park Donation Application for Charles Loughborough memorial park bench

Recommendation: Per recommendation of the City Council Facilities Naming Subcommittee, approve the Streets, Parks and Facilities Naming Standard Operating Procedure and Naming Lists; and, approve a memorial bench donation for Charles Loughborough to be installed at Augustine Park, and direct the Parks, Recreation and Cultural Resources Commission to develop a Park Memorial Program.

XVI. NEW BUSINESS

4. Receive Information on the Silicon Valley Community Choice Energy Program (SVCCE) and if directed, Investigate the Process and Costs to Join the Local SVCCE Program and Report Back With Findings (Staff Contact: Steven Machida, 408-586-3355)

Background: A recent California law authorizes cities to pool customer electricity demand within their jurisdiction to directly procure or invest in electric power supplies also known as a Community Choice Energy (CCE) program. This program is garnering substantial interest among California communities since it has the potential to provide greener power at competitive, currently lower, rates, in addition to other community benefits. At the City Council meeting, Engineering staff will provide an informational presentation on the local SVCCE and identify the other communities participating.

Since participation in a CCE may benefit the City of Milpitas community, staff requests City Council direction to investigate the process and costs to join the local SVCCE and report back to Council on the findings.

Fiscal Impact: None.

Recommendations:

1. Receive a report from staff at the Council meeting regarding the Silicon Valley Community Choice Energy program.
2. If so directed, move to investigate the process and costs to join the SVCCE and report back to Council on the findings.

*** 5. Authorize Application for an Assistance to Firefighters Staffing for Adequate Fire and Emergency Response (SAFER) Grant to Increase Staffing Levels of the Milpitas Fire Department from the Current 48 Operational Firefighters to 51 (Staff Contact: Geoff Maloon, 408-586-2800)**

Background: The Fire Department is seeking to increase staffing levels based on increased call volume in the City due to population growth and commercial and industrial growth. This grant will allow for the addition of one firefighter per shift to augment the current staffing of 16 firefighters per shift. With 17 firefighters per shift, Milpitas Fire Department will improve compliance with National Fire Protection Association (NFPA) and CalOSHA response standards.

Fiscal Impact: None. If the grant application is approved, funding will cover salary and benefits of the three firefighters for a period of two years for a total of \$1,005,744.

Recommendation: Authorize the Milpitas Fire Department to apply for the SAFER grant from the Department of Homeland Security in order to fund additional firefighter positions.

*** 6. Authorize a Budget Appropriation in the Amount of \$19,844 to the Police Department Budget for Mandated Police Emergency Vehicle Driver Training (Staff Contact: Daryl Sequeira, 408-584-2434)**

Background: POST (Peace Officers Standards and Training) requires police officers to be trained in emergency vehicle operations every two years. The training requirements pertain to

low speed and high speed driving. The Milpitas Police Department has been unable to find a suitable location within the City to provide this training in a safe manner. The City's previous training sites are no longer available. The Alameda County Sheriff's Office has a facility in Dublin, CA specifically for the use of emergency vehicle operation training. The training provided at this location satisfies POST requirements.

Fiscal Impact: None. Training costs of \$19,844 are fully reimbursable by POST.

Recommendation: Approve a budget appropriation in the amount of \$19,844 to the Police Department budget for the POST mandated training with costs fully reimbursable by POST.

7. Receive Update on the Silicon Valley Rapid Transit Extension Project for Bay Area Rapid Transit in Milpitas and Berryessa (Contact: Mayor Esteves, 408-586-3029)

Recommendation: Receive an oral report at the City Council meeting from Carolyn Gonot, staff from Santa Clara Valley Transportation Authority's BART Extension project, including an overview and introduction of Phase 2 of the project.

XVII. RESOLUTIONS

*** 8. Adopt Two Resolutions Related to the City's Groundwater and Conservation Technology Programs Authorizing 1) Filing a Financial Assistance Application for a Financing Agreement with the State Water Resources Control Board, and 2) City Manager to Execute Documents Relating to the State Water Resource Control Board Funding Program (Staff Contact: Steven Machida, 408-586-3355)**

Background: On May 5, 2015, Council accepted the Water Supply Augmentation Study and approved moving forward with next steps on three programs: recycled water, groundwater, and conservation-related infrastructure improvements. There are separate funding programs for potable water and recycled water improvement projects. On December 1, 2015, Council authorized the filing of the financial applications with the State Water Resources Control Board and authorized the City Manager to execute the related applications for the Recycled Water Program. Similarly, the funding application packets for the groundwater and conservation-related infrastructure improvements have been prepared and are ready for submittal.

The Milpitas Potable Water Program is part of the City's efforts to respond to the ongoing drought by offsetting the use of contract water, supplied by the San Francisco Public Utilities Commission and the Santa Clara Valley Water District, with an expansion of the groundwater wells and other conservation measures. By expanding available water supply, this program improves reliability and provides the City water operators with system flexibility. The program is divided into four projects:

Project 1: Groundwater well expansion:

A. Pinewood Well is an existing well that has traditionally been reserved for emergency use. Proposed improvements include potential treatment for hardness, taste, and odor, chlorination, backup power and additional water distribution pipe.

B. Curtis Well is at the design phase. The well casing has been constructed. Proposed improvements include a new building with pumps, controls, treatment for hardness, taste, and odor, chlorination, backup power and additional water distribution pipe.

C. Additional sites are being analyzed for future well locations. Site(s) will be drilled (test holes) for sampling water quality and flow rate. Once favorable assessment is obtained at the site, the design and construction (with State permitting and well development for production) of the well may commence.

Project 2: Supervisory Control and Data Acquisition System (SCADA):

This project provides a control system for remote monitoring, gathering and analyzing real time data of the City's water distribution system. This system would be used to monitor pressure, flow, velocity, etc to assess daily operation and facilitate maintenance and emergency work. The systems will provide the City with immediate notification of any anomalies such as breaks, along with trending "potential" breaks for preventative maintenance. This will allow for a faster response time and potentially decrease water losses. The components include: process instrumentation and control devices, input/output interface, central processing unit, communication interface and machine interface. Work will also include installation of motorized valves and power to all facilities.

Project 3: Advanced metering infrastructure, automated smart meters:

The growing technology of smart meters, with transmitters and antennas, allows automatic meter readings to be transmitted to the City. Customers could review their meter readings frequently, such as daily, in order to identify leaks and /or water-wasting devices.

Project 4: Neutral Output Discharge Elimination System (NODES) flushing trucks:

The use of NODES trucks would allow flushing of the water distribution system while reducing water waste. Currently, "flushed" water must be treated prior to running down the curb and gutter into the storm system. Due to the drought, normal preventive maintenance flushing operations have ceased. Only flushing for health and safety reasons is allowed. With the use of NODES trucks, proactive normal flushing maintenance could occur in times of drought. Approximately 98% of the water used would be returned to the water distribution system.

The State is encouraging agencies to submit partial applications as the State will assign a Funding Officer to assist with the rest of the application process. The Proposition 1 grant funding covers construction costs only and is capped at 35% of the construction costs. The State Revolving Fund Loan Program (SRF) funding will cover design and construction costs. The State intends to award a combination of grants and loans. The required submittals are broken down into four packages: General, Technical, Environmental, and Financial Security. The general information will be a summary of the information contained in other sections. The technical work is underway and includes evaluation of equipment and piping including locations, permitting, and compliance with various requirements. The environmental work is also underway. Next steps include preparation of the financial documents. Staff communications with the State indicated that these projects will probably not be awarded any grants, rather loans. The priorities for the grant funding are disadvantage small communities, non-compliant water quality systems (due to drought impact), contaminated groundwater sites, etc. Staff will provide updates as the funding process continues.

This application will consist of the authorizing Resolutions, which are included in the Council packet. These Resolutions also delegate authority to the City Manager, to act on behalf of the City, in all matters pertaining to these funding applications.

California Environmental Quality Act: The resolution is exempt from CEQA as there will be no physical change to the environment as it merely involves an application for funding certain improvements with no clear indication whether the funding will be approved.

Alternative: If the two Resolutions are not adopted, staff will not submit the grant application. The City will have insufficient funding for the entire program and will be limited to constructing a portion of the proposed improvements. If the City Council does not authorize the City Manager to execute the remaining documents relating to the State's Funding Program, then the application documents will be placed on a future City Council agenda for approval.

Fiscal Impact: None. There are sufficient funds in Projects No. 7076, No. 7121 and No. 7127 to prepare and submit the funding applications.

Recommendation: Adopt two City of Milpitas resolutions related to the City's Groundwater and Conservation Technology Programs 1) authorizing the filing of a financial assistance application for a financing agreement with the State Water Resources Control Board and 2) authorizing the City Manager to execute documents related to the State Water Resource Control Board Funding Program.

*** 9. Adopt a Resolution Granting Final Acceptance of the Wrigley-Ford and Ford Creeks Maintenance, Project No. 3706 (Staff Contact: Steve Erickson, 408-586-3301)**

Background: This project was initially accepted on February 19, 2013 and has passed the project warranty period. A final inspection of the installed public improvements has been made and the work was found to be satisfactory. The project provided for Wrigley-Ford Creek improvements and maintenance work consisting of clearing of debris, sediment, invasive non-native vegetation & trees at strategic locations to restore storm water conveyance within the channel. The work also included creek bank restoration and environmental mitigation consisting of installation native shrubs and an irrigation system. Work is now complete including the required three year plant maintenance period. City Council is requested to adopt a resolution granting final acceptance of the Wrigley-Ford and Ford Creek Maintenance Project No. 3706 and releasing the contractor's bond.

Federal and state permit requirements for this project require the City to routinely inspect and report the condition of the improvements until the year 2023, and to provide for repairs and replacement of improvements should they become damaged. A follow up project is under design for repair of erosion damage that occurred during the winter storms of 2014. Once new permits are issued for this work, a new project will be advertised for construction.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting final acceptance of Wrigley-Ford and Ford Creek Maintenance, Project No. 3706, and releasing the contractor's bond.

***10. Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for 2014 Road Rehabilitation, Projects No. 4270, No. 4264 and No. 3412 and Granting Authorization to the City Engineer to Issue the Notice of Final Acceptance after the One-Year Warranty Period and to Release the Performance Bond (Staff Contact: Steve Chan, 408-586-3324)**

Background: The Council awarded the 2014 Road Rehabilitation Projects No. 4270, No. 4264 and No. 3412 to DeSilva Gates Construction on May 19, 2015. The project consists of localized repair of failed asphalt concrete pavement, resurface asphalt concrete pavement, replacement of traffic detector loops, installation of Americans with Disabilities Act-compliant sidewalk ramps, repair damaged sidewalk, curb and gutter and reinstalling pavement delineation on the following street segments:

- 1) Arizona Avenue between Washington Drive and Tiny Street;
- 2) Dixon Road between Milpitas Boulevard and Arizona Avenue;
- 3) Washington Drive between Milpitas Boulevard and Escuela Parkway;
- 4) Escuela Parkway between Jacklin Road and Washington Drive;
- 5) Abel Street between Corning Avenue and Calaveras Boulevard;
- 6) Abel Street between Great mall parkway and 600 feet south of Capitol Avenue;
- 7) Main Street between Cedar Way and Abel Street.

The project was successfully completed on time and within budget. Staff recommends that Council adopt a resolution granting initial acceptance of the project and authorize the reduction of the contractor's faithful performance bond to \$212,545, which is 10% of the final contract value. Staff also recommends the City Council authorize the City Engineer to issue the Notice of Final Acceptance and to release the performance bond after the one year warranty period without

further City Council action, provided all warranty work is completed to the satisfaction of the City Engineer.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting initial acceptance of 2014 Road Rehabilitation Projects No. 4270, No. 4264 and No. 3412 subject to a one year warranty period and reduction of the faithful performance bond to \$212,545. Resolution shall also grant authorization to the City Engineer to issue the notice of final acceptance after the one-year warranty period and to release and discharge the performance bond without further City Council action.

*** 11. Adopt a Resolution Approving the Standardization of Drager Safety, Inc. Self-Contained Breathing Apparatus as the Standard for the City of Milpitas Fire Department (Staff Contact: Chris Schroeder 408-586-3161)**

Background: On October 6, 2009, City Council approved the purchase of 45 Drager Safety, Inc. (Self Contained Breathing Apparatus) as a sole source purchase, which enabled the Fire Department to replace its entire primary contingent of older outdated equipment with new Drager Safety, Inc. (SCBA). For purposes of health and safety of the citizens of Milpitas and City firefighters due to the need for inter-changeability of SCBA units among City firefighters, staff requests that in accordance with Section I-2-3.13 Standardization of the Municipal Code, which allows standardization for up to ten years based on the recommendation of staff and with the approval of the City Council, that Drager Safety, Inc. (SCBA) be designated the standard SCBA for the City of Milpitas.

Fiscal Impact: None.

Recommendation: Adopt a resolution pursuant to Section I-2-3.13 Standardization of the Milpitas Municipal Code designating Drager Safety, Inc. (SCBA) as the Standard SCBA for the City of Milpitas.

12. Adopt a Resolution to Approve and Authorize the City Manager to Execute an Agreement with Waste Management Inc. for Solid Waste Procurement Disposal (Staff Contact: Steven Machida, 408-586-3355)

Background: In response to the City's Request for Proposals (RFP), two companies submitted disposal proposals: GreenWaste Recovery (with the Monterey Regional Waste Management District) and Waste Management, Inc.

At the January 12, 2016 Council study session, the two proposers presented their qualifications and approach for managing Milpitas' solid waste for 20 years beginning on September 2017. Subsequently, the City and consultant staff completed negotiations with each proposer. The disposal agreements, which have been executed by each company, are included in the agenda packet for Council consideration. The City's consultant, HF&H, will present the results of both potential contracts, including costs, contract term exceptions, and the City Evaluation Committee's recommendations. Upon Council award of the solid waste disposal contract, the City's Evaluation Committee will begin evaluation of the collection and processing proposals. The following items are included in the Council's agenda packet: Evaluation Committee Recommendation, Council Award of SWD Contract (Power Point), Transport Emission Analysis, Resolution and Agreement for each of the two companies.

Staff is recommending awarding the contract to Waste Management, Inc. for the Solid Waste Disposal Contract. A Resolution and Agreement with Waste Management, Inc. is included in the Council packet for adoption. If however, the Council desires to pursue an agreement with Green Waste Recovery, Inc., a Resolution and Agreement with Green Waste Recovery, Inc. is also included in the Council packet for consideration.

California Environmental Quality Act : The City Council's approval and authorization for the City Manager to execute an exclusive franchise agreement for disposal services with Waste Management, Inc. or any other disposal proposer is exempt from CEQA review under CEQA Guideline 15301 as the City's disposal of solid waste at these various sites would be a negligible expansion of use beyond that which is already authorized. This action is also exempt under CEQA Guideline 15273 to the extent it is setting rates for the disposal of solid waste. Further, the City Council's action is limited to approving and authorizing the execution of a disposal contract with all environmental impacts occurring at the disposal site, for which impacts have already been analyzed by the disposal operator. On that basis, the City Council's action can also be deemed not to be a project and exempt from CEQA review under CEQA Guideline 15061(b)(3).

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

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

Attachments:

- A) Memorandum – Recommendation for Disposal Contract Award
- B) Presentation – Council Award of Solid Waste Disposal Contract
- C) Memorandum – Results of Assessing Air Quality and Green House Gas Emissions Impact of Solid Waste Transport Scenarios
- D) Resolution and Agreement – Waste Management Inc.
- E) Resolution and Agreement – Greenwaste Recovery, Inc.

Recommendation: Adopt a Resolution authorizing the City Manager to award and execute a solid waste disposal agreement with Waste Management, Inc.

XVIII. AGREEMENTS

- * 13. Approve Amendment No. 2 to the Agreement with HMH Inc. for Additional Design Services and to Increase Compensation Additionally by \$11,390 for the Montague Expressway Widening, Project No. 4179 (Staff Contact: Steve Erickson, 408-586-3301)**

Background: On August 19, 2014, the City entered into a consultant agreement with HMH Inc. to provide engineering design services for the widening of Montague Expressway from Berryessa Creek to Capital Avenue. The project provides capacity improvements on Montague Expressway by providing a total of eight through lanes on Montague from Great Mall Parkway to I-680. Bike use shoulders, improved pedestrian sidewalks, new culvert and bridge over Berryessa Creek, and widening improvements along South Milpitas Boulevard are included in the project.

The August 19, 2014 Agreement and the subsequent Amendment No. 1 provided for engineering design services and preparation of plans and specifications for a City owned recycled water main, street lighting, steel picket fencing, median landscape and irrigation, and other City Transit Area Specific Plan (TASP) improvements along Montague Expressway and portions of South Milpitas Blvd. Bidding support services including preparation of revised plans and specifications to address questions from bidding contractors were services that were to be added to the agreement by amendment at a future date.

Amendment No. 2 to the Agreement with HMH Inc. is now proposed to extend the term of the original agreement through March 1, 2017 and to include bid support services and request additional design and coordination in revising the project construction staging plans. The

construction staging plans were completed early in design; however during the project bidding, it was determined that these would need to be revised to coordinate the widening project with the new private development projects on Garden Street that have now started. Staff negotiated a fee for these design services not to exceed \$11,390. Approval of the amendment brings the total agreement amount to \$199,490.

Alternative: Denial of the amendment would result in not completing the recommended design services for City standard improvements along portions of Montague Expressway and South Milpitas Boulevard.

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

Recommendation: Approve Amendment No. 2 to the consultant agreement with HMH Inc. to extend the term through March 1, 2017 and to increase the agreement by \$11,390 for the Montague Expressway Widening, Project No. 4179.

- * 14. **Approve Amendment No. 2 to the Agreement with Law Firm of Burke, Williams & Sorensen, LLP for Legal Services Regarding Elimination of Odor (Staff Contact: Christopher Diaz, 408-586-3040)**

Background: Since 2011, the City has been engaged in efforts opposing the expansion of the Newby Island landfill. At Council direction, the City Attorney's Office conducted a nation-wide search to find an attorney firm to advise on all potential means by which to eliminate the offensive odors plaguing the community. Burke, Williams & Sorensen was selected to advise and represent the City regarding the odor problem.

This contract is the second amendment to the current contract to continue with necessary legal and associated representation related to the odor nuisance issues involving the Newby Island Landfill. The scope of services included in the amendment to continue with legal services to abate the odor nuisance is included in the Council's agenda packet.

Fiscal Impact: There are sufficient funds in the City Attorney's Office budget. The budget to fund the second amendment to the current contract is a not-to-exceed amount of \$35,000.

Recommendation: Approve the Second Amendment to the current Agreement with Burke Williams & Sorensen, LLP for legal services regarding elimination of odors and direct the City Manager to sign the Second Amendment.

- * 15. **Extend the Agreement with OfficeMax for the Citywide Purchase of Office Supplies for an Annual Amount Not to Exceed \$95,000 through June 30, 2018 (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: On October 15, 2013 the City entered into a "piggyback" agreement for the Citywide purchase of office supplies with OfficeMax, per Milpitas Municipal Code Section I-2-3.07 (Piggyback Procurement). In general, the City must determine that a solicitation conducted by another public agency meets the City's Purchasing Ordinance and is in the City's best interest. The Agreement with Office Max is based on a solicitation conducted by Oakland County, Michigan under the Public Sourcing Solutions/OfficeMax-America Saves program. The City of San Jose negotiated additional discounts of up to 70% on a list of 3,000 core products from the America Saves program.

Because of the City of Milpitas' long standing customer relationship, OfficeMax has extended to Milpitas the same discounts enjoyed by San Jose, and which it has also extended to many other Bay Area cities. By piggybacking the aforementioned Oakland County, Michigan/Office Max contract, Milpitas receives the benefits of a nationally bid contract with volume pricing based on that contract and the additional discount of the San Jose core items either one of which exceeds

what Milpitas could command as an individual city. The City's current agreement with Office Max expires on May, 31 2016. However, on October 1, 2015 Oakland County, Michigan and Office Max amended the agreement to extend the agreement date to June 30, 2018. Given the benefit of the contract to the City, staff recommends extending it for the same period.

Fiscal Impact: None. Funding for this purchase is available from each departments operating budget.

Recommendation: Approve an extension of the agreement with OfficeMax for the period of May 31, 2016 to June 30, 2018 in the annual not-to-exceed amount of \$95,000 and a total agreement amount not to exceed \$440,000.

XIX. JOINT MEETING of the MILPITAS CITY COUNCIL and the SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY

- * 16. Authorize the Executor 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 (Staff Contact: Emma Karlen, 408-586-3145)**

Background: As a result of the Dissolution Act and the Settlement Agreement entered into with the State of California, the County of Santa Clara and other involved parties, a Long Range Property Management Plan ("LRPMP") was approved by the Oversight Board that addresses the disposition and use of the real properties of the former Milpitas Redevelopment Agency. The LRPMP identifies four properties as assets of the Successor Agency that are required to be sold through a Request for Proposals ("RFP") process. One of the four properties is located at the northwest corner of Alder Drive and Barber Lane (APN 086-02-086). On February 19, 2015, the Oversight Board approved the sale of the property to Lodging Dynamics Development LLC which made the highest offer of \$7 million. Lodging Dynamics Development LLC is a private company that acquires, operates and manages hotels. The Oversight Board also directs the Successor Agency to execute the Purchase & Sale Agreement within 20 days of its execution by Lodging Dynamics Development LLC (Buyer"). Included in the Council's agenda packet is the executed agreement by the Buyer.

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

Recommendation: Authorize the Executive Director of the Successor Agency of the former Milpitas Redevelopment Agency to execute a Purchase and Sale Agreement with Lodging Dynamics Development LLC for property located at the northwest corner of Alder Drive and Barber Lane (APN 086-02-086).

XX. ADJOURN CITY COUNCIL AND SUCCESSOR AGENCY JOINT MEETING

**NEXT REGULAR CITY COUNCIL MEETING
TUESDAY, APRIL 5, 2016**