JOINT MEETING OF THE MILPITAS CITY COUNCIL, PUBLIC FINANCING AUTHORITY, AND SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY

MEETING AGENDA

TUESDAY, FEBRUARY 3, 2015
455 EAST CALAVERAS BOULEVARD, MILPITAS, CA
6:30 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)

SUMMARY OF CONTENTS

I. **CALL TO ORDER by the Mayor** (6:30 p.m.)

II. **ADJOURN TO CLOSED SESSION**

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Pursuant to California Government Code Section 54956.9:

1) City of Milpitas' Appeal of City of San Jose's Approval of Planned Development Permit PD14-014, before City of San Jose Planning Commission

2) City of Milpitas' Opposition to Proposed Solid Waste Facility Permit for Newby Island, before the Department of Resources Recycling and Recovery (CalRecycle)

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

IV. **PLEDGE OF ALLEGIANCE** (7:00 p.m.)

V. **INVOCATION** (Vice Mayor Montano)

VI. **APPROVAL OF COUNCIL MEETING MINUTES** – January 20, 2015

VII. **SCHEDULE OF MEETINGS – COUNCIL CALENDAR** – February 2015

VIII. **PRESENTATIONS**
- Certificates to the Performers at City's Dec. 1 Tree Lighting Ceremony
- Certificate to Health for Humanity Yogathon sponsored by Hindu Swayamsevak Sangh group

IX. **PUBLIC FORUM**

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

X. **ANNOUNCEMENTS**

XI. **ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**

XII. **APPROVAL OF AGENDA**

XIII. CONSENT CALENDAR (Items with asterisks*)

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

XIV. PUBLIC HEARINGS

1. **Conduct a Public Hearing and Adopt a Resolution repealing Paragraph Number 7 in Resolution No. 8220 Related to Exemption on Land Use Conversions while Continuing Exemption for Properties East of California Circle (Staff Contact: Adam Petersen, 408-586-3274)**

2. **Conduct a Public Hearing and Introduce Ordinance No. 38.820 for adoption of Zoning Amendment No. ZA14-0011 Adding the words "mixed use" Residential to the purpose and intent section of the Town Center Zoning description and Prohibiting New Ground Floor Residential in the Town Center Zone (Staff Contact: Adam Petersen, 408-586-3274)**

3. **Conduct a Public Hearing and Introduce Ordinance No. 38.819 to Approve a Development Agreement Vesting and Deferring the Transit Area Specific Plan Residential Impact Fees for the Citation I and Citation II Projects: Amalfi I, Amalfi II and the Edge (Staff Contact: Adam Petersen, 408-586-3274)**

XV. UNFINISHED BUSINESS

4. **Receive the Monthly Update of the Odor Control Report (Staff Contact: Steven Machida, 408-586-3355)**

XVI. REPORTS OF MAYOR AND COMMISSION

* 5. **Consider Mayor's Recommendations for Various Appointments of Staff and City Council members to Commissions (Contact: Mayor Esteves, 408-586-3029)**

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

* 7. **Approve Youth Advisory Commission 2015 Work Plan (Staff Contact: Andrew Mendes, 408-586-3231)**

XVII. NEW BUSINESS

* 8. **Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended December 31, 2014 (Staff Contact: Emma Karlen, 408-586-3145)**

* 9. **Approve Mid-Year Budget Appropriations for FY 2014-15 Operating and Capital Improvement Program Budget (Staff Contact: Emma Karlen, 408-586-3145)**

10. **Receive Financial Status Report for the Six Months Ended December 31, 2014 (Staff Contact: Emma Karlen, 408-586-3145)**

XVIII. RESOLUTIONS

* 11. **Adopt a Resolution Approving Revisions to the Senior Advisory Commission Bylaws (Staff Contact: Stephanie Douglas, 408-586-3226)**

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

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

*** 14. Adopt a Resolution Approving Memorandum of Understanding with the Milpitas Employees Association (Staff Contact: Carmen Valdez, 408-586-3086)**

XIX. AGREEMENTS

*** 15. Approve Plans and Specifications and Authorize Advertisement for Bid Proposals for Community Center Auditorium Audio Visual Systems Upgrade Project No. 3406 (Staff Contact: Steve Erickson, 408-586-3301)**

*** 16. Approve First Phase Agreement with Burke, Williams & Sorensen, LLP for Legal Services Regarding Elimination of Odor (Staff Contact: Mike Ogaz, 408-586-3041)**

XX. JOINT MEETING OF THE SUCCESSOR AGENCY, PUBLIC FINANCING AUTHORITY and MILPITAS CITY COUNCIL

SA1. Call to Order/Roll by the Mayor/Chair

SA2. Approval of Agenda

SA3. Adopt a Joint Resolution of the City Council of the City of Milpitas, the Board of the Successor Agency to the Former Milpitas Redevelopment Agency and the Board of the Milpitas Public Financing Authority Approving the Adoption of Disclosure Policies and Procedures (Staff Contact: Emma Karlen, 408-586-3145)

SA4. Adopt a Resolution of the Board of the Successor Agency to the Former Milpitas Redevelopment Agency Confirming Issuance of Tax Allocation Refunding Bonds Pursuant to an Indenture of Trust, Approving Preliminary and Final Official Statements, and Providing Other Matters Relating Thereto (Staff Contact: Emma Karlen, 408-586-3145)

SA5. Adjourn Joint Meeting

XXI. ADJOURNMENT

NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, FEBRUARY 17, 2015

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: mogaz@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

Seeking Applications for:

Community Advisory 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 in that facility.

AGENDA REPORTS

XIV. PUBLIC HEARINGS

1. Conduct a Public Hearing and Adopt a Resolution repealing Paragraph Number 7 in Resolution No. 8220 Related to Exemption on Land Use Conversions while Continuing Exemption for Properties East of California Circle (Staff Contact: Adam Petersen, 408-586-3274)

Background: On January 15, 2013, the City Council adopted Resolution No. 8220 approving amendments to the Land Use and Circulation elements of the Milpitas General Plan. This amendment addressed long term planning and fiscal sustainability for the City when evaluating development proposals. Specifically, the amendment added General Plan Policy 2.a-I-2 to the Land Use Element. This policy states the following:

2.a-I-2 -- Land use conversions from employment/sales tax generation properties to residential shall only be considered once there is 80% buildout in the Midtown and Transit Area Specific Plans.

The implementation of Policy 2.a-I-2 focuses residential development in the Midtown and Transit Area Specific Plans, where there is existing infrastructure and plans to accommodate the anticipated growth. However, Resolution No. 8220 included Paragraph Number 7, which exempted certain properties from the land use conversion policy. Specifically, Paragraph Number 7 states:

7. Implementing Policy 2.1-I-2 (sic) shall not apply to General Plan Amendment application for properties west of McCarthy Boulevard north of Highway 237 and for properties east side (sic) of California to Penitencia Creek.

This exemption has recently resulted in consideration and conversion of industrial properties located east of California Circle and west of Penitencia Creek to residential subdivision. These two projects are:

- Waterstone – APNs 022-37-011; -012 approved by City Council on November 19, 2013; and
- iStar – APNs 022-37-017 approved by City Council on November 18, 2014.

The Planning Commission conducted a duly noticed public hearing and discussed the proposed exemption for both McCarthy Ranch and California Circle areas. The Commission adopted a resolution by a 7 to 0 vote recommending the City Council adopt a resolution repealing the exemption for the properties west of McCarthy Boulevard north of Highway 237, while continuing the exemption for the property east of California Circle and west of Penitencia Creek. The Planning Commission found continuing the exemption for the last California Circle property is consistent with the City of Milpitas General Plan and the Zoning Ordinance. The Planning Commission recommended that the Council adopt a resolution repealing Paragraph 7 from Resolution No. 8220, while continuing the exemption for those properties east of California Circle and west of Penitencia Creek to maintain continuity because two residential projects have already been approved in that location.

Conclusion Based on the analysis described above and within the Planning Commission staff report, the Planning Commission recommended the City Council adopt a resolution repealing Paragraph 7 from Resolution No. 8220 while continuing the exemption for the properties east of California Circle.

California Environmental Quality Act (CEQA): The proposed resolution amendment is exempt from the California Environmental Quality Act (CEQA). CEQA Guidelines Section 15061(b)(3) states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The purpose of amending Resolution No. 8220 is to achieve greater consistency with the Milpitas General Plan. The amendment will not expand the range or intensity of uses permitted on the subject properties. Instead, it will facilitate the utilization of these properties as the General Plan intends. The amendment does not authorize any construction and will not result in any physical change in the environment. Therefore, the proposed amendment is exempt from CEQA review because it can be seen with certainty, there is no possibility it will have a significant adverse impact on the environment.

Fiscal Impact: None.

Attachments (part of the agenda packet):
A) Draft City Council Resolution
B) 01-14-15 Planning Commission Staff Report
C) 01-14-15 Planning Commission Meeting Minutes
D) Signed PC Resolution 15-002
E) Adopted Council Resolution No. 8220

Recommendations:
1. Open the public hearing for any comments, and move to close the public hearing.
2. Per Planning Commission recommendation, adopt a resolution repealing Paragraph 7 in Resolution No. 8220, while continuing the exemption for the properties east of California Circle to Penitencia Creek.

2. Conduct a Public Hearing and Introduce Ordinance No. 38.820 for adoption of Zoning Amendment No. ZA14-0011 Adding the words "mixed use" Residential to the purpose and intent section of the Town Center Zoning description and Prohibiting New Ground Floor Residential in the Town Center Zone (Staff Contact: Adam Petersen, 408-586-3274)

Background: The Town Center land use designation and zoning district applies to the central part of the City, generally focused along Calaveras Boulevard between Interstate 680 and the Union Pacific railroad corridor. The intent of the Town Center land use designation and zoning district is to support a wide range of administrative, business, entertainment, residential, dining and cultural activities in the geographic center of the City.

In 2010, the Town Center designation was amended and expanded to include a collection of parcels to the south of Calaveras Boulevard. The purpose of the amendment was to make the existing uses on these parcels (offices, cultural centers, religious institutions, medical offices, financial institutions, gasoline station, retail) conforming and allow for the flexibility of integrating other commercial and residential uses for future development. Since the rezoning of these parcels to Town Center, some land use conversion to single-family residential develoment has occurred. A map of the Town Center zone area is included as part of the Planning Commission Staff report (in the agenda packet).

On May 21, 2013, the City Council approved an amendment to the Zoning Code to allow live/ work units as a conditional use in the Town Center Zoning District.

On December 10, 2014, the City of Milpitas Planning and Neighborhood Services Department prepared an application pursuant to Section 57 of the Milpitas Zoning Ordinance for a Zoning Amendment. Here is a summary of the request:

- *Zoning Amendment:* To modify the Milpitas Zoning Code, add the words "mixed use" residential to the description of the Town Center zone, and prohibit ground floor residential in the Town Center zone.

The Planning Commission conducted a duly noticed public hearing on January 14, 2015 and adopted a resolution by a 7 to 0 vote recommending the City Council adopt the proposed zoning amendment to prohibit ground floor residential. The motion included two directions to staff: (i) review the live/work provisions in the Zoning Code for consistency with the proposed changes to prohibit ground floor retail and (ii) clarify the commercial uses authorized on the ground floor in the Town Center Zoning District. Accordingly, changes were incorporated into the proposed

Zoning Code to clarify the types of authorized uses on the ground floor and established a maximum ten percent (10%) live/work units that may be constructed in the Town Center Zoning District in any single project to emphasize the commercial and entertainment intent of this zoning district.

Conclusion Based on the analysis described above and within the Planning Commission staff report and resolution, the Planning Commission recommended that the City Council adopt an ordinance amending the Town Center Zone to prohibit ground floor residential uses; establish a maximum percentage live/work authorized in the Town Center, and specify the type of commercial uses authorized on the second floor.

California Environmental Quality Act (CEQA): Staff reviewed the project to determine the required level of review under CEQA. The proposed project is exempt from CEQA under CEQA Guidelines Section 15061(b)(3) of the State CEQA guidelines, which excludes projects that are covered by the general rule that CEQA applies only to projects that 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.

The proposed amendment does not directly authorize any individual project. Additionally there are no projects under review that would be affected by the proposed amendment. Subsequent activities require further analysis by the City in order to determine the potential impacts from development. Therefore, the proposed action qualifies for this exemption and no further environmental review is required.

Fiscal Impact: None

Attachments (part of the agenda packet):
A) Ordinance No. 38.820 for introduction
B) 01-14-15 Planning Commission Staff Report
C) 01-14-15 Planning Commission Meeting Minutes
D) Adopted Planning Commission Resolution 15-001

Recommendations:
1. Open the public hearing for any comments, and move to close the public hearing.
2. Following the City Attorney's reading of the title of Ordinance No. 38.820, move to waive the first reading of the ordinance beyond the title.
3. Per Planning Commission recommendation, move to introduce Ordinance No. 38.820 amending the Town Center Zone prohibiting ground floor residential in the Town Center zone and establishing a maximum percent of live/work units authorized in the Town Center, and specify the type of commercial uses authorized on the ground floor.

3. Conduct a Public Hearing and Introduce Ordinance No. 38.819 to Approve a Development Agreement Vesting and Deferring the Transit Area Specific Plan Residential Fees for the Citation I and Citation II Projects: Amalfi I, Amalfi II and the Edge (Staff Contact: Adam Petersen, 408-586-3274)

Background: The Milpitas City Council adopted Resolution No. 8132 on November 11, 2011 approving the Citation I project. The Citation I project consists of up to 732 dwelling units, public parks, streets and infrastructure improvements located at 1200 Piper Drive within the Transit Area Specific Plan. Of these 732 units, 638 were allocated to two wrap buildings, which comprise the Amalfi I and Amalfi II development. Amalfi I, consisting of 378 apartment units is currently under construction. Amalfi II consists of 260 apartments, but construction has not commenced for this project. Additionally, 94 townhomes are under construction as part of the Citation I project approvals, but the 94 townhomes will not be a part of the development agreement.

On June 17, 2014, the City Council adopted Resolution No. 8382 approving the Citation II project. That project consist of 381 apartments and 8,100 square feet of commercial and office space that fronts Montague Expressway.

The following table summarizes the approved development projects.

Summary Project Information

Use/Standards	Citation I	Citation II
	Amalfi I and Amalfi II	The Edge
Acres	7.0 acres	5.6 acres
Commercial / Retail s.f.	0	8,100 sq ft
Residential Units	638 apartments	381 apartments
Parking Required	1,207 spaces	634 spaces
Parking Provided	1,260	634 spaces
Residential Density	45 dwelling units per acre	68 dwelling units per acre
Commercial FAR	N/A	0.03

The Planning Commission conducted a duly noticed public hearing on January 14, 2015 and adopted a resolution by a 4 to 3 vote recommending the City Council approve the proposed Development Agreement between the City of Milpitas and SCS Development Co., Amalfi Milpitas, LLC., and DPD Investments, LLC. The proposed Development Agreement is for a five year term with the ability of the parties to mutually extend for another five years. The proposed Development Agreement would reduce and vest the Transit Area Specific Plan Development Impact Fees for each residential unit from the current amount of $32,781 to $29,012 per unit. Additionally, the Development Agreement will allow the developers to pay the fees at time of issuance of Certificate of Occupancy as opposed to issuance of building permits. The fees would be adjusted based on Consumer Price Index and park land value after five years if full payment is not received.

The Planning Commission found the proposed Project is consistent with the City of Milpitas General Plan, the TASP and the Zoning Ordinance and recommend approval of the Development Agreement with a 4-3 vote based on findings that the Development Agreement would result in a public benefit to the City of Milpitas because it would prioritize the development of retail and commercial uses that increase revenues to the City. The Commission discussed the responsibilities for public improvements, increases in TASP fees and timing of payments. Ultimately, the Development Agreement would benefit the City by installing infrastructure that would facilitate this development, including retail and commercial mixed-use developments.

Conclusion Based on the analysis described above and within the Planning Commission Staff report, the Planning Commission is recommending the City Council adopt an ordinance approving the Development Agreement between the City of Milpitas and SCS Development, Inc.

California Environmental Quality Act (CEQA): The proposed development agreement is exempt from the California Environmental Quality Act (CEQA). CEQA Guidelines Section 15061(b)(3) states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The development agreement will not expand the range or intensity of uses permitted on the subject properties. The development agreement does not authorize any construction and will not result in any physical change in the environment. Therefore, it can be seen with certainty that the project will not have an effect on the environment.

The project is further exempt from environmental review pursuant to CEQA Section 15183(a). The development of Amalfi I, Amalfi II, and the Edge projects was previously analyzed in the Transit Area Specific Plan Environmental Impact Report (SCH 2006032091). The EIR analyzed all impacts associated with the development of these properties and anticipated the intensity of this development. The development agreement does not increase the intensity beyond that previously analyzed in the certified EIR. Further, the projects, as approved per Resolutions No. 8132 and No. 8382, were found to be consistent with the Transit Area Specific Plan. Therefore, the proposed agreement is exempt from CEQA review because it can be seen with certainty, there is no possibility it will have a significant adverse on the environment and the project is consistent with a specific plan for which an EIR was certified.

Fiscal Impact: The Development Agreement would result in a reduction in TASP fees of approximately $3.8 million. However, the Development Agreement would ensure that the Edge project is constructed prior to Amalfi II building. As a result, the Edge project would be completed to coincide with the opening of the Milpitas BART Station. The 8,100 square feet of commercial and retail uses in the Edge would provide commercial services to transit riders and increase revenues to the City.

Attachments (part of the agenda packet):
A) Development Agreement per Ordinance No. 38.819
B) Exhibit A to Development Agreement
C) Amalfi I – Legal Description and Plat
D) Amalfi II – Legal Description and Plat
E) The Edge – Legal Description and Plat
F) 01-14-15 Planning Commission Staff Report
G) 01-14-15 Planning Commission Meeting Minutes
H) Adopted Planning Commission Resolution 15-003

Recommendations:
1. Open the public hearing for any comments, and move to close the public hearing.
2. Following the City Attorney's reading of the title of Ordinance No. 38.819, move to waive the first reading of the ordinance beyond the title.
3. Per Planning Commission recommendation, move to introduce Ordinance No. 38.819 approving a development agreement between the City of Milpitas and SCS Development Co., Amalfi Milpitas, LLC and DPD Investments, LLC.

XV. UNFINISHED BUSINESS

4. Receive the Monthly Update of the Odor Control Report (Staff Contact: Steven Machida, 408-586-3355)

Background: From December 9, 2014 through January 11, 2015, the Bay Area Air Quality Management District (BAAQMD) received three hundred and ten odor complaints originating in Milpitas. One hundred and five complaints identified a garbage odor, twenty-one complaints identified a sewage odor, one hundred and eighty complaints did not identify an odor source, and four complaints identified a mixed odor source. As of the last Council update, the City's odor reporting website has received 286 reported complaints. The Acting City Engineer will provide an oral update on the status of activities related to odor at the Council meeting.

Recommendation: Receive an oral update report on odor issues from the Acting City Engineer.

XVI. REPORTS OF MAYOR AND COMMISSION

*** 5. Consider Mayor's Recommendations for Various Appointments of Staff and City Council members to Commissions (Contact: Mayor Esteves, 408-586-3029)**

Background: For administrative efficiency, the Santa Clara Valley Water District Water Commission requests the appointment of a City staff alternate for service on the Water Commission. Recently, Councilmember Garry Barbadillo was appointed by the Mayor and Council to serve as the elected official representative for Milpitas on that Commission. The staff alternate serves on the Water Commission only in the event of scheduling conflicts or other situations that would bar the elected official from serving at a particular meeting.

Currently, Acting City Engineer Steven Machida is the staff alternate. His term expired in December 2014 and now the City Council is asked to re-appointment Mr. Machida in the same capacity. He is available to attend periodic daytime meetings of the Water Commission at District offices in San Jose.

Mayor Esteves also recommends that Councilmember Marsha Grilli be appointed to serve as the Milpitas representative and Councilmember Giordano serve as Alternate to the Santa Clara County's Expressway Plan Policy Advisory Board.

Mayor Esteves recommends that Councilmember Garry Barbadillo serve as the Alternate to Vice Mayor Montano on the Santa Clara Valley Transportation Authority's Policy Advisory Committee.

Recommendation: Upon recommendation of Mayor Esteves, move to affirm the staff and Councilmember appointments recommended.

* **6. Consider Mayor's Recommendation of New Appointments to City of Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**

Background: Mayor Esteves recommends the following new appointments:

Economic Development Commission: newly appoint Milpitas Unified School Board member Bob Nunez to fill the vacant seat for a school board member on the Economic Development Commission to a term that will expire in April of 2016.

Parks, Recreation and Cultural Resources Commission**:** newly appoint Samu Tiumalu to serve as Alternate No. 2 on the PRCRC to a term that will expire in June of 2015.

Recommendation: Approve the Mayor's recommendations and appoint two new City Commissioners.

* **7. Approve Youth Advisory Commission 2015 Work Plan (Staff Contact: Andrew Mendes, 408-586-3231)**

Background: At the January 8, 2015 Youth Advisory Commission meeting, the Commission reviewed and approved a draft 2015 Work Plan. The Commission's 2015 Work Plan identifies the Commission's goals, projects and on-going tasks they would like to accomplish for the year.

Recommendation: Approve the Youth Advisory Commission (YAC) Work Plan for 2015.

XVII. NEW BUSINESS

* **8. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended December 31, 2014 (Staff Contact: Emma Karlen, 408-586-3145)**

Background: In compliance with the State of California Government Code and the City's Investment policy, the City of Milpitas Investment Report for the quarter ended December 31, 2014 is submitted for Council review and acceptance.

The Portfolio Summary Report included in the Council's packet provides a summary of the City's investments by type. It lists the par value, market value, book value, percentage of portfolio, term, days to maturity and the equivalent yields for each type of investment. The Portfolio Details Report provides the same information for each individual investment in the City's portfolio as of December 31, 2014.

As of December 31, 2014, the principal cost and market value of the City's investment portfolio was $152,924,177 and $152,935,989 respectively. When market interest rates increase after an investment is purchased, the market value of that investment decreases. Conversely, when market interest rates decline after an investment is purchased, the market value of that investment increases. If the investments are not sold prior to the maturity date, there is no market risk. Therefore, in accordance with the City's investment policy, all investments are held until maturity to ensure the return of all invested principal.

The City's effective rate of return for the period ended December 31, 2014 was 0.66%. The comparative benchmarks for the same period were 0.27% for LAIF (Local Agency Investment Fund) and 0.46% for the 12-month average yield of the 2-year Treasury Note. The weighted average maturity of the portfolio was 517 days.

The investment portfolio is in compliance with the City's investment policy. A combination of securities maturing, new revenues, and tax receipts will adequately cover the anticipated cash flow needs for the next six months. Cash flow requirements are continually monitored and are considered paramount in the selection of maturity dates of securities.

The market values of the securities were provided by BNY Mellon, the safekeeping bank of the City's securities. All the securities owned by the City are held in the trust department of BNY Mellon under the terms of a custody agreement.

Three charts are included with the agenda packet that show investment by maturity levels, comparison of the City's portfolio yields to other benchmark yields as well as a trend of the type of securities in the City's portfolio, weighted average maturity and average yield.

Fiscal Impact: None

Recommendation: Receive the investment report for the quarter ended December 31, 2014.

* **9. Approve Mid-Year Budget Appropriations for FY 2014-15 Operating and Capital Improvement Program Budget (Staff Contact: Emma Karlen, 408-586-3145)**

Background: To maintain conformity with the City's budget policy that any additional appropriations to a department or a capital improvement project's budget or re-appropriation of monies from one fund to another must be approved by the City Council, staff submits the budget change form and justification memoranda from the requesting departments for review and consideration by the City Council.

Necessary budget adjustments include the following:

1) Increase the budget appropriation to the General Fund and Transit Area Impact Fee Fund by $6 million to pay for the final installment payments to Mission West Properties related to the purchase of the McCandless property. The source of funding will be from the General Fund and Transit Area Impact Fund for $1.4 million and $4.6 million respectively. The installment payments were previously paid by the Economic Development Corporation and therefore not budgeted in the City's Funds. Due to settlement of the lawsuit with the State of California and the County of Santa Clara, the City has assumed the obligation to pay for the property.

2) Increase the budget appropriation for various Transit Area infrastructure projects by $7,838,901. The Transit Area Plan identified many public infrastructure improvements that are needed. In order to fund these projects, the City collects Transit Area Impact fee from new developments. The City has entered into various Credit Reimbursement Agreements with developers and required them to build the public infrastructure improvement. The reimbursements are either in the form of fee credit or actual reimbursement from the City. It is

necessary to increase the budget appropriations in the Transit Area Impact Fee fund in order to recognize the costs for constructing these infrastructure improvements.

3) Increase the budget appropriation for the 2014 Road Rehabilitation Project (CP4270) by $115,920 to include the rehabilitation work needed at Aspen Village on Main St. The funding source is from fees collected from developer. Staff also requests transfer of $23,100 from Gas Tax Fund to fund the 2015 Street Resurfacing Project (CP4275). Originally, $23,100 was to be funded from the Street Fund but due to insufficient fund balance in the Street Fund, the Gas Tax Fund will make up the difference. The total project budget for CP4275 will remain at $4,250,000 as originally programmed.

4) Increase the budget appropriation for the Engineering Department by $13,750 to cover expenses associated with the contract with NBS Government Finance Group for the required annual administration of the City's Lighting Landscape Maintenance Districts (LLMD). The source of funding will be from the LLMD Funds.

5) Increase the budget appropriation for the Fire Department by $1,500 for the food purchased for the residents sheltered at the Sport Center during the December 11, 2014 storm. The source of funding will be from the General Fund.

Fiscal Impact: The total budget adjustment request is $13,993,171. The impacts to the General Fund and the LLMD Funds are $1,401,500 and $13,750 respectively. The remaining budget requests are primarily funded by Transit Area impact fees and developer fees. There are sufficient fund balances in these various funds to accommodate the budget adjustment requests. A Budget Change Form with the requested items is included in the City Council agenda packet

Recommendations: Approve the identified five Fiscal Year 2014-15 mid-year budget appropriations as itemized on the budget change form.

10. Receive Financial Status Report for the Six Months Ended December 31, 2014 (Staff Contact: Emma Karlen, 408-586-3145)

Background: As of December 31, 2014, the General Fund received approximately $23.5 million in total revenue. This amount is $0.8 million more than the revenues received for the same period in FY 13-14 primarily due to increased transient occupancy tax revenue, increased building permit and plan check revenues, and increased property tax revenue. Based on trend analysis and updated information received to date, some of the major revenue categories have been revised to exceed budget. Overall, staff expected the General Fund revenues to be about $1.7 million above budget.

Transient Occupancy Tax revenue ("TOT") is expected to exceed budget by about $670,000 or 9%. Building and Fire permit and plan check fees combined are expected to exceed budget by $280,000 due to increased building activities. Property tax revenue is expected to exceed budget by $700,000 due to increased assessed values of real properties from new construction and housing market recovery.

Sales tax revenue is the only revenue that experienced shortfall compared to the budget. Although the retail and restaurants economic segments are doing very well in Milpitas, sales tax revenue generated from the business to business economic category tends to be very volatile. Since this category generates more than 20% of the sales tax revenue, any major increases or decreases from the high-tech industry impact the City's sales tax revenue significantly. Based on trends as well as reports from the sales tax consultant, sales tax revenue is revised to be below budget by $640,000.

Overall City departments' expenditures for the first six months were slightly below budget at about 46.8%. At mid-year, both personnel costs and non-personnel costs were under budget by about 3%.

Fiscal Impact: None.

Recommendation: Receive financial status report for the six months ended December 31, 2014.

XVIII. RESOLUTIONS

*** 11. Adopt a Resolution Approving Revisions to the Senior Advisory Commission Bylaws (Staff Contact: Stephanie Douglas, 408-586-3226)**

Background: Pursuant to the Senior Advisory Commission (SAC) Bylaws, the Senior Advisory Commission serves as an advisory body to the City Council on matters pertaining to recreation, leisure, and nutrition services for the Senior Citizens of Milpitas.

At the August 26, 2014 Senior Advisory Commission meeting, Commissioners reviewed and approved certain amendments to the current Bylaws for Council consideration. Revisions include clarification on volunteer hours expected from Commissioners of 36 hours per year, elimimation of a Treasurer's role and duties (which are currently handled by staff or Vice Chair and had not been appointed in more than five years) and general language corrections and updates. The Bylaws have not been revised since 2009.

Recommendation: Adopt a resolution approving revisions to the Senior Advisory Commission Bylaws.

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

Background: The most recent Memorandum of Understanding (MOU) with the Mid-Management and Confidential Unit (MidCon) expired on December 31, 2013. City representatives and representatives from MidCon met and conferred in good faith to negotiate a new contract. Agreement has been reached with a new successor Memorandum of Understanding with effective dates of February 4, 2015 through June 30, 2016, which is included in the City Council's agenda packet. The draft MOU document was available for public review for the 10 day period required.

Fiscal Impact: Total cost for the contract over current cost is approximately $295,231.

Recommendation: Adopt a resolution approving the Memorandum of Understanding with the Mid-Management and Confidential Unit covering the period of February 4, 2015 through June 30, 2016.

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

Background: The most recent Memorandum of Understanding (MOU) with the Milpitas Professional and Technical Group (Protech) expired on December 31, 2013. City representatives and representatives from Protech met and conferred in good faith to negotiate a new contract. Agreement has been reached with a new successor Memorandum of Understanding with effective dates of February 4, 2015 through June 30, 2016, which is included in the City Council's agenda packet. The draft MOU document was available for public review for the 10 day period required.

Fiscal Impact: Total cost for the contract over current cost is approximately $417,798.

Recommendation: Adopt a resolution approving the Memorandum of Understanding with the Milpitas Professional and Technical Group covering the period of February 4, 2015 through June 30, 2016.

*** 14. Adopt a Resolution Approving Memorandum of Understanding with the Milpitas Employees Association (Staff Contact: Carmen Valdez, 408-586-3086)**

Background: The most recent Memorandum of Understanding with the Milpitas Employees Association (MEA) expired on December 31, 2013. City representatives and representatives from MEA met and conferred in good faith to negotiate a new contract. In addition, the Union filed a charge with PERB challenging several management decisions affecting the MEA Union.

This proposal, confirmed by an affirmative vote of the MEA Union membership, provides for a new MOU that will be in effect through the end of June 30, 2016 unless extended and also provides for dismissal of the administrative challenge filed with PERB. The proposed MOU is provided the Council's agenda packet. The draft MOU document was available for public review for the 10 day period required.

Fiscal Impact: Total cost for the contract if expires in June 2016 over current cost is approximately $416,696, if extended cost would be approximately $541,704.

Recommendation: Adopt a resolution approving the Memorandum of Understanding with the Milpitas Association (MEA) covering the period of February 4, 2015 through June 30, 2016 unless extended, upon condition that MEA dismiss the Public Employees Relations Board (PERB) charge.

XIX. AGREEMENTS

*** 15. Approve Plans and Specifications and Authorize Advertisement for Bid Proposals for Community Center Auditorium Audio Visual Systems Upgrade Project No. 3406 (Staff Contact: Steve Erickson, 408-586-3301)**

Background: Staff completed plans and specifications for Community Center Auditorium Audio Visual Systems Upgrade, Project No. 3406. The project provides for the installation of replacement audio equipment, and if budget allows, the replacement of video equipment.

The Engineers Estimate for the project is $175,000. The title sheet of the project plans is included in the Council's agenda packet, and the complete set of plans and specifications are available for review in the office of the City Engineer.

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

Recommendation: Approve plans and specifications for Project No. 3406, and authorize advertisement for Bid Proposals for Community Center Auditorium Audio Visual Systems upgrade.

*** 16. Approve First Phase Agreement with Burke, Williams & Sorensen, LLP for Legal Services Regarding Elimination of Odor (Staff Contact: Mike Ogaz, 408-586-3041)**

Background: Since 2011, the City has been engaged in litigation opposing the expansion of the Newby Island landfill. A suit based on environmental objections is currently pending before the local appellate court. However, at Council direction the City Attorney's Office has conducted a nation-wide search to find an attorney firm to advise on any other potential means by which to eliminate the offensive odors plaguing the community. Panel interviews conducted this month resulted in several well-qualified firms making presentations. The unanimous panel decision was to associate the firm of Burke, Williams & Sorensen to advise and represent the City regarding the odor problem.

This agreement is for a first phase assessment of the problem, including the review of the legal framework, potential administrative or court action to be taken and the potential for success of these alternatives in addressing the odor problem. Depending on the results of the first phase, a second and third phase is contemplated to implement an appropriate action plan.

Fiscal Impact: There are sufficient funds in the City Attorney "Services" budget to fund this agreement in a not-to-exceed amount of $50,000.

Recommendations: Approve the First Phase Agreement with the law firm of Burke Williams & Sorensen, LLP for legal services regarding the elimination of odors in the City of Milpitas.

XX. JOINT MEETING OF THE SUCCESSOR AGENCY, PUBLIC FINANCING AUTHORITY and MILPITAS CITY COUNCIL

SA1. Call to Order/Roll by the Mayor/Chair

SA2. Approval of Agenda

SA3. Adopt a Joint Resolution of the City Council of the City of Milpitas, the Board of the Successor Agency to the Former Milpitas Redevelopment Agency and the Board of the Milpitas Public Financing Authority Approving the Adoption of Disclosure Policies and Procedures (Staff Contact: Emma Karlen, 408-586-3145)

Background: To ensure compliance with all applicable federal and state securities laws, the Securities and Exchange Commission (the "SEC") recommends that issuers of municipal bonds adopt policies and procedures to govern compliance and implement training with respect to their initial disclosure and continuing disclosure requirements.

The Successor Agency Board recently approved the issuance and sale of the Successor Agency to the former Milpitas Redevelopment Agency 2015 Tax Allocation Refunding Bonds (Redevelopment Project Area No. 1) ("2015 Refunding Bonds") to refund the Successor Agency's outstanding 2003 Tax Allocation Bonds. In a separate agenda item tonight, the Successor Agency will be requested to approve the Preliminary Official Statement and other related documents for the 2015 Refunding Bonds. Staff believes that this will be an opportunistic time to present the Disclosure Policies and Procedures to the City Council, Successor Agency Board, and the Milpitas Public Financing Authority Board for consideration and adoption. Since all three entities have the capability to issue bonds, a joint resolution to adopt such a policy is appropriate.

The proposed Disclosure Polices and Procedures document is included in the Council agenda packet. Jones Hall, the law firm serving as the disclosure counsel to the Successor Agency in connection with the issuance and sale of the 2015 Refunding Bonds, will make a short presentation on the Disclosure Policies and Procedures at the meeting, primarily to ensure that staff members and the legislative body of the City, the Successor Agency and the Authority understand and are able to perform their respective responsibilities relating to bond issuance disclosure requirements and continuing disclosure requirements.

Recommendation: Following the presentation by Jones Hall, adopt a joint resolution of the City Council of the City of Milpitas, the Board of the Successor Agency to the former Milpitas Redevelopment Agency and the Board of the Milpitas Public Financing Authority approving the adoption of Disclosure Policies and Procedures.

SA4. Adopt a Resolution of the Board of the Successor Agency to the Former Milpitas Redevelopment Agency Confirming Issuance of Tax Allocation Refunding Bonds Pursuant to an Indenture of Trust, Approving Preliminary and Final Official Statements, and Providing Other Matters Relating Thereto (Staff Contact: Emma Karlen, 408-586-3145)

Background: On December 2, 2014, the Successor Agency Board adopted a resolution authorizing the issuance and sale of the Successor Agency to the Former Milpitas

Redevelopment Agency 2015 Tax Allocation Refunding Bonds (Redevelopment Project Area No. 1) (the “Refunding Bonds”) to refund the outstanding 2003 Tax Allocation Refunding Bonds (“2003 TABs”).

It is anticipated that the refunding will take approximately four months to complete. Key milestones to complete the refunding are identified below. Some of the key milestones have been expedited due to earlier approval of the refunding from the Department of Finance.

- Oversight Board and Successor Agency Board’s approval to retain consultants to initiate the refunding of the 2003 TABs (Completed – November 3, 2014 and November 18, 2014)
- Successor Agency approving resolution to refund 2003 TABs and approving legal documents (Completed – December 2, 2014)
- Oversight Board’s approval of Successor Agency action to issue the Refunding Bonds and make determination of savings (December 2, 2014)
- Submission of resolutions of both the Successor Agency and Oversight Board and all the related documents to the Department of Finance (Completed - December, 2014)
- Receive Department of Finance’s Approval (Completed – January 13, 2015)
- Successor Agency Approval of the Preliminary Official Statement and remaining financing documents (Tonight’s recommended action)
- Secure underlying credit ratings and potentially bond insurance and reserve fund surety (February, 2015)
- Negotiated sale of Bonds (February, 2015)
- Bond Closing and payoff of outstanding 2003 TABs (March, 2015)

The Successor Agency staff has worked with the disclosure counsel, Jones Hall, to prepare a draft Official Statement which is included in the Successor Agency Board’s agenda packet. The Preliminary Official Statement contains information regarding the Refunding Bonds, the former Milpitas Redevelopment Agency and the Successor Agency. It will be used as a public offering statement for the issuance of the Refunding Bonds. Also included in the packet is a Depository Agreement between the Successor Agency and U.S. Bank National Association (“US Bank”) to appoint U.S. Bank to hold certain bond proceeds of the Successor Agency.

Approval of the above-referenced Resolution will confirm the issuance of the 2015 Tax Allocation Refunding Bonds and approve the Preliminary Official Statement and the Depository Agreement. In addition, the Resolution further authorizes the “Authorized Officers” who are identified as the Chair, the Executive Director, or the Assistant Executive Director of the Successor Agency, each of whom may act alone to subsequently execute and deliver the final Official Statement and certain certificates to the Underwriters and take other official actions necessary for issuing the Refunding Bonds, on behalf of the Successor Agency.

Fiscal Impact: Based on current market conditions, the refinancing of the outstanding 2003 TABs is projected to generate net present value savings of approximately $18.0 million over the remaining life of the indebtedness. The average annual savings are projected to be approximately $1.3 million with the final maturity in September 2032. The term of the refunding bonds is the same as the original term of the currently outstanding indebtedness and will not be extended.

Recommendations: Adopt a resolution of the Board of the Successor Agency confirming the issuance of tax allocation refunding bonds pursuant to an indenture of trust, approving preliminary and final official statements and providing other matters relating thereof, including approving a depository agreement.

SA5. Adjourn Joint Meeting

January 2015						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

March 2015						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

MILPITAS CITY COUNCIL CALENDAR

February 2015

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2 **7:00 PM**-Parks, Recreation & Cultural Resources Commission (GB)	3 **6:30 PM**-Closed Session **7:00 PM**-City Council	4 **7:30 AM**-VTA Northeast Group (JE) **5:30 PM**-Veterans Commission (DG) **7:00 PM**-Community Advisory Commission (CM)	5 **5:30 PM**-VTA Board of Directors (JE)	6	7 **11:00 AM** Council meeting with Assemlymbr K. Chu (Committee room)
8	9 **6:00 PM**-Economic Development Commission (CM)	10 **4:00 PM**-Milpitas Oversight Board Meeting **7:00 PM** Youth Advisory Commission (DG)	11 **7:00 PM**-Planning Commission	12 **LINCOLN'S BIRTHDAY HOLIDAY** **4:00 PM**-VTA Policy Advisory Committee (CM) **4:30 PM**-Treatment Plant Advisory Committee (JE) (San Jose) **7:00 PM**-Cities Assoc of SCC (JE)	13	14
15	16  	17 **6:00 PM**-Closed Session **7:00 PM**-City Council	18	19	20	21
22	23 **7:00 PM**-Telecommunications Commission (GB)	24 **1:30 PM**-Senior Advisory Commission (JE)	25 **7:00 PM**-Planning Commission	26 **12:00 PM**-Terrace Gardens Board of Directors (DG) **1:30 PM**-County Library JPA Board (CM) **5:30 PM**-Milpitas Chamber of Commerce Board (DG) **6:00 PM**-Sister Cities Commission (MG)	27	28

Updated 01/27/2015

Draft MEETING MINUTES
CITY OF MILPITAS

Minutes of:	**Regular Meeting of Milpitas City Council**
Date:	**Tuesday, January 20, 2015**
Time:	**7:00 PM**
Location:	**Council Chambers, Milpitas City Hall, 455 East Calaveras Blvd., Milpitas**

CALL TO ORDER

Mayor Esteves called the meeting to order at 7:09 PM. The City Clerk noted the roll.

PRESENT: Mayor Esteves, Vice Mayor Montano, Councilmembers Barbadillo, Giordano and Grilli

ABSENT: Councilmember Barbadillo was absent at roll call. He arrived in Closed Session at 6:04 PM.

CLOSED SESSION

City Council convened in Closed Session to discuss litigation and labor negotiations.

City Council then convened in Open Session at 7:15 PM.

ANNOUNCEMENT

City Attorney Mike Ogaz announced out of closed session that the Council reached agreement with three labor groups including with (1) Mid-management Confidential group ending on June 30, 2016, including a 4% restoration of employer PERS deduction upon adoption and a 4% PERS restoration on July 1, 2015; with (2) Milpitas Employees Association ending June 30, 2016 including a 6.5% salary restoration upon adoption and a 3.5% salary restoration July 1, 2015, and the contract may be extended one year with a 3% salary increase at the discretion of the City Manager at the end of the term (until June 30, 2017), conditioned along with dismissal of a pending Public Employment Relations Board (PERB) charge; and, with (3) Professional and Technical group, until June 30, 2016 including a 4% restoration of employer PERS contribution and a 4% restoration July 1, 2015. All three Memorandums of Understanding (MOU) contain a variety of other minor terms, and would be on file at the City Clerk's office 10 days before a final vote of approval. City Council would vote at the next regular meeting on February 3, 2015 on all three MOUs.

PLEDGE

Boy Scouts Troop No. 92 presented the flags and led the pledge of allegiance.

INVOCATION

Mayor Esteves invited Bishop Riker from the Church of Latter Day Saints covering Milpitas, commonly known as the Mormon church, to provide the invocation prayer.

MEETING MINUTES

Motion: to approve two sets of minutes from the January 6, 2015 City Council meetings (Study Session and the regular meeting)

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 5
NOES: 0

SCHEDULE OF MEETINGS

Motion: to approve Council Calendar/Schedule of Meetings for January and February 2015, as amended

City Manager Tom Williams announced that the Parks, Recreation and Cultural Resources Commission would hold a special meeting on January 21, 2014 at 7:00 PM in the Committee Room at City Hall.

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 5
NOES: 0

PUBLIC FORUM

Linda Arbaugh, President of Friends of the Library, invited the City Council to join her organization and to attend the upcoming Friends Library Book Sale at the next weekend. Early entry on Friday, January 3, 2015 from 7 – 9 PM was open for members only.

Voltaire Montemayor, Milpitas resident, wanted a singing hall for a singing contest in an auditorium. He suggested having "American Idol" in the park.

Robert Marini, Milpitas resident, referred to a notice he received in the mail regarding Newby Island landfill which wanted to expand its dump. Milpitas was doing nothing about it, except increasing housing units and more use of water resources.

Councilmember Giordano responded that odor control was a hot issue right now and the City Council had been very pro-active, but could not discuss publicly some items. A new report would be made to the public on an upcoming agenda.

Rob Means, 1421 Yellowstone resident, did not agree with all of what Mr. Marini said. Population of the world and the city was going up. There was a need to take care of increasing population, with increased resource needs, so changes were needed. He urged reduced consumption with more recycled content.

ANNOUNCEMENTS

City Manager Tom Williams announced that Flextronics, a Milpitas company, would host its internal "Town Meeting" for employees soon when select City staff would give an overview about the City including services offered to those employees on Wednesday, January 21 at 2:30 PM. Staff included the Economic Development Manager and others.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Ogaz asked the Mayor and Councilmembers if they had any personal conflicts of interest or reportable campaign contributions. No conflicts or contributions were reported.

APPROVAL OF AGENDA

Motion: to approve the agenda, as amended

City Manager Tom Williams reported that staff requested to remove agenda item no. 5, regarding acceptance of Pinewood Park from this agenda, to be heard at a future Council meeting.

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 5
NOES: 0

CONSENT CALENDAR

Motion: to approve the Consent Calendar items (noted by *asterisk), as submitted

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 5
NOES: 0

* 2. PRCRC Work Plan

Approved the Parks, Recreation and Cultural Resources Commission 2015 Work Plan.

* 3. Appointments

Community Advisory Commission:
Appointed Ashish Kathapurkar as a regular, voting member to a term that will expire in January of 2019.

Appointed Ashok Sharma as a regular, voting member to a term that will expire in January of 2018.
Appointed Mike Bilbao as Alternate No. 1 to a term that will expire in January of 2017.

Parks, Recreation and Cultural Resources Commission:
Appointed Bhupinder (Bill) Singh as a regular, voting member to a term that will expire in June of 2017.
Appointed Satish Bansal as Alternate No. 1 to a term that will expire in June of 2016.

* 4. Commissioners Recognition 2015	Approved the 2015 Commissioners Recognition Event as a catered luncheon to be held at the Milpitas Community Center on Saturday, April 25, 2015 from 11:30 am to 1:30 pm, at a cost that will not exceed $8,000.
* 5. Initial Acceptance of Park	Item was removed the agenda, for consideration in the future.
* 6. Resolution	Adopted Resolution No. 8438 awarding and approving a contract with JP Graphics, Inc. for the annual not-to-exceed amount of $70,000.00 with the option for annual renewals not-to-exceed a total contract term of five years.
* 7. Resolution	Adopted Resolution No. 8439 amending the City of Milpitas Classification Plan to reestablish a Public Works Director and a City Engineer with annual salary ranges of $152,199 - $185,000. Approved the budget appropriation of $68,000 to the Engineering Department budget.
* 8. Resolution	Adopted Resolution No. 8440 in support of Project Blue Light during the holiday season and the month of January to honor fallen police officers and those presently serving the police force.
* 9. Resolution	Approved Amendment No. 1 to the consultant agreement with CalRecovery for On-Call Services in the amount of $35,000. Approved a budget appropriation from the Solid Waste Fund in the amount of $35,000.
*10. Payment to CRW	Authorized payment of annual support and maintenance to CRW (for Building Permit and Land Management Software) in the amount of $22,000.00.
*11. Payment to Lyon Communities	Received report of emergency removal of playground equipment from Apex Park and authorize staff to pay Lyon Communities invoices totaling $52,942.53 for repair work.

REPORT OF MAYOR

1. New Ad Hoc Committee Appointments

Mayor Esteves expressed his recommendation to appoint nine people to a Committee to make recommendations to the City Council about possible changes to campaign finance regulations in the local municipal code. He had identified nine of the people who had contacted the City Clerk expressing an interest to serve.

He said the vote would be by the Council with at least three votes majority. If one did not get three votes, then Council could make its own recommendation for another member.

Councilmember Grilli thanked the Mayor for creating a fair process. She liked the chance to ask applicants questions, and for putting it out to the community. She noted that one resident, Heidi Wolf, reported to her that she had sent an e-mail to the City Clerk, but it was not received.

Councilmember Giordano felt it was exciting that 14 people were interested. She asked to separate the vote, by removing Rajeev Madnawat from the list, and vote on all the others first as one vote, which she then moved to do.

Mayor Esteves responded that he would thus recommend the eight remaining names.

Vice Mayor Montano said this topic was not a local problem only, rather it was statewide and a national problem where corporations have huge amounts of money they put into election campaigns. If it was tackled on a local level, it could really help the election process, she believed.

Motion: to appoint these eight Milpitas residents, as recommended by Mayor Esteves, to the new Committee Finance Reform Committee: Bill Ferguson, Lokesh Krishnarajpet, Martha Lamdin, Syed Mohsin, Bob Nunez, Althea Polanski, Marty Riker, and Rohit Sharma

Motion/Second: Mayor Esteves/Councilmember Grilli

Motion carried by a vote of: AYES: 5
NOES: 0

Motion: to appoint Rajeev Madnawat, as recommended by Mayor Esteves, to the new Committee Finance Reform Committee

Motion/Second: Mayor Esteves/Vice Mayor Montano

Motion carried by a vote of: AYES: 3
NOES: 2 (Giordano, Grilli)

ADJOURNMENT Mayor Esteves adjourned the City Council meeting at 7:53 PM.

Meeting minutes respectfully submitted by
Mary Lavelle, City Clerk

List of Attachments for Public Hearing No. 1

Conduct a Public Hearing and Adopt a Resolution repealing Paragraph Number 7 in Resolution No. 8220 Related to Exemption on Land Use Conversions while Continuing Exemption for Properties East of California Circle (Staff Contact: Adam Petersen, 408-586-3274)

Attachments:

1-A. Resolution Repealing Paragraph Number 7 in Resolution No. 8220

1-B. Planning Commission Staff Report – 01/14/2015

1-C. Planning Commission Meeting Minutes – 01/14/2015

1-D. Adopted Planning Commission Resolution No. 15-002

1-E. Adopted City Council Resolution No. 8220

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS REPEALING PARAGRAPH NO. 7 FROM CITY COUNCIL RESOLUTION NO. 8220 RELATING TO EXEMPTIONS TO LAND USE CONVERSION

WHEREAS, on January 15, 2013, the Milpitas City Council adopted Resolution No. 8220 approving amendments to the Land Use and Circulation Elements of the Milpitas General Plan; and

WHEREAS, amendments to the Land Use Element of the Milpitas General Plan included adding General Plan Land Use Policy 2.a-I-2, which prohibits the conversion of employment/sales tax generation properties to residential uses until there is an eighty percent (80%) build out of the Midtown and Transit Area Specific Plan areas; and

WHEREAS, City Council Resolution No. 8220 included Paragraph No. 7, which exempted properties west of McCarthy Ranch Road north of Highway 237 and properties east of California Circle to Penitencia Creek from complying with General Plan Policy 2.a-I-2; and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the City Council determines this project categorically exempt from further CEQA review under Section 15061(b)(3) of the CEQA Guidelines, Review for Exemption, since the project has no potential to cause a significant effect on the environment because the project will not allow any industrial land conversion to residential; and

WHEREAS, on January 14, 2015, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties and adopted Resolution No. 15-002 recommending the City Council repeal Paragraph No. 7 in Resolution No. 8220 relating to exemptions to land use conversion, while continuing the exemption for properties east of California Circle to Penitencia Creek; and

WHEREAS, on February 3, 2015, the City Council held a duly noticed public hearing on the subject application and considered evidence presented by City staff and other interested parties.

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

1. The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

2. The proposed project is categorically exempt from further CEQA review under Section 15061(b)(3) of the CEQA Guidelines, Review for Exemption, because the project has no potential to cause a significant effect on the environment, since repealing Paragraph No. 7 in Resolution No. 8220 is a legislative act that does not approve any land use conversion or construction.

3. There are no specific findings required under the Milpitas Municipal Code or State law for the City Council to repeal Paragraph No. 7 in City Council Resolution No. 8220. Although no specific findings are required, the City Council does find repealing Paragraph No. 7 in City Council Resolution No. 8220 is consistent with the City's General Plan and Zoning Code. Specifically, the amendment will focus residential development in the Midtown and Transit Area Specific Plans, consistent

with Policy 2.a-I-2 by removing other areas of the City from residential conversion until 80% of the Midtown and Transit Areas are built out. Additionally, amending the Resolution will also preserve properties from converting to residential uses that instead are intended for employment and income-producing purposes and will increase economic development and revenues in the City.

Further, the City Council finds amendment to Resolution No. 8220 will not adversely affect the public health, safety and welfare. The amendment will focus residential development in areas that anticipate and have planned for significant future residential development. Further, amending the Resolution will help the City achieve long-term fiscal sustainability by focusing residential development in areas with the infrastructure to accommodate residential development.

4. Based on the findings set forth herein, the City Council of the City of Milpitas hereby repeals Paragraph No. 7 from Resolution No. 8220, while continuing the exemption for properties east of California Circle to Penitencia Creek from compliance with General Plan Land Use Policy 2.a-I-2.

PASSED AND ADOPTED this _______ day of ______________, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: APPROVED:

_________________________________ _________________________________

Mary Lavelle, City Clerk Jose S. Esteves, Mayor

APPROVED AS TO FORM:

____

Michael J. Ogaz, City Attorney

AGENDA ITEM: X-2

1-B

MILPITAS PLANNING COMMISSION STAFF REPORT

January 14, 2015

APPLICATION:	**RESOLUTION AMENDMENT – GP14-0005 – Repealing Paragraph Number 7 in City Council Resolution No. 8220 relating to land use conversion.**
RECOMMENDATION:	**Staff recommends that the Planning Commission:** **Conduct the public hearing and adopt Resolution No. 15-002 to recommend the City Council adopt a resolution rescinding Paragraph Number 7 in Resolution No. 8220 relating to conversion of employment/sales tax generation properties to residential, while considering to continue exempting parcel APN 022-37-019 in order to achieve a consistent land use pattern in the area.**
LOCATION:	
Address/APN:	Properties west of McCarthy Ranch Drive and north of Highway 237 (APNs 022-56-005; -006; -007; -008; -009; 022-29-036; 022-30-035; -037; -038; -039); and Properties east of California Circle and west of Penitencia Creek (APNs 022-37-011; -012; 017; -019)
Area of City:	Dixon Landing Business Park
PEOPLE:	
Project Applicant:	City of Milpitas
Consultant(s):	NA
Property/Business Owner:	(APN 022-56-005; -006; -007; -008; -009) BRE/Milpitas LLC, Equity Property Tax Group LLC, PO Box A- 3879 Chicago, IL 60690-3879 (APN 022-29-036; -30-037; 30-039) McCarthy Ranch LP 15425 Los Gatos Blvd Unit 102 Los Gatos, Ca 95032 (APN 022-30-038) New Trend Tech Inc, 680 N McCarthy Blvd, Milpitas, CA 95035 (APN 022-30-35) City of Milpitas, 455 E. Calaveras Blvd, Milpitas CA 95035 (APN 022-37-011; -012) Everlasting Private Foundation, 19620 Stevens Creek Blvd, Suite. 200, Cupertino, CA 95014

	(APN 22-37-019) BAP San Jose LLC, 81 Suttons Ln. Piscataway, NJ 08854
	(APN 22-37-017) iStar Financial, 1 Sansome St 30th Floor, San Francisco, CA 94104
Project Planner:	Adam Petersen, Senior Planner

LAND USE:

General Plan Designation:	Industrial Park (INP)
Zoning District:	MP (Industrial Park) – PUP 31
Overlay District:	Site and Architectural Overlay (-S)

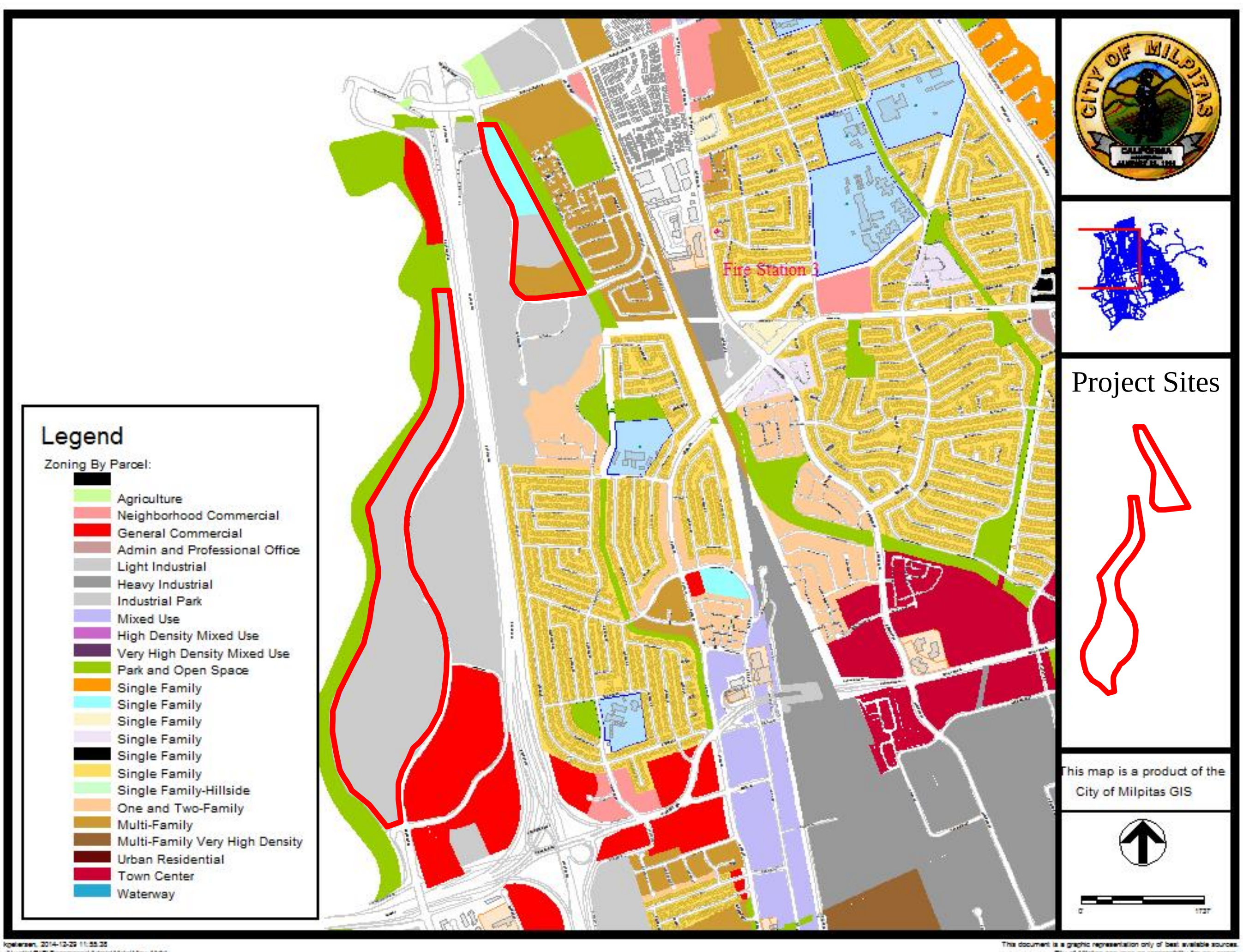
ENVIRONMENTAL: The Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). Staff determined that the project is exempt pursuant to Section 15061(b)(3).

EXECUTIVE SUMMARY

The Mayor has requested an amendment to Resolution Number 8220 adopted by the City Council on January 15, 2013, to rescind a City Council policy which currently exempts certain industrial properties located in the City of Milpitas from General Plan Implementing Policy 2.a-I-2 prohibiting the conversion of commercial or industrial lands to residential. Specifically, Paragraph Number 7 in Resolution Number 8220 currently exempts two areas of the City from the prohibition of land use conversion to residential until there is 80 percent build out in the Midtown and Transit Area Specific Plan areas. These two areas consisted of industrial land west of McCarthy Boulevard and land located east of California Circle and west of Penitencia Creek. Map 1 – Project Location, illustrates these areas enclosed in red. A copy of Resolution Number 8220 adopted by the City Council on January 15, 2013 is attached to this staff report.

Map 1
Project Location

Zoning Map



BACKGROUND

On January 15, 2013, the City Council adopted Resolution No. 8220 approving amendments to the Land Use and Circulation elements of the Milpitas General Plan. This amendment addressed long term planning and fiscal sustainability for the City when evaluating development proposals. Specifically, the amendment added General Plan Policy 2.a-I-2 to the Land Use Element. This policy states the following:

- **2.a-I-2 -- Land use conversions from employment/sales tax generation properties to residential shall only be considered once there is 80% buildout in the Midtown and Transit Area Specific Plans.**

The implementation of Policy 2.a-I-2 focuses residential development in the Midtown and Transit Area Specific Plans, where there is the existing infrastructure and plans to accommodate the anticipated growth. However, Resolution No. 8220 included Paragraph Number 7, which is an exception to Policy 2.a-I-2 for certain properties from complying with the Policy. Specifically, Paragraph Number 7 states:

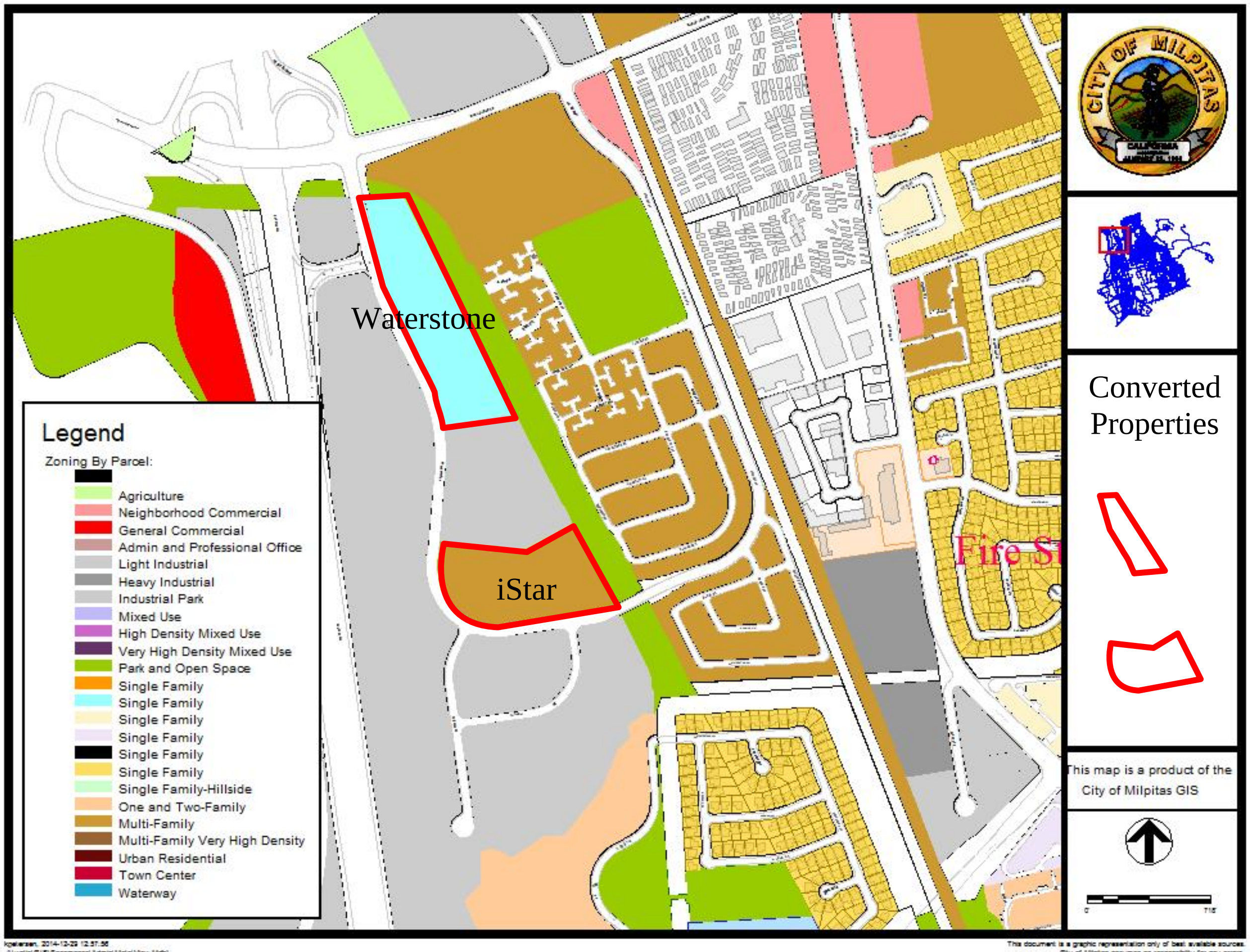
7. Implementing Policy 2.1-I-2 (sic) shall not apply to General Plan Amendment application for properties west of McCarthy Boulevard north of Highway 237 and for properties east side (sic) of California to Penitencia Creek.

This exemption has recently resulted in consideration and conversion of industrial properties located east of California Circle and west of Penitencia Creek to residential subdivision. Map 2 illustrates the two properties that have been converted from industrial to residential under the Policy exception. These two projects are as follows:

- Waterstone – APNs 022-37-011; -012 – Approved by City Council on November 19, 2013; and
- iStar – APNs 022-37-017 – Approved by City Council on November 18, 2014.

At the Mayor's request, staff has prepared this report and draft resolution to amend Resolution 8220 by repealing Paragraph Number 7. If the City Council approves the Mayor's recommendation, all employment/sales tax generation properties shall only by considered once there is 80 percent buildout of the Midtown and Transit Area Specific Plan areas and the focus of residential developments in the near future will be in these two Specific Plan areas only.

Map 2
Industrial Properties Approved For Residential



PROJECT DESCRIPTION

The City of Milpitas is proposing an amendment to Resolution No. 8220 repealing Paragraph Number 7 relating to land use conversion of industrial land to residential. Item number 7 allows specific industrial properties located in the City of Milpitas to be exempted from General Plan Policy 2a-I-2, which prohibits land use conversion to residential until there is 80 percent buildout of the Midtown and Transit Area Specific Plan areas.

Repealing Paragraph Number 7 will affect the following properties located west of McCarthy Boulevard and north of Highway 237:

- APNs 022-56-005; -006; -007; -008; -009
- APN 022-29-036
- APNs 022-30-035; -037; -038; -039
- APNs 022-29-036; 022-30-035; -037; -038; -039

It will also affect the following properties located to the east of California Circle and west of Penitencia Creek:

- APNs 022-37-011; -012
- APN 22-37-019
- APN 22-37-017

As discussed previously, the Waterstone (APN 022-37-011; -012) and iStar (APN 022-37-019) projects have already converted the industrial properties east of California Circle and west of Penitencia Creek to residential purposes. Repealing Paragraph 7 would not affect these projects because they are already converted to residential purposes.

PROJECT ANALYSIS

Repealing Paragraph Number 7 from Resolution 8220 would achieve a higher level of consistency with General Plan Policy 2.a-I-2. The original intent of the policy was to maximize the economic development potential of land in the City by allocating adequate areas to income/job generating land uses. Repealing Paragraph Number 7 would preserve over 134 acres of industrial, job generating, and income producing lands located to the west of McCarthy Ranch Road. Further, it would minimize the impacts of development on public services. Public services would not have to be extended a large distance to service these areas.

The proposed amendment to Resolution 8220 would promote and focus residential development in the Midtown and Transit Area Specific Plan areas. The Midtown and Transit Area Specific Plan areas are both carefully thought out to accommodate future development, as demonstrated by the certified environmental impact reports. Further, focusing residential development in these areas would assist the City in achieving its vision for these places to function as the dense urban and mixed use town core.

As previously discussed, and as illustrated in Map 2 above, two projects have converted industrial land east of California Circle to residential developments. Repealing Paragraph 7 from Resolution 8220 will not apply to these projects. The approved entitlements will continue for these parcels. However, the result of these approvals is that it has essentially sandwiched one remaining 10-acre piece of industrially designated land between residential projects. This land use pattern presents potential inconsistencies. Accordingly, staff recommends that the Commission consider continuing to exempt parcel APN 022-37-019 in order to achieve a consistent land use pattern in the area.

FINDINGS FOR APPROVAL (OR DENIAL)

A finding is a statement of fact relating to the information that the Planning Commission has considered in making a decision. Findings shall identify the rationale behind the decision to take a certain action.

There are no specific findings required for the Planning Commission to support the repealing of Paragraph Number 7 in City Council Resolution No. 8220 since there are no General Plan Amendments, Zoning Amendments, or approval of any other permits or amendments required to repeal Paragraph Number 7 in City Council Resolution No. 8220.

Although no specific findings are required, the Planning Commission does find repealing Paragraph Number 7 in City Council Resolution Number 8220 is consistent with the City's General Plan. Specifically, the amendment will focus residential development on the Midtown and Transit Area Specific Plans, consistent with Policy 2.a-I-2 by removing other areas of the City from residential development until 80% of the Midtown and Transit Areas are built out. Additionally, amending the resolution will also preserve properties from converting to residential uses that instead are intended for employment and income producing purposes.

Further, the Planning Commission finds amendment to Resolution No. 8220 will not adversely affect the public health, safety and welfare. The amendment will focus residential development in areas that anticipate and have planned for significant future residential development. Further, amending the resolution will help the City achieve long term fiscal sustainability by focusing residential development in areas with the infrastructure to accommodate the development. For these reasons, the proposed amendment to Resolution No. 8220 will not affect the public health, safety and welfare.

ENVIRONMENTAL REVIEW

The proposed resolution amendment is exempt from the California Environmental Quality Act (CEQA). CEQA Guidelines Section 15061(b)(3) states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The purpose of amending Resolution No. 8220 is to achieve greater consistency with the Milpitas General Plan. The amendment will not expand the range or intensity of uses permitted on the subject properties. Instead, it will facilitate the utilization of these properties as the General Plan intends. The amendment does not authorize any construction and will not result in any physical change in the environment. Therefore, the proposed amendment is exempt from CEQA review because it can be seen with certainty, there is no possibility it will have a significant adverse on the environment.

PUBLIC COMMENT/OUTREACH

Staff publicly noticed the application in accordance with City and State law. Staff did not receive public comments as of the date of writing this Report.

CITY COUNCIL REVIEW

This project requires review by the City Council and is tentatively scheduled on the February 3, 2015 City Council agenda.

CONCLUSION

In summary, it is recommended that the Planning Commission recommend the City Council adopt a resolution to repeal Paragraph Number 7 in City Council Resolution No. 8220. Amending the resolution will promote a more orderly and financially sustainable development pattern for the City of Milpitas. The City adopted the Transit Area Specific Plan and the Midtown Specific Plan. These plans anticipate residential development, and accordingly have the infrastructure and capacity to accommodate the planned development. Converting industrial properties to residential developments will deprive the city of income and job generating lands, thereby negatively impacting its fiscal sustainability. Therefore, rescinding item 7 from Resolution No. 8220 will promote fiscal sustainability and a more orderly approach to development in the City of Milpitas.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission:

1. Conduct Public Hearing; and
2. Adopt Resolution No. 15-002 recommending the City Council find the project exempt from the California Environmental Quality Act and adopt a resolution to repeal Paragraph Number 7 in City Council Resolution No. 8220 relating to land use conversion, while considering to continue exempting parcel APN 022-37-019 in order to achieve a consistent land use pattern in the area.

ATTACHMENTS

A. Resolution 15-002
B. Resolution No. 8220

MEETING MINUTES

1-C

MILPITAS PLANNING COMMISSION
Milpitas City Hall, Council Chambers
455 E. Calaveras Blvd., Milpitas, CA

Wednesday, January 14, 2015

I. PLEDGE OF ALLEGIANCE

Chair Mandal called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

II. OATH OF OFFICE TO NEWLY APPOINTED MEMBERS

City Clerk Mary Lavelle swore in new members Zeya Mohsin and Ray Maglalang.

III. ROLL CALL/ SEATING OF ALTERNATE

Commissioners
Present: Chair Sudhir Mandal, Vice Chair Larry Ciardella, Commissioners Gurdev Sandhu, Rajeev Madnawat, Demetress Morris, Hon Lien, Ray Maglalang, Alternate Member Zeya Mohsin

Absent:

Staff: Steven McHarris, Johnny Phan, Adam Petersen

IV. PUBLIC FORUM

Chair Mandal invited members of the audience to address the Commission and there was one speaker.

Rob Means, a Milpitas resident who lives on Yellowstone, said he is circulating a petition rejecting US Supreme Court rulings regarding money interests and invited commissioners to join him for a protest march in San Francisco at 3:30 on January 21st.

V. APPROVAL OF MEETING MINUTES

Chair Mandal called for approval of the December 10, 2014 meeting minutes of the Planning Commission.

Motion to approve Planning Commission meeting minutes as submitted.

Motion/Second: Commissioner Madnawat/Commissioner Morris

AYES: 4

NOES: 0

ABSTAIN: 3 Ciardella, Sandhu, Maglalang

VI. ANNOUNCEMENTS

Planning Director Steven McHarris announced that the Holiday Inn Suites and Springhill Suites items were deferred to February 11.

Romero Rodriguez, a resident on Fairview Way, was present to speak about these projects. He said the land has been vacant for several years and as a home owner he believes the hotels will be a big boost to their property values and that they will create more pedestrian activity for the businesses located there.

Anna Capelias said her concern has to do with use and zoning of the development and what changes might occur if a hotel is allowed, and she wants to hear all of the information when the presentation is made.

Mr. McHarris said the zoning is not changing and that hotel use can occur with approval of the planning commission. The projects will be heard at the February 11 Planning Commission meeting.

VII. CONFLICT OF INTEREST

Assistant City Attorney Johnny Phan asked if any member of the Commission had any personal or financial conflict of interest related to any of the items on the agenda.

There were no reported conflicts.

VIII. APPROVAL OF AGENDA

Chair Mandal asked if staff or Commissioners had changes to the agenda and there were none.

Motion to approve the January 14, 2015 agenda as submitted.

Motion/Second: Commissioner Sandhu/Commissioner Ciardella

AYES: 7

NOES: 0

IX. CONSENT CALENDAR

NO ITEMS

X. PUBLIC HEARING

X-1 **TOWN CENTER AMENDMENT – ALL TOWN CENTER DESIGNATED PARCELS – ZA14-0011:** Zoning Text Amendment to the Town Center zoning district that would add a description and prohibit ground level residential uses.

Project Planner Adam Petersen reviewed a PowerPoint presentation discussing the zoning amendment.

Commissioner Madnawat asked if a garage is considered residential, because if so there could be an easy way to get around the amendment by building garages on the ground floor. Mr. McHarris said that residential serving garages would be classified as residential and would not be permitted on the ground floor, and that there has to be commercial on the ground floor. Commissioner Madnawat said this would mean there would be no condominium development and Mr. McHarris said that was correct. Commissioner Madnawat said the language in the ordinance should be clearer about permitted uses and should state that the ground floor needs to be 100% commercial.

Assistant City Attorney Johnny Phan said the drafted language can be updated to clarify the types of uses allowed.

Chair Mandal asked about the process of attracting high quality businesses to Milpitas and the vision for the city to produce more walkable and lively areas and Mr. Petersen said the intent of this amendment is to encourage future uses that accommodate that type of use.

Chair Mandal opened the public hearing and Mr. Means spoke in favor of this amendment.

Motion to close the public hearing.

Motion/Second: Commissioner Sandhu/Commissioner Ciardella

AYES: 7

NOES: 0

Commissioner Madnawat asked that the language in the ordinance be clarified to include permitted uses around the word commercial and that staff look into potential conflicts with the ordinance that allow live-work units.

Motion to adopt Resolution No. 15-001 recommending the City Council adopt Zoning Amendment No. ZA14-0011 to add the words “mixed use” residential to the purpose and intent section of the Town Center Zoning description and to prohibit ground floor residential in the Town Center zone.

Motion/Second: Commissioner Madnawat/Commissioner Sandhu

AYES: 7

NOES: 0

X-2 **GENERAL PLAN CONVERSION - CLARIFICATION – CITY WIDE – GP14-0005:** Clarification to the adopted General Plan Land Use Conversion policy (City Council Resolution No. 8220), removal of the exemption for parcels on the west side of McCarthy Boulevard north of Highway 237 and properties on the east side of California Circle to Penitencia Creek.

Senior Planner Adam Petersen provided a presentation reviewing the project.

Commissioner Sandhu asked how large the parcel is and Mr. Petersen said it is approximately 10 acres.

Commissioner Madnawat asked if there are pending applications and Mr. McHarris said there are not.

Chair Mandal opened the public hearing and Mr. Means said that this generally sounds like a good idea and was curious about the remnant parcel and who the owner is.

Motion to close the public hearing.

Motion/Second: Commissioner Sandhu/Commissioner Ciardella

AYES: 7

NOES: 0

Commissioner Madnawat asked if there is any interest on the parcel and Mr. McHarris said there are no pending applications. Mr. Petersen added that the owner is listed as BAPS San Jose LLC.

Motion to adopt Resolution No. 15-002 to recommend the City Council adopt a resolution rescinding Paragraph Number 7 in Resolution No. 8220 relating to conversion of employment/sales tax generation properties to residential, while considering to

continue exempting parcel APN 022-37-019 in order to achieve a consistent land use pattern in the area.

Motion/Second: Commissioner Madnawat/Commissioner Sandhu

AYES: 7

NOES: 0

X-3 **CITATION PROJECTS DEVELOPMENT AGREEMENT – TASP PIPER/MONTAGUE DRIVE SUBAREA – DA14-0001:** Development Agreement proposal for reduced TASP Fees for all Citation Developments.

Senior Planner Adam Petersen provided a presentation reviewing the project.

Three commissioners disclosed that they had met with the developer: Vice Chair Ciardella, Chair Mandal, and Commissioner Morris.

Commissioner Madnawat asked how the TASP fees are calculated and Mr. Petersen said that $32,781 is the cost per unit to install infrastructure including roads, sewer and water within the TASP area. Commissioner Madnawat asked if this is a reasonable amount the City will need to spend to provide infrastructure for these homes and Mr. McHarris said it is.

Commissioner Madnawat referenced a bullet point in the presentation stating the builder has provided $8 million worth of benefits and asked for two examples of those benefits provided that have nothing to do with their development. Mr. McHarris said the developer fronted that amount of money to enable development of the TASP area, not just for their development but to enable the development of the TASP area. He said infrastructure needed to go in and Citation stepped up to do that and also processed three projects consistent with the transit area.

Commissioner Madnawat asked what amount of the $8 million is the amount not adding value to their project and Mr. McHarris said it does add some value to their project but also adds value to all of the projects within this sub-area of the TASP.

Commissioner Madnawat said he feels this is for the developers own benefit and that it is a $3.8 million dollar gift to the builder. He said if $32,781 is the fair amount that the City will have to spend then that means the taxpayers will have to pay $3.8 million to provide those services and he has a problem with this.

Commissioner Lien asked if there was a recent fee increase and Mr. McHarris said there have been two fee adjustments in addition to the annual adjustment and that the fee is calculated at the time the project is developed not entitled.

Commissioner Maglalang said he was trying to understand the $8.3 million infrastructure improvement cost and if this is supposed to be a City expense or an obligation by the developer. Mr. Phan said there are three developers building in the Piper/Montague sub-district of the TASP, Citation being the largest developer in that area and building over 1,000 units. Potentially Barry Swenson will build 300-400 units and also Milpitas Station.

With these three developers over 1,500 units will be built and there is significant public improvement required, none of which are City obligations. These public improvements total about $10 million and have to be built by the developer. A few years ago the City Council approved a four-party cost sharing agreement between the City, Citation, Barry

Swenson and Milpitas Station. Citation is the first developer to come in and is going to front and build most of the improvements, going above and beyond their obligation. They will receive credit and when the other developers come in to build they will pay the City back.

Commissioner Morris asked if development fees can be grandfathered in and Mr. Phan said the city does not grandfather anyone's fees. Fees are based on inflation and updated studies and may be adjusted during the planning process and the fee was $29,000 when Citation submitted their application and $32,721 when the building permit was issued.

Commissioner Madnawat referenced the four-party contract and wondered why Citation doesn't request the money from the other developers, and what guarantee is there that they will reimburse the city. Mr. Phan said there is a mechanism for the City to collect from the developer, that a CFD can be created if they do not build within seven years and pay their fees.

Chair Mandal asked if there will be a park and Mr. Petersen said there will be one constructed by the Citation project and showed the location of the park. He asked about the five year freeze on the fees and Mr. Phan explained that the development agreement is drafted so that within the first five years the TASP fee stays at $29,012 per unit if they build and pay their full TASP fees but if they build after five years then the fee is adjusted for inflation and increased parkland value.

Commissioner Madnawat asked if fees are frozen when a permit is pulled and Mr. Phan said that the City's position is that fees are not vested and not frozen when a permit is pulled but this has been an ongoing dispute with developers. Commissioner Madnawat said the TASP fee is needed to provide infrastructure and should be non-negotiable. He said someone has to pay this and it should not be the taxpayers of Milpitas, and he sees this a $3.8 outright gift to the developer. He wants to see the cost sharing agreement and feels that some commissioners may not understand this topic.

Commissioner Maglalang is afraid that giving a fee reduction will create a bad precedence for other developers to ask for the same fees given to Citation.

Applicant Mark Tiernan, who is also a resident of Milpitas, wanted to clarify a few points about the rationale behind the development agreement: 1) they are building at the highest level of density allowed, 2) although the City asked them to provide 5,000 square feet of retail space they are providing 8,100 square feet of retail space, and 3) when Citation 1 was approved the fees were $23,700 which was the dollar amount the City and consultant said was needed to provide the infrastructure to support these projects. By the time they got plans approved and went through the process the fees were raised to now almost $32,800 and they have asked for a compromise in return for building what the City has described as a signature project which is the Edge.

Mr. Tiernan said the first project they are building is 381 units and will take two years to build and another 1-2 years to fully lease out. Normally a developer would wait to have a building fully leased before building another project because you don't want to compete with yourself, and their plan was to move from Amalfi 1 to Amalfi II to the Edge. When they came for approval of the Edge, the City Council felt this was an important project and that it was important to coincide with the BART station, and they entered into discussions with the City to move forward before Amalfi I is fully leased out, increasing their risk, and they asked for a compromise in the fees in return for building what the City would describe as a signature project.

He said that other developers could ask for the same deal and the City could ask them if

they are building at the highest density, providing more commercial space than required and are they willing to invest 250 million in the City to get their projects built. He said if the answer was yes to those questions, then the City would probably move forward with a development agreement because of the role the developer is playing.

Mr. Tiernan said the TASP is one of the most important transit housing opportunities in the Bay Area and Citation Homes has made this one of their signature projects. The City would like them to build this project to coincide with the BART station and with the increases in construction and material costs they would like to get some cost certainty in their fees to reduce some of their risk and start construction on a building before their other project is fully leased out.

Commissioner Madnawat said Mr. Tiernan's argument regarding requests from other developers does not hold water but that his argument for the fee increases does and said he was surprised by the huge increase in the fees and asked the reasons for such an increase. Mr. Phan said there is a formula and consultants conduct a Nexus study and look at a number of different factors to determine the fair share amount for each unit. He said the initial fee study done in 2008 was based on the plan that was adopted but has been updated based on new trends and information.

Commissioner Madnawat said that if the $32,781 reflects what the City is going to spend it is $3.8 million coming from the City which can be spent on hiring police officers, fire fighters, and others.

Chair Mandal opened the public hearing and there were two speakers. Rob Means said this is a great project and reviewed a list of benefits to the City that he believes offsets the $3.8 million, including a high density housing project, extra retail, and a pedestrian over crossing getting built early.

Jim Sullivan, a consultant for the developer, said he was the project proponent for the Edge. He said developers were building on the low density side but they transferred another developers units onto the Edge and built 94 more units than necessary. He said they are also working with staff to build a great public park in the area at a substantial discount than what it would cost the city to build.

Motion to close the public hearing.

Motion/Second: Commissioner Sandhu/Commissioner Ciardella

AYES: 7

NOES: 0

Commissioner Madnawat asked who is building the pedestrian bridge and Mr. McHarris said it is a City project and there is currently grant funding for the design work and VTA is preparing design work for the City.

Motion to adopt Resolution No. 15-003 recommending the City Council adopt an ordinance approving a development agreement vesting the Transit Area Specific Plan fees for the Citation I and Citation II Projects: Amalfi I, Amalfi II and the Edge.

Motion/Second: Commissioner Morris/Commissioner Lien

AYES: 4

NOES: 3 Sandhu, Madnawat, Maglalang

XI. NEW BUSINESS

NO ITEMS

XII. ADJOURNMENT

The meeting was adjourned at 9:10 PM to the next meeting scheduled on Wednesday, January 28, 2015.

Motion to adjourn to the next meeting.

Motion/Second: Commissioner Madnawat/Vice Chair Ciardella

AYES: 7

NOES: 0

ABSENT: 0

Meeting Minutes submitted by
Planning Secretary Elia Escobar

1-D

RESOLUTION NO. 15-002

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS RECOMMENDING THE CITY COUNCIL ADOPT A RESOLUTION REPEALING PARAGRAPH UMBER 7 FROM CITY COUNCIL RESOLUTION NUMBER 8220 RELATING TO LAND USE CONVERSION

WHEREAS, on January 15, 2013, the Milpitas City Council adopted Resolution No. 8220 approving amendments to the Land Use and Circulation Elements of the Milpitas General Plan; and

WHEREAS, amendments to the Land Use Element of the Milpitas General Plan included adding General Plan Land Use Policy 2.a-I-2, which prohibits the conversion of employment/sales tax generation properties to residential uses until there is an eighty percent (80%) build out of the Midtown and Transit Area Specific Plan areas; and

WHEREAS, City Council Resolution No. 8220 included Paragraph Number 7, which exempted properties west of McCarthy Ranch Road and north of Highway 237 and properties east of California Circle and West of Penitencia Creek from complying with General Plan Policy 2.a-I-2; and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission recommend the City Council determines this project categorically exempt from further CEQA review under Section 15061(b)(3) of the CEQA Guidelines, Review for Exemption, since the project has no potential to cause a significant effect on the environment because the project will not allow any industrial land conversion to residential; and

WHEREAS, on January 14, 2015 the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

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

Section 1: The Planning Commission has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the Planning Commission. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

Section 2: The proposed project is categorically exempt from further CEQA review under Section 15061(b)(3) of the CEQA Guidelines, Review for Exemption because the project has no potential to cause a significant effect on the environment, since the project will not allow any land use conversion from industrial land to residential uses.

Section 3: There are no specific findings required for the Planning Commission to support the repealing of Paragraph Number 7 in City Council Resolution No. 8220 since there are no General Plan Amendments, Zoning Amendments, or approval of any other permits or amendments required to repeal Paragraph Number 7 in City Council Resolution No. 8220.

Although no specific findings are required, the Planning Commission does find repealing Paragraph Number 7 in City Council Resolution Number 8220 is consistent with the City's General Plan. Specifically, the amendment will focus residential development on the Midtown and Transit Area Specific Plans, consistent with Policy 2.a-I-2 by removing other areas of the City from residential development until 80% of the Midtown and Transit Areas are built out. Additionally, amending the resolution will also preserve properties from converting to residential uses that instead are intended for employment and income producing purposes.

Further, the Planning Commission finds amendment to Resolution No. 8220 will not adversely affect the public health, safety and welfare. The amendment will focus residential development in areas that anticipate and have planned for significant future residential development. Further, amending the resolution will help the City achieve long term fiscal sustainability by focusing residential development in areas with the infrastructure to accommodate the development. For these reasons, the proposed amendment to Resolution No. 8220 will not affect the public health, safety and welfare.

Section 4. Based on the findings set forth herein, the Planning Commission of the City of Milpitas adopts this Resolution recommending the City Council adopt a resolution repealing Paragraph 7 in City Council Resolution No. 8220 relating to land use conversion.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Milpitas on January 14, 2015.

Sudhir Mandal

Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on January 14, 2015 and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Sudhir Mandal	✓			
Larry Ciardella	✓			
Gurdev Sandhu	✓			
Rajeev Madnawat	✓			

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Demetress Morris	✓			
Hon Lien	✓			
Ray Maglalang	✓			
Zeya Mohsin (alternate)				

1-E

RESOLUTION NO. 8220

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING GENERAL PLAN AMENDMENT NO. GP12-0005, AMENDMENTS TO THE LAND USE AND CIRCULATION ELEMENTS

WHEREAS, on August 21, 2012, the City Council initiated a General Plan Amendment to update the policies of the Land Use and Circulation Elements; and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project exempt; and

WHEREAS, on November 14, 2012, the Planning Commission held a duly noticed public outreach hearing on the subject application, and considered evidence presented by City staff, and other interested parties; and

WHEREAS, on December 12, 2012, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, and other interested parties and recommended approval of General Plan Amendment No. GP12-0005 by no less than a majority of its total membership; and

WHEREAS, on January 15, 2013, the City Council held a duly noticed public hearing on the project and considered evidence presented by City staff and other affected parties, including but not limited to the materials and evidence previously presented to the Planning Commission.

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

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). Staff determined that the project is exempt pursuant to Section 15061(b)(3).
3. The proposed amendments are internally consistent with those portions of the General Plan which are not being amended and do not constitute substantial amendments.
4. The proposed amendments will not adversely affect the public health, safety, and welfare in that the amendments enhance public health, safety and welfare.
5. Therefore, based upon the findings contained herein, General Plan Amendment No. GP12-0005, Land Use and Circulation Element Amendments, as set forth in Exhibits 1 and 2, is approved.
6. Effective Date: This Resolution shall not apply to projects where complete submittals have been filed in conjunction with the project application prior to the effective date. The effective date of this amendment shall be 30 days after its date of adoption of January 15, 2013.
7. Implementing Policy 2.1-I-2 shall not apply to General Plan Amendment applications for properties west of McCarthy Boulevard north of Highway 237 and for properties east side of California Circle to Penitencia Creek.

PASSED AND ADOPTED this 15th day of January 2013, by the following vote:

AYES:	(4)	Vice Mayor Polanski, Councilmembers Giordano, Gomez and Montano
NOES:	(1)	Mayor Esteves
ABSENT:	(0)	None
ABSTAIN:	(0)	None

ATTEST:

for Mary Lavelle, City Clerk

APPROVED:

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

List of Attachments for Public Hearing No. 2

Conduct a Public Hearing and Introduce Ordinance No. 38.820 for adoption of Zoning Amendment No. ZA14-0011 Adding the words "mixed use" Residential to the purpose and intent section of the Town Center Zoning description and Prohibiting New Ground Floor Residential in the Town Center Zone (Staff Contact: Adam Petersen, 408-586-3274)

Attachments:

1-A. Redline Version of Ordinance No 38.820 Adopting Zoning Amendment within the Town Center

1-B. Planning Commission Staff Report – 01/14/2015

1-C. Planning Commission Meeting Minutes – 01/14/2015

1-D. Adopted Planning Commission Resolution No. 15-001

PLEASE NOTE:

This copy of Ordinance No. 38.820 is a “redlined” version for your convenience. Text additions are designated by an underline and text deletions are designated with a strikethrough.

REGULAR **1-A**

NUMBER: **38.820**

TITLE: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING CHAPTER 10 OF TITLE XI OF THE MILPITAS MUNICIPAL CODE RELATING TO PROHIBITING GROUND FLOOR RESIDENTIAL USES IN THE TOWN CENTER ZONING DISTRICT**

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of ____________________, upon motion by_________________________ and was adopted (second reading) by the City Council at its meeting of _______________, upon motion by ____________________________. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: APPROVED:

________________________________ __________________________

Mary Lavelle, City Clerk Jose S. Esteves, Mayor

APPROVED AS TO FORM:

____

Michael J. Ogaz, City Attorney

RECITALS:

WHEREAS, Title XI, Chapter 10, Section 5 entitled "Commercial Zones and Standards" of the Milpitas Municipal Code sets forth the permitted, conditionally permitted, and prohibited uses in the Town Center Zoning district; and

WHEREAS, the City of Milpitas desires to prohibit ground floor residential uses within the Town Center Zoning District; and

WHEREAS, on January 14, 2015, the Planning Commission held a duly-noticed public hearing and adopted a resolution recommending that the City Council amend the Milpitas Zoning Code to prohibit ground floor residential uses within the Town Center Zoning District; and

WHERAS, on February 17, 2015, the City Council held a duly-noticed public hearing to consider the Planning Commission's recommendation and evidence regarding the proposed amendment to the Milpitas Zoning Code.

NOW, THEREFORE, the City Council of the City of Milpitas does ordain as follows:

SECTION 1. RECORD AND BASIS FOR ACTION

The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2. FINDINGS

Zoning Text Amendment (Section XI-10-57.02(G)) - The City Council makes the following findings based on the evidence in the public record in support of Zoning Text Amendment No. ZA14-0011:

1. *The proposed amendment is consistent with the General Plan.*

Prohibiting residential uses on the ground floor and encouraging more commercial and mixed-used developments meet the intent of the Town Center designation. The Town Center Zoning District is intended as the functional and visual focus of Milpitas while providing a meeting and market place for commercial, professional and entertainment uses. The more efficient use of land through higher density housing will ensure land is available for the continued focus of tax and revenue generating uses and a mixed-use district that provides identity for the City while allowing a dense residential population to provide increased economic support to the commercial uses.

The project is also consistent with the following General Plan Guiding Principles and Policies:

Guiding Principle 2.a-G-2 – Maintain a relatively compact urban form.

Guiding Principle 2.a-G-4 – The Town Center will be the "heart" of Milpitas' civic, cultural, business and professional life.

Guiding Principle 2.a-G-10 – Consider long term planning and strong land use policy in managing the City's fiscal position.

Land Use Policy 2.a-I-27 – Develop the Town Center as an architecturally distinctive mixed-use complex which will add to Milpitas' identity and image.

The modification of the Town Center use table is consistent with the General Plan because it furthers the identified principles and policy by directing commercial-retail and mixed-use development to achieve a compact, urban form; it also uses land more efficiently and will allow for additional commercial and other tax-generating uses at the street/ground level, thereby strengthening the City's fiscal position while achieving a mixed-use district in the heart of Milpitas.

2. *The proposed amendment will not adversely affect the public health, safety and welfare of the residents of Milpitas.*

The proposed zoning amendment will result in a more efficient use of land. The land use regulations will not affect the range of uses permitted or conditionally permitted. The proposed changes prohibiting ground floor residential will encourage commercial-retail development in the Town Center and strengthen the City's economic development and ability to generate additional revenues. Therefore, the general well-being of Milpitas residents will be maintained since the Town Center zone will still facilitate a broad range of land uses, but will encourage more commercial and mixed use development to provide economic opportunities for the City and residents.

SECTION 3. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

Section XI-10-5.01.E entitled "Purpose and Intent" of the Milpitas Municipal Code is hereby amended to read as follows:

Town Center (TC) Zone. The purpose and intent of this zone is to provide for an area that supports a wide range of administrative, business, entertainment, mixed-use residential, dining, and cultural activities in the geographic center of the City to suit the varying lifestyles of residents and visitors alike. The area is easily accessible via the City's transportation network.

Section XI-10-5.02.A.1 entitled "Primary Uses" of the Milpitas Municipal Code is hereby amended to read as follows:

A. Permitted and Conditionally Permitted Uses.

1. Primary uses. The uses identified in Table 5.02-1, Commercial Zone Uses, shall be the primary uses allowed to occur on a property. All uses except for those noted shall be conducted within enclosed structures. The primary uses identified in Table 5.02-1 shall be permitted or conditionally permitted, as indicated:

P	Where the symbol "P" appears, the use shall be permitted.
MCS	Where the symbol "MCS" appears the use shall be permitted subject to the issuance of a Minor Conditional Use Permit by staff, in accordance with Subsection 57.04, Conditional Use Permits and Minor Conditional Use Permits, of this chapter.
P/C	Where the symbol "P/C" appears the use may be permitted if certain criteria is met or otherwise a Conditional Use Permit shall be required, in accordance with Section XI-10-57.04, Conditional Use Permits, of this Chapter.
C	Where the symbol "C" appears, the use shall be permitted subject to the issuance of a Conditional Use Permit, in accordance with Subsection 57.04, Conditional Use Permits and Minor Conditional Use Permits, of this Chapter.
MC	Where the symbol "MC" appears, the use shall be permitted subject to the issuance of a Minor Conditional Use Permit, in accordance with Subsection 57.04, Conditional Use Permits and Minor Conditional Use Permits, of this chapter.
O	Where the symbol "O" appears, the use is subject to an alternative review process described in a subsequent footnote.

2. Ground Floor Uses. The only uses permitted or conditionally permitted on the ground floor of the Town Center Zone are those specifically set forth in Table 5.02-1 for the Town Center Zone, provided no ground floor residential is allowed as further set forth in Section XI-10-5.02.B.

Section XI-10-5.02.B entitled "Prohibited Uses" of the Milpitas Municipal Code is hereby amended to read as follows:

B. Prohibited Uses. The following uses prohibited:
1. Uses where the symbol "NP" appears within Table 5.02-1.
2. Uses that have been excluded from Table 5.02-1, unless they are found by the City to be similar to permitted or conditionally permitted uses in accordance with C below.
3. Ground floor residential in the TC Zone, provided any ground floor residential constructed on or before February 17, 2015 and any project securing an approved tentative map, conditional use permit, or site development permit for construction of ground floor residential on or before February 17, 2015 shall be exempt from this prohibition and Milpitas Zoning Code Section 56, Nonconforming Buildings and Uses.
4. Live/work units exceeding ten percent (10%) of the total residential units in the development.

Table XI-10-5.02-1 entitled "Commercial Zone Uses" of the Milpitas Municipal Code is amended to read as follows:

Table XI-10-5.02-1
Commercial Zone Uses

Use	CO	C1	C2	HS	TC
1. Commercial Uses					
Alcoholic beverage sales	C[6]	C	C	NP	C
Art/photography studio or gallery	NP	P	P	P	P
Bookstore	NP	P	P	P	P
Commercial services[1]	P	P	P	NP	P
Funeral home or mortician	NP	NP	C	C	NP
Furniture sales	NP	P	P	P	P
Grocery store (supermarkets)					
Within 1,000 ft. of residential zone	NP	C	C	C	C
Not within 1,000 ft. of residential zone	NP	P	P	P	P
Head/smoke/tobacco shop	NP	C	C	NP	C
Home improvement (hardware, blinds, interior decorating, etc.)	NP	P	P	C	P
Not fully enclosed operation	NP	C	C	C	C
Household appliance store[7]	NP	NP	P	P	NP
Small appliance repair	NP	NP	MCS	P	NP
Large appliance repair	NP	NP	NP	P	NP

Janitorial services	NP	NP	P	P	NP
Newsstand					
Indoor	P	P	P	NP	P
Outdoor	C	C	C	NP	C
Nursery (flower or plant)					
Indoor	NP	NP	P[2]	P	P
Outdoor	NP	NP	C	P	NP
Office supply sales (stationary, equipment)	P	P	P	P	P
Paint and wallpaper stores	NP	NP	P	P	P
Pawnshops	NP	NP	C	NP	NP
Pet stores	NP	NP	P	P	P
Printing (newspaper, publishing)	NP	NP	P	P	P
Rentals (medical supplies, costumes, party equipment, office equipment)	NP	NP	P	P	P
Retail stores, general merchandise	NP	P	P	NP	P
Tanning salon	NP	NP	P	NP	P
Thrift store[3]	NP	C	P	P	P
2. Entertainment and Recreation					
Adult business[4]	NP	NP	NP	P	NP
Bowling alley	NP	NP	P	P	P
Commercial athletic facilities					
Indoor	NP	C	P	P	P
Outdoor	NP	NP	NP	C	NP
Motion picture theater (See 7 below)					
Recreation or entertainment facility	NP	C	C	C	C
Shooting range, indoor	NP	NP	NP	C	NP
3. Health and Veterinarian Uses					
Animal grooming (no boarding)	NP	P	P	P	P
Hospital	C	NP	C	C	C

Kennel	NP	NP	C	NP	NP
Massage establishment	NP	NP	C	C	C
Medical and dental office	P	P	P	NP	P
Medical and dental clinic	P	C	C	NP	P
Medical support laboratories	P	C	C	C	C
Optician and optometrist shop	P	P	P	NP	P
Pharmacy or drug store	NP	P	P	P	P
Sauna and steam bath	NP	NP	NP	P	NP
Veterinary clinic	NP	NP	P	P	P
4. Industrial Uses[5]					
Assembly from pre-processed materials	NP	NP	C	NP	NP
Commercial fueling facility	NP	NP	NP	C	NP
Commercial laboratory	NP	NP	C	P	NP
Contractor's yards and offices	NP	NP	C	C	NP
Disinfection and extermination business	NP	NP	C	P	NP
Dry cleaning plant	NP	NP	NP	P	NP
Food storage locker	NP	NP	NP	P	NP
Landscape contractor	NP	NP	C	P	NP
Lumberyards	NP	NP	C	C	NP
Mini-storage complex	NP	NP	C	C	NP
Plumbing, metalworking, glassworking or woodworking	NP	NP	C	C	NP
Research & development	NP	NP	C	NP	NP
Sign sales and fabrication (Electric and neon sign, sign painting)	NP	NP	C	P	NP
Warehousing and wholesale	NP	NP	C	NP	NP
5. Lodging					
Hotel and motel	NP	NP	C	C	C
6. Professional Offices, Financial Institutions and Related Uses					
Automatic teller machines (freestanding)[6]	NP	P	P	P	P

Financial institutions (banks, savings and loans, etc.)	P	P	P	P	P
General offices (administrative and business services, real estate, travel agencies, etc.)	P	P	P	P	P
7. Public, Quasi-Public and Assembly Uses					
Auction hall	NP	NP	C	C	C
Child care					
Child care center	C	C	C	C	C
Day care school	C	C	C	C	C
Large family child care home	NP	NP	NP	NP	C
Small family child care home	NP	NP	NP	NP	C
Club or social organization, religious assembly	C	C	C	C	C
Cultural center	NP	NP	C	C	C
Educational institutions					
Schools, private (elementary, middle, high)	NP	NP	C	NP	C
Trade and vocational school	C	NP	P	P	C
Farmer's market (not including flea market)	NP	C	C	C	C
Instruction					
Group[8]	MCS	MCS	MCS	MCS	MCS
Private	P	P	P	P	P
Motion picture theater					
Indoor	NP	C	C	C	C
Outdoor	NP	NP	NP	C	NP
Parking facility, storage garage	NP	P	P	C	C
Public utilities	C	C	C	C	C
Transportation facility (taxi, limousine, etc.)	NP	NP	C	C	C
8. Restaurants or Food Service					
Banquet hall	NP	NP	C	C	C
Bar or nightclub	NP	NP	C	C	C

Catering establishment	NP	NP	P	P	P
Restaurants	C[7]	P	P	P	P
With live entertainment/dancing	NP	NP	C	C	C
With drive-in or drive-through	NP	C	C	C	C
With ancillary on-premise beer & wine with no separate bar	NP	MC	PMC	MC	MC
9. Residential Uses					
Caretaker (in conjunction with contractor's yard or mini-storage complex)	NP	NP	C	C	NP
Emergency shelters[9]	NP	NP	NP	P/C	NP
Live-Work Units [15]	NP	NP	NP	NP	C
Residential dwellings (between 1 and 40 d.u. per gross acre); ground floor residential is prohibited.	NP	NP	NP	NP	C
Single-room occupancy residences[10]	NP	NP	NP	C	NP
10. Vehicle Related Uses					
Auto repair (tire, oil change, smog check, etc.)	NP	NP	C	C	NP
Auto sales and rental, outdoor (new and used cars, RV and truck)	NP	NP	C	C	NP
Auto broker (wholesale, no vehicles on site)	MCS	MCS	MCS	MCS	MCS
Car wash	NP	NP	C	C	NP
Service stations (with or without repair or retail)[11]	C	C	C	C	C
Drive through uses (restaurants, pharmacies, etc.)	NP	C	C	C	C
11. Unclassified Uses					
Accessory structures[12]	P	P	P	P	P
Model home complex[13]	NP	NP	NP	NP	P
Mortuary or crematory	NP	NP	NP	C	NP
Radio or television station	NP	NP	C	P	NP
Temporary seasonal sales[14]	NP	P	P	P	P

[1] Refer to the definition for "Commercial Services" in Section 2, Definitions, of this Chapter.

[2] Provided that all incidental equipment and supplies, including fertilizer and empty cans, are kept within a building.

[3] Refer to XI-10-5.04, Commercial Zone Special Development Standards, of this Chapter.

[4] In accordance with the Title III, Chapter 4, Adult Business Ordinance, and Subsection 13.04, Adult Businesses, of this Chapter.

[5] For conditionally permitted uses, refer to Subsection 57.04(C) (9), Certain Industrial Uses within Commercial Districts, of this Chapter.

[6] Refer to Subsection 57.03, Site Development Permits and Minor Site Development Permits, of this Chapter.

[7] When intended to serve the occupants and patrons of the permitted use (office, etc.) and conducted and entered from within the building and provided there is no exterior display of advertising.

[8] Refer to Subsection 5.02-1, Commercial Zone Special Uses, of this Section.

[9]Refer to XI-10-13.14, Special Uses, Emergency Shelters, of this Chapter.

[10] Refer to XI-10-13.13, Special Uses, Single Room Occupancy Residences, of this Chapter.

[11] Refer to Subsection XI-10-6.02-2, Special Uses, of this Chapter, for standards. Service stations shall follow the "General development policy: Gasoline service stations, and automotive service centers" adopted by the City Council on December 19, 1995.

[12] Not including warehouses on the same site as the permitted use.

[13] No tract sign shall be permitted within 600 feet of a Santa Clara County Expressway.

[14] Refer to Section 13.11, Temporary Uses and Structures, of this Chapter.

[15] The maximum number of live/work units in any development shall not exceed ten percent (10%) of the total residential units in the development.

SECTION 3. SEVERABILITY

The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

SECTION 4. EFFECTIVE DATE AND POSTING

In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.

AGENDA ITEM: X-1

1-B

MILPITAS PLANNING COMMISSION AGENDA REPORT

January 14, 2015

APPLICATION: **TOWN CENTER ZONING AMENDMENT – ZA14-0011 – A request for a Zoning Text Amendment to expand the purpose and intent section of the Town Center Zoning District and prohibit ground level residential uses.**

RECOMMENDATION: **Staff recommends that the Planning Commission:**
Conduct the public hearing and adopt Resolution No. 15-001 recommending the City Council adopt Zoning Amendment No. ZA14-0011 to add the words "mixed use" residential to the purpose and intent section of the Town Center Zoning description and to prohibit ground floor residential in the Town Center zone.

LOCATION:
Address/APN: Town Center Zoning District

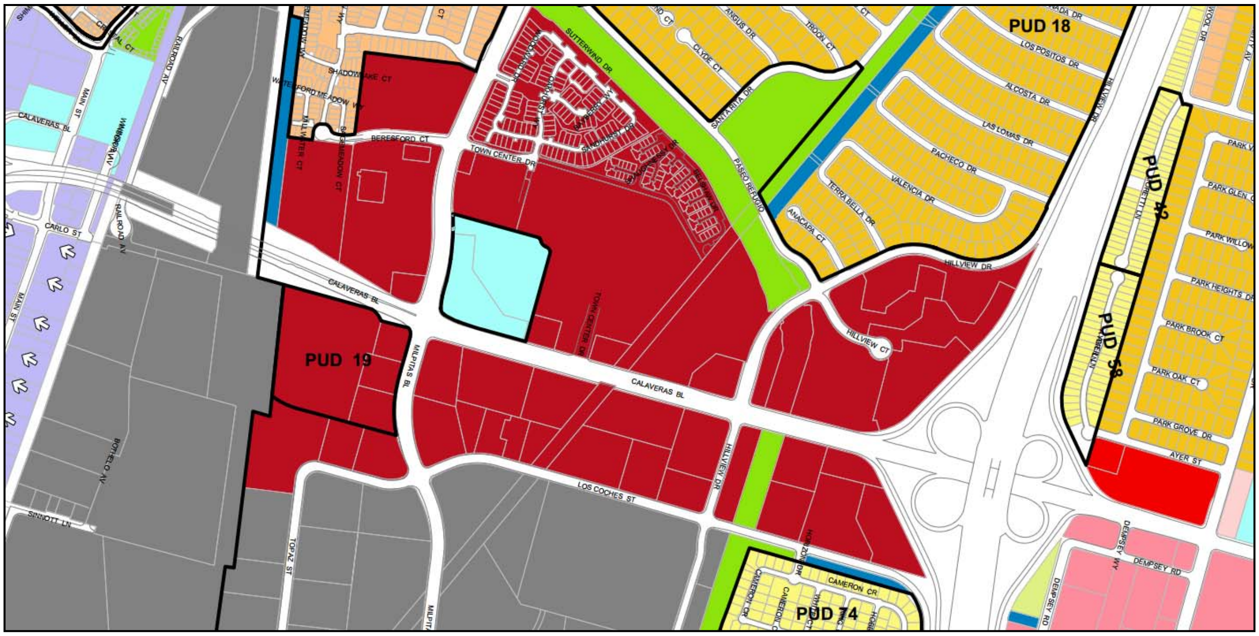
PEOPLE:
Project Applicant: City of Milpitas
Consultant: NA
Property/Business Owners:
Project Planner: Adam Petersen, Senior Planner

LAND USE:
General Plan Designation: Town Center (TC)
Zoning District: Town Center (TC)
Overlay District: Site and Architectural Overlay (-S)

ENVIRONMENTAL: The project is exempt in accordance with the California Environmental Quality Act (CEQA) Sections 15061(b)(3) "Review for Exemptions."

Map 1

Project Location



Town Center Zoning District

Not to Scale

BACKGROUND

History

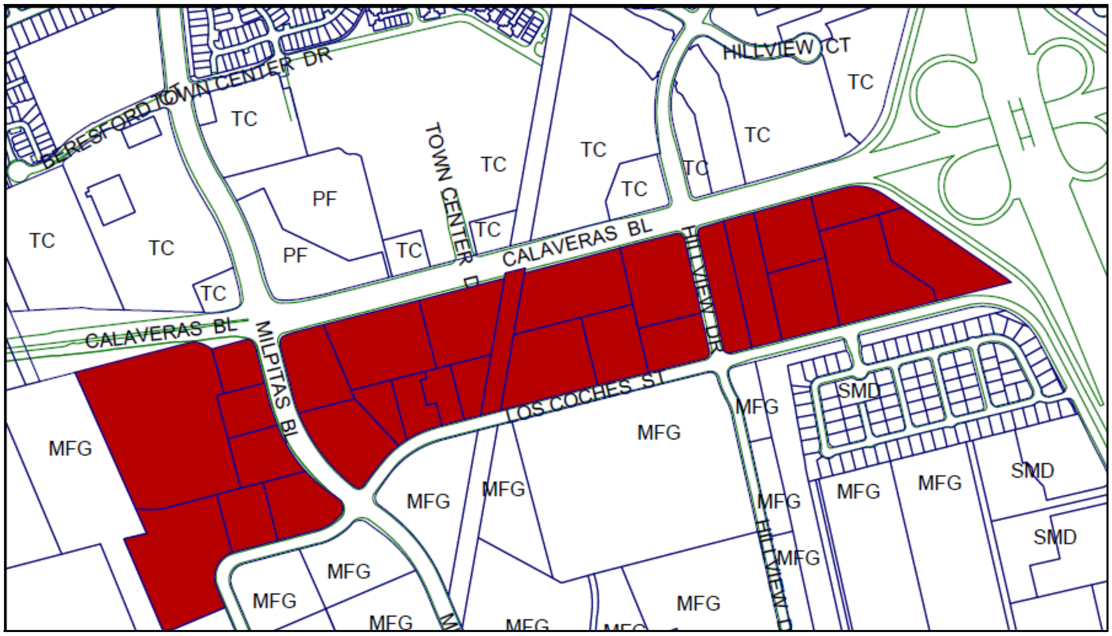
The Town Center land use designation and zoning district applies to the central part of the City, generally focused along Calaveras Boulevard between Interstate 680 and the Union Pacific railroad corridor. The intent of the Town Center land use designation and zoning district is to support a wide range of administrative, business, entertainment, residential, dining and cultural activities in the geographic center of the City.

In 2010, the Town Center designation was amended and expanded to include a collection of parcels to the south of Calaveras Boulevard. The purpose of the amendment was to make the existing uses on these parcels (offices, cultural centers, religious institutions, medical offices, financial institutions, gasoline station, retail) conforming and allow for the flexibility of integrating other commercial and residential uses for future development. Since the redesigatnion of these parcels to Town Center some land use conversion to single-family residential develoment has occurred. A map of the expansion area is included below as Map 2.

On May 21, 2013, the City Council approved an amendment to Zoning Code to allow live/work units as a conditional use in the Town Center Zoning District.

Map 2

2010 Town Center Expansion Area



The Application
On December 10, 2014 the City of Milpitas Planning and Neighborhood Services Department prepared an application pursuant to Section 57 of the Milpitas Zoning Ordinance for a Zoning Amendment. The following is a summary of the request:

- *Zoning Amendment:* To modify the Milpitas Zoning Code, adding the words "mixed use" residential to the description of the Town Center zone, and prohibiting ground floor residential in the Town Center zone.

PROJECT DESCRIPTION

Overview
The project includes a Zoning text amendment to modify the description and a use in the Town Center zoning district. The General Plan's vision for the Town Center is a "meeting place and a market place, the home of commercial and profession firms, an entertainment area and a place for restaurants and hotels." Low density single family residential uses are inconsistent with the identified vision and uses for the Town Center.

The existing Town Center Zoning provisions enable low density single-family residential development, as evidenced by the conversion of commercial and industrial properties to single family residential subdivisions along the south side of Calaveras Boulevard. The current trend of converting commercial and industrial properties to single family residential subdivisions is inconsistent with the intent and purpose of the Town Center zone. The Town Center Zone is intended to support a wide range of uses, including, but not limited to, commercial, business and entertainment uses.

The proposed amendment is similar to other provisions of the Milpitas Zoning Code. The first proposed modification adds the words “mixed-use” to the intent and purposes section for the Town Center zone. The “mixed-use” residential would allow residential over commercial space in support of the vibrant “meeting place and market place” that the town center is intended to be, and is consistent with the Zoning Code’s standards of allowing residential development with approval of a use permit from the Planning Commission. The two following modifications would prohibit ground floor residential uses, which are reflected in other existing provisions in the Zoning Code that facilitate mixed use development. This amendment would preserve existing and future commercial uses, professional firms, and entertainment uses by limiting the conversion of the area to residential uses as intended for this zone.

Location and Land Use

The proposed amendment applies to the Town Center zoning district, the areas of which are coterminous. The Town Center zoning district is located in central Milpitas, generally along Calaveras Boulevard between Interstate 680 and the Union Pacific railroad corridor as shown in Map 1. Existing uses include the Town Center retail shopping center, restaurants, a variety of professional office buildings, banks and financial institutions, City Civic Center, hotels, and single- and multi-family residential uses.

PROJECT ANALYSIS

Proposed Amendment

The proposed amendment changes three portions of the Zoning Code:

- The Zoning Amendment will affect the description of the Town Center Zone;
- The prohibited uses; and
- Table XI-10-5.02-1 Commercial Zone Uses.

The proposed changes are identified below in underline:

XI-10-5.01 – Purpose and Intent

E. Town Center (TC) Zone. The purpose and intent of this zone is to provide for an area that supports a wide range of administrative, business, entertainment, <u>mixed-use</u> residential, dining, and cultural activities in the geographic center of the City to suit the varying lifestyles of residents and visitors alike. The area is easily accessible via the City's transportation network.

XI-10-5.02.B - Prohibited Uses. The following uses are prohibited:

1. Uses where the symbol "NP" appears within Table 5.02-1.
2. Uses that have been excluded from Table 5.02-1, unless they are found by the City to be similar to permitted or conditionally permitted uses in accordance with C below.
3. <u>Ground floor residential in the TC Zone, provided any ground floor residential constructed on or before February 17, 2015 and any project securing an approved tentative map or site development permit for construction of ground floor residential on or before February</u>

17, 2015 shall be exempt from this prohibition and Milpitas Zoning Code Section 56, Nonconforming Buildings and Uses.

Table XI-10-5.02-1 Commercial Zone Uses

Use	CO	C1	C2	HS	TC
9. Residential Uses					
Caretaker (in conjunction with contractor's yard or mini-storage complex)	NP	NP	C	C	NP
Live-Work Units	NP	NP	NP	NP	C
Residential dwellings (between 1 and 40 d.u. per gross acre) ground floor residential is prohibited.	NP	NP	NP	NP	C
Single-room occupancy residences[10]	NP	NP	NP	C	NP

Nonconforming Uses

Section 56 of the Milpitas Zoning Code would place limits on the amount a structure could be rebuilt in the event of a disaster as well as limits on additions to structures with ground floor residential uses. In order to avoid any potential for existing residential uses being designated legal nonconforming uses, under Section 56 of the Zoning Code, staff considered an exemption to this portion of the Code.

Staff received feedback at the community meeting on January 5, 2015 that residents were concerned about the ability to acquire and maintain adequate insurance should their homes become legal nonconforming uses. Staff has addressed this concern by proposing that the existing and approved residential uses be exempt from the new changes to the Zoning Code prohibiting ground floor residential and Section 56 of the Milpitas Zoning Code relating to Legal Nonconforming Uses. The proposed exemption would ensure that existing and approved residential uses can continue to enjoy the same rights and privileges prior to the text amendment. Additionally, if there is a natural disaster that requires redevelopment of an entire existing subdivision, it will not be impacted by the restrictions in the nonconforming provisions of the Zoning Code.

FINDINGS

Pursuant to Section 57 of the Zoning Code, the Planning Commission is required to make specific Findings before recommending approval of a Zoning Amendment. Findings shall identify the rationale behind the decision to take a certain action. Each code-required Finding is analyzed below.

Zoning Text Amendment (Section XI-10-57.02.G.3)

1. *The proposed amendment is consistent with the General Plan.*

Prohibiting residential uses on the ground floor and encouraging more commercial and mixed-used developments meet the intent of the Town Center designation. The Town Center Zoning District is intended as the functional and visual focus of Milpitas while providing a meeting and market place for commercial, professional and entertainment uses. The more efficient use of land through higher density housing will ensure land is available for the continued focus of a mixed-use district that provides identity for the City while allowing a dense residential population to provide increased economic support to the commercial uses.

The project is also consistent with the following General Plan Guiding Principles and Policies:

Guiding Principle 2.a-G-2 – Maintain a relatively compact urban form.

Guiding Principle 2.a-G-4 – The Town Center will be the "heart" of Milpitas' civic, cultural, business and professional life.

Guiding Principle 2.a-G-10 – Consider long term planning and strong land use policy in managing the City's fiscal position.

Land Use Policy 2.a-I-27 – Develop the Town Center as an architecturally distinctive mixed-use complex which will add to Milpitas' identity and image.

The modification of the Town Center use table is consistent with the General Plan because it furthers the identified principles and policy by directing mixed-use development to achieve a compact, urban form; it also uses land more efficiently and will allow for additional commercial and other tax-generating uses at the street level, thereby strengthening the City's fiscal position while achieving a mixed-use district in the heart of Milpitas.

2. *The proposed amendment will not adversely affect the public health, safety and welfare of the residents of Milpitas.*

The proposed zoning amendment will result in a more efficient use of land. The land use regulations will not affect the range of uses permitted or conditionally permitted. Commercial uses already allowed in the Town Center zone will continue to be allowed. Similarly, conditionally permitted residential uses will continue to be conditionally permitted at the same development intensity. Therefore, the general well-being of Milpitas residents will be maintained since the Town Center zone will still facilitate a broad range of land uses, but will encourage more commercial and mixed use development to provide economic opportunities for the City and residents.

ENVIRONMENTAL REVIEW

The California Environmental Quality Act (Section 21000, et. seq. of the California Public Resources Code, hereafter CEQA) requires analysis of agency approvals of discretionary "projects." A "project," under CEQA, is defined as "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." The proposed project is a project under CEQA.

Staff has reviewed the project to determine the required level of review under CEQA. The proposed project is exempt from CEQA under CEQA Guidelines Section 15061(b)(3) of the State CEQA guidelines, which excludes projects that are covered by the general rule that CEQA applies only to projects that 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.

The proposed amendment does not directly authorize any individual project. Additionally there are no projects under review that would be affected by the proposed amendment. Subsequent activities require further analysis by the City in order to determine the potential impacts from development. Therefore, the proposed action qualifies for this exemption and no further environmental review is required.

PUBLIC COMMENT/OUTREACH

Prior to this public hearing, staff conducted a community meeting in accordance with the provisions specified in Table XI-10-64.04-1. The community meeting occurred on January 5, 2015. Comments received during this meeting included a discussion on potential mixed use building heights, the purpose of the Town Center Zone, and the City's vision for this Zone. Residents expressed concerns about ground floor residential uses, namely existing single family homes, becoming non-conforming uses, which could make attaining and retaining insurance as well as constructing additions difficult. Staff has addressed this concern by proposing that the existing and approved residential uses be exempt from the new changes to the Zoning Code prohibiting ground floor residential and Section 56 of the Milpitas Zoning Code relating to Legal Nonconforming Uses.

Two residents sent emails to staff with questions surrounding the subject of the Zone text amendment. Staff provided a response that detailed the proposed amendment which satisfied the residents' questions.

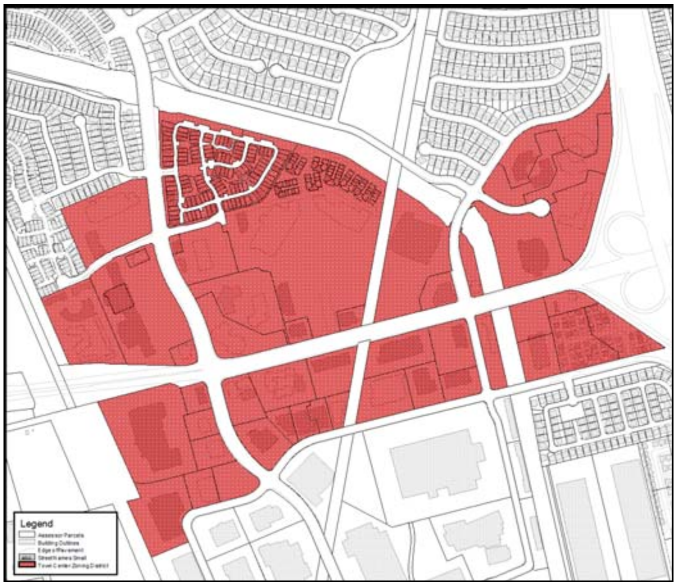
Staff publicly noticed the application in accordance with City and State law. As of the time of writing this report, there have been no inquiries from the public. The table below provides a summary of the City's public noticing efforts for this project.

Public Noticing Summary

Notice of Public Hearing	Agenda
▪ Public hearing notice posted in the Milpitas Post (*14 days prior to the hearing*)	▪ Posted on the City's official notice bulletin board (*5 days prior to the hearing*)

▪ 227 notices mailed to affected property owners within Town Center designation (*10 days prior to the hearing*) ▪ Posted on the City's official notice bulletin board (*10 days prior to the hearing*)	▪ Posted on the City of Milpitas's Web site (*one week prior to the hearing*)

The map below illustrates the extent of the mailed notices.



CITY COUNCIL REVIEW

This item is scheduled as a public hearing by the City Council on February 3, 2015.

CONCLUSION

The proposed Zoning Text Amendment will update the Municipal Code to reflect the desired uses for the Town Center district. The prohibition of ground floor residential uses in an area intended for a dense compact form and a vibrant mixed-use district is consistent with the General Plan and Zoning Ordinance and supports the City principles of a Town Center as the "heart" of Milpitas. Staff recommends that the Planning Commission adopt Resolution No. 15-001 recommending approval by the City Council.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission:

1. Open the public hearing to receive comments;
2. Close public hearing;

3. Adopt Resolution No. 15-001 recommending the City Council adopt Zoning Amendment No. ZA14-0011 to add the words “mixed-use” residential to the Town Center description, and to prohibit ground floor residential in the Town Center zone and exception.

ATTACHMENTS

A. Resolution No.15-001
    a. Exhibit A: Draft Ordinance

1-C

MEETING MINUTES

MILPITAS PLANNING COMMISSION
Milpitas City Hall, Council Chambers
455 E. Calaveras Blvd., Milpitas, CA

Wednesday, January 14, 2015

I. PLEDGE OF ALLEGIANCE	**Chair Mandal** called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.
II. OATH OF OFFICE TO NEWLY APPOINTED MEMBERS	City Clerk Mary Lavelle swore in new members Zeya Mohsin and Ray Maglalang.
III. ROLL CALL/ SEATING OF ALTERNATE	**Commissioners Present:** Chair Sudhir Mandal, Vice Chair Larry Ciardella, Commissioners Gurdev Sandhu, Rajeev Madnawat, Demetress Morris, Hon Lien, Ray Maglalang, Alternate Member Zeya Mohsin **Absent:** **Staff:** Steven McHarris, Johnny Phan, Adam Petersen
IV. PUBLIC FORUM	**Chair Mandal** invited members of the audience to address the Commission and there was one speaker. Rob Means, a Milpitas resident who lives on Yellowstone, said he is circulating a petition rejecting US Supreme Court rulings regarding money interests and invited commissioners to join him for a protest march in San Francisco at 3:30 on January 21st.
V. APPROVAL OF MEETING MINUTES	**Chair Mandal** called for approval of the December 10, 2014 meeting minutes of the Planning Commission. **Motion** to approve Planning Commission meeting minutes as submitted. Motion/Second: Commissioner Madnawat/Commissioner Morris AYES: 4 NOES: 0 ABSTAIN: 3 Ciardella, Sandhu, Maglalang
VI. ANNOUNCEMENTS	Planning Director Steven McHarris announced that the Holiday Inn Suites and Springhill Suites items were deferred to February 11. Romero Rodriguez, a resident on Fairview Way, was present to speak about these projects. He said the land has been vacant for several years and as a home owner he believes the hotels will be a big boost to their property values and that they will create more pedestrian activity for the businesses located there.

Anna Capelias said her concern has to do with use and zoning of the development and what changes might occur if a hotel is allowed, and she wants to hear all of the information when the presentation is made.

Mr. McHarris said the zoning is not changing and that hotel use can occur with approval of the planning commission. The projects will be heard at the February 11 Planning Commission meeting.

VII. CONFLICT OF INTEREST

Assistant City Attorney Johnny Phan asked if any member of the Commission had any personal or financial conflict of interest related to any of the items on the agenda.

There were no reported conflicts.

VIII. APPROVAL OF AGENDA

Chair Mandal asked if staff or Commissioners had changes to the agenda and there were none.

Motion to approve the January 14, 2015 agenda as submitted.

Motion/Second: Commissioner Sandhu/Commissioner Ciardella

AYES: 7

NOES: 0

IX. CONSENT CALENDAR

NO ITEMS

X. PUBLIC HEARING

X-1 **TOWN CENTER AMENDMENT – ALL TOWN CENTER DESIGNATED PARCELS – ZA14-0011:** Zoning Text Amendment to the Town Center zoning district that would add a description and prohibit ground level residential uses.

Project Planner Adam Petersen reviewed a PowerPoint presentation discussing the zoning amendment.

Commissioner Madnawat asked if a garage is considered residential, because if so there could be an easy way to get around the amendment by building garages on the ground floor. Mr. McHarris said that residential serving garages would be classified as residential and would not be permitted on the ground floor, and that there has to be commercial on the ground floor. Commissioner Madnawat said this would mean there would be no condominium development and Mr. McHarris said that was correct. Commissioner Madnawat said the language in the ordinance should be clearer about permitted uses and should state that the ground floor needs to be 100% commercial.

Assistant City Attorney Johnny Phan said the drafted language can be updated to clarify the types of uses allowed.

Chair Mandal asked about the process of attracting high quality businesses to Milpitas and the vision for the city to produce more walkable and lively areas and Mr. Petersen said the intent of this amendment is to encourage future uses that accommodate that type of use.

Chair Mandal opened the public hearing and Mr. Means spoke in favor of this amendment.

Motion to close the public hearing.

Motion/Second: Commissioner Sandhu/Commissioner Ciardella

AYES: 7

NOES: 0

Commissioner Madnawat asked that the language in the ordinance be clarified to include permitted uses around the word commercial and that staff look into potential conflicts with the ordinance that allow live-work units.

Motion to adopt Resolution No. 15-001 recommending the City Council adopt Zoning Amendment No. ZA14-0011 to add the words "mixed use" residential to the purpose and intent section of the Town Center Zoning description and to prohibit ground floor residential in the Town Center zone.

Motion/Second: Commissioner Madnawat/Commissioner Sandhu

AYES: 7

NOES: 0

X-2 **GENERAL PLAN CONVERSION - CLARIFICATION – CITY WIDE – GP14-0005:** Clarification to the adopted General Plan Land Use Conversion policy (City Council Resolution No. 8220), removal of the exemption for parcels on the west side of McCarthy Boulevard north of Highway 237 and properties on the east side of California Circle to Penitencia Creek.

Senior Planner Adam Petersen provided a presentation reviewing the project.

Commissioner Sandhu asked how large the parcel is and Mr. Petersen said it is approximately 10 acres.

Commissioner Madnawat asked if there are pending applications and Mr. McHarris said there are not.

Chair Mandal opened the public hearing and Mr. Means said that this generally sounds like a good idea and was curious about the remnant parcel and who the owner is.

Motion to close the public hearing.

Motion/Second: Commissioner Sandhu/Commissioner Ciardella

AYES: 7

NOES: 0

Commissioner Madnawat asked if there is any interest on the parcel and Mr. McHarris said there are no pending applications. Mr. Petersen added that the owner is listed as BAPS San Jose LLC.

Motion to adopt Resolution No. 15-002 to recommend the City Council adopt a resolution rescinding Paragraph Number 7 in Resolution No. 8220 relating to conversion of employment/sales tax generation properties to residential, while considering to

continue exempting parcel APN 022-37-019 in order to achieve a consistent land use pattern in the area.

Motion/Second: Commissioner Madnawat/Commissioner Sandhu

AYES: 7

NOES: 0

X-3 **CITATION PROJECTS DEVELOPMENT AGREEMENT – TASP PIPER/MONTAGUE DRIVE SUBAREA – DA14-0001:** Development Agreement proposal for reduced TASP Fees for all Citation Developments.

Senior Planner Adam Petersen provided a presentation reviewing the project.

Three commissioners disclosed that they had met with the developer: Vice Chair Ciardella, Chair Mandal, and Commissioner Morris.

Commissioner Madnawat asked how the TASP fees are calculated and Mr. Petersen said that $32,781 is the cost per unit to install infrastructure including roads, sewer and water within the TASP area. Commissioner Madnawat asked if this is a reasonable amount the City will need to spend to provide infrastructure for these homes and Mr. McHarris said it is.

Commissioner Madnawat referenced a bullet point in the presentation stating the builder has provided $8 million worth of benefits and asked for two examples of those benefits provided that have nothing to do with their development. Mr. McHarris said the developer fronted that amount of money to enable development of the TASP area, not just for their development but to enable the development of the TASP area. He said infrastructure needed to go in and Citation stepped up to do that and also processed three projects consistent with the transit area.

Commissioner Madnawat asked what amount of the $8 million is the amount not adding value to their project and Mr. McHarris said it does add some value to their project but also adds value to all of the projects within this sub-area of the TASP.

Commissioner Madnawat said he feels this is for the developers own benefit and that it is a $3.8 million dollar gift to the builder. He said if $32,781 is the fair amount that the City will have to spend then that means the taxpayers will have to pay $3.8 million to provide those services and he has a problem with this.

Commissioner Lien asked if there was a recent fee increase and Mr. McHarris said there have been two fee adjustments in addition to the annual adjustment and that the fee is calculated at the time the project is developed not entitled.

Commissioner Maglalang said he was trying to understand the $8.3 million infrastructure improvement cost and if this is supposed to be a City expense or an obligation by the developer. Mr. Phan said there are three developers building in the Piper/Montague sub-district of the TASP, Citation being the largest developer in that area and building over 1,000 units. Potentially Barry Swenson will build 300-400 units and also Milpitas Station.

With these three developers over 1,500 units will be built and there is significant public improvement required, none of which are City obligations. These public improvements total about $10 million and have to be built by the developer. A few years ago the City Council approved a four-party cost sharing agreement between the City, Citation, Barry

Swenson and Milpitas Station. Citation is the first developer to come in and is going to front and build most of the improvements, going above and beyond their obligation. They will receive credit and when the other developers come in to build they will pay the City back.

Commissioner Morris asked if development fees can be grandfathered in and Mr. Phan said the city does not grandfather anyone's fees. Fees are based on inflation and updated studies and may be adjusted during the planning process and the fee was $29,000 when Citation submitted their application and $32,721 when the building permit was issued.

Commissioner Madnawat referenced the four-party contract and wondered why Citation doesn't request the money from the other developers, and what guarantee is there that they will reimburse the city. Mr. Phan said there is a mechanism for the City to collect from the developer, that a CFD can be created if they do not build within seven years and pay their fees.

Chair Mandal asked if there will be a park and Mr. Petersen said there will be one constructed by the Citation project and showed the location of the park. He asked about the five year freeze on the fees and Mr. Phan explained that the development agreement is drafted so that within the first five years the TASP fee stays at $29,012 per unit if they build and pay their full TASP fees but if they build after five years then the fee is adjusted for inflation and increased parkland value.

Commissioner Madnawat asked if fees are frozen when a permit is pulled and Mr. Phan said that the City's position is that fees are not vested and not frozen when a permit is pulled but this has been an ongoing dispute with developers. Commissioner Madnawat said the TASP fee is needed to provide infrastructure and should be non-negotiable. He said someone has to pay this and it should not be the taxpayers of Milpitas, and he sees this a $3.8 outright gift to the developer. He wants to see the cost sharing agreement and feels that some commissioners may not understand this topic.

Commissioner Maglalang is afraid that giving a fee reduction will create a bad precedence for other developers to ask for the same fees given to Citation.

Applicant Mark Tiernan, who is also a resident of Milpitas, wanted to clarify a few points about the rationale behind the development agreement: 1) they are building at the highest level of density allowed, 2) although the City asked them to provide 5,000 square feet of retail space they are providing 8,100 square feet of retail space, and 3) when Citation 1 was approved the fees were $23,700 which was the dollar amount the City and consultant said was needed to provide the infrastructure to support these projects. By the time they got plans approved and went through the process the fees were raised to now almost $32,800 and they have asked for a compromise in return for building what the City has described as a signature project which is the Edge.

Mr. Tiernan said the first project they are building is 381 units and will take two years to build and another 1-2 years to fully lease out. Normally a developer would wait to have a building fully leased before building another project because you don't want to compete with yourself, and their plan was to move from Amalfi 1 to Amalfi II to the Edge. When they came for approval of the Edge, the City Council felt this was an important project and that it was important to coincide with the BART station, and they entered into discussions with the City to move forward before Amalfi I is fully leased out, increasing their risk, and they asked for a compromise in the fees in return for building what the City would describe as a signature project.

He said that other developers could ask for the same deal and the City could ask them if

they are building at the highest density, providing more commercial space than required and are they willing to invest 250 million in the City to get their projects built. He said if the answer was yes to those questions, then the City would probably move forward with a development agreement because of the role the developer is playing.

Mr. Tiernan said the TASP is one of the most important transit housing opportunities in the Bay Area and Citation Homes has made this one of their signature projects. The City would like them to build this project to coincide with the BART station and with the increases in construction and material costs they would like to get some cost certainty in their fees to reduce some of their risk and start construction on a building before their other project is fully leased out.

Commissioner Madnawat said Mr. Tiernan's argument regarding requests from other developers does not hold water but that his argument for the fee increases does and said he was surprised by the huge increase in the fees and asked the reasons for such an increase. Mr. Phan said there is a formula and consultants conduct a Nexus study and look at a number of different factors to determine the fair share amount for each unit. He said the initial fee study done in 2008 was based on the plan that was adopted but has been updated based on new trends and information.

Commissioner Madnawat said that if the $32,781 reflects what the City is going to spend it is $3.8 million coming from the City which can be spent on hiring police officers, fire fighters, and others.

Chair Mandal opened the public hearing and there were two speakers. Rob Means said this is a great project and reviewed a list of benefits to the City that he believes offsets the $3.8 million, including a high density housing project, extra retail, and a pedestrian over crossing getting built early.

Jim Sullivan, a consultant for the developer, said he was the project proponent for the Edge. He said developers were building on the low density side but they transferred another developers units onto the Edge and built 94 more units than necessary. He said they are also working with staff to build a great public park in the area at a substantial discount than what it would cost the city to build.

Motion to close the public hearing.

Motion/Second: Commissioner Sandhu/Commissioner Ciardella

AYES: 7

NOES: 0

Commissioner Madnawat asked who is building the pedestrian bridge and Mr. McHarris said it is a City project and there is currently grant funding for the design work and VTA is preparing design work for the City.

Motion to adopt Resolution No. 15-003 recommending the City Council adopt an ordinance approving a development agreement vesting the Transit Area Specific Plan fees for the Citation I and Citation II Projects: Amalfi I, Amalfi II and the Edge.

Motion/Second: Commissioner Morris/Commissioner Lien

AYES: 4

NOES: 3 Sandhu, Madnawat, Maglalang

XI. NEW BUSINESS

NO ITEMS

XII. ADJOURNMENT

The meeting was adjourned at 9:10 PM to the next meeting scheduled on Wednesday, January 28, 2015.

Motion to adjourn to the next meeting.

Motion/Second: Commissioner Madnawat/Vice Chair Ciardella

AYES: 7

NOES: 0

ABSENT: 0

Meeting Minutes submitted by
Planning Secretary Elia Escobar

RESOLUTION NO. 15-001

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS RECOMMENDING THE CITY COUNCIL TO ADOPT ZONING AMENDMENT NO. 14-0011 TO ADD THE WORDS "MIXED-USE" TO THE TOWN CENTER ZONING DESCRIPTION AND TO PROHIBIT GROUND FLOOR RESIDENTIAL USES LOCATED IN THE TOWN CENTER ZONE

WHEREAS, on December 11, 2014, an application was submitted by the City of Milpitas Planning and Neighborhood Services Department to amend the Milpitas Zoning Code to add "mixed use" residential to the Town Center Zoning description and to prohibit ground floor residential uses in the Town Center zone. The properties subject to the amendment are located within the Town Center Zoning District; and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA) and recommends that the Planning Commission determine this project will not have a significant effect on the environment; and

WHEREAS, on January 14, 2015, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

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

SECTION 1: The Planning Commission has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the Planning Commission. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2: The Planning Commission has reviewed and exercised its independent judgment on the environmental review for the Zoning Amendment to add the words "mixed use" to the Town Center Zoning description and to prohibit ground floor residential uses in the Town Center Zoning District, in accordance with the requirements of the CEQA, and State and local guidelines implementing CEQA, and determined that the Zoning Amendment will not have a significant effect on the environment under CEQA and State and local guidelines implementing CEQA. The Zoning Amendment is not subject to further CEQA review since the Zoning Text Amendment is covered by the general rule that CEQA applies only to projects, which have the potential for causing significant effect on the environment. It can be seen with certainty that that there is no possibility that the amendment in question may have a significant impact on the environment because the proposed amendment will not expand the range of uses permitted in the TC Zone, nor will it increase the development intensity of uses in the TC Zone. The proposed amendment does not directly authorize any individual project. Additionally there are no projects under review that would be affected by the proposed amendment. Subsequent activities require further analysis by the City in order to determine the potential impacts from development. Therefore, the proposed action qualifies for this exemption and no further environmental review is required.

SECTION 3: ***Zoning Text Amendment (Section XI-10-57.02.G.3)*** – The Planning Commission makes the following findings based on the evidence in the public record in support of Zoning Amendment No. ZA14-0011:

1. *The proposed amendment is consistent with the General Plan.*

Prohibiting residential uses on the ground floor and encouraging more commercial and mixed-used developments meet the intent of the Town Center designation. The Town Center Zoning Distric is intended as the functional and visual focus of Milpitas while providing a meeting and market place for commercial, professional and entertainment uses. The more efficient use of land through higher density housing will ensure land is available for the continued focus of a mixed-use district that provides identity for the City while allowing a dense residential population to provide increased economic support to the commercial uses.

The project is also consistent with the following General Plan Guiding Principles and Policies:

Guiding Principle 2.a-G-2 – Maintain a relatively compact urban form.

Guiding Principle 2.a-G-4 – The Town Center will be the "heart" of Milpitas' civic, cultural, business and professional life.

Guiding Principle 2.a-G-10 – Consider long term planning and strong land use policy in managing the City's fiscal position.

Land Use Policy 2.a-I-27 – Develop the Town Center as an architecturally distinctive mixed-use complex which will add to Milpitas' identity and image.

The modification of the Town Center use table is consistent with the General Plan because it furthers the identified principles and policy by directing mixed-use development to achieve a compact, urban form; it also uses land more efficiently and will allow for additional commercial and other tax-generating uses at the street level, thereby strengthening the City's fiscal position while achieving a mixed-use district in the heart of Milpitas.

2. *The proposed amendment will not adversely affect the public health, safety and welfare of the residents of Milpitas.*

The proposed zoning amendment will result in a more efficient use of land. The land use regulations will not affect the range of uses permitted or conditionally permitted. Commercial uses already allowed in the Town Center zone will continue to be allowed. Similarly, conditionally permitted residential uses will continue to be conditionally permitted at the same development intensity. Therefore, the general well-being of Milpitas residents will be maintained since the Town Center zone will still facilitate a broad range of land uses, but will encourage more commercial and mixed use development to provide economic opportunities for the City and residents.

SECTION 4: The Planning Commission of the City of Milpitas hereby adopts this Resolution No. 15-001 recommending the City Council adopt Zoning Amendment No. ZA14-0011 to add the words “mixed-use” to the Town Center zoning description and to prohibit ground floor residential uses as outlined in the draft ordinance attached hereto and incorporated fully herein by reference, subject to the findings herein.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Milpitas on January 14, 2015.

Sudhir Mandal

Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on January 14, 2015 and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Sudhir Mandal	✓			
Larry Ciardella	✓			
Gurdev Sandhu	✓			
Rajeev Madnawat	✓			
Demetress Morris	✓			
Hon Lien	✓			
Ray Maglalang	✓			
Zeya Mohsin (alternate)				

List of Attachments for Public Hearing No. 3

Conduct a Public Hearing and Introduce Ordinance No. 38.819 to Approve a Development Agreement Vesting and Deferring the Transit Area Specific Plan Residential Impact Fees for the Citation I and Citation II Projects: Amalfi I, Amalfi II and the Edge (Staff Contact: Adam Petersen, 408-586-3274)

Attachments:

1-A.	Redline Version of Ordinance No 38.819 Approving A Development Agreement by and between the City of Milpitas & SCS Development Co.; Amalfi Milpitas, LLC; and DPD Investments, LLC
1-B.	Development Agreement, Exhibit A to Ordinance No. 38.819
1-C.	Amalfi I Legal Description
1-D.	Amalfi II Legal Description
1-E.	The Edge Legal Description
1-F.	Planning Commission Staff Report – 01/14/2015
1-G.	Planning Commission Meeting Minutes – 01/14/2015
1-H.	Adopted Planning Commission Resolution No. 15-003

REGULAR **1-A**

NUMBER: **38.819**

TITLE: **AN UNCODIFIED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF MILPITAS AND SCS DEVELOPMENT CO., AMALFI MILPITAS, LLC, AND DPD INVESTMENTS, LLC, RELATING TO THE CITATION I (ALMALFI I AND AMALFI II) AND CITATION II (THE EDGE) RESIDENTIAL AND MIXED-USE DEVELOPMENT PROJECTS**

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of ____________________, upon motion by_________________________ and was adopted (second reading) by the City Council at its meeting of _______________, upon motion by _____________________________. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: APPROVED:

________________________________ ___________________________

Mary Lavelle, City Clerk Jose S. Esteves, Mayor

APPROVED AS TO FORM:

____

Michael J. Ogaz, City Attorney

RECITALS AND FINDINGS:

WHEREAS, the Milpitas General Plan and Transit Area Specific Plan land use designation for the area that is subject to the proposed Development Agreement (the "Agreement") is Boulevard Very High Density Mixed Use, Multi-Family Very High Density, and Multi-Family High Density and the Subject Project is consistent with the General Plan and Transit Area Specific Plan; and

WHEREAS, SCS Development Company, Amalfi Milpitas, LLC and DPD Investments, LLC (collectively "Developer") proposes to develop on certain Subject Property more particularly described in the Agreement, consistent with the General Plan, Transit Area Specific Plan and the Development Approvals set forth in the Agreement, the "Amalfi I Building" consisting of up to three hundred and seventy-eight (378) multi-family residential units and "Amalfi II Building" consisting of up to two hundred sixty (260) multi-family residential units (collectively "Citation I Project"), and up to three hundred and eight-one (381) apartment units, 8100 square feet of commercial and office space, and associated site improvements (the "Edge Project" or "Citation II Project") (collectively, all the "Project"), all as more specifically set forth in the Agreement; and

WHEREAS, Developer requests a Development Agreement to enable and assure phased and orderly development of the Project on the subject Property site; and

WHEREAS, consistent with the information contained in the Agreement:

a. Development of the Project as set forth in the Agreement is consistent with the General Plan and all applicable specific and area plans and policies, as amended;

b. Development of the Project should be encouraged because it will help meet important economic, social, environmental and planning goals of the City, including but not limited to locating housing near jobs to reduce commutes for City residents, redeveloping underutilized property near transit investment with housing and jobs so as to encourage use of transit, providing for an extraordinary contribution towards housing and jobs in the City;

c. The Agreement will facilitate the development of the Project in the manner proposed in the Agreement for the further reasons set forth in the accompanying staff reports and Agreement;

d. Developer will incur unusually substantial costs in order to provide public improvements, facilities or services, in particular extraordinary funding for housing in the City, from which the public will benefit, as set forth in more detail in the accompanying staff report and Agreement, and Developer has made commitments to a very high standard of quality for the Project and has agreed to development limitations beyond that required by the existing laws, as set forth in the Agreement and Development Approvals; and

e. Development of the Project will make a substantial contribution to the economic development of the City of Milpitas in that the Project will create additional, transit-oriented housing to support transit infrastructure investments, as well as provide extraordinary tax revenues to the City.

NOW, THEREFORE, the City Council of the City of Milpitas does ordain as follows:

SECTION 1. RECORD AND BASIS FOR ACTION

The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth herein are found to be true and correct and are incorporated herein by reference.

SECTION 2. AUTHORITY

This Ordinance is adopted under the authority of California Government Code Section 65868 and pursuant to the provisions of the City Council Resolution No. 6642 (the "Enabling Resolution"), both of which provide for the ability of City to adopt development agreements and set forth procedures and requirements for the consideration of those agreements.

SECTION 3. INCORPORATION BY REFERENCE

This Ordinance incorporates by reference as though fully set forth herein that certain "Development Agreement By and Between the City of Milpitas and SCS Development Co., Amalfi Milpitas, LLC, and DPD Investments, LLC" relative to the Development of the Citation I (Amalfi I and Amalfi II) and the Citation II (the Edge) multifamily residential and mixed-use projects in the City of Milpitas (the "Agreement"), the substantive form of which is attached hereto as Exhibit "A."

SECTION 4. ENVIRONMENTAL IMPACTS

The environmental impacts of the residential development project described within the Agreement were disclosed, analyzed and evaluated as a part of that certain Final Environmental Impact Report prepared for the Transit Area Specific Plan (the "EIR" State Clearinghouse No. 2006032091) in conformance with the California Environmental Quality Act of 1970, together with state and local guidelines implementing CEQA, all as amended from time to time, which Project Environmental Clearance was considered by the Planning Commission of the City Council City of Milpitas and was considered and approved by the City Council prior to taking any approval actions on this Ordinance.

SECTION 5. FINDINGS ADOPTED

Based upon the foregoing facts, findings, and conclusions, and as required by the Enabling Resolution, the City Council hereby adopts the following as its findings based on the record:

1. The proposed Developer Project development is consistent with the General Plan, as amended, and all applicable specific or area plans of the City.

2. The proposed Developer Project development should be encouraged in order to meet important economic, social, environmental or planning goals of the City.

3. The proposed Agreement will facilitate the development of the Project on the Subject Property in the manner proposed in the Agreement.

4. The proposed Developer Project development will make a substantial contribution to the economic development of the City in that:
   a. Developer will incur unusually substantial costs to provide public improvements, facilities or services, including without limitation an extraordinary contribution towards housing in the City, all as more specifically described in the Agreement, from which the public will benefit, and Developer has made a commitment to a very high

standard of quality for the Project and has agreed to development standards beyond that required by applicable existing laws.

b. The Project will create additional, transit-oriented housing to support transit infrastructure investments, as well as provide extraordinary tax revenues to the City.

5. The proposed Agreement is consistent with the provisions of the Enabling Resolution and is in the public interest.

SECTION 6. APPROVAL

The City Council hereby approves the proposed Agreement in substantially the form attached hereto as EXHIBIT "A" and hereby authorizes and directs the City Manager to execute the Agreement, substantially in the form attached hereto as EXHIBIT "A," on behalf of the City as soon as this ordinance becomes effective.

SECTION 7. SEVERABILITY

The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

SECTION 8. EFFECTIVE DATE AND POSTING

In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.

EXHIBIT A

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Milpitas
Department of Planning and Neighborhood Services
455 East Calaveras Boulevard, Second Floor
Milpitas, CA 95035

RECORDING FEES EXEMPT
PURSUANT TO GOVERNMENT
CODE SECTION 27383

DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF MILPITAS

AND

SCS DEVELOPMENT CO., AMALFI MILPITAS, LLC, AND

DPD INVESTMENTS, LLC

REGARDING

THE CITATION I (AMALFI I AND AMALFI II) AND CITATION II (THE EDGE) RESIDENTIAL AND MIXED–USE DEVELOPMENT PROJECTS

This Development Agreement ("**Agreement**") is entered into on the below-stated "**Effective Date**" by and between the City of Milpitas, a California municipal corporation, (hereinafter "**City**"), and SCS DEVELOPMENT CO., a California corporation, Amalfi Milpitas, LLC, a California limited liability company, DPD Investments, LLC, a California limited liability company, and all of their successors and assigns (hereinafter, collectively, "**Developer**"), pursuant to section 65864 *et seq*. of the Government Code of the State of California and City's police powers. City and Developer are, from time to time, also hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**."

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and other considerations, the value and adequacy of which are hereby acknowledged, the Parties hereby agree as follows:

RECITALS

A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Government Code sections 65864 *et seq*. ("**Development Agreement Statute**"), which regulates development agreements with any person having a legal or equitable interest in real property providing for the development of that property and establishes certain development rights in the property. In accordance with the Development Agreement Statute, and by virtue of its police powers, City has the authority to enter into development agreements, and has reflected that authority in its City Council Resolution No. 6642 adopted on May 6, 1997 ("**Enabling Resolution**"). This Agreement has been drafted and processed pursuant to the Development Agreement Statute and the Enabling Resolution.

B. Developer currently has a legal and/or equitable interest in the Property.

C. Developer proposes to plan, develop, construct, operate and maintain the Project on the Property (as such terms are defined herein).

D. As of the Effective Date, various land use regulations, allotments, entitlements, grants, permits and other approvals have been adopted, issued, and/or granted by City relating to the Project (collectively "**Existing Approvals**"), including without limitation, all of the following:

1. City Council Resolution No. 7830 adopted on February 17, 2009 approving Major Tentative Map No. MT08-0004, Site Development Permit No. SD08-0002, and Conditional Use Permit No. UP08-0049 for the development of up to Six Hundred and Thirty-Nine (639) residential units located near 1200 Piper Drive within the Piper-Montague Subdistrict of the Transit Area Specific Plan.

2. City Council Resolution No. 8132 adopted on November 1, 2011 approving Major Tentative Map Amendment No. TM11-0001, Site Development Permit Amendment No. SA11-0005, and Conditional Use Permit Amendment No. UA11-0008 for the development of up to seven-hundred and thirty-two (732) residential units located in the Piper-Montague Subdistrict of the Transit Area Specific Plan ("Citation I Project"). The Citation I Project includes the "Amalfi I Building" consisting of Three Hundred and Seventy-Eight (378) apartment units, "Amalfi II Building" consisting of Two Hundred and Sixty (260) apartment units, and ninety-four (94) townhomes. The ninety-four (94) townhomes is under construction on the Effective Date and is not a part of this Agreement; and

3. City Council Resolution No. 8382 adopted on June 17, 2014 approving Major Tentative Map No. TM13-0006, Site Development Permit No. SD13-0012, and Conditional Use Permit

No. UP13-0011 for the development of up to three hundred and eight-one (381) apartment units, 8100 square feet of commercial and office space, and associated site improvements on approximately 5.6 acres located at 765 Montague Expressway (the “Edge Project” or “Citation II Project”).

E. For the reasons recited herein and in the accompanying staff report, Developer and City have determined that the Project is the type of development for which this Agreement is appropriate. This Agreement will help to eliminate uncertainty in planning, provide for the orderly development of the Project consistent with the planning goals, policies, and other provisions of the City’s General Plan and City's Municipal Code, and otherwise achieve the goals and purposes for which the Development Agreement Statute was enacted.

F. On January 14, 2015, following a duly noticed and conducted public hearing, the Milpitas Planning Commission ("**Planning Commission**"), the hearing body for purposes of the Development Agreement Statute and the Enabling Resolution, adopted Resolution **No. 15-003** that affirmed the CEQA exemption for this Agreement, adopted findings that this Agreement is consistent with the City's General Plan and the Existing Approvals and recommended that this Agreement be approved by the City Council.

ARTICLE 1

ADMINISTRATION

1.01 Effective Date. On February 3, 2015, following a duly noticed and conducted public hearing, the Milpitas City Council ("**City Council**") introduced Ordinance No. 38.819, an ordinance that affirms CEQA compliance, that adopts findings that this Agreement is consistent with the City's General Plan and the Existing Approvals, that approves this Agreement, and that directs this Agreement's execution by City ("**Approving Ordinance**"). The City adopted the Approving Ordinance on February 17, 2015, the Approving Ordinance became effective thirty (30) days later, and the Parties signed the Agreement. The "Effective Date" in this Agreement shall be the date that the Approving Ordinance became effective.

1.02 Definitions.

(a) The following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section:

(1) "**Existing Approvals**" shall have that meaning set forth in Recital Paragraph D of this Agreement.

(2) "**Existing City Laws**" shall mean all City ordinances, resolutions, rules, regulations, guidelines, motions, practices and official policies governing land use, zoning and development, permitted uses, density and intensity of use, maximum height, bulk and size of proposed buildings, and other City land use regulations in force and effect on the Effective Date of this Agreement.

(3) “**Impact Fees**” shall mean those fees, excluding Transit Area Specific Plan Development Impact Fee, imposed so that developments bear a proportionate share of the **cost of** public facilities and service improvements that are reasonably related to the impacts and burdens of the

Project, adopted pursuant to Milpitas Municipal Code Title VIII, Chapter 4 and California Government Code Section 66001 et seq.

(4) "**Legal Effect**" shall mean the ordinance, resolution, permit, license or other grant of approval has been adopted by City and has not been overturned or otherwise rendered without legal and/or equitable force and effect by a court of competent jurisdiction, and all applicable administrative appeal periods and statutes of limitations have expired.

(5) "**New City Laws**" shall mean any and all City ordinances, resolutions, orders, rules, official policies, standards, specifications and other regulations, whether adopted or enacted by City, its staff or its electorate (through their powers of initiative, referendum, recall or otherwise) that is not a Subsequent Approval, that takes "Legal Effect" after the Effective Date of this Agreement, and that applies City wide.

(6) "**Project**" shall mean the developments as described in (i) City Council Resolution No. 8132 adopted on November 1, 2011 approving Major Tentative Map Amendment No. TM11-0001, Site Development Permit Amendment No. SA11-0005, and Conditional Use Permit Amendment No. UA11-0008 for the development of up to seven-hundred and thirty-two (732) residential units located in the Piper-Montague Subdistrict of the Transit Area Specific Plan ("TASP"), excluding the ninety-four (94) townhomes residential units as further depicted in **Exhibit A**; and (ii) City Council Resolution No. 8382 adopted on June 17, 2014 approving Major Tentative Map No. TM13-0006, Site Development Permit No. SD13-0012, and Conditional Use Permit No. UP13-0011 for the development of up to three hundred and eight-one (381) apartment units, 8100 square feet of commercial and office space, and associated site improvements on approximately 5.6 acres located at 765 Montague Expressway. Any reference in this Agreement to the "Project" shall mean and include the "Property"; provided however, that the Project to which this Agreement applies may be only occupying a part of the Property and may be only a phase of a larger development on the Property.

(7) "**Project Approvals"** shall mean, collectively, the Project's Existing Approvals and the Subsequent Approvals.

(8) "**Property**" shall mean that certain real property consisting of approximately 12.6 acres located within the City, as more particularly described and shown on ***Exhibit A*** to this Agreement.

(9) "**Subsequent Approvals**" a**nd "Subsequent Approval**" shall mean those City permits, entitlements, approvals or other grants of authority (and all text, terms and conditions of approval related thereto), that may be necessary or desirable for the development of the Project, that are sought by Developer, and that are granted by City after the City Council adopts the Approving Ordinance (defined below), including without limitation, a City Resolution of Application for Annexation and subdivision maps and any subdivision document.

(10) "**Transit Area Specific Plan Development Impact Fee**" shall mean the impact fee established by the City Council as set forth in City Council Resolution No. 7778 adopted on September 2, 2008, as may subsequently be updated or amended, to pay for public infrastructure within the Transit Area Specific Plan Area.

(b) To the extent that any defined terms contained in this Agreement are not defined above, then such terms shall have the meaning otherwise ascribed to them elsewhere in this Agreement, or if not in this Agreement, by controlling law.

1.03 <u>Term</u>.

(a) The term of this Agreement shall commence on the Effective Date, and then shall continue (unless this Agreement is otherwise terminated as provided in this Agreement) until the date of March 20, 2020 ("**Initial Term**"), provided the Parties may mutually agree to extend this Agreement for an additional five (5) years by written amendment to this Agreement ("**Extended Term**").

ARTICLE 2

RIGHTS AND OBLIGATIONS

2.01 Transit Area Specific Plan Development Impact Fees and Continued and Future Obligations.

(a) During the Initial Term or Extended Term of this Agreement, Developer shall pay the Transit Area Specific Plan Development Impact Fee for each residential unit located within the Project to the City as follows:

(1) Prior to the issuance of any Certificate of Occupancy (temporary or final) for any residential unit located in Amalfi I Building during the Initial Term of the Agreement, Developer shall fully pay the City the amount of Twenty-Nine Thousand and Twelve Dollars ($29,012.00) for each residential units constructed in the Amalfi I Building. If this Agreement is mutually extended beyond the Initial Term of five (5) years, Developer agrees and acknowledges that the Transit Area Specific Plan Development Impact Fee of Twenty-Nine Thousand and Twelve Dollars ($29,012.00) shall immediately be adjusted by the City for inflation and park land value as set forth in City Council Resolution No. 7778, as may be amended, and shall further be adjusted on an annual basis thereafter for the remaining duration of the Extended Term. Developer shall then be obligated to fully pay the City the adjusted amount prior to any Certificate of Occupancy (temporary or final) for the Almalfi I Building during the Extended Term. Full payment of the Transit Area Specific Plan Development Impact Fee for all residential units located in the Amalfi I Building is a condition precedent to the issuance of any Certificate of Occupancy (temporary or final) for that building.

(2) Prior to the issuance of any Certificate of Occupancy (temporary or final) for any residential unit located in Amalfi II Building during the Initial Term of the Agreement, Developer shall fully pay the City the amount of Twenty-Nine Thousand and Twelve Dollars ($29,012.00) for each residential units constructed in the Amalfi II Building. If this Agreement is mutually extended beyond the Initial Term of five (5) years, Developer agrees and acknowledges that the Transit Area Specific Plan Development Impact Fee of Twenty-Nine Thousand and Twelve Dollars ($29,012.00) shall immediately be adjusted by the City for inflation and park land value as set forth in City Council Resolution No. 7778, as may be amended, and shall further be adjusted on an annual basis thereafter for the remaining duration of the Extended Term. Developer shall then be obligated to fully pay the City the adjusted amount prior to any Certificate of Occupancy (temporary or final) for the Almalfi II Building during the Extended Term. Full payment of the Transit Area Specific Plan Development Impact Fee for all residential units located in the Amalfi II Building is a condition precedent to the issuance of any Certificate of Occupancy (temporary or final) for that building.

(3) Prior to the issuance of any Certificate of Occupancy (temporary or final) for any residential unit located in the Edge Building during the Initial Term of the Agreement, Developer shall fully pay the City the amount of Twenty-Nine Thousand and Twelve Dollars ($29,012.00) for each residential units constructed in the Edge Building. If this Agreement is mutually extended beyond the Initial Term of five (5) years, Developer agrees and acknowledges that the Transit Area Specific Plan Development Impact Fee of Twenty-Nine Thousand and Twelve Dollars ($29,012.00) shall immediately be adjusted by the City for inflation and park land value as set forth in City Council Resolution No. 7778, as may be amended, and shall further be adjusted on an annual basis thereafter for the remaining duration of the Extended Term. Developer shall then be obligated to fully pay the City the adjusted amount prior to any Certificate of Occupancy (temporary or final) for the Edge Building during the Extended Term. Full payment of the Transit Area Specific Plan Development Impact Fee for all residential units located in the Edge Building is a condition precedent to the issuance of any Certificate of Occupancy (temporary or final) for that building.

(b) Developer agrees that the terms and conditions of this Agreement and conditions of approval issued pursuant to this Agreement shall govern and dictate the vesting of the Developer's right to the Transit Area Specific Plan Development Fee amount for the Project in lieu of any other instrument of vesting, including any vesting tentative map or any other agreement, instrument or document purporting to vest any right of development. Developer agrees to waive any vesting rights by operation of any otherwise applicable city, state or federal law. Further, Developer agrees acknowledges that other than the vesting of the Transit Area Specific Plan Development Impact Fee for the Project as set forth in Section 2.01(a) above, this Agreement shall ***not*** vest any **Existing Approvals, Existing City Laws, Impact Fees, New City Laws, Project Approvals, Subsequent Approvals**, or shall in any way whatsoever vest any other rights, interests, fees, laws, policies or otherwise related to the Project.

2.02 Construction Codes.

With respect to the development of any or all of the Project or the Property, Developer shall be subject to the then currently adopted California Building Code and all those other State-adopted construction, fire and other codes applicable to improvements, structures, and development, and the applicable version or revision of said codes by local City action (collectively referred to as "**Construction Codes**") in place at that time that a plan check application for a building, grading or other permit subject to such Construction Codes is submitted to City for approval, provided that such Construction Codes have been adopted by City and are in effect on a City-wide basis and the plan check application has not expired.

2.03 Timing of Development.

(a) Securing Building Permits and Beginning Construction. The Amalfi I Building is under construction as of the Effective Date of this Agreement. In exchange for the vesting of the Transit Area Specific Plan Development Impact Fee and public benefit to the City to enter into this Agreement, Developer agrees to secure building permits, begin construction, and receive Certificate of Occupancy (temporary or final) for all residential units and commercial-retail space located in the Edge Building prior to receiving Certificate of Occupancy (temporary or final) for any residential unit located in the Amalfi II Building.

ARTICLE 3

PROCESSING

3.01 Processing.

(a) This Agreement does not provide Developer with any right to the approval of Subsequent Approvals nor to develop or construct the Project beyond that which is authorized in the Existing Approvals. For any Subsequent Approvals necessary for the Project, Developer shall comply with the City's Municipal Code, rules, regulations, policies, guidelines or customary practice for such Subsequent Approvals. Nothing in this Agreement shall be construed to limit the authority or obligation of City to hold necessary public hearings, or to limit the discretion of City or any of its officers or officials with regard to the Project Approvals that legally require the exercise of discretion by City. City's discretion as to the granting of Subsequent Approvals shall be the discretion afforded by law.

3.02 Amendments.

Any request by Developer for an amendment or modification to this Agreement shall be subject to the applicable substantive and procedural provisions of the City's General Plan, zoning, subdivision, and other applicable land use ordinances and regulations (i.e., City review and approval) in effect when such an amendment or modification application is deemed complete.

ARTICLE 4

DEFAULT, VALIDITY PROVISIONS, ASSIGNMENT

4.01 Defaults.

(a) **A**ny failure by Developer to perform any material term or provision of this Agreement, which failure continues uncured for a period of thirty (30) days following written notice of such failure from the City (unless such period is extended by written mutual consent) ("Notice of Default"), shall constitute a default under this Agreement ("**Default**"). Any Notice of Default shall specify the nature of the alleged failure and, where appropriate, the manner in which such alleged failure satisfactorily may be cured. If the nature of the alleged failure is such that it cannot reasonably be cured within such 30-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such 30-day period. If the alleged failure is cured, then no Default shall exist and the City shall take no further action. If the alleged failure is not cured, then a Default shall exist under this Agreement and the City may exercise any of the remedies available under law.

(b) No failure or delay in giving notice of default shall constitute a waiver of default; provided, however, that the provision of written notice and opportunity to cure shall nevertheless be a prerequisite to the enforcement or correction of any default. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

4.02 Resolution of Disputes.

(a) In the event Developer is in Default under the terms of this Agreement and fails to cure as set forth in Section 4.01 above, the City may elect, in its sole and absolute discretion, to pursue any of the following courses of action: (i) waive such default; (ii) pursue administrative remedies as provided under law; (iii) pursue judicial remedies as provided for under law; and/or (iv) terminate this Agreement.

4.03 Force Majeure Delay, Extension of Times of Performance.

(a) Performance by any Party hereunder shall be excused, waived or deemed not to be in default where delays or defaults are due to acts beyond a Party's control such as war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, unexpected acts of governmental entities other than City, including revisions to capacity ratings of the wastewater plant by the Regional Water Quality Control Board, the State Water Resources Board, enactment of conflicting State or Federal laws or regulations, or litigation (including without limitation litigation contesting the validity, or seeking the enforcement or clarification of this Agreement whether instituted by the Developer, City, or any other person or entity) (each a "**Force Majeure Event**").

(b) Any Party claiming a delay as a result of a Force Majeure Event shall provide the other Party with written notice of such delay and an estimated length of delay. Upon the other Party's receipt of such notice, an extension of time shall be granted in writing for the period of the Force Majeure Event, or longer as may be mutually agreed upon by the Parties, unless the other Party objects in writing within ten (10) days after receiving the notice. In the event of such objection, the Parties shall meet and confer within thirty (30) days after the date of objection to arrive at a mutually acceptable solution to the disagreement regarding the delay. If no mutually acceptable solution is reached, any Party may take action as permitted in this Agreement.

4.04 Assignment/Covenants Run with the Land.

(a) Right to Assign. Developer shall have the right to sell, assign, or transfer this Agreement with all its rights, title and interests therein to any person, firm or corporation acquiring an interest in the Project or Property (or portion thereof associated with the Project) at any time during the term of this Agreement ("**Assignee**"). Developer shall provide City with written notice of any proposed assignment or transfer of all or a portion of the Property no later than thirty (30) days prior to such action, which notice shall include specific portions of the Project or Property to be assigned and the proposed form of assignment. Any proposed assignment shall be subject to the express written consent of City, which consent shall not be unreasonably withheld, delayed or conditioned. City's approval of a proposed assignment or transfer shall be based upon the proposed assignee's reputation, experience, financial resources and access to credit and capability to successfully carry out the development of the Property to completion. The written assignment, assumption or release of rights or obligations with respect to a portion of the Project or of the Property shall specify the portion of the Project or Property and the rights assigned and obligations assumed, and shall be subject to approval by the City Attorney.

(b) **Covenants Run with the Land.** This Agreement and all of its provisions, agreements, rights, powers, standards, terms, covenants and obligations shall be binding upon the Parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other persons or entities acquiring the Project and/or Property, any lot, parcel or any portion thereof, or any interest therein, whether by sale, operation of law or in any manner whatsoever, and shall inure to the benefit of the Parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns. All of the provisions of this Agreement shall be enforceable during the Term as equitable servitudes and constitute covenants running with the land pursuant to applicable law, including, but not limited to Civil Code section 1468. This Agreement shall not be binding upon any consumer, purchaser, transferee, devisee, assignee, or any other successor of Developer acquiring a completed residential unit comprising all or part of the Project ("**Consumer**") unless such Consumer is specifically bound by a provision of this Agreement or by a separate instrument or Agreement.

4.05 Compliance with Government Code Section 65867.5.

In accordance with the requirements of Government Code section 65867.5, City and Developer agree that any tentative subdivision map(s) for the Project is hereby made subject to a condition that a sufficient water supply shall be available. Proof of the availability of a sufficient water supply shall be secured in accordance with the provisions of Government Code section 66473.7.

4.06 Termination.

This Agreement shall terminate upon the expiration of the Term, as set forth in Section 1.03(a), or at such other time as this Agreement is terminated in accordance with the terms hereof, whichever occurs first. Upon termination of this Agreement, the City shall record a notice of such termination, in a form satisfactory to the City Attorney that the Agreement has been terminated.

ARTICLE 5

GENERAL PROVISIONS

5.01 Miscellaneous.

(a) Preamble, Recitals, Exhibits. References herein to "this Agreement" shall include the Preamble, Recitals and all of the exhibits of this Agreement.

(b) Governing Law and Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of California and legal actions commenced under or pursuant to this Agreement shall be brought in Santa Clara County Superior Court. Should any legal action be brought by a Party for breach of this Agreement or to enforce any provision herein, the prevailing party of such action shall be entitled to reasonable attorneys' fees, court costs, and such other costs as may be fixed by the court.

(c) Project as a Private Undertaking. No partnership, joint venture, or other association of any kind between Developer, on the one hand, and City on the other hand, is formed by this Agreement. The development of the Property is a separately undertaken private development. The only relationship between City and Developer is that of a governmental entity regulating the development of private Property and the owners of such private Property.

(d) Indemnification. Developer shall hold City, its elective and appointive boards, commissions, officers, agents, and employees, harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage which may arise from Developer's contractors, subcontractors', agents' or employees' operations on the Project, whether such operations be by Developer or by any Developer's contractors, subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for Developer or any of Developer's contractors or subcontractors. Developer shall indemnify and defend City and its elective and appointive boards, commissions, officers, agents and employees from any suits or actions at law or in equity for damages caused, or alleged to have been caused, by reason of any of the aforesaid operations and Developer shall pay all reasonable attorney's fees and costs that the City may incur. City does not, and shall not, waive any rights against Developer which it may have by reason of the aforesaid hold-harmless requirement of Developer because of the acceptance of improvements by City, or the deposit of security with City by Developer. The aforesaid hold-harmless requirement of Developer shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the aforesaid operations referred to in this subsection, regardless of whether or not City has prepared, supplied or approved of, plans and/or specifications for the subdivision. Notwithstanding anything herein to the contrary, Developer’s indemnification of City shall not apply to the extent that such action, proceedings, demands, claims, damages, injuries or liability is based upon the sole active negligence of the City. Developer shall, during the life of this Agreement take out and maintain insurance coverage with an insurance carrier authorized to transact business in the State of California as will protect the Developer or any Contractor or any Subcontractor or anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable, from claims for damages because of bodily injury, sickness, disease, or death of their employees or any person other than their employees, or for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom. The minimum limits of liability for such insurance coverage which shall include comprehensive general and automobile liability, including contractual liability assumed under this agreement, shall be as follows:

Limit of Liability for Injury or Accidental Death:

Per Occurrence $2,000,000

Limit of Liability for Property Damage:

Aggregate Liability for Loss $2,000,000

Such liability insurance policies shall name the City as an additional insured, by separate endorsement, and shall agree to defend and indemnify the City against loss arising from operations performed under this Agreement and before permitting any Contractor or Subcontractors to perform work under this Agreement, the Developer shall require Contractor or Subcontractors to furnish satisfactory proof that insurance has been taken out and is maintained similar to that provided by the Developer as it may be applied to the Contractor's or Subcontractor's work.

(e) Interpretation/Construction. This Agreement has been reviewed and revised by legal counsel for both Developer and City, and any rule or presumption that ambiguities shall be construed against the drafting Party shall not apply to the interpretation or enforcement of this Agreement. The standard of review of the validity and meaning of this Agreement shall be that accorded legislative acts of City. As used in this Agreement, and as the context may require, the singular includes the plural and vice versa, and the masculine gender includes the feminine and neuter and vice versa.

(f) Notices.

(1) All notices, demands, or other communications that this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the respective Party as follows:

If to City: City Manager

455 East Calaveras Boulevard
Milpitas, CA 95035
Tel: (408) 586-3003

With a Copy To: City Attorney
455 East Calaveras Boulevard
Milpitas, CA 95035
Tel: (408) 586-3041

If to Developer: Stephen C. Schott, President
SCS Development Co.
404 Saratoga Ave. Suite 100
Santa Clara, CA. 95050
(408) 985-6000

Stephen C. Schott, Manager
Amalfi Milpitas, LLC
404 Saratoga Ave. Suite 100
Santa Clara, CA. 95050
(408) 985-6000

Stephen C. Schott, Manager
DPD Investments, LLC
404 Saratoga Ave. Suite 100
Santa Clara, CA. 95050
(408) 985-6000

(2) Any Party may change the address stated herein by giving notice in writing to the other Parties, and thereafter notices shall be addressed and transmitted to the new address.

(g) Recordation. The Clerk of the City shall record, within ten (10) days after the Effective Date, a copy of this Agreement in the Official Records of the Recorder's Office of Santa Clara County. Developer shall be responsible for all recordation fees, if any.

(h) Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a specific situation, is found to be invalid, void, or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect.

(i) Jurisdiction. The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California.

(j) Entire Agreement. This Agreement, including these pages and all the exhibits (set forth below) inclusive, and all documents incorporated by reference herein, constitute the entire understanding and agreement of the Parties.

(k) Signatures and Joint Liability. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of Developer and City. This Agreement may be executed in multiple originals, each of which is deemed to be an original. Developer, individually, agrees and acknowledges, that each Developer Party is jointly and severally responsible and liable for all terms, conditions and obligations under this Agreement.

(l) Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts shall together constitute one and the same instrument.

(m) Exhibits. The following exhibits are attached to this Agreement and are hereby incorporated herein by this reference for all purposes as if set forth herein in full:

Exhibit A Legal Description of Project and Plat Maps.

5.02 **Limitations on Time to Challenge Validity of this Agreement**. Developer shall have ninety (90) days from the date that the City Council approved this Agreement to commence and effect service of summons of any action or proceeding to attack, review, set aside, void or annul this Agreement or any part of this Agreement. Thereafter, all persons are barred from any action or proceeding or any defense of invalidity or unreasonableness of the decision of the proceedings, acts or determinations, including any provision of this Agreement or the enforcement hereof.

5.03 **Notice of 90-day Right to Protest**. Developer is hereby notified that Developer shall have ninety (90) days from the date of the imposition of any fees, dedications, reservations, or other exactions, to file a protest of the imposition of any such fees, dedications, reservations or other exactions; provided however that any challenge to the validity of any provisions of this Agreement, including Project Mitigations, or Project Specific Requirements, shall be subject to Section 5.02 and that this notice of the right to protest shall not supplant, extend or start anew any protest period already commenced pursuant to previous notices.

IN WITNESS WHEREOF, City and Developer have executed this Agreement as of the date first hereinabove written.

CITY OF MILPITAS:

____
Tom Williams
City Manager

Date: ___________________________

DEVELOPER:

SCS Development Co.

____
Stephen C. Schott, President

Amalfi Milpitas, LLC

____
Stephen C. Schott, Manager

DPD Investments, LLC

____
Stephen C. Schott, Manager

Approved as to Form:

____

____
Michael J. Ogaz
City Attorney

Date: _____________________________

(ALL SIGNATURES, EXCEPT CITY CLERK AND CITY ATTORNEY, MUST BE ACKNOWLEDGED BY A NOTARY)

EXHIBIT A

LEGAL DESCRIPTION OF PROJECT AND PLAT MAPS

Legal Description

1-C

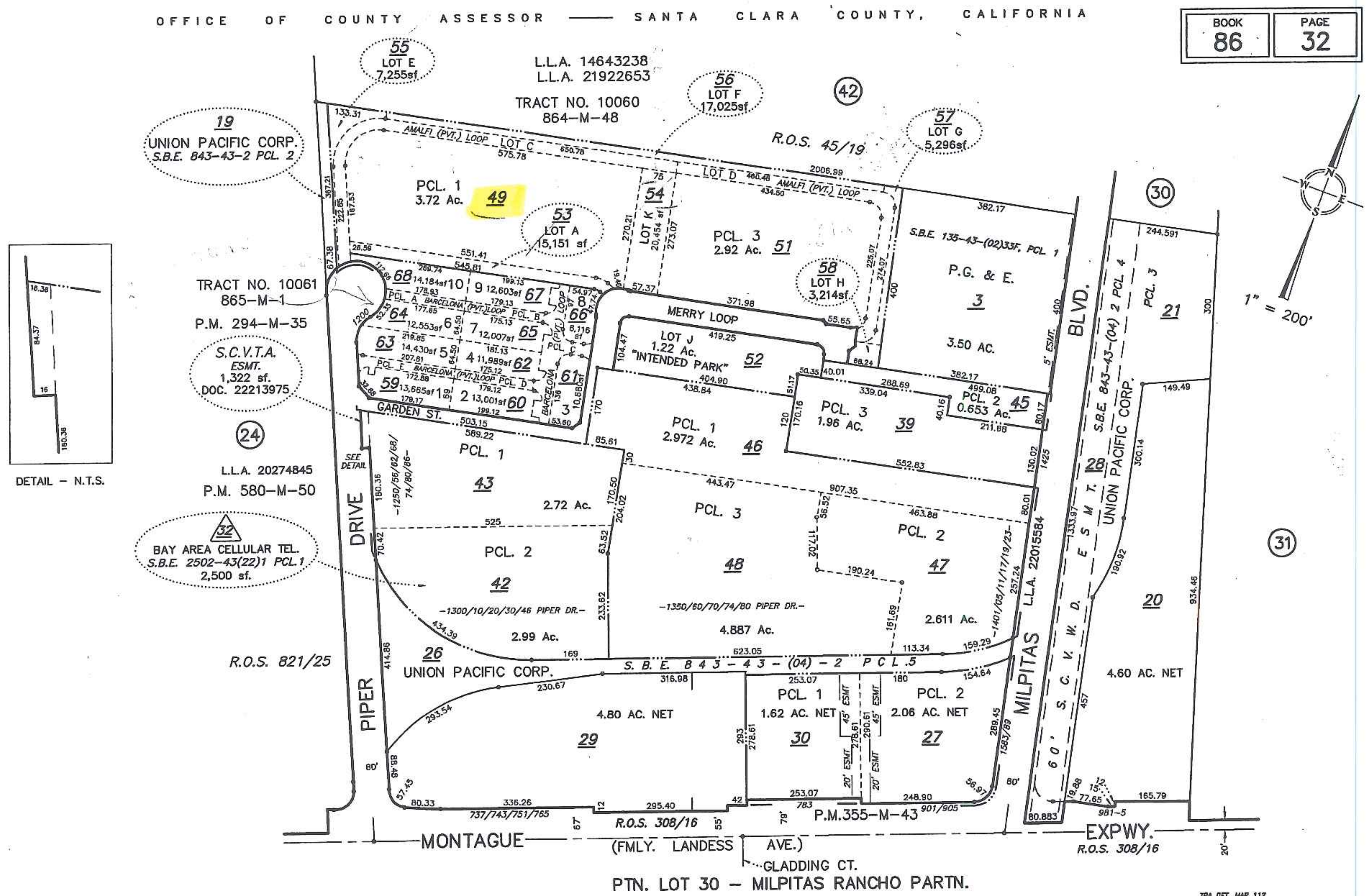
<u>Amalfi 1</u>

Parcel 1 of Tract 10060 filed the 2nd day of October, 2013 in book of maps 864 at pages 48-53 series numbers 22404820 in Santa Clara County.

A.P.N. 86-32-49

OFFICE OF COUNTY ASSESSOR —— SANTA CLARA COUNTY, CALIFORNIA

BOOK 86 PAGE 32



PTN. LOT 30 – MILPITAS RANCHO PARTN.

BOOK 92

TRA DET. MAP 112
LAWRENCE E. STONE – ASSESSOR
Cadastral map for assessment purposes only.
Compiled under R. & T. Code, Sec. 327.
Effective Roll Year 2014–2015

TRACT 10060

FOR CONDOMINIUM PURPOSES

WAUKESHA PROPERTY

BEING A SUBDIVISION OF PARCEL 1 OF DOCUMENT NO. 21922654 OF OFFICIAL RECORDS, SANTA CLARA COUNTY RECORDS

CITY OF MILPITAS SANTA CLARA COUNTY CALIFORNIA

CARLSON, BARBEE AND GIBSON, INC.
ENGINEERS SURVEYORS PLANNERS
SAN RAMON, CALIFORNIA

JUNE 2013

OWNER'S STATEMENT

WE HEREBY STATE THAT WE ARE THE OWNERS OF OR HAVE SOME RIGHT, TITLE, OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN HEREON; THAT WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS A CLEAR TITLE TO SAID REAL PROPERTY; THAT WE CONSENT TO THE MAKING AND RECORDING OF THIS SUBDIVISION MAP AS SHOWN WITHIN THE DISTINCTIVE BOUNDARY LINE.

WE HEREBY OFFER FOR DEDICATION TO THE CITY OF MILPITAS IN FEE FOR PUBLIC USE FOR ROADWAY PURPOSES, OPERATION, ALTERATION, RELOCATION, MAINTENANCE, REPAIR AND REPLACEMENT OF ALL PUBLIC SERVICE FACILITIES AND THEIR APPURTENANCES, OVER, UNDER, ALONG AND ACROSS THE FOLLOWING:

1. GARDEN STREET AND MERRY LOOP

WE HEREBY OFFER FOR DEDICATION TO THE CITY OF MILPITAS AN EASEMENT FOR PUBLIC USE FOR OPERATION, ALTERATION, RELOCATION, MAINTENANCE, REPAIR AND REPLACEMENT OF ALL PUBLIC SERVICE FACILITIES AND THEIR APPURTENANCES, OVER, UNDER, ALONG AND ACROSS THE FOLLOWING:

1. EASEMENTS "A" FOR PUBLIC SERVICE AND UTILITY EASEMENT PURPOSES (PSUE).
2. EASEMENTS "B" FOR EMERGENCY VEHICLE ACCESS PURPOSES (EVAE).

THE ABOVE MENTIONED EASEMENTS (PSUE & EVAE) SHALL REMAIN OPEN AND FREE FROM BUILDINGS AND STRUCTURES OF ANY KIND EXCEPT PUBLIC SERVICE AND PUBLIC UTILITY STRUCTURES AND THEIR APPURTENANCES, IRRIGATION SYSTEMS AND THEIR APPURTENANCES AND LAWFUL FENCES. UNOBSTRUCTED CONTINUOUS ACCESS SHALL BE MAINTAINED AT ALL TIMES.

WE ALSO HEREBY RETAIN FOR THE PRIVATE USE OF THE LOT OWNERS WITHIN THIS SUBDIVISION, THEIR LICENSES, VISITORS, AND TENANTS WITH MAINTENANCE THEREOF BY THEIR LOT OWNERS IN ACCORDANCE WITH THE SUBDIVISION RESTRICTIONS GOVERNING THIS SUBDIVISION THE FOLLOWING:

1. LOTS 'C' AND 'D' FOR PRIVATE STREET PURPOSES. PRIVATE STREET IS TO BE KNOWN AS AMALFI LOOP.

THE DESIGNATED PRIVATE STREETS ON THIS MAP ARE NOT PART OF THE CITY OF MILPITAS STREET SYSTEM AND ARE NOT ACCEPTED FOR PUBLIC MAINTENANCE.

PARCELS 1 AND 3 ARE FOR CONDOMINIUM PURPOSES (545 UNITS).

PARCEL 2 TO BE RETAINED BY OWNER FOR FUTURE SUBDIVISION.

LOT J TO BE RETAINED BY THE OWNER AND DEDICATED TO THE CITY OF MILPITAS FOR PARK PURPOSES BY SEPARATE INSTRUMENT.

LOTS A, E, F, G, H, & K ARE TO BE RETAINED BY OWNER.

OWNER:
SCS DEVELOPMENT CO. A CALIFORNIA CORPORATION

BY: Stephen E. Schott
NAME: Stephen E. Schott
TITLE: Vice President

ACKNOWLEDGMENT CERTIFICATE (OWNER'S)

STATE OF California)
COUNTY OF Santa Clara)

ON September 10, 2013, BEFORE ME, Pamela M. Takeshita, A NOTARY PUBLIC, PERSONALLY APPEARED Stephen E. Schott, WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON~~(S)~~ WHOSE NAME~~(S)~~ IS/~~ARE~~ SUBSCRIBED TO THE WITHIN INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE/~~SHE/THEY~~ EXECUTED THE SAME IN HIS/~~HER/THEIR~~ AUTHORIZED CAPACITY~~(IES)~~, AND BY HIS/~~HER/THEIR~~ SIGNATURE~~(S)~~ ON THE INSTRUMENT THE PERSON~~(S)~~, OR THE ENTITY UPON BEHALF OF WHICH THE PERSON~~(S)~~ ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND:

SIGNATURE: Pam Takeshita
NAME (PRINT): Pamela M. Takeshita
PRINCIPAL COUNTY OF BUSINESS: Santa Clara
MY COMMISSION NUMBER: 1924873
MY COMMISSION EXPIRES: March 8, 2015

SURVEYOR'S STATEMENT

I, CHRISTOPHER S. HARMISON, HEREBY CERTIFY THAT I AM A LICENSED LAND SURVEYOR IN THE STATE OF CALIFORNIA, THAT THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION IN JUNE 2011, AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF SCS DEVELOPMENT CO., IN MARCH 2008, AND IS TRUE AND COMPLETE AS SHOWN. I HEREBY STATE THAT THIS FINAL MAP COMPLIES WITH FINAL MAP PROCEDURES OF THE CITY OF MILPITAS AND THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE APPROVED TENTATIVE MAP AND THE CONDITIONS OF APPROVAL THEREOF WHICH WERE REQUIRED TO BE FULFILLED PRIOR TO THE FILING OF THE FINAL MAP, AND IT IS TECHNICALLY CORRECT. I HEREBY STATE THAT THE MONUMENTS WILL OCCUPY THE POSITIONS INDICATED BY DECEMBER 2014, AND ARE OF THE CHARACTER INDICATED, AND ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

864/48/53

DATED: 9-9-2013

Christopher S. Harmison
CHRISTOPHER S. HARMISON
L.S. NO. 7176

LICENSED LAND SURVEYOR
CHRISTOPHER S. HARMISON
7176
STATE OF CALIFORNIA

RECORDER'S STATEMENT

FILED THIS 2nd DAY OF October, 2013 AT 2:19 PM. IN BOOK OF MAPS 864, AT PAGES 48-53, SERIES NUMBERS 22404820 AT THE REQUEST OF FIRST AMERICAN TITLE INSURANCE COMPANY.

FEE $18 —

REGINA ALCOMENDRAS
SANTA CLARA COUNTY RECORDER
BY: June Aliason
DEPUTY

1543-00

22404820

TRACT 10060

FOR CONDOMINIUM PURPOSES

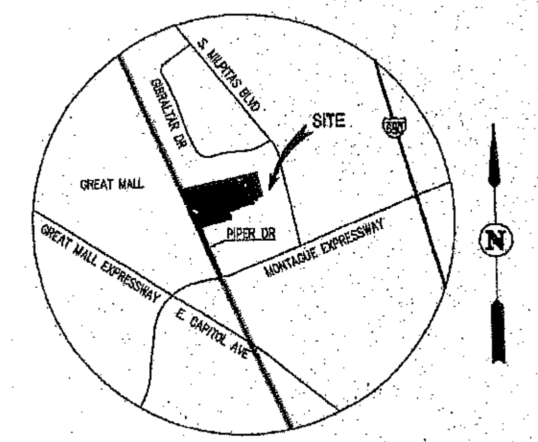
WAUKESHA PROPERTY

BEING A SUBDIVISION OF PARCEL 1 OF DOCUMENT NO. 21922654 OF OFFICIAL RECORDS, SANTA CLARA COUNTY RECORDS

CITY OF MILPITAS SANTA CLARA COUNTY CALIFORNIA

CARLSON, BARBEE AND GIBSON, INC.
ENGINEERS SURVEYORS PLANNERS
SAN RAMON, CALIFORNIA

JUNE 2013



VICINITY MAP
NOT TO SCALE

864/49/53

CITY ENGINEER'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THE WITHIN FINAL MAP; THAT THE SUBDIVISION AS SHOWN THEREIN IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP AND ANY APPROVED ALTERATIONS THEREOF; THAT THIS SUBDIVISION COMPLIES WITH PROVISIONS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCES, APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP.

SIGNED: ______________________ DATE: 9/21/2013

EBRAHIM SOHRABI
PRINCIPAL CIVIL ENGINEER, CITY OF MILPITAS
R.C.E. NO. 42982, EXPIRATION DATE MARCH 31, 2014

CITY SURVEYOR'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THE HEREIN MAP AND THAT I AM SATISFIED THAT SAID MAP IS TECHNICALLY CORRECT.

SIGNED: ______________________ DATE: 9/21/13

ROBERT S. GULETZ
ACTING CITY SURVEYOR, CITY OF MILPITAS
HARRIS & ASSOCIATES
R.C.E. NO. 24184
EXPIRATION DATE: DECEMBER 31, 2013

REGISTERED PROFESSIONAL ENGINEER
ROBERT S. GULETZ
24184
EXP. ______
CIVIL
STATE OF CALIFORNIA

CITY CLERK'S CERTIFICATE

I, MARY LAVELLE, CITY CLERK OF THE CITY OF MILPITAS, CALIFORNIA, HEREBY CERTIFY THAT SAID CITY COUNCIL, AS GOVERNING BODY OF SAID CITY AT A REGULAR MEETING HELD ON Sept. 17, 2013, HAS TAKEN THE FOLLOWING ACTIONS:

1. APPROVED THIS TRACT MAP NO. 10060
2. ACCEPTED, SUBJECT TO IMPROVEMENT, ON BEHALF OF THE PUBLIC THOSE PARCELS OF LAND OFFERED FOR DEDICATION FOR PUBLIC USE IN CONFORMITY WITH THE TERMS OF OFFER OF DEDICATION TO WIT:
   1. EASEMENTS "A" FOR PUBLIC SERVICE AND UTILITY EASEMENT PURPOSES (PSUE).
   2. EASEMENTS "B" FOR EMERGENCY VEHICLE ACCESS PURPOSES (EVAE).
   3. GARDEN STREET AND MERRY LOOP IN FEE.

DATED: 9/30/2013 Mary Lavelle

MARY LAVELLE
CITY CLERK, CITY OF MILPITAS

TRACT 10060

FOR CONDOMINIUM PURPOSES

WAUKESHA PROPERTY

BEING A SUBDIVISION OF PARCEL 1 OF DOCUMENT NO. 21922654 OF OFFICIAL RECORDS, SANTA CLARA COUNTY RECORDS

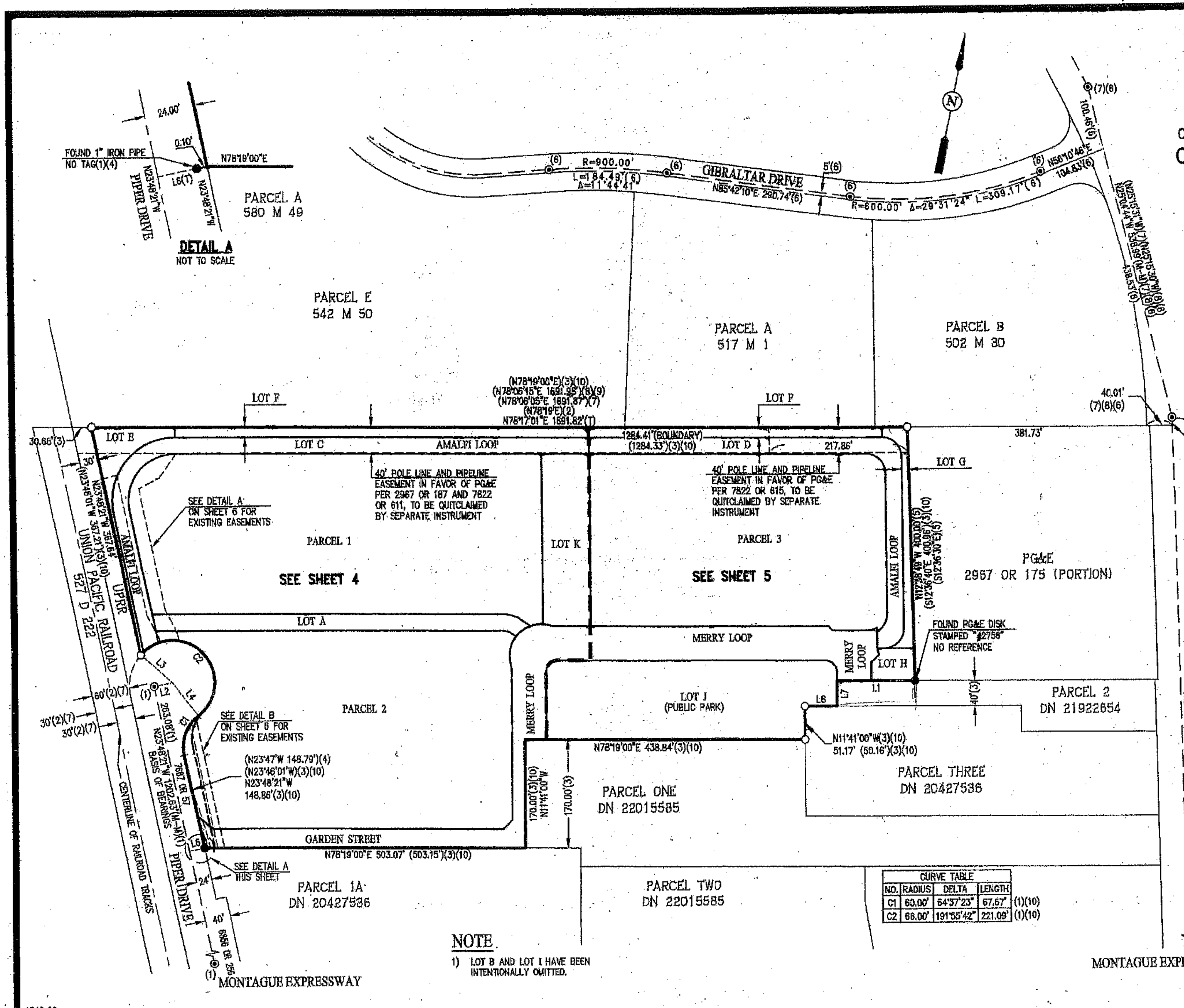
CITY OF MILPITAS SANTA CLARA COUNTY CALIFORNIA

CARLSON, BARBEE AND GIBSON, INC.
ENGINEERS SURVEYORS PLANNERS
SAN RAMON, CALIFORNIA

JUNE 2013

0' 100' 200' 300' 400'

SCALE: 1"=100'



CURVE TABLE				
NO.	RADIUS	DELTA	LENGTH	
C1	60.00'	64°37'23"	67.67'	(1)(10)
C2	66.00'	191°55'42"	221.09'	(1)(10)

NOTE

1) LOT B AND LOT I HAVE BEEN INTENTIONALLY OMITTED.

BASIS OF BEARINGS:

THE BASIS OF BEARING FOR THIS MAP IS DETERMINED BY FOUND MONUMENTS ON THE CENTERLINE OF PIPER DRIVE. THE BEARING BEING N23°48'21"W PER PARCEL MAP FILED IN BOOK 580 OF MAPS AT PAGE 49 SANTA CLARA COUNTY RECORDS. THE BEARINGS SHOWN HEREON ARE BASED ON CALIFORNIA COORDINATE SYSTEM ZONE 3 (NAD 27). MULTIPLY DISTANCE SHOWN BY 0.99994617 TO OBTAIN GRID DISTANCES.

POINT MIL-BC(1)(7)(8)(6)(9)
FOUND BRASS DISK IN WELL
N: 1976965.733 (GRID, NAD83)(9)
E: 6158634.219 (GRID, NAD83)(9)
θ = -00°50'59"

REFERENCES

(#) INDICATES REFERENCE NUMBER.
(1) PARCEL MAP (580 M 49)
(2) RECORD OF SURVEY (79 M 43)
(3) LOT LINE ADJUSTMENT (DN 14843238) SEE ALSO DEEDS DN 14835097 AND DN 18592170
(4) PARCEL MAP (294 M 35)
(5) DEED (2967 OR 175)
(6) PARCEL MAP (502 M 30)
(7) RECORD OF SURVEY (432 M 30)
(8) PARCEL MAP (484 M 13)
(9) CITY OF MILPITAS BENCHMARK SYSTEM, DATED FEBRUARY 21, 2002.
(10) LOT LINE ADJUSTMENT (DN 21922654)

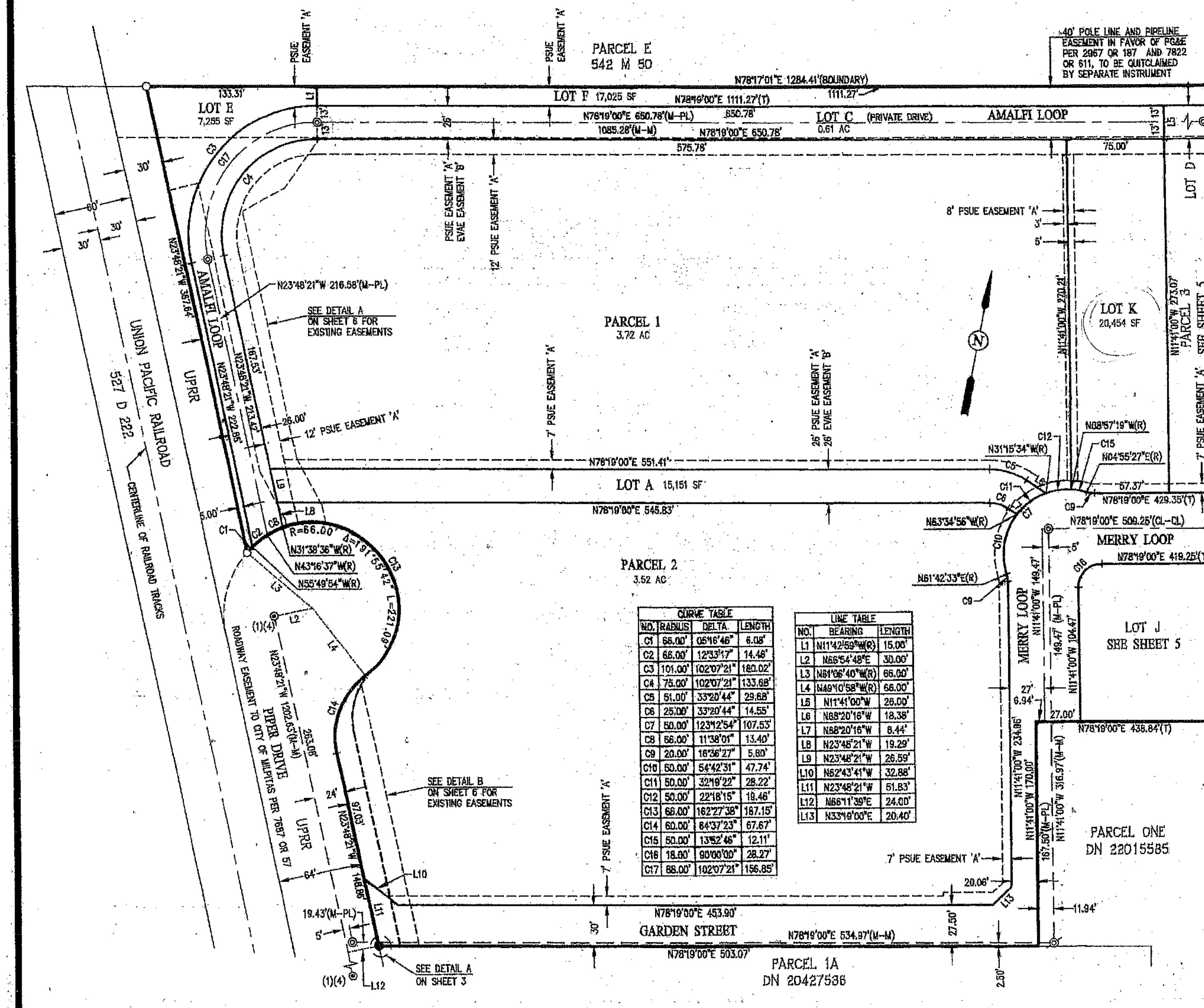
LEGEND

SEE SHEETS 4 AND 5

LINE TABLE			
NO.	BEARING	LENGTH	
L1	N78°17'01"E	122.24'	(S78°19'00"W 122.37')(10)
L2	N66°54'48"E(R)	30.00'	
L3	N61°06'40"W(R)	66.00'	(N61°04'20"W(R))(10)
L4	N49°10'58"W(R)	66.00'	(1)
L6	N66°11'39"E	24.00'	(23.93')(1)
L7	N11°41'00"W	40.00'	(10)
L8	N78°17'01"E	50.35'	(S78°19'00"W)(10)

804/50/53

1543-00



CURVE TABLE			
NO.	RADIUS	DELTA	LENGTH
C1	66.00'	05°16'46"	6.08'
C2	66.00'	12°33'17"	14.46'
C3	101.00'	102°07'21"	180.02'
C4	75.00'	102°07'21"	133.68'
C5	51.00'	33°20'44"	29.68'
C6	25.00'	33°20'44"	14.55'
C7	50.00'	123°12'54"	107.53'
C8	66.00'	11°38'01"	13.40'
C9	20.00'	16°36'27"	5.80'
C10	50.00'	54°42'31"	47.74'
C11	50.00'	32°19'22"	28.22'
C12	50.00'	22°18'15"	19.46'
C13	66.00'	162°27'38"	187.15'
C14	60.00'	64°37'23"	67.67'
C15	50.00'	13°52'46"	12.11'
C16	18.00'	90°00'00"	28.27'
C17	88.00'	102°07'21"	156.85'

LINE TABLE		
NO.	BEARING	LENGTH
L1	N11°42'59"W(R)	15.06'
L2	N66°54'48"E	30.00'
L3	N61°06'40"W(R)	66.00'
L4	N49°10'58"W(R)	66.00'
L5	N11°41'00"W	26.00'
L6	N88°20'16"W	18.38'
L7	N88°20'16"W	8.44'
L8	N23°48'21"W	19.29'
L9	N23°48'21"W	26.59'
L10	N62°43'41"W	32.88'
L11	N23°48'21"W	51.83'
L12	N66°11'39"E	24.00'
L13	N33°19'00"E	20.40'

TRACT 10060

FOR CONDOMINIUM PURPOSES

WAUKESHA PROPERTY

BEING A SUBDIVISION OF PARCEL 1 OF DOCUMENT NO. 21922654 OF OFFICIAL RECORDS, SANTA CLARA COUNTY RECORDS

CITY OF MILPITAS SANTA CLARA COUNTY CALIFORNIA

CARLSON, BARBEE AND GIBSON, INC.
ENGINEERS SURVEYORS PLANNERS
SAN RAMON, CALIFORNIA

JUNE 2013

0' 50' 100' 150' 200'

SCALE: 1"=50'

BASIS OF BEARINGS:

THE BASIS OF BEARING FOR THIS MAP IS DETERMINED BY FOUND MONUMENTS ON THE CENTERLINE OF PIPER DRIVE. THE BEARING BEING N23°48'21"W PER PARCEL MAP FILED IN BOOK 580 OF MAPS AT PAGE 49 SANTA CLARA COUNTY RECORDS. THE BEARINGS SHOWN HEREON ARE BASED ON CALIFORNIA COORDINATE SYSTEM ZONE 3 (NAD 27). MULTIPLY DISTANCE SHOWN BY 0.99994617 TO OBTAIN GRID DISTANCES.

LEGEND

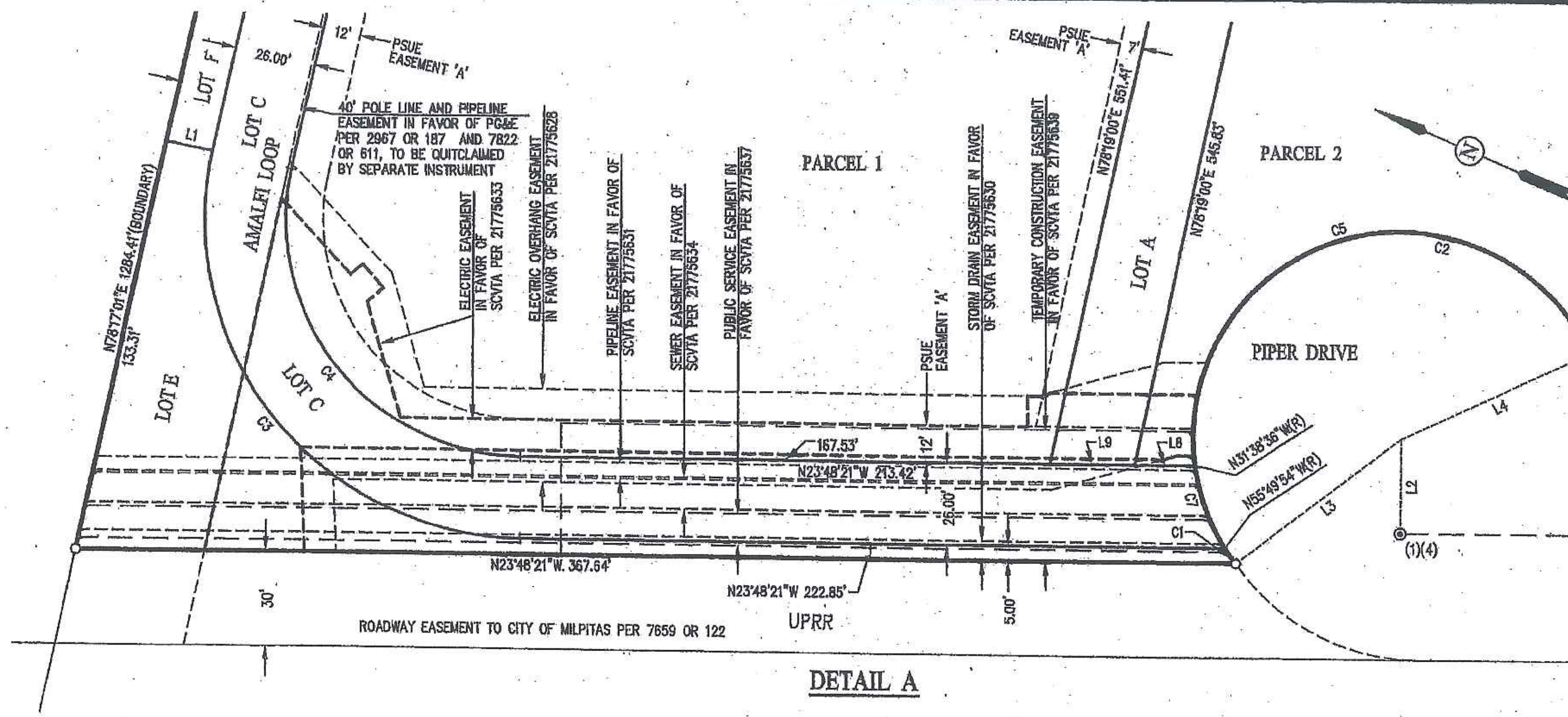
BOUNDARY LINE
LOT LINE
MONUMENT LINE
CENTER LINE
EASEMENT LINE
(T) TOTAL
(R) RADIAL
(M-M) MONUMENT TO MONUMENT
(M-PL) MONUMENT TO PROPERTY LINE
FOUND STANDARD STREET MONUMENT
FOUND MONUMENT, AS NOTED
SET 5/8" REBAR AND CAP, LS 7176
SET STANDARD STREET MONUMENT, LS 7176
STANDARD STREET MONUMENT TO BE SET PER TRACT 10037
PSUE PUBLIC SERVICE UTILITY EASEMENT
EVAE EMERGENCY VEHICLE ACCESS EASEMENT
AC ACRE
SF SQUARE FEET
SCVTA SANTA CLARA VALLEY TRANSPORTATION AUTHORITY
(#) RECORD DATA
(CL-CL) CENTERLINE TO CENTERLINE

NOTE

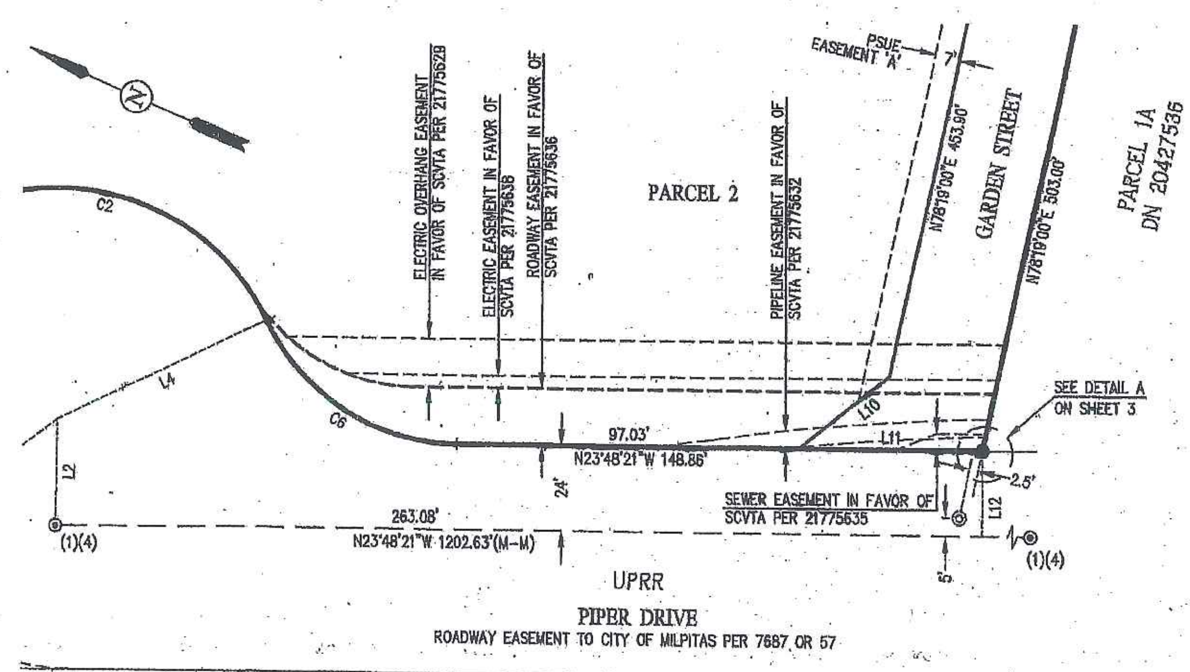
1) LOT B AND LOT I HAVE BEEN INTENTIONALLY OMITTED.

864/51/53

51



DETAIL A



DETAIL B

TRACT 10060

FOR CONDOMINIUM PURPOSES

WAUKESHA PROPERTY

BEING A SUBDIVISION OF PARCEL 1 OF DOCUMENT NO. 21922654 OF OFFICIAL RECORDS, SANTA CLARA COUNTY RECORDS

CITY OF MILPITAS SANTA CLARA COUNTY CALIFORNIA

CARLSON, BARBEE AND GIBSON, INC.

ENGINEERS SURVEYORS PLANNERS

SAN RAMON, CALIFORNIA

JUNE 2013

0' 30' 60' 90' 120'

SCALE: 1"=30'

BASIS OF BEARINGS:

THE BASIS OF BEARING FOR THIS MAP IS DETERMINED BY FOUND MONUMENTS ON THE CENTERLINE OF PIPER DRIVE. THE BEARING BEING N23°48'21"W PER PARCEL MAP FILED IN BOOK 580 OF MAPS AT PAGE 49 SANTA CLARA COUNTY RECORDS. THE BEARINGS SHOWN HEREON ARE BASED ON CALIFORNIA COORDINATE SYSTEM ZONE 3 (NAD 27). MULTIPLY DISTANCE SHOWN BY 0.99994617 TO OBTAIN GRID DISTANCES.

LEGEND

BOUNDARY LINE
LOT LINE
MONUMENT LINE
CENTER LINE
EASEMENT LINE
(T) TOTAL
(R) RADIAL
(M-M) MONUMENT TO MONUMENT
(M-PL) MONUMENT TO PROPERTY LINE
FOUND STANDARD STREET MONUMENT
FOUND MONUMENT, AS NOTED
SET 5/8" REBAR AND CAP, LS 7176
SET STANDARD STREET MONUMENT, LS 7176
STANDARD STREET MONUMENT TO BE SET PER TRACT 10037
PSUE. PUBLIC SERVICE UTILITY EASEMENT
EVAE EMERGENCY VEHICLE ACCESS EASEMENT
AC ACRE
SF SQUARE FEET
SCVTA SANTA CLARA VALLEY TRANSPORTATION AUTHORITY
(#) RECORD DATA
(CL-CL) CENTERLINE TO CENTERLINE

CURVE TABLE

NO.	RADIUS	DELTA	LENGTH
C1	66.00'	05°16'46"	6.08'
C2	66.00'	191°55'42"	221.09'
C3	101.00'	102°07'21"	180.02'
C4	75.00'	102°07'21"	133.68'
C5	66.00'	162°27'38"	187.14'
C6	60.00'	64°37'23"	67.67'
C7	66.00'	24°11'18"	27.86'

LINE TABLE

NO.	BEARING	LENGTH
L1	N11°42'59"W	15.00'
L2	N66°54'48"E(R)	30.00'
L3	N61°06'40"W(R)	66.00'
L4	N49°10'58"W(R)	66.00'
L8	N23°48'21"W	19.29'
L9	N23°48'21"W	26.59'
L10	N62°43'41"W	32.88'
L11	N23°48'21"W	51.83'
L12	N66°11'39"E	24.00'

NOTE

1) LOT B AND LOT I HAVE BEEN INTENTIONALLY OMITTED.

864 / 53 / 53

1543-00

Legal Description

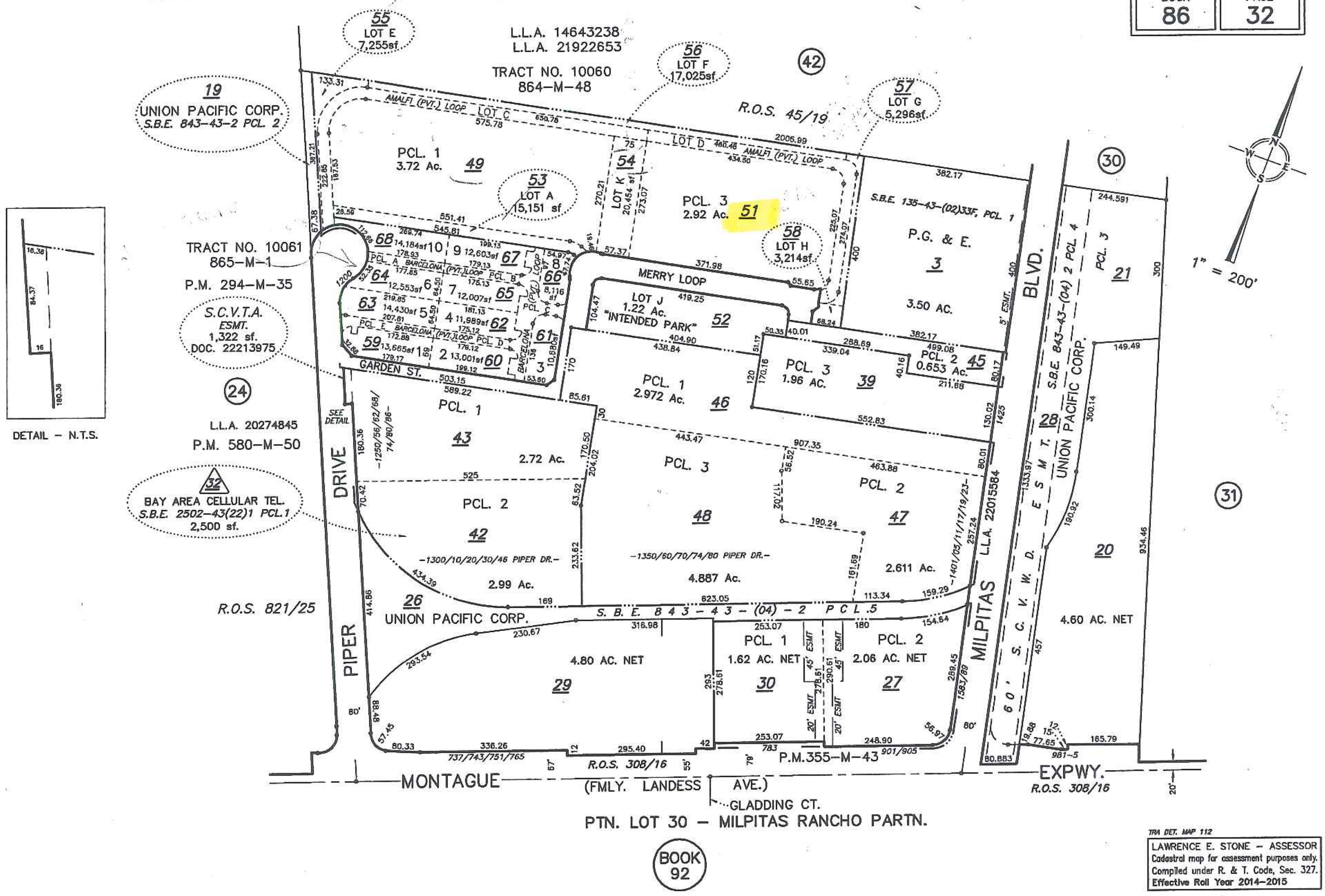
1-D

<u>Amalfi II</u>

Parcel 3 of Tract 10060 filed the 2nd day of October, 2013 in book of maps 864 at pages 48-53 series numbers 22404820 in Santa Clara County.

A.P.N. 86-32-51

OFFICE OF COUNTY ASSESSOR —— SANTA CLARA COUNTY, CALIFORNIA



TRACT 10060

FOR CONDOMINIUM PURPOSES

WAUKESHA PROPERTY

BEING A SUBDIVISION OF PARCEL 1 OF DOCUMENT NO. 21922654 OF OFFICIAL RECORDS, SANTA CLARA COUNTY RECORDS

CITY OF MILPITAS SANTA CLARA COUNTY CALIFORNIA

CARLSON, BARBEE AND GIBSON, INC.
ENGINEERS SURVEYORS PLANNERS
SAN RAMON, CALIFORNIA

JUNE 2013

OWNER'S STATEMENT

WE HEREBY STATE THAT WE ARE THE OWNERS OF OR HAVE SOME RIGHT, TITLE, OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN HEREON; THAT WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS A CLEAR TITLE TO SAID REAL PROPERTY; THAT WE CONSENT TO THE MAKING AND RECORDING OF THIS SUBDIVISION MAP AS SHOWN WITHIN THE DISTINCTIVE BOUNDARY LINE.

WE HEREBY OFFER FOR DEDICATION TO THE CITY OF MILPITAS IN FEE FOR PUBLIC USE FOR ROADWAY PURPOSES, OPERATION, ALTERATION, RELOCATION, MAINTENANCE, REPAIR AND REPLACEMENT OF ALL PUBLIC SERVICE FACILITIES AND THEIR APPURTENANCES, OVER, UNDER, ALONG AND ACROSS THE FOLLOWING:

1. GARDEN STREET AND MERRY LOOP

WE HEREBY OFFER FOR DEDICATION TO THE CITY OF MILPITAS AN EASEMENT FOR PUBLIC USE FOR OPERATION, ALTERATION, RELOCATION, MAINTENANCE, REPAIR AND REPLACEMENT OF ALL PUBLIC SERVICE FACILITIES AND THEIR APPURTENANCES, OVER, UNDER, ALONG AND ACROSS THE FOLLOWING:

1. EASEMENTS "A" FOR PUBLIC SERVICE AND UTILITY EASEMENT PURPOSES (PSUE).

2. EASEMENTS "B" FOR EMERGENCY VEHICLE ACCESS PURPOSES (EVAE).

THE ABOVE MENTIONED EASEMENTS (PSUE & EVAE) SHALL REMAIN OPEN AND FREE FROM BUILDINGS AND STRUCTURES OF ANY KIND EXCEPT PUBLIC SERVICE AND PUBLIC UTILITY STRUCTURES AND THEIR APPURTENANCES, IRRIGATION SYSTEMS AND THEIR APPURTENANCES AND LAWFUL FENCES. UNOBSTRUCTED CONTINUOUS ACCESS SHALL BE MAINTAINED AT ALL TIMES.

WE ALSO HEREBY RETAIN FOR THE PRIVATE USE OF THE LOT OWNERS WITHIN THIS SUBDIVISION, THEIR LICENSES, VISITORS, AND TENANTS WITH MAINTENANCE THEREOF BY THEIR LOT OWNERS IN ACCORDANCE WITH THE SUBDIVISION RESTRICTIONS GOVERNING THIS SUBDIVISION THE FOLLOWING:

1. LOTS 'C' AND 'D' FOR PRIVATE STREET PURPOSES. PRIVATE STREET IS TO BE KNOWN AS AMALFI LOOP.

THE DESIGNATED PRIVATE STREETS ON THIS MAP ARE NOT PART OF THE CITY OF MILPITAS STREET SYSTEM AND ARE NOT ACCEPTED FOR PUBLIC MAINTENANCE.

PARCELS 1 AND 3 ARE FOR CONDOMINIUM PURPOSES (545 UNITS).

PARCEL 2 TO BE RETAINED BY OWNER FOR FUTURE SUBDIVISION.

LOT J TO BE RETAINED BY THE OWNER AND DEDICATED TO THE CITY OF MILPITAS FOR PARK PURPOSES BY SEPARATE INSTRUMENT.

LOTS A, E, F, G, H, & K ARE TO BE RETAINED BY OWNER.

OWNER:
SCS DEVELOPMENT CO. A CALIFORNIA CORPORATION

BY: S. E. Schott
NAME: Stephen E. Schott
TITLE: Vice President

ACKNOWLEDGMENT CERTIFICATE (OWNER'S)

STATE OF California)
COUNTY OF Santa Clara)

ON September 10, 2013, BEFORE ME, Pamela M. Takeshita, A NOTARY PUBLIC, PERSONALLY APPEARED Stephen E. Schott, WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON~~(S)~~ WHOSE NAME~~(S)~~ IS/~~ARE~~ SUBSCRIBED TO THE WITHIN INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE/~~SHE/THEY~~ EXECUTED THE SAME IN HIS/~~HER/THEIR~~ AUTHORIZED CAPACITY~~(IES)~~, AND BY HIS/~~HER/THEIR~~ SIGNATURE~~(S)~~ ON THE INSTRUMENT THE PERSON~~(S)~~, OR THE ENTITY UPON BEHALF OF WHICH THE PERSON~~(S)~~ ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND:

SIGNATURE: Pam M. Takeshita

NAME (PRINT): Pamela M. Takeshita

PRINCIPAL COUNTY OF BUSINESS: Santa Clara

MY COMMISSION NUMBER: 1924873

MY COMMISSION EXPIRES: March 8, 2015

SURVEYOR'S STATEMENT

I, CHRISTOPHER S. HARMISON, HEREBY CERTIFY THAT I AM A LICENSED LAND SURVEYOR IN THE STATE OF CALIFORNIA, THAT THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION IN JUNE 2011, AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF SCS DEVELOPMENT CO., IN MARCH 2008, AND IS TRUE AND COMPLETE AS SHOWN. I HEREBY STATE THAT THIS FINAL MAP COMPLIES WITH FINAL MAP PROCEDURES OF THE CITY OF MILPITAS AND THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE APPROVED TENTATIVE MAP AND THE CONDITIONS OF APPROVAL THEREOF WHICH WERE REQUIRED TO BE FULFILLED PRIOR TO THE FILING OF THE FINAL MAP, AND IT IS TECHNICALLY CORRECT. I HEREBY STATE THAT THE MONUMENTS WILL OCCUPY THE POSITIONS INDICATED BY DECEMBER 2014, AND ARE OF THE CHARACTER INDICATED, AND ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

DATED: 9-9-2013

Christopher S. Harmison
CHRISTOPHER S. HARMISON
L.S. NO. 7176

LICENSED LAND SURVEYOR
CHRISTOPHER S. HARMISON
7176
STATE OF CALIFORNIA

864/48/53

RECORDER'S STATEMENT

FILED THIS 2nd DAY OF October, 2013 AT 2:19 PM. IN BOOK OF MAPS 864, AT PAGES 48-53, SERIES NUMBERS 22404820 AT THE REQUEST OF FIRST AMERICAN TITLE INSURANCE COMPANY.

FEE $18 —

REGINA ALCOMENDRAS
SANTA CLARA COUNTY RECORDER
BY: June Aliaga
DEPUTY

1543-00

22404820

TRACT 10060

FOR CONDOMINIUM PURPOSES

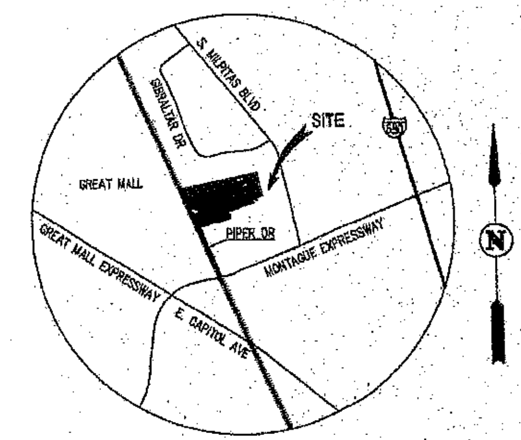
WAUKESHA PROPERTY

BEING A SUBDIVISION OF PARCEL 1 OF DOCUMENT NO. 21922654 OF
OFFICIAL RECORDS, SANTA CLARA COUNTY RECORDS

CITY OF MILPITAS SANTA CLARA COUNTY CALIFORNIA

CARLSON, BARBEE AND GIBSON, INC.
ENGINEERS SURVEYORS PLANNERS
SAN RAMON, CALIFORNIA

JUNE 2013



VICINITY MAP
NOT TO SCALE

CITY ENGINEER'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THE WITHIN FINAL MAP; THAT THE SUBDIVISION AS SHOWN THEREIN IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP AND ANY APPROVED ALTERATIONS THEREOF; THAT THIS SUBDIVISION COMPLIES WITH PROVISIONS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCES, APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP.

SIGNED: [signature] DATE: 9/27/2013

EBRAHIM SOHRABI
PRINCIPAL CIVIL ENGINEER, CITY OF MILPITAS
R.C.E. NO. 42982, EXPIRATION DATE MARCH 31, 2014

CITY SURVEYOR'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THE HEREIN MAP AND THAT I AM SATISFIED THAT SAID MAP IS TECHNICALLY CORRECT.

SIGNED: [signature] DATE: 9/27/13

ROBERT S. GULETZ
ACTING CITY SURVEYOR, CITY OF MILPITAS
HARRIS & ASSOCIATES
R.C.E. NO. 24184
EXPIRATION DATE: DECEMBER 31, 2013

REGISTERED PROFESSIONAL ENGINEER
ROBERT S. GULETZ
24184
EXP. ______
CIVIL
STATE OF CALIFORNIA

CITY CLERK'S CERTIFICATE

I, MARY LAVELLE, CITY CLERK OF THE CITY OF MILPITAS, CALIFORNIA, HEREBY CERTIFY THAT SAID CITY COUNCIL, AS GOVERNING BODY OF SAID CITY AT A REGULAR MEETING HELD ON Sept. 17, 2013, HAS TAKEN THE FOLLOWING ACTIONS:

1. APPROVED THIS TRACT MAP NO. 10060
2. ACCEPTED, SUBJECT TO IMPROVEMENT, ON BEHALF OF THE PUBLIC THOSE PARCELS OF LAND OFFERED FOR DEDICATION FOR PUBLIC USE IN CONFORMITY WITH THE TERMS OF OFFER OF DEDICATION TO WIT:
   1. EASEMENTS "A" FOR PUBLIC SERVICE AND UTILITY EASEMENT PURPOSES (PSUE).
   2. EASEMENTS "B" FOR EMERGENCY VEHICLE ACCESS PURPOSES (EVAE).
   3. GARDEN STREET AND MERRY LOOP IN FEE.

DATED: 9/30/2013 Mary Lavelle

MARY LAVELLE
CITY CLERK, CITY OF MILPITAS

864/49/53

1543-00

TRACT 10060

FOR CONDOMINIUM PURPOSES

WAUKESHA PROPERTY

BEING A SUBDIVISION OF PARCEL 1 OF DOCUMENT NO. 21922654 OF OFFICIAL RECORDS, SANTA CLARA COUNTY RECORDS

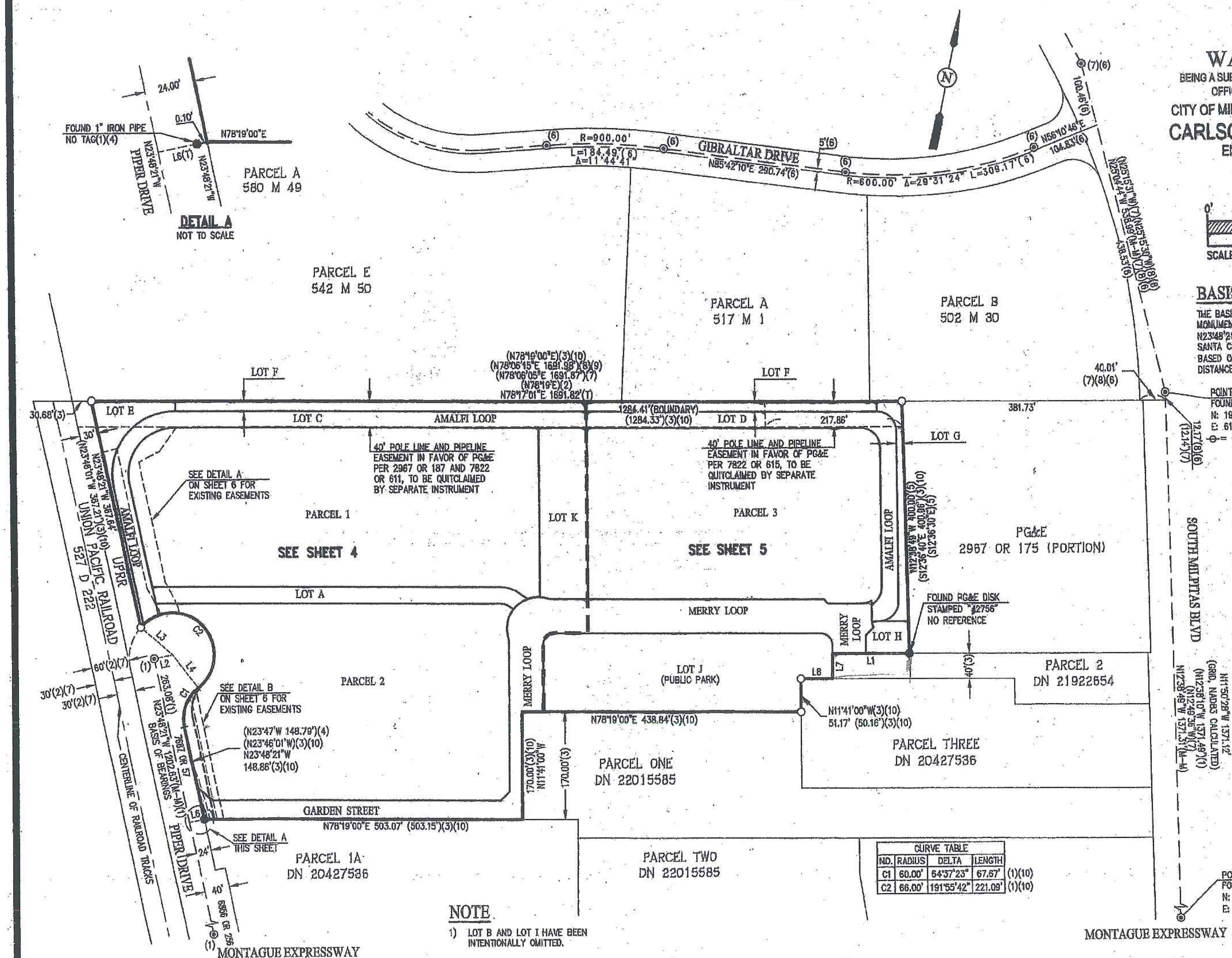
CITY OF MILPITAS SANTA CLARA COUNTY CALIFORNIA

CARLSON, BARBEE AND GIBSON, INC.
ENGINEERS SURVEYORS PLANNERS
SAN RAMON, CALIFORNIA

JUNE 2013

0' 100' 200' 300' 400'

SCALE: 1"=100'



CURVE TABLE			
NO.	RADIUS	DELTA	LENGTH
C1	60.00'	64°37'23"	67.67' (1)(10)
C2	66.00'	191°55'42"	221.09' (1)(10)

NOTE

1) LOT B AND LOT I HAVE BEEN INTENTIONALLY OMITTED.

BASIS OF BEARINGS:

THE BASIS OF BEARING FOR THIS MAP IS DETERMINED BY FOUND MONUMENTS ON THE CENTERLINE OF PIPER DRIVE. THE BEARING BEING N23°48'21"W PER PARCEL MAP FILED IN BOOK 580 OF MAPS AT PAGE 49 SANTA CLARA COUNTY RECORDS. THE BEARINGS SHOWN HEREON ARE BASED ON CALIFORNIA COORDINATE SYSTEM ZONE 3 (NAD 27). MULTIPLY DISTANCE SHOWN BY 0.99994617 TO OBTAIN GRID DISTANCES.

POINT MIL-BC(1)(7)(8)(6)(9)
FOUND BRASS DISK IN WELL
N: 1976966.733 (GRID, NAD83)(9)
E: 6158534.219 (GRID, NAD83)(9)
θ = -00°50'59"

REFERENCES

(#) INDICATES REFERENCE NUMBER.
(1) PARCEL MAP (580 M 49)
(2) RECORD OF SURVEY (79 M 43)
(3) LOT LINE ADJUSTMENT (DN 14643238) SEE ALSO DEEDS DN 14835097 AND DN 18592170
(4) PARCEL MAP (294 M 35)
(5) DEED (2967 OR 175)
(6) PARCEL MAP (502 M 30)
(7) RECORD OF SURVEY (432 M 30)
(8) PARCEL MAP (484 M 13)
(9) CITY OF MILPITAS BENCHMARK SYSTEM, DATED FEBRUARY 21, 2002.
(10) LOT LINE ADJUSTMENT (DN 21922654)

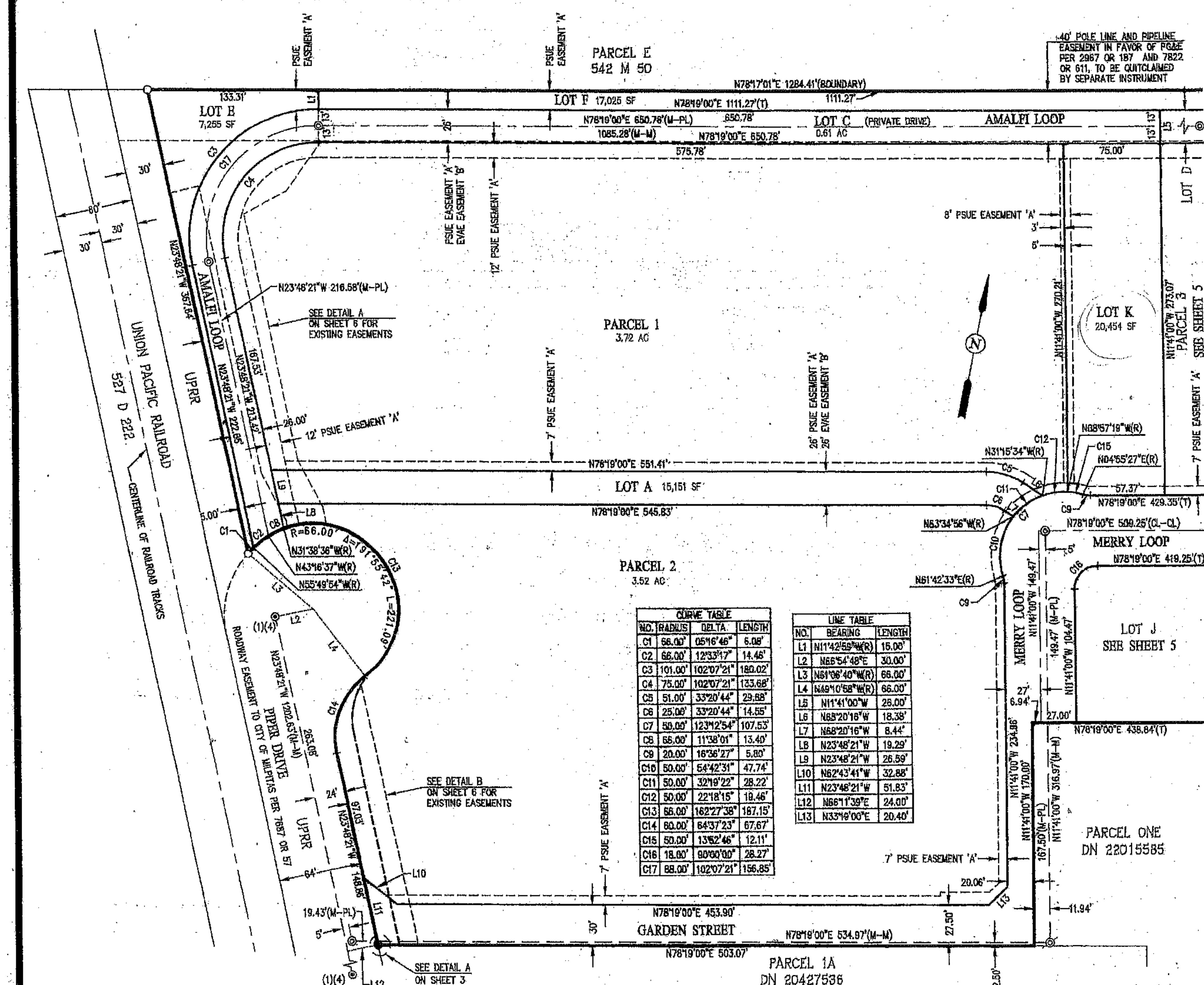
LEGEND

SEE SHEETS 4 AND 5

LINE TABLE			
NO.	BEARING	LENGTH	
L1	N78°17'01"E	122.24'	(S78°19'00"W 122.37')(10)
L2	N66°54'48"E(R)	30.00'	
L3	N61°06'40"W(R)	66.00'	(N61°04'20"W(R))(10)
L4	N49°10'58"W(R)	66.00'	(1)
L6	N66°11'39"E	24.00'	(23.93')(1)
L7	N11°41'00"W	40.00'	(10)
L8	N78°17'01"E	50.35'	(S78°19'00"W)(10)

804/50/53

1543-00



CURVE TABLE			
NO.	RADIUS	DELTA	LENGTH
C1	66.00'	05°16'46"	6.08'
C2	66.00'	12°33'17"	14.46'
C3	101.00'	102°07'21"	180.02'
C4	75.00'	102°07'21"	133.68'
C5	51.00'	33°20'44"	29.68'
C6	25.00'	33°20'44"	14.55'
C7	50.00'	123°12'54"	107.53'
C8	66.00'	11°38'01"	13.40'
C9	20.00'	16°36'27"	5.80'
C10	50.00'	54°42'31"	47.74'
C11	50.00'	32°19'22"	28.22'
C12	50.00'	22°18'15"	19.46'
C13	66.00'	162°27'38"	187.15'
C14	60.00'	64°37'23"	67.67'
C15	50.00'	13°52'46"	12.11'
C16	18.00'	90°00'00"	28.27'
C17	88.00'	102°07'21"	156.85'

LINE TABLE		
NO.	BEARING	LENGTH
L1	N11°42'59"W(R)	15.00'
L2	N66°54'48"E	30.00'
L3	N61°06'40"W(R)	66.00'
L4	N49°10'58"W(R)	66.00'
L5	N11°41'00"W	26.00'
L6	N68°20'16"W	18.38'
L7	N68°20'16"W	8.44'
L8	N23°48'21"W	19.29'
L9	N23°48'21"W	26.59'
L10	N62°43'41"W	32.88'
L11	N23°48'21"W	51.83'
L12	N66°11'39"E	24.00'
L13	N33°19'00"E	20.40'

TRACT 10060

FOR CONDOMINIUM PURPOSES

WAUKESHA PROPERTY

BEING A SUBDIVISION OF PARCEL 1 OF DOCUMENT NO. 21922654 OF OFFICIAL RECORDS, SANTA CLARA COUNTY RECORDS

CITY OF MILPITAS SANTA CLARA COUNTY CALIFORNIA

CARLSON, BARBEE AND GIBSON, INC.

ENGINEERS SURVEYORS PLANNERS

SAN RAMON, CALIFORNIA

JUNE 2013

0' 50' 100' 150' 200'

SCALE: 1"=50'

BASIS OF BEARINGS:

THE BASIS OF BEARING FOR THIS MAP IS DETERMINED BY FOUND MONUMENTS ON THE CENTERLINE OF PIPER DRIVE. THE BEARING BEING N23°48'21"W PER PARCEL MAP FILED IN BOOK 580 OF MAPS AT PAGE 49 SANTA CLARA COUNTY RECORDS. THE BEARINGS SHOWN HEREON ARE BASED ON CALIFORNIA COORDINATE SYSTEM ZONE 3 (NAD 27). MULTIPLY DISTANCE SHOWN BY 0.99994617 TO OBTAIN GRID DISTANCES.

LEGEND

BOUNDARY LINE
LOT LINE
MONUMENT LINE
CENTER LINE
EASEMENT LINE
(T) TOTAL
(R) RADIAL
(M-M) MONUMENT TO MONUMENT
(M-PL) MONUMENT TO PROPERTY LINE
FOUND STANDARD STREET MONUMENT
FOUND MONUMENT, AS NOTED
SET 5/8" REBAR AND CAP, LS 7176
SET STANDARD STREET MONUMENT, LS 7176
STANDARD STREET MONUMENT TO BE SET PER TRACT 10037
PSUE PUBLIC SERVICE UTILITY EASEMENT
EVAE EMERGENCY VEHICLE ACCESS EASEMENT
AC ACRE
SF SQUARE FEET
SCVTA SANTA CLARA VALLEY TRANSPORTATION AUTHORITY
(#) RECORD DATA
(CL-CL) CENTERLINE TO CENTERLINE

NOTE

1) LOT B AND LOT I HAVE BEEN INTENTIONALLY OMITTED.

864/51/53

1543-00

51

TRACT 10060

FOR CONDOMINIUM PURPOSES

WAUKESHA PROPERTY

BEING A SUBDIVISION OF PARCEL 1 OF DOCUMENT NO. 21922654 OF OFFICIAL RECORDS, SANTA CLARA COUNTY RECORDS

CITY OF MILPITAS SANTA CLARA COUNTY CALIFORNIA

CARLSON, BARBEE AND GIBSON, INC.

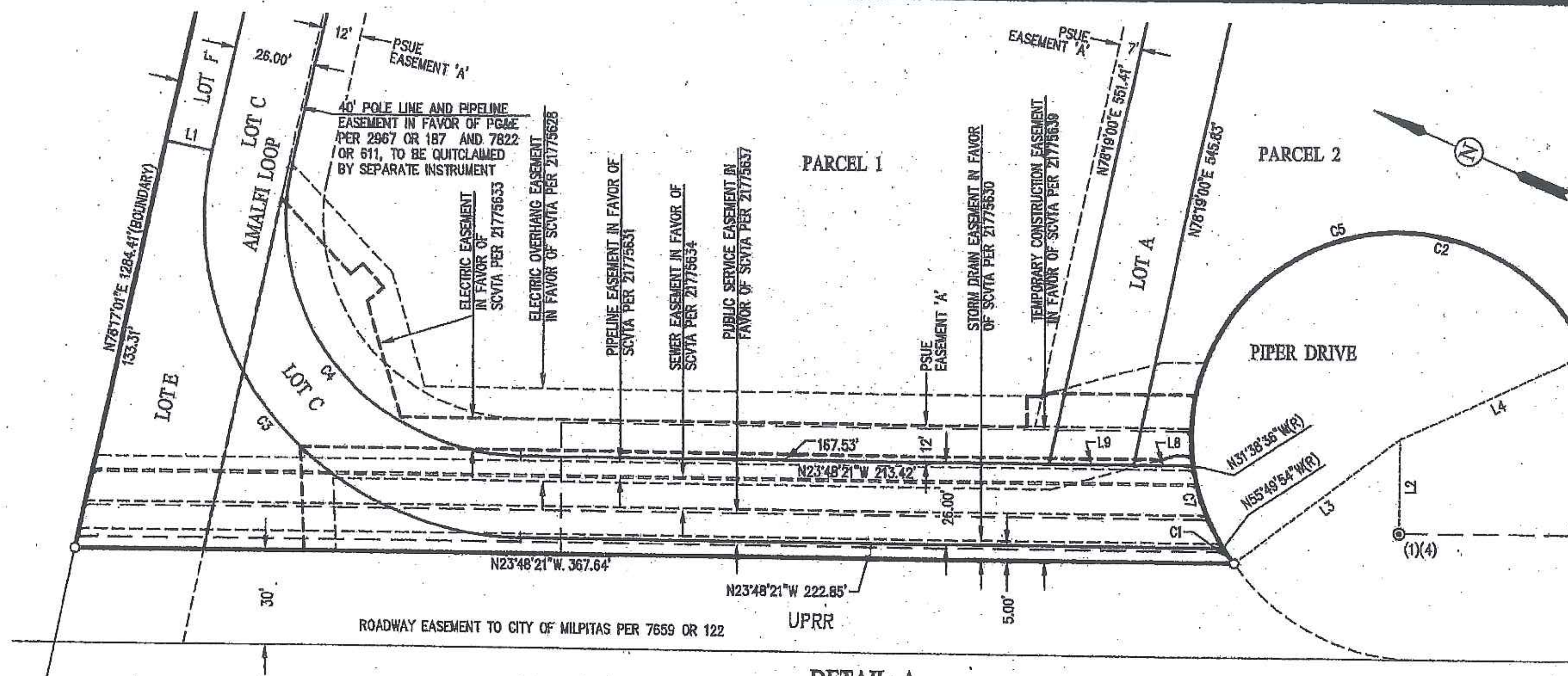
ENGINEERS SURVEYORS PLANNERS

SAN RAMON, CALIFORNIA

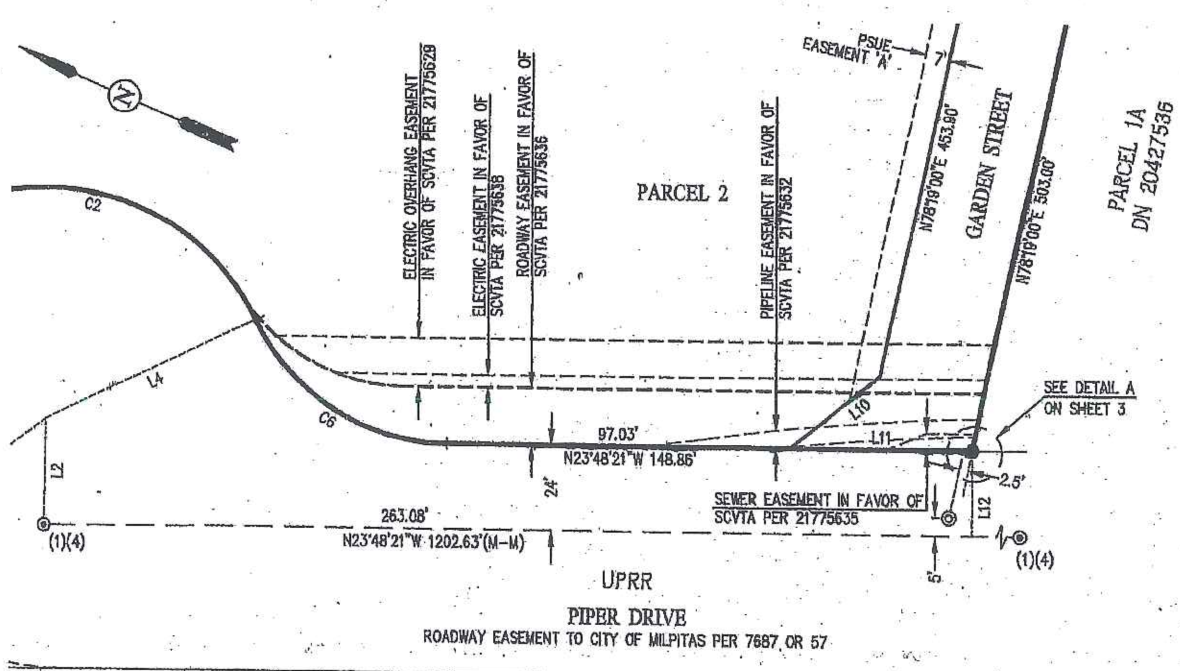
JUNE 2013

0' 30' 60' 90' 120'

SCALE: 1"=30'



DETAIL A



DETAIL B

CURVE TABLE			
NO.	RADIUS	DELTA	LENGTH
C1	66.00'	05°16'46"	6.08'
C2	66.00'	191°55'42"	221.09'
C3	101.00'	102°07'21"	180.02'
C4	75.00'	102°07'21"	133.68'
C5	66.00'	162°27'38"	187.14'
C6	60.00'	64°37'23"	67.67'
C7	66.00'	24°11'18"	27.86'

LINE TABLE		
NO.	BEARING	LENGTH
L1	N11°42'59"W	15.00'
L2	N66°54'48"E(R)	30.00'
L3	N61°06'40"W(R)	66.00'
L4	N49°10'58"W(R)	66.00'
L8	N23°48'21"W	19.29'
L9	N23°48'21"W	26.59'
L10	N62°43'41"W	32.88'
L11	N23°48'21"W	51.83'
L12	N66°11'39"E	24.00'

BASIS OF BEARINGS:

THE BASIS OF BEARING FOR THIS MAP IS DETERMINED BY FOUND MONUMENTS ON THE CENTERLINE OF PIPER DRIVE. THE BEARING BEING N23°48'21"W PER PARCEL MAP FILED IN BOOK 580 OF MAPS AT PAGE 49 SANTA CLARA COUNTY RECORDS. THE BEARINGS SHOWN HEREON ARE BASED ON CALIFORNIA COORDINATE SYSTEM ZONE 3 (NAD 27). MULTIPLY DISTANCE SHOWN BY 0.99994617 TO OBTAIN GRID DISTANCES.

LEGEND

- BOUNDARY LINE
- LOT LINE
- MONUMENT LINE
- CENTER LINE
- EASEMENT LINE
- (T) TOTAL
- (R) RADIAL
- (M-M) MONUMENT TO MONUMENT
- (M-PL) MONUMENT TO PROPERTY LINE
- ◎ FOUND STANDARD STREET MONUMENT
- ● FOUND MONUMENT, AS NOTED
- ○ SET 5/8" REBAR AND CAP, LS 7176
- ◎ SET STANDARD STREET MONUMENT, LS 7176
- STANDARD STREET MONUMENT TO BE SET PER TRACT 10037
- PSUE PUBLIC SERVICE UTILITY EASEMENT
- EVAE EMERGENCY VEHICLE ACCESS EASEMENT
- AC ACRE
- SF SQUARE FEET
- SCVTA SANTA CLARA VALLEY TRANSPORTATION AUTHORITY
- (#) RECORD DATA
- (CL-CL) CENTERLINE TO CENTERLINE

NOTE

1) LOT B AND LOT I HAVE BEEN INTENTIONALLY OMITTED.

864/53/53

1543-00

Legal Description

1-E

The Edge

(See attached)

A.P.N.'s 86-32-29 and a portion of 86-32-26

LEGAL DESCRIPTION

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

PARCEL ONE:

COMMENCING AT A POINT OF INTERSECTION OF THE NORTHERLY LINE OF LANDESS AVENUE WITH THE EASTERLY LINE OF THAT CERTAIN 60.00 FOOT STRIP OF LAND CONVEYED TO THE WESTERN PACIFIC RAILROAD COMPANY BY DEED RECORDED DECEMBER 29, 1920 IN BOOK 527, PAGE 222 OF DEEDS, SANTA CLARA COUNTY RECORDS; THENCE NORTH 69° 00' EAST ALONG LAST MENTIONED NORTHERLY LINE A DISTANCE OF 80.09 FEET TO THE SOUTHWESTERLY CORNER OF PARCEL NO. 1 OF THE LAND CONVEYED TO LINCOLN LAND CORPORATION, BY DEED RECORDED JULY 15, 1966 IN BOOK 7442, PAGE 670, OFFICIAL RECORDS, AND THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 69° 00' EAST ALONG THE NORTHERLY LINE OF SAID LANDESS AVENUE A DISTANCE OF 334.14 FEET TO A POINT IN THE WESTERLY LINE OF THE LAND CONVEYED TO THE CITY OF MILPITAS, BY DEED RECORDED MARCH 7, 1968 IN BOOK 8048, PAGE 193, OFFICIAL RECORDS; THENCE NORTH 21° 00' WEST ALONG LAST MENTIONED WESTERLY LINE A DISTANCE OF 35.00 FEET TO THE NORTHWESTERLY CORNER OF SAID LAND CONVEYED TO THE CITY OF MILPITAS; THENCE NORTH 69° 00' EAST ALONG THE NORTHERLY LINE OF THE SAID LAND CONVEYED TO THE CITY OF MILPITAS AND BY DEED RECORDED NOVEMBER 25, 1966 IN BOOK 7572, PAGE 447, OFFICIAL RECORDS, A DISTANCE OF 331.50 FEET TO A POINT OF INTERSECTION THEREOF WITH THE WESTERLY LINE OF PARCEL NO. 2 OF THE SAID LAND CONVEYED TO LINCOLN LAND CORPORATION; THENCE NORTH 21° 00' WEST ALONG SAID WESTERLY LINE A DISTANCE OF 305.00 FEET; THENCE SOUTH 69° 00' WEST 196.48 FEET TO THE MOST EASTERLY CORNER OF THE LAND CONVEYED TO THE WESTERN PACIFIC RAILROAD BY DEED RECORDED JULY 15, 1966 IN BOOK 7442, PAGE 670, OFFICIAL RECORDS; THENCE SOUTH 62° 16' WEST ALONG THE SOUTHERLY LINE OF SAID LAND CONVEYED TO THE WESTERN PACIFIC RAILROAD, A DISTANCE OF 230.67 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 367.25 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 45° 47' 45" AN ARC DISTANCE OF 293.54 FEET TO A POINT IN THE EASTERLY LINE OF PIEPER DRIVE; THENCE SOUTH 23° 47' EAST ALONG SAID EASTERLY LINE A DISTANCE OF 171.86 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL TWO:

COMMENCING AT THE SAID POINT OF INTERSECTION OF THE SAID NORTHERLY LINE OF THE LAND CONVEYED TO THE CITY OF MILPITAS, WITH THE WESTERLY LINE OF PARCEL NO. 2 OF THE LAND CONVEYED TO LINCOLN LAND CORPORATION; THENCE NORTH 21° 00' WEST ALONG LAST WESTERLY LINE 305.00 FEET; THENCE NORTH 69° 00' EAST 120.50 FEET; THENCE SOUTH 21° 00' EAST 305.00 FEET, TO THE POINT OF INTERSECTION OF THE NORTHERLY LINE OF SAID LAND CONVEYED TO THE CITY OF MILPITAS; THENCE SOUTH 69° 00' WEST ALONG LAST MENTIONED NORTHERLY LINE A DISTANCE OF 120.50 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPTING FROM PARCELS ONE AND TWO, THOSE PORTIONS THEREOF CONVEYED TO THE COUNTY OF SANTA CLARA BY DEED RECORDED JUNE 22, 1973 IN BOOK 0436, PAGE 167, OFFICIAL RECORDS.

APN: 086-32-029

"EXHIBIT A"
LEGAL DESCRIPTION

All that real property situated in the City of Milpitas, County of Santa Clara, State of California, being a portion of the 63.063 acre parcel shown on the Record of Survey filed September 4, 1953 in Book 45 of Maps, Page 19, Records of Santa Clara County, California, being more particularly described as follows:

Commencing at the intersection of the south line of "Parcel B" with the east line of Piper Drive, as shown on the Parcel Map filed November 20, 1987 in Book 580 of Maps, Pages 49 and 50, Records of Santa Clara County, California; thence along said east line, S23°00'05"E, a distance of 143.47 feet to the **Point of Beginning**; said point also being the beginning of a curve to the left, of which the radius point lies N19°07'13"E, a radial distance of 474.28 feet; thence leaving said east line, easterly along the arc, through a central angle of 39°20'39", a distance of 325.68 feet; thence N69°46'34"E, a distance of 145.88 feet to the north line of lands described in the Grant Deed recorded September 9, 2005 as Document No. 18569453, Official Records of Santa Clara County, California; thence along said north line, S63°02'18"W, a distance of 186.32 feet to a tangent curve to the left having a radius of 367.25 feet; thence continuing along said north line, southwesterly along said curve, through a central angle of 45°47'45", a distance of 293.54 feet to the east line of Piper Drive; thence along said east line, N23°00'05"W, a distance of 270.99 feet to the **Point of Beginning.**

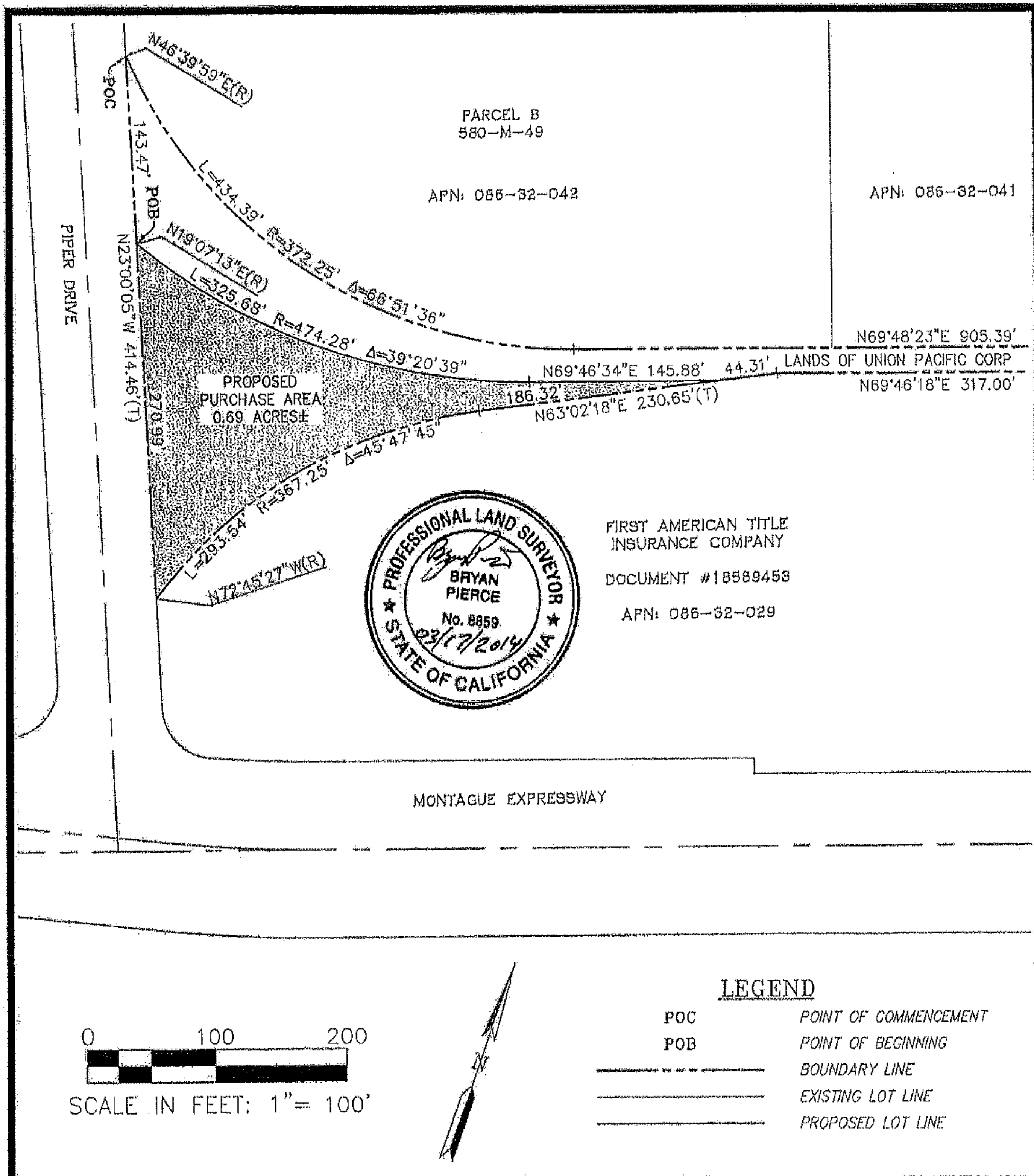
Containing 30,044 square feet or 0.69 acres, more or less.
As shown on "Exhibit B", attached hereto and made a part hereof.

END OF DESCRIPTION.

This description was prepared by me or under my direction pursuant to the requirements of the Professional Land Surveyor's Act.

Bryan Pierce 03/17/2014
Bryan Pierce, PLS 8859 Date
Expires: 12/31/2015

PROFESSIONAL LAND SURVEYOR
BRYAN PIERCE
No. 8859
★ STATE OF CALIFORNIA ★



"EXHIBIT B"

A PORTION OF THE 63.063 ACRE PARCEL SHOWN ON THE RECORD OF SURVEY FILED SEPTEMBER 4, 1953 IN BOOK 45 OF MAPS, PAGE 19, RECORDS OF SANTA CLARA COUNTY, CALIFORNIA

MILPITAS, CALIFORNIA

RJA

RUGGERI-JENSEN-AZAR

ENGINEERS • PLANNERS • SURVEYORS

8055 CAMINO ARROYO GILROY, CA 95020
PHONE: (408) 848-0300 FAX: (408) 848-0302

SCALE:	DATE:	JOB NO.:
1"= 100'	03/17/2014	132003

Project: RR Purchase Parcel Monday March 17, 2014
Description: Piper Drive
Number of Lots: 1
Report Created by: RJA-Gilroy

PROFESSIONAL LAND SURVEYOR
BRYAN PIERCE
No. 8859
03/17/2014
STATE OF CALIFORNIA

Direction	Distance	Northing	Easting

RR Purchase1
Courses: 5

1975583.9031 6157465.8050

Radius Pt: (1976032.0185) (6157621.1565)
Radius: 474.28'
Included Angle: 39°20'38.90"
Length: 325.6808'
Radial In: N19°07'12.98"E Tangent In: S70°52'47.02"E
Radial Out: S20°13'25.92"E Tangent Out: N69°46'34.08"E
Chord: N 89°26'54" E 319.3197'
1975586.9783 6157785.1099

N 69°46'34.08" E 145.8847'
1975637.4090 6157922.0007
S 63°02'18.21" W 186.3203'
1975552.9326 6157755.9314

Radius Pt: (1975225.5988) (6157922.4401)
Radius: 367.25'
Included Angle: 45°47'45.00"
Length: 293.5385'
Radial In: S26°57'41.79"E Tangent In: S63°02'18.21"W
Radial Out: N72°45'26.79"W Tangent Out: S17°14'33.21"W
Chord: S 40°08'26" W 285.7869'
1975334.4582 6157571.6949

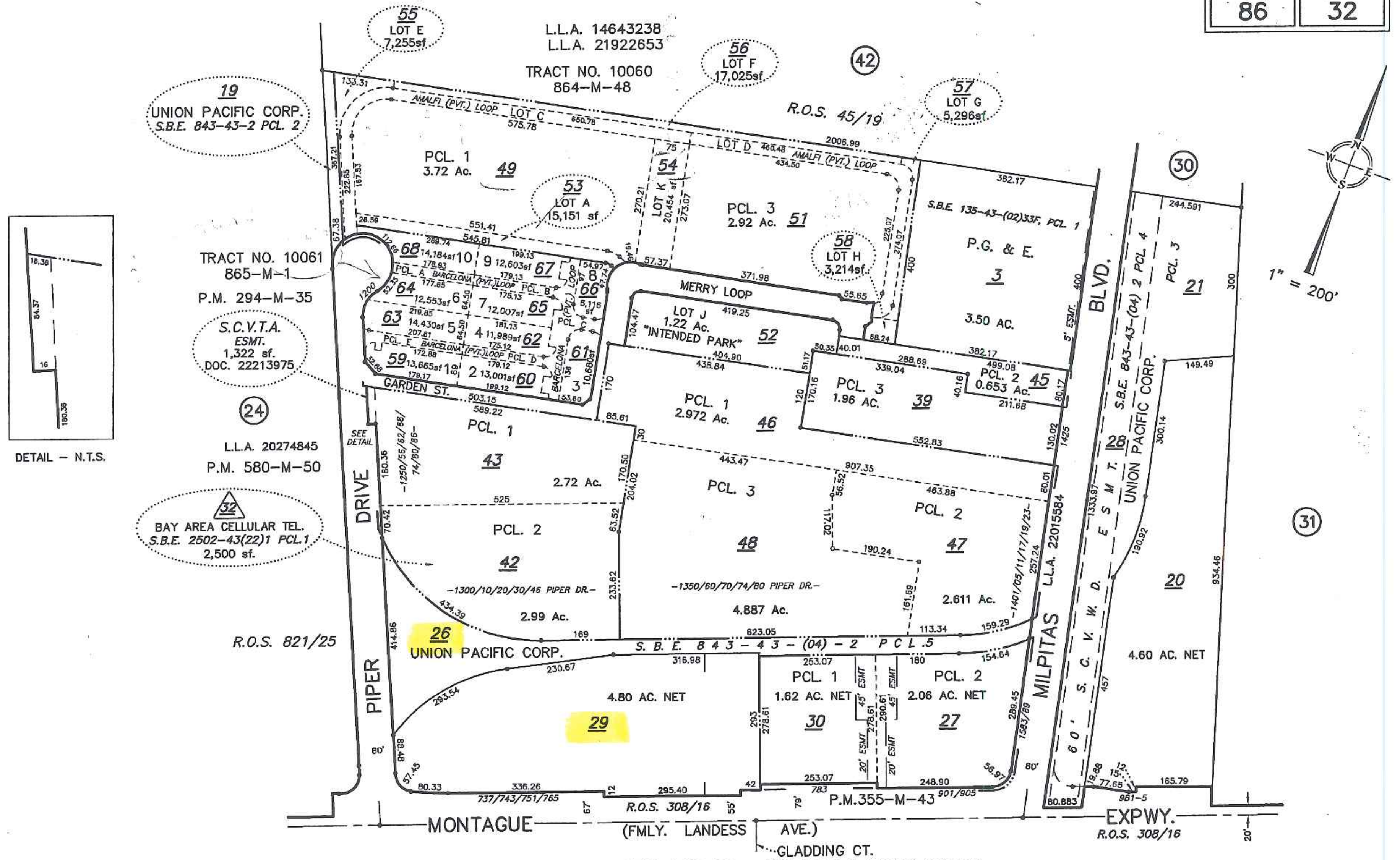
N 23°00'04.79" W 270.9897'
1975583.9031 6157465.8050

Perimeter: 1222.41 Area: 30043.92 Sq. Ft., 0.690 Acres

Error of Closure: S 33°41'24" W 0.001'
Error North: -0.001
Error East: -0.000
Precision: 1 in 1541076

OFFICE OF COUNTY ASSESSOR — SANTA CLARA COUNTY, CALIFORNIA

BOOK 86 PAGE 32



PTN. LOT 30 – MILPITAS RANCHO PARTN.

BOOK 92

TRA DET. MAP 112

LAWRENCE E. STONE – ASSESSOR
Cadastral map for assessment purposes only.
Compiled under R. & T. Code, Sec. 327.
Effective Roll Year 2014–2015

AGENDA ITEM: X-3

1-F

MILPITAS PLANNING COMMISSION STAFF REPORT

January 14, 2015

APPLICATION:	**Development Agreement No. DA15-0001 –** Adoption of an ordinance approving a development agreement vesting the Transit Area Specific Plan fees for the Citation I and Citation II Projects: Amalfi I, Amalfi II and the Edge.
RECOMMENDATION:	**Staff recommends that the Planning Commission: Conduct the public hearing and Adopt Resolution No. 15-003 recommending the City Council adopt an ordinance approving a development agreement vesting the Transit Area Specific Plan fees for the Citation I and Citation II Projects: Amalfi I, Amalfi II and the Edge.**
LOCATION:	
Address/APN:	1200 Piper Drive and 765 Montague Expressway 086-32-049; -051;-052 -054; -055; -056; -057 086-32-029; -026
Area of City:	Transit Area Specific Plan – Piper/Montague Subdistrict
PEOPLE:	
Project Applicant:	Stephen E. Schott, Vice President, SCS Development
Consultant(s):	NA
Property/Business Owner:	SCS Development Company, 404 Saratoga Ave Ste 100, Saratoga, CA 95050
Project Planner:	Adam Petersen, Senior Planner
LAND USE:	
General Plan Designation:	Boulevard Very High Density Mixed Use (BVHDMU) Multi-Family Very High Density (VHD) Multi-Family High Density (MFH)
Zoning District:	Very High Density Mixed Use District (MXD3) Multiple Family Very High Density District (R4) Multiple Family-Family District (R3)
Overlay District:	Transit Oriented Development (TOD) and Site and Architectural Overlay (S)
ENVIRONMENTAL:	Pursuant to Section 15061(b)(3) of the CEQA Guidelines, the project is exempt from CEQA since it does not have the potential to significantly affect the environment. It is further exempt pursuant to CEQA Guidelines Section 15183(a), a project

consistent with a Specific Plan for which an environmental impact report has been certified. Furthermore, pursuant to Section 15162 of the CEQA Guidelines, no further environmental documentation is required. An EIR was certified for this previously approved project, including the development of the high rise.

BACKGROUND

The Milpitas City Council adopted Resolution No. 8132 on November 11, 2011 approving the Citation I project. The Citation I project consisted of up to 732 dwelling units, public parks, streets and infrastructure improvements located at 1200 Piper Drive. Of these 732 units, 638 were allocated to two wrap buildings, which comprise the Amalfi I and Amalfi II development. Amalfi I, consisting of 378 apartment units is currently under construction. Amalfi II consists of 260 apartments, but construction has not commenced for this project. Additionally, 94 townhomes are under construction as part of the Citation I project approvals, but the 94 townhomes will not be a part of the development agreement.

On June 17, 2014, the City Council adopted Resolution No. 8382 approving the Citation II project. That project consisted of 381 apartments and 8,100 square feet of commercial and office space that fronts Montague Expressway. Map 1 illustrates the location of these two projects.

The projects are comprised of three buildings with 1,019 dwelling units on approximately 12.6 acres. The sites were previously improved with the existing industrial office buildings, outdoor storage areas, utilities and landscaping. The project site is located along Montague Expressway, tangential to the eastern property line of the Great Mall. Commercial uses are proposed in the Edge project.

The site is accessed by Montague Expressway, the proposed Piper Drive, and a public street from South Milpitas Boulevard.

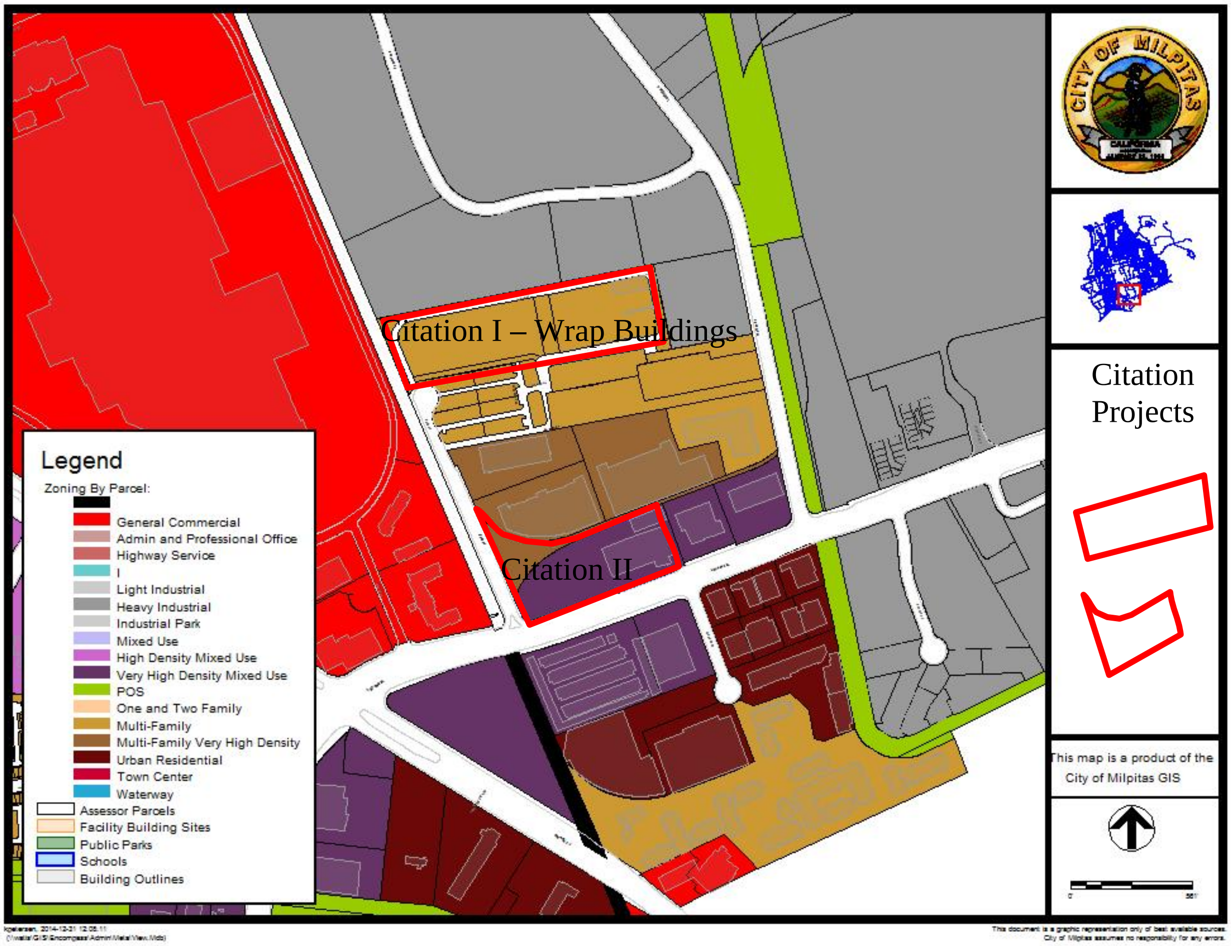
The following table summarizes the approved development projects. As of the date this staff report was prepared, Amalfi I is under construction. Construction has not commenced for Amalfi II and the Edge.

Table 1:
Summary Project Information

Use/Standards	Citation I	Citation II
	Amalfi I and Amalfi II	**The Edge**
Acres	7.0 acres	5.6 acres
Commercial / Retail s.f.	0	8,100 sq ft
Residential Units	638 apartments	381 apartments
Parking Required	1,207 spaces	634 spaces
Parking Provided	1,260	634 spaces
Residential Density	45 dwelling units per acre	68 dwelling units per acre
Commercial FAR	NA	0.03

Map 1
Project Location

Zoning Map



PROJECT DESCRIPTION AND ANALYSIS

The applicant is requesting a five year Development Agreement for the Amalfi I, Amalfi II and the Edge projects. The agreement may be extended another five years, if both parties mutually agree to the extension. The Development Agreement also proposes a reduction in Transit Area Specific Plan (TASP) fees for the subject development projects. Projects in the TASP are currently required to pay $32,781 per unit at the time of building permit issuance. The applicant is requesting that the development agreement lock in a TASP fee of $29,012 per unit due at the certificate of occupancy. This fee would adjust after five years.

The reduced TASP fees have certain benefits to the applicant, and the City will benefit from the Citation projects. The City has received an investment of approximately $250,000,000 from the project applicant for these projects including approximately $10,000,000 in up front public infrastructure cost that will benefit other developments. Further, the applicant has built these projects at a higher density than required with more commercial and retail square footage than what is required by the City's Zoning Code and TASP. As a result of the oversized commercial component, the City will benefit from increased economic development opportunities, employment and tax generating uses. The reduced TASP fees would allow for the appropriate planning for finance, construction and marketing of a complex and expensive project. These components would increase the likelihood of the project being constructed as approved. Therefore, the City and the applicant will benefit from the reduced TASP fees.

The project will however result in less TASP fees collected than under the current fee. Table 2 provides a summary of the TASP fees collected for the project.

Table 2:
TASP Fee Summary

	Amalfi I	Amalfi II	The Edge	**Total**
TASP Fee Current ($32,781 per unit)	$ 12,391,218	$ 8,523,060	$ 12,489,561	$33,403,839
TASP Fee Requested ($29,012 per unit)	$ 10,966,536	$ 7,543,120	$ 11,053,572	$29,563,228
Difference	$ 1,424,682	$ 979,940	$ 1,435,989	**-$ 3,840,611**

The result of the reduced TASP fees is that the City would not collect approximately $3.8 million, and the collection of those fees would be delayed from building permit issuance to certificate of occupancy. However, the applicant has provided the City with public benefits from the project. The applicant has constructed approximately $10 million in public infrastructure improvements for the project as well Milpitas Station and Barry Swenson. These improvements and funding was committed as a result of a three-party cost sharing agreement. The infrastructure constructed will serve this project and others in the future.

The Edge project is the first development in the TASP to include a commercial component. The reduced TASP fees are required to support the likelihood of a successful commercial aspect to the project. Further, the development agreement conditions the applicant to construct the Edge project prior to the Amalfi II project. This will benefit the City of Milpitas because early construction of the 8,100 square feet of commercial development will generate revenue for the City up front rather than delaying it to a later date.

FINDINGS

California Government Code Section 65864 et seq. sets forth the general requirements for approval of development agreements. Further, the City Council adopted Resolution No. 6642 on May 6, 1997 establishing procedures and requirements for the consideration of development agreements under California Government Code Section 65864 et seq. Pursuant to Resolution No. 6642, certain findings are required by the City Council prior to approval of any development agreement.

1. *The Development Agreement is consistent with the General Plan.*

   The proposed development agreement is consistent with the Milpitas General Plan and other applicable plans, policies and regulations of the City currently in effect. The General Plan and Transit Area Specific Plan land use designation for the area that is subject to the agreement is Boulevard Very High Density Mixed Use, Multi-Family Very High Density, and Multi-Family High Density and the proposed development of the subject project is consistent with the General Plan and Transit Area Specific Plan. As discussed in detail in the proposed agreement, the Project involves development of the "Amalfi I Building" consisting of up to three hundred and seventy-eight (378) multi-family residential units and "Amalfi II Building" consisting of up to two hundred sixty (260) multi-family residential units (collectively "Citation I Project"), and up to three hundred and eight-one (381) apartment units, 8100 square feet of commercial and office space, and associated site improvements (the "Edge Project" or "Citation II Project") (collectively, all the "Project").

   The Project is also consistent with the following General Plan Guiding Principles and Policies:

   - **Policy 2.a-G-7 –** When considering development proposals, seek "community benefit", such as upgrading infrastructure facilities, constructing new infrastructure facilities, and funding contributions to programs.

   - **Policy 2.d-G-1 –** Provide all possible community facilities and utilities of the highest standards commensurate with the present and anticipated needs of Milpitas, as well as any special needs of the region.

   - **Policy 2.d-I-1 –** Coordinate capital improvement planning for all municipal service infrastructure with the location and timing of growth.

2. *The Development is consistent with the Transit Area Specific Plan.*

The proposed Development is consistent with the Transit Area Specific Plan because:

a. Development of the Project should be encouraged because it will help meet important economic, social, environmental and planning goals of the City, including but not limited to locating housing near jobs to reduce commutes for City residents, redeveloping underutilized property near transit investment with housing and jobs so as to encourage use of transit, providing for an extraordinary contribution towards housing and jobs in the City.

b. The Agreement will facilitate the development of the Project in the manner proposed in the Agreement for the further reasons set forth in the accompanying staff reports and Agreement;

c. Developer will incur unusually substantial costs in order to provide public improvements, facilities or services, in particular extraordinary funding for housing in the City, from which the public will benefit, as set forth in more detail in the accompanying staff report and Agreement and (ii) Developer has made commitments to a very high standard of quality for the Project and has agreed to development limitations beyond that required by the existing laws, as set forth in the Agreement and Development Approvals; and

d. Development of the Project will make a substantial contribution to the economic development of the City of Milpitas in that the Project will create additional, transit-oriented housing to support transit infrastructure investments, as well as provide extraordinary tax revenues to the City.

ENVIRONMENTAL REVIEW

The proposed development agreement is exempt from the California Environmental Quality Act (CEQA). CEQA Guidelines Section 15061(b)(3) states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The development agreement will not expand the range or intensity of uses permitted on the subject properties. The development agreement does not authorize any construction and will not result in any physical change in the environment. Therefore, it can be seen with certainty that the project will not have an effect on the environment.

The project is further exempt from environmental review pursuant to CEQA Section 15183(a). The development of Amalfi I, Amalfi II, and the Edge projects was previously analyzed in the Transit Area Specific Plan Environmental Impact Report (SCH 2006032091). The EIR analyzed all impacts associated with the development of these properties and anticipated the intensity of this development. The development agreement does not increase the intensity beyond that previously analyzed in the certified EIR. Further, the projects, as approved under Resolution No. 8132 and 8382 were found to be consistent with the Transit Area Specific Plan. Therefore, the proposed agreement is exempt from CEQA review because it can be seen with certainty, there is no possibility it will have a significant adverse on the environment and the project is consistent with a specific plan for which an EIR was certified.

PUBLIC COMMENT/OUTREACH

Staff publicly noticed the application in accordance with City and State law. As of the time of writing this report, there have been no inquiries from the public regarding the project.

CITY COUNCIL REVIEW

This project requires review by the City Council and is tentatively scheduled on the February 3, 2015 City Council agenda.

CONCLUSION

The development agreement as drafted includes substantial benefits to the developer and the City. The reduced TASP fees would allow for the appropriate planning for finance, construction and marketing of a complex and expensive project. Therefore, staff recommends that the Planning Commission adopt Resolution 15-003, recommending that the City Council authorize execution of the Citation I and Citation II Development Agreement, subject to the attached resolution and development agreement.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission:

1. Open the public hearing to receive comments; and
2. Close the public hearing; and
3. Adopt Resolution No. 15-003 recommending the City Council adopt an ordinance to authorize the execution of the Citation I and Citation II Development Agreement, subject to the findings above.

ATTACHMENTS

A: Resolution No.15-003
- Exhibit A: Draft Ordinance
  - Exhibit to Draft Ordinance: Development Agreement
    - Exhibit to Development Agreement: Legal Descriptions and Plat Maps

MEETING MINUTES

1-G

MILPITAS PLANNING COMMISSION
Milpitas City Hall, Council Chambers
455 E. Calaveras Blvd., Milpitas, CA

Wednesday, January 14, 2015

I. PLEDGE OF ALLEGIANCE

Chair Mandal called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

II. OATH OF OFFICE TO NEWLY APPOINTED MEMBERS

City Clerk Mary Lavelle swore in new members Zeya Mohsin and Ray Maglalang.

III. ROLL CALL/ SEATING OF ALTERNATE

Commissioners
Present: Chair Sudhir Mandal, Vice Chair Larry Ciardella, Commissioners Gurdev Sandhu, Rajeev Madnawat, Demetress Morris, Hon Lien, Ray Maglalang, Alternate Member Zeya Mohsin

Absent:

Staff: Steven McHarris, Johnny Phan, Adam Petersen

IV. PUBLIC FORUM

Chair Mandal invited members of the audience to address the Commission and there was one speaker.

Rob Means, a Milpitas resident who lives on Yellowstone, said he is circulating a petition rejecting US Supreme Court rulings regarding money interests and invited commissioners to join him for a protest march in San Francisco at 3:30 on January 21st.

V. APPROVAL OF MEETING MINUTES

Chair Mandal called for approval of the December 10, 2014 meeting minutes of the Planning Commission.

Motion to approve Planning Commission meeting minutes as submitted.

Motion/Second: Commissioner Madnawat/Commissioner Morris

AYES: 4

NOES: 0

ABSTAIN: 3 Ciardella, Sandhu, Maglalang

VI. ANNOUNCEMENTS

Planning Director Steven McHarris announced that the Holiday Inn Suites and Springhill Suites items were deferred to February 11.

Romero Rodriguez, a resident on Fairview Way, was present to speak about these projects. He said the land has been vacant for several years and as a home owner he believes the hotels will be a big boost to their property values and that they will create more pedestrian activity for the businesses located there.

Anna Capelias said her concern has to do with use and zoning of the development and what changes might occur if a hotel is allowed, and she wants to hear all of the information when the presentation is made.

Mr. McHarris said the zoning is not changing and that hotel use can occur with approval of the planning commission. The projects will be heard at the February 11 Planning Commission meeting.

VII. CONFLICT OF INTEREST

Assistant City Attorney Johnny Phan asked if any member of the Commission had any personal or financial conflict of interest related to any of the items on the agenda.

There were no reported conflicts.

VIII. APPROVAL OF AGENDA

Chair Mandal asked if staff or Commissioners had changes to the agenda and there were none.

Motion to approve the January 14, 2015 agenda as submitted.

Motion/Second: Commissioner Sandhu/Commissioner Ciardella

AYES: 7

NOES: 0

IX. CONSENT CALENDAR

NO ITEMS

X. PUBLIC HEARING

X-1 **TOWN CENTER AMENDMENT – ALL TOWN CENTER DESIGNATED PARCELS – ZA14-0011:** Zoning Text Amendment to the Town Center zoning district that would add a description and prohibit ground level residential uses.

Project Planner Adam Petersen reviewed a PowerPoint presentation discussing the zoning amendment.

Commissioner Madnawat asked if a garage is considered residential, because if so there could be an easy way to get around the amendment by building garages on the ground floor. Mr. McHarris said that residential serving garages would be classified as residential and would not be permitted on the ground floor, and that there has to be commercial on the ground floor. Commissioner Madnawat said this would mean there would be no condominium development and Mr. McHarris said that was correct. Commissioner Madnawat said the language in the ordinance should be clearer about permitted uses and should state that the ground floor needs to be 100% commercial.

Assistant City Attorney Johnny Phan said the drafted language can be updated to clarify the types of uses allowed.

Chair Mandal asked about the process of attracting high quality businesses to Milpitas and the vision for the city to produce more walkable and lively areas and Mr. Petersen said the intent of this amendment is to encourage future uses that accommodate that type of use.

Chair Mandal opened the public hearing and Mr. Means spoke in favor of this amendment.

Motion to close the public hearing.

Motion/Second: Commissioner Sandhu/Commissioner Ciardella

AYES: 7

NOES: 0

Commissioner Madnawat asked that the language in the ordinance be clarified to include permitted uses around the word commercial and that staff look into potential conflicts with the ordinance that allow live-work units.

Motion to adopt Resolution No. 15-001 recommending the City Council adopt Zoning Amendment No. ZA14-0011 to add the words "mixed use" residential to the purpose and intent section of the Town Center Zoning description and to prohibit ground floor residential in the Town Center zone.

Motion/Second: Commissioner Madnawat/Commissioner Sandhu

AYES: 7

NOES: 0

X-2 **GENERAL PLAN CONVERSION - CLARIFICATION – CITY WIDE – GP14-0005:** Clarification to the adopted General Plan Land Use Conversion policy (City Council Resolution No. 8220), removal of the exemption for parcels on the west side of McCarthy Boulevard north of Highway 237 and properties on the east side of California Circle to Penitencia Creek.

Senior Planner Adam Petersen provided a presentation reviewing the project.

Commissioner Sandhu asked how large the parcel is and Mr. Petersen said it is approximately 10 acres.

Commissioner Madnawat asked if there are pending applications and Mr. McHarris said there are not.

Chair Mandal opened the public hearing and Mr. Means said that this generally sounds like a good idea and was curious about the remnant parcel and who the owner is.

Motion to close the public hearing.

Motion/Second: Commissioner Sandhu/Commissioner Ciardella

AYES: 7

NOES: 0

Commissioner Madnawat asked if there is any interest on the parcel and Mr. McHarris said there are no pending applications. Mr. Petersen added that the owner is listed as BAPS San Jose LLC.

Motion to adopt Resolution No. 15-002 to recommend the City Council adopt a resolution rescinding Paragraph Number 7 in Resolution No. 8220 relating to conversion of employment/sales tax generation properties to residential, while considering to

continue exempting parcel APN 022-37-019 in order to achieve a consistent land use pattern in the area.

Motion/Second: Commissioner Madnawat/Commissioner Sandhu

AYES: 7

NOES: 0

X-3 **CITATION PROJECTS DEVELOPMENT AGREEMENT – TASP PIPER/MONTAGUE DRIVE SUBAREA – DA14-0001:** Development Agreement proposal for reduced TASP Fees for all Citation Developments.

Senior Planner Adam Petersen provided a presentation reviewing the project.

Three commissioners disclosed that they had met with the developer: Vice Chair Ciardella, Chair Mandal, and Commissioner Morris.

Commissioner Madnawat asked how the TASP fees are calculated and Mr. Petersen said that $32,781 is the cost per unit to install infrastructure including roads, sewer and water within the TASP area. Commissioner Madnawat asked if this is a reasonable amount the City will need to spend to provide infrastructure for these homes and Mr. McHarris said it is.

Commissioner Madnawat referenced a bullet point in the presentation stating the builder has provided $8 million worth of benefits and asked for two examples of those benefits provided that have nothing to do with their development. Mr. McHarris said the developer fronted that amount of money to enable development of the TASP area, not just for their development but to enable the development of the TASP area. He said infrastructure needed to go in and Citation stepped up to do that and also processed three projects consistent with the transit area.

Commissioner Madnawat asked what amount of the $8 million is the amount not adding value to their project and Mr. McHarris said it does add some value to their project but also adds value to all of the projects within this sub-area of the TASP.

Commissioner Madnawat said he feels this is for the developers own benefit and that it is a $3.8 million dollar gift to the builder. He said if $32,781 is the fair amount that the City will have to spend then that means the taxpayers will have to pay $3.8 million to provide those services and he has a problem with this.

Commissioner Lien asked if there was a recent fee increase and Mr. McHarris said there have been two fee adjustments in addition to the annual adjustment and that the fee is calculated at the time the project is developed not entitled.

Commissioner Maglalang said he was trying to understand the $8.3 million infrastructure improvement cost and if this is supposed to be a City expense or an obligation by the developer. Mr. Phan said there are three developers building in the Piper/Montague sub-district of the TASP, Citation being the largest developer in that area and building over 1,000 units. Potentially Barry Swenson will build 300-400 units and also Milpitas Station.

With these three developers over 1,500 units will be built and there is significant public improvement required, none of which are City obligations. These public improvements total about $10 million and have to be built by the developer. A few years ago the City Council approved a four-party cost sharing agreement between the City, Citation, Barry

Swenson and Milpitas Station. Citation is the first developer to come in and is going to front and build most of the improvements, going above and beyond their obligation. They will receive credit and when the other developers come in to build they will pay the City back.

Commissioner Morris asked if development fees can be grandfathered in and Mr. Phan said the city does not grandfather anyone's fees. Fees are based on inflation and updated studies and may be adjusted during the planning process and the fee was $29,000 when Citation submitted their application and $32,721 when the building permit was issued.

Commissioner Madnawat referenced the four-party contract and wondered why Citation doesn't request the money from the other developers, and what guarantee is there that they will reimburse the city. Mr. Phan said there is a mechanism for the City to collect from the developer, that a CFD can be created if they do not build within seven years and pay their fees.

Chair Mandal asked if there will be a park and Mr. Petersen said there will be one constructed by the Citation project and showed the location of the park. He asked about the five year freeze on the fees and Mr. Phan explained that the development agreement is drafted so that within the first five years the TASP fee stays at $29,012 per unit if they build and pay their full TASP fees but if they build after five years then the fee is adjusted for inflation and increased parkland value.

Commissioner Madnawat asked if fees are frozen when a permit is pulled and Mr. Phan said that the City's position is that fees are not vested and not frozen when a permit is pulled but this has been an ongoing dispute with developers. Commissioner Madnawat said the TASP fee is needed to provide infrastructure and should be non-negotiable. He said someone has to pay this and it should not be the taxpayers of Milpitas, and he sees this a $3.8 outright gift to the developer. He wants to see the cost sharing agreement and feels that some commissioners may not understand this topic.

Commissioner Maglalang is afraid that giving a fee reduction will create a bad precedence for other developers to ask for the same fees given to Citation.

Applicant Mark Tiernan, who is also a resident of Milpitas, wanted to clarify a few points about the rationale behind the development agreement: 1) they are building at the highest level of density allowed, 2) although the City asked them to provide 5,000 square feet of retail space they are providing 8,100 square feet of retail space, and 3) when Citation 1 was approved the fees were $23,700 which was the dollar amount the City and consultant said was needed to provide the infrastructure to support these projects. By the time they got plans approved and went through the process the fees were raised to now almost $32,800 and they have asked for a compromise in return for building what the City has described as a signature project which is the Edge.

Mr. Tiernan said the first project they are building is 381 units and will take two years to build and another 1-2 years to fully lease out. Normally a developer would wait to have a building fully leased before building another project because you don't want to compete with yourself, and their plan was to move from Amalfi 1 to Amalfi II to the Edge. When they came for approval of the Edge, the City Council felt this was an important project and that it was important to coincide with the BART station, and they entered into discussions with the City to move forward before Amalfi I is fully leased out, increasing their risk, and they asked for a compromise in the fees in return for building what the City would describe as a signature project.

He said that other developers could ask for the same deal and the City could ask them if

they are building at the highest density, providing more commercial space than required and are they willing to invest 250 million in the City to get their projects built. He said if the answer was yes to those questions, then the City would probably move forward with a development agreement because of the role the developer is playing.

Mr. Tiernan said the TASP is one of the most important transit housing opportunities in the Bay Area and Citation Homes has made this one of their signature projects. The City would like them to build this project to coincide with the BART station and with the increases in construction and material costs they would like to get some cost certainty in their fees to reduce some of their risk and start construction on a building before their other project is fully leased out.

Commissioner Madnawat said Mr. Tiernan's argument regarding requests from other developers does not hold water but that his argument for the fee increases does and said he was surprised by the huge increase in the fees and asked the reasons for such an increase. Mr. Phan said there is a formula and consultants conduct a Nexus study and look at a number of different factors to determine the fair share amount for each unit. He said the initial fee study done in 2008 was based on the plan that was adopted but has been updated based on new trends and information.

Commissioner Madnawat said that if the $32,781 reflects what the City is going to spend it is $3.8 million coming from the City which can be spent on hiring police officers, fire fighters, and others.

Chair Mandal opened the public hearing and there were two speakers. Rob Means said this is a great project and reviewed a list of benefits to the City that he believes offsets the $3.8 million, including a high density housing project, extra retail, and a pedestrian over crossing getting built early.

Jim Sullivan, a consultant for the developer, said he was the project proponent for the Edge. He said developers were building on the low density side but they transferred another developers units onto the Edge and built 94 more units than necessary. He said they are also working with staff to build a great public park in the area at a substantial discount than what it would cost the city to build.

Motion to close the public hearing.

Motion/Second: Commissioner Sandhu/Commissioner Ciardella

AYES: 7

NOES: 0

Commissioner Madnawat asked who is building the pedestrian bridge and Mr. McHarris said it is a City project and there is currently grant funding for the design work and VTA is preparing design work for the City.

Motion to adopt Resolution No. 15-003 recommending the City Council adopt an ordinance approving a development agreement vesting the Transit Area Specific Plan fees for the Citation I and Citation II Projects: Amalfi I, Amalfi II and the Edge.

Motion/Second: Commissioner Morris/Commissioner Lien

AYES: 4

NOES: 3 Sandhu, Madnawat, Maglalang

XI. NEW BUSINESS

NO ITEMS

XII. ADJOURNMENT

The meeting was adjourned at 9:10 PM to the next meeting scheduled on Wednesday, January 28, 2015.

Motion to adjourn to the next meeting.

Motion/Second: Commissioner Madnawat/Vice Chair Ciardella

AYES: 7

NOES: 0

ABSENT: 0

Meeting Minutes submitted by
Planning Secretary Elia Escobar

1-H

RESOLUTION NO. 15-003

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS RECOMMENDING THE MILPITAS CITY COUNCIL ADOPT AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH SCS DEVELOPMENT CO., AMALFI MILPITAS, LLC, AND DPD INVESTMENTS, LLC FOR THE CITATION I PROJECT (AMALFI I AND AMALFI II) AND CITATION II PROJECT (THE EDGE) LOCATED AT 1200 PIPER DRIVE AND 765 MONTAGUE EXPRESSWAY

WHEREAS, the Milpitas City Council adopted Resolution No. 7830 on February 17, 2009 approving Major Tentative Map No. MT08-0004, Site Development Permit No. SD08-0002, and Conditional Use Permit No. UP08-0049 for the development of up to Six Hundred and Thirty-Nine (639) residential units located near 1200 Piper Drive within the Piper-Montague Subdistrict of the Transit Area Specific Plan; and

WHEREAS, the Milpitas City Council adopted Resolution No. 8132 on November 1, 2011 approving Major Tentative Map Amendment No. TM11-0001, Site Development Permit Amendment No. SA11-0005, and Conditional Use Permit Amendment No. UA11-0008 for the development of up to seven-hundred and thirty-two (732) residential units located in the Piper-Montague Subdistrict of the Transit Area Specific Plan, consisting of the "Amalfi I Building" with three hundred and seventy-eight (378) residential units and "Amalfi II Building" with up to two hundred sixty (260) residential units ("Citation I Project") and ninety-four (94) townhomes; and

WHEREAS, the Milpitas City Council adopted Resolution No. 8382 on June 17, 2014 approving Major Tentative Map No. TM13-0006, Site Development Permit No. SD13-0012, and Conditional Use Permit No. UP13-0011 for the development of up to three hundred and eight-one (381) apartment units, 8100 square feet of commercial and office space, and associated site improvements on approximately 5.6 acres located at 765 Montague Expressway (the "Edge Project" or "Citation II Project"); and

WHEREAS, on January 6, 2015, an application was submitted by SCS Development Co., Amalfi Milpitas, LLC and DPD Investments, LLC (collectively "Developer") for a development agreement to reduce, vest, and defer the Transit Area Specific Plan Development Impact Fees from $32,781 to $29,012 for each residential unit and defer the payment of these fees issuance of building permits to Certificate of Occupancy ("Project"); and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determines this Project is exempt pursuant to Section 15183(a) of the CEQA Guidelines because the Project is consistent with the certified EIR for the Transit Area Specific Plan project (SCH 2006032091). The Project is further exempt pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Furthermore, the Project does not cause any substantial changes to the proposed development that would necessitate further environmental documentation under Section 15162 of the CEQA Guidelines; and

WHEREAS, on January 14, 2015, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

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

Section 1: The Planning Commission has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the Planning Commission. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

Section 2: The Planning Commission finds the Project is exempt pursuant to Section 15183(a) of the CEQA Guidelines because the Project is consistent with the certified EIR for the Transit Area Specific Plan project (SCH 2006032091). The Project is further exempt pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Furthermore, the Project does not cause any substantial changes to the proposed development that would necessitate further environmental documentation under Section 15162 of the CEQA Guidelines.

Section 3: California Government Code Section 65864 et seq. sets forth the general requirements for approval of development agreements. Further, the City Council adopted Resolution No. 6642 on May 6, 1997 establishing procedures and requirements for the consideration of development agreements under California Government Code Section 65864 et seq. Pursuant to Resolution No. 6642, certain findings are required by the City Council prior to approval of any development agreement.

1. *The Development Agreement is consistent with the General Plan.*

   The proposed development agreement is consistent with the Milpitas General Plan and other applicable plans, policies and regulations of the City currently in effect. The General Plan and Transit Area Specific Plan land use designation for the area that is subject to the agreement is Boulevard Very High Density Mixed Use, Multi-Family Very High Density, and Multi-Family High Density and the proposed development of the subject project is consistent with the General Plan and Transit Area Specific Plan. As discussed in detail in the proposed agreement, the Project involves development of the "Amalfi I Building" consisting of up to three hundred and seventy-eight (378) multi-family residential units and "Amalfi II Building" consisting of up to two hundred sixty (260) multi-family residential units (collectively "Citation I Project"), and up to three hundred and eight-one (381) apartment units, 8100 square feet of commercial and office space, and associated site improvements (the "Edge Project" or "Citation II Project") (collectively, all the "Project").

The Project is also consistent with the following General Plan Guiding Principles and Policies:

- **Policy 2.a-G-7** – When considering development proposals, seek "community benefit", such as upgrading infrastructure facilities, constructing new infrastructure facilities, and funding contributions to programs.

- **Policy 2.d-G-1** – Provide all possible community facilities and utilities of the highest standards commensurate with the present and anticipated needs of Milpitas, as well as any special needs of the region.

- **Policy 2.d-I-1** – Coordinate capital improvement planning for all municipal service infrastructure with the location and timing of growth.

2. *The Development is consistent with the Transit Area Specific Plan.*

The proposed Development is consistent with the Transit Area Specific Plan because:

a. Development of the Project should be encouraged because it will help meet important economic, social, environmental and planning goals of the City, including but not limited to locating housing near jobs to reduce commutes for City residents, redeveloping underutilized property near transit investment with housing and jobs so as to encourage use of transit, providing for an extraordinary contribution towards housing and jobs in the City.

b. The Agreement will facilitate the development of the Project in the manner proposed in the Agreement for the further reasons set forth in the accompanying staff reports and Agreement;

c. Developer will incur unusually substantial costs in order to provide public improvements, facilities or services, in particular extraordinary funding for housing in the City, from which the public will benefit, as set forth in more detail in the accompanying staff report and Agreement and (ii) Developer has made commitments to a very high standard of quality for the Project and has agreed to development limitations beyond that required by the existing laws, as set forth in the Agreement and Development Approvals; and

d. Development of the Project will make a substantial contribution to the economic development of the City of Milpitas in that the Project will create additional, transit-oriented housing to support transit infrastructure investments, as well as provide extraordinary tax revenues to the City.

Section 4: The Planning Commission of the City of Milpitas hereby recommends the Milpitas City Council adopt an ordinance to approve a Development Agreement with SCS Development Co, Amalfi Milpitas, LLC and DPD Investments, LLC for the Citation I Project (Amalfi I and Amalfi II) and Citation II Project (the Edge), subject to the above Findings and development agreement attached hereto as Exhibit 1.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on January 14, 2015.

Sudhir Mandal

Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on January 14, 2015 and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Sudhir Mandal	✓			
Larry Ciardella	✓			
Gurdev Sandhu		✓		
Rajeev Madnawat		✓		
Demetress Morris	✓			
Hon Lien	✓			
Ray Maglalang		✓		
Zeya Mohsin (alternate)				

City Clerk's Office

JAN 26 2015 *6

RECEIVED

CITY OF MILPITAS
COMMISSION/COMMITTEE APPLICATION

Parks, Recreation, and Cultural Resources Commission

COMMISSION APPLYING FOR

PROVIDE COMPLETE INFORMATION (in black ink)

☑ Mr. ☐ Mrs ☐ Miss

Name:	Samu	Leio	Tiumalu
	First	Middle	Last

Address:	875	Vasona St	Milpitas 95035
	Number	Street (apt. # if needed)	City & Zip Code

408-898-6333 — **Telephone Number(s)**

stiumalu@gmail.com — **e-mail address**

City of Pleasanton Community Services — **Present Employer**

925-931-3432 — **Business Telephone**

4333 Black Ave. — **Business Address**

Recreation Supervisor — **Occupation**

Education: If **Youth Advisory Commission** applicant, indicate your grade/school: ______

College, Professional, Vocational, or other schools attended	Major Subject	Date	Degree
Ohlone College	General Education	05/28/1999	None
Mission College	General Education	08/01/1999	None

List community organizations to which you belong or have belonged (additional information may be attached). If application is for ***Veterans Commission***, indicate branch and service in any U.S. military organization (retired or active duty).

Date	Name of Organization or Branch of Military	Officer / Member

Briefly describe the personal qualifications you possess which you believe would be an asset (additional information may be attached):

I have been working in the Parks & Recreation field for over 19 years. Being in the Recreation field, I believe I can help the commission to ensure we are current with our programs and services.

I also worked for the City of Milpitas Recreation Services from 1996-2013, and would like to continue to help the community in a different capacity.

I have sufficient time to devote to this responsibility and will attend the required meetings if I am appointed to fill a future vacancy. I hereby certify that all statements contained in this application are true.

Signature

JAN 26, 2015

Date

Appointments to Commissions or Committees are made by the Mayor with the concurrence of the City Council. **Applications not acted upon will expire after one year from the date submitted unless renewed by the applicant.**

NOTE: ALL COMMISSION APPLICATIONS ARE PUBLIC RECORD

Mail, email or drop off your completed application to:

City Clerk, 455 E. Calaveras Blvd., Milpitas, CA 95035, email: mlavelle@ci.milpitas.ca.gov

City of Milpitas
Youth Advisory Commission (YAC)
2014-2015 Work Plan

Founded April 1996, the Youth Advisory Commission (YAC) was established to advise the City Council on matters pertaining to youth and teens in Milpitas. Commissioners must be in grades 7 through 12 and live in Milpitas. Members and alternates are appointed to one-year terms.

Goals

1. Engage the youth and teens of Milpitas by hosting educational and recreation events.
2. Establish a strong presence within the Milpitas community through volunteerism.
3. Inform the City Council on matters pertaining to youth and teens in Milpitas.
4. Develop partnerships with other community organizations focused on engaging youth and teens in the Milpitas community.

2014-2015 Tasks

1. Host YAC Youth Spelling Bee.
2. Host YAC Youth Math Competition.
3. Host YAC Teen Scavenger Hunt.
4. Volunteer at City Wide Events (Tree Lighting Ceremony, 4th of July Celebration, etc.).
5. Partner with Summer Day Camp for a Day of Play Event.
6. Partner with local high schools for Sports Equipment Donation Program.
7. Review the Brown Act with all new and returning YAC Commissioners.
8. Continue the YAC scholarship program for college bound students.
9. Conduct fundraisers to support YAC events and scholarship program.
10. Update City Council Liaison on any matters pertaining to youth and teens in Milpitas.

*8

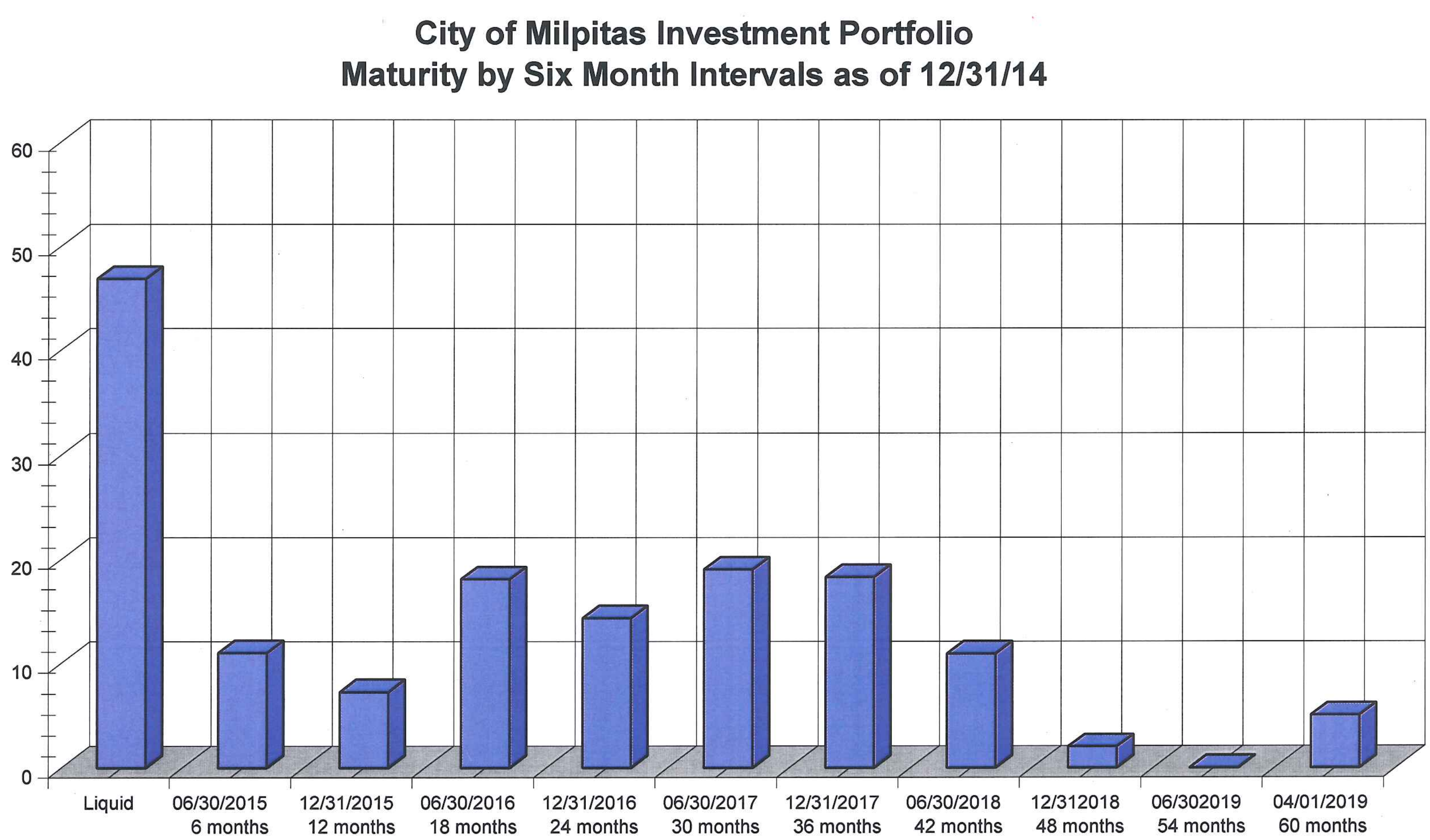
CITY OF MILPITAS
INVESTMENT PORTFOLIO STATUS

PERCENT OF TOTAL DOLLARS INVESTED AT QUARTER ENDED

TYPE OF SECURITY	Dec-14	Sep-14	Jun-14	Mar-14
LAIF & Money Market	31	32	31	39
Corporate Medium Term Notes	9	9	8	8
Treasury Notes / Bills	18	16	13	15
Federal Agency	41	43	48	38
Negotiable CD's	1	<1	<1	<1
	100	100	100	100

	Dec-14	Sep-14	Jun-14	Mar-14
Market Value	152,935,989	152,417,238	171,637,827	185,718,328
Cost	152,924,177	152,495,303	171,460,765	185,779,819
Days				
Weighted Average Maturity	517	521	467	449
Rates				
Average Yield	0.66%	0.63%	0.56%	0.57%
Benchmarks:				
LAIF	0.27%	0.25%	0.23%	0.24%
2 Year Treasury - (12 Month Average)	0.46%	0.41%	0.36%	0.33%

Exhibit 2



Maturity by Six Month Intervals FY 15.xls As of 12-31-14

City of Milpitas Investment Portfolio Yields Compared to Benchmarks for the Quarters Ended 03/31/12 – 12/31/14

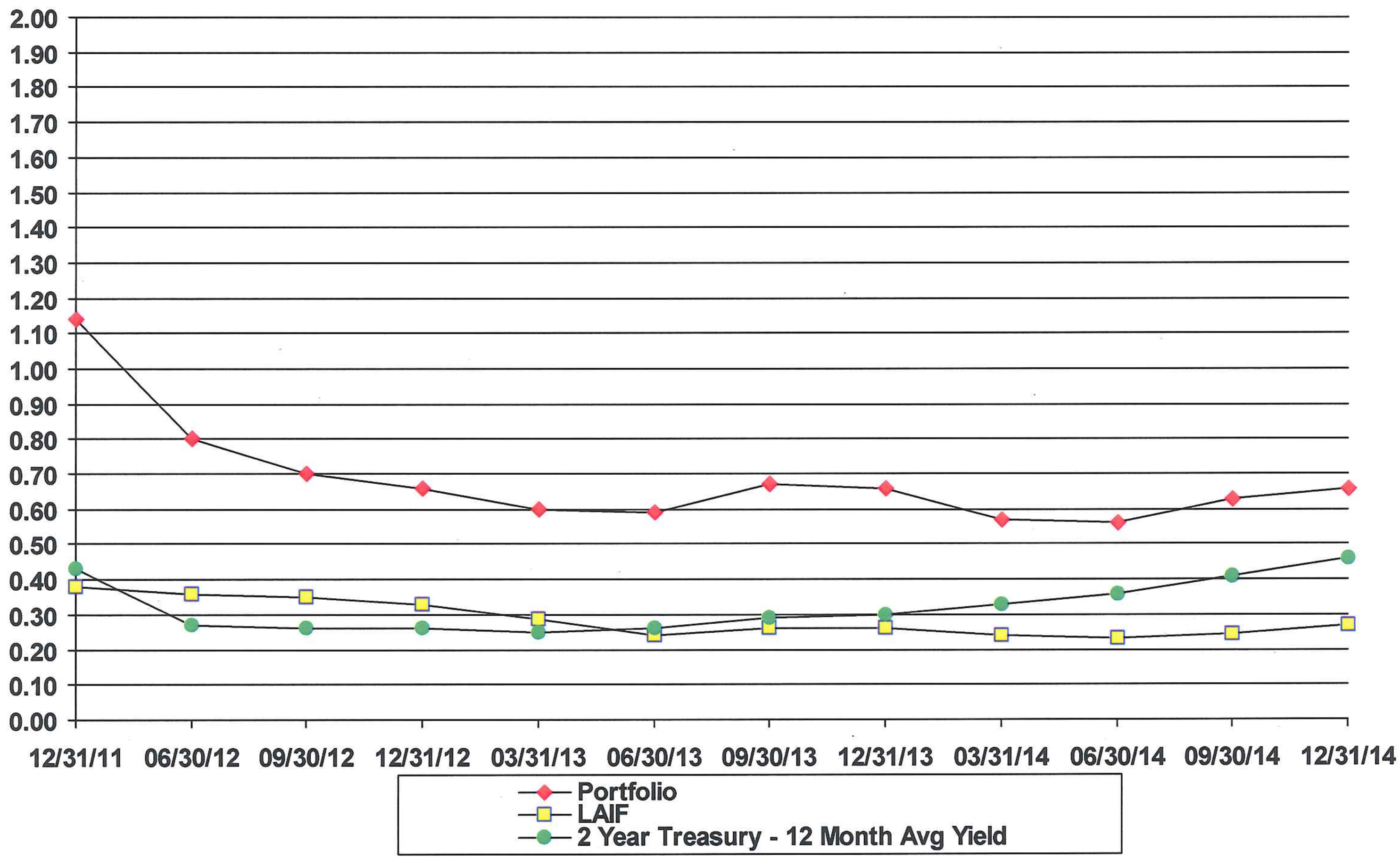


Exhibit 3

City of Milpitas
Portfolio Management
Portfolio Summary
December 31, 2014

Investments	Par Value	Market Value	Book Value	% of Portfolio	Term	Days to Maturity	YTM 360 Equiv.	YTM 365 Equiv.
LAIF	43,700,000.00	43,699,142.61	43,700,000.00	28.58	1	1	0.263	0.267
Money Market Funds	3,451,521.38	3,451,521.38	3,451,521.38	2.26	1	1	0.010	0.010
Corporate Notes	13,000,000.00	13,046,380.00	13,064,074.48	8.54	1,368	571	1.039	1.054
Federal Agency	63,000,000.00	62,984,640.00	63,012,132.33	41.20	1,400	805	0.919	0.932
Treasury Coupon Securities	28,000,000.00	27,985,709.19	27,931,656.39	18.27	1,193	690	0.781	0.792
GNMA	14,792.48	15,026.36	14,792.48	0.01	7,206	813	8.088	8.201
Negotiable CDs -2	1,750,000.00	1,753,569.88	1,750,000.00	1.14	992	862	1.169	1.185
Investments	**152,916,313.86**	**152,935,989.42**	**152,924,177.06**	**100.00%**	**924**	**517**	**0.700**	**0.709**
Cash								
Passbook/Checking (not included in yield calculations)	2,423,601.18	2,423,601.18	2,423,601.18		1	1	0.005	0.005
Total Cash and Investments	**155,339,915.04**	**155,359,590.60**	**155,347,778.24**		**924**	**517**	**0.700**	**0.709**

Total Earnings	December 31 Month Ending	Fiscal Year To Date
Current Year	87,091.37	512,914.11
Average Daily Balance	**154,840,882.47**	**161,464,981.85**
Effective Rate of Return	**0.66%**	**0.63%**

To the best of my knowledge, this report accurately reflects all City and RDA pooled investments and is in conformity with all State laws and the City's investment policy. A copy of the policy is available at the office of the City Clerk. This investment program herein shown provides sufficient cash flow liquidity to meet next six months' estimated expenditures.

E C Karlen 1/22/15

Emma C. Karlen, Director of Finance

City of Milpitas
Portfolio Management
Portfolio Details - Investments
December 31, 2014

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	S&P	YTM 365	Days to Maturity	Maturity Date
LAIF												
SYS82000010	82000010	Local Agency Invest. Fd - City			21,700,000.00	21,699,574.25	21,700,000.00	0.267		0.267	1	
SYS97090401	97090401	Local Agency Invest. Fd - MPFA			22,000,000.00	21,999,568.36	22,000,000.00	0.267		0.267	1	
		Subtotal and Average	**45,012,903.23**		**43,700,000.00**	**43,699,142.61**	**43,700,000.00**			**0.267**	**1**	
Money Market Funds												
SYS	12020109	Dreyfus Treasury & Agency Fund			3,451,521.38	3,451,521.38	3,451,521.38	0.010	AAA	0.010	1	
		Subtotal and Average	**5,858,228.67**		**3,451,521.38**	**3,451,521.38**	**3,451,521.38**			**0.010**	**1**	
Corporate Notes												
36962G5M2	12011001	General Electric Capital Corp		01/10/2012	2,000,000.00	2,000,312.50	2,000,034.11	2.150	AA+	2.070	8	01/09/2015
961214BW2	12100201	Westpac Banking Corp		10/02/2012	1,000,000.00	1,005,380.00	1,000,900.50	1.125	AA-	1.000	267	09/25/2015
06366RJH9	12110601	Bank of Montreal		11/06/2012	1,000,000.00	1,001,860.00	1,000,593.06	0.800	A+	0.729	309	11/06/2015
822582AU6	12120601	Shell Int'l Finance BV		12/06/2012	1,000,000.00	1,001,080.00	1,000,623.99	0.625	AA	0.557	337	12/04/2015
38259PAC6	12120602	Google Inc		12/06/2012	1,000,000.00	1,021,500.00	1,020,004.14	2.125	AA	0.660	504	05/19/2016
742718DV8	13051302	Proctor & Gamble Co		05/13/2013	1,000,000.00	1,011,610.00	1,014,699.66	1.450	AA-	0.535	592	08/15/2016
89233P5E2	13052001	Toyota Motor Credit		05/20/2013	1,000,000.00	1,018,125.00	1,019,894.63	2.000	AA-	0.815	623	09/15/2016
88579YAD3	12021401	3M Company		02/14/2012	2,000,000.00	2,022,380.00	2,012,741.05	1.375	AA-	1.000	637	09/29/2016
166764AA8	13060501	Chevron Corporation		06/05/2013	1,000,000.00	993,820.00	997,833.44	1.104	AA	1.180	1,069	12/05/2017
037833AJ9	13051301	Apple Inc		05/13/2013	2,000,000.00	1,970,312.50	1,996,749.90	1.000	AA+	1.050	1,218	05/03/2018
		Subtotal and Average	**13,065,825.17**		**13,000,000.00**	**13,046,380.00**	**13,064,074.48**			**1.054**	**571**	
Federal Agency												
3133EADP0	12021701	Federal Farm Credit Bank		02/17/2012	2,000,000.00	2,000,760.00	2,000,075.81	0.450	AA+	0.420	47	02/17/2015
3135G0HG1	12020801	Federal Nat'l. Mortgage Assoc		02/08/2012	2,000,000.00	2,000,880.00	1,999,710.20	0.375	AA+	0.445	74	03/16/2015
3135G0LN1	12062801	Federal Nat'l. Mortgage Assoc		06/28/2012	2,000,000.00	2,001,860.00	2,000,000.00	0.500	AA+	0.500	182	07/02/2015
3133EADW5	12021702	Federal Farm Credit Bank		02/17/2012	2,000,000.00	2,003,600.00	2,000,000.00	0.550	AA+	0.550	228	08/17/2015
3133EAQV3	12051501	Federal Farm Credit Bank		05/15/2012	2,000,000.00	2,004,240.00	2,000,000.00	0.550	AA+	0.550	257	09/15/2015
3133ECTC8	13062801	Federal Farm Credit Bank		06/28/2013	2,000,000.00	2,007,300.00	1,998,834.84	0.640	AA+	0.695	392	01/28/2016
313375RN9	12020901	Federal Home Loan Bank		02/09/2012	2,000,000.00	2,012,860.00	2,006,572.69	1.000	AA+	0.720	435	03/11/2016
313375RN9	12062903	Federal Home Loan Bank		06/29/2012	2,000,000.00	2,012,860.00	2,008,246.88	1.000	AA+	0.650	435	03/11/2016
3133EARB6	12062902	Federal Farm Credit Bank		06/29/2012	1,000,000.00	1,002,420.00	1,001,355.31	0.750	AA+	0.650	502	05/17/2016
3133EAUH9	12061401	Federal Farm Credit Bank		06/14/2012	3,000,000.00	3,002,880.00	3,000,000.00	0.750	AA+	0.750	530	06/14/2016
3133EAVQ8	12062901	Federal Farm Credit Bank		06/29/2012	2,000,000.00	2,000,560.00	2,000,000.00	0.800	AA+	0.800	700	12/01/2016
313383FB2	13061901	Federal Home Loan Bank		06/19/2013	2,000,000.00	1,994,280.00	2,000,000.00	0.580	AA+	0.580	718	12/19/2016
3133EDNC2	14061301A	Federal Farm Credit Bank		06/13/2014	1,600,000.00	1,598,304.00	1,600,000.00	0.700	AA+	0.700	743	01/13/2017
3133EDNC2	14061301B	Federal Farm Credit Bank		06/13/2014	400,000.00	399,576.00	400,000.00	0.700	AA+	0.700	743	01/13/2017

City of Milpitas
Portfolio Management
Portfolio Details - Investments
December 31, 2014

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	S&P	YTM 365	Days to Maturity	Maturity Date
Federal Agency												
3136G1E88	13022702	Federal Nat'l. Mortgage Assoc		02/27/2013	1,000,000.00	998,060.00	1,000,000.00	0.750	AA+	0.750	788	02/27/2017
3133ECT79	13062701	Federal Farm Credit Bank		06/27/2013	2,000,000.00	2,002,560.00	2,000,000.00	1.000	AA+	1.000	790	03/01/2017
3133ECMM3	13042501	Federal Farm Credit Bank		04/25/2013	2,000,000.00	1,979,560.00	2,000,000.00	0.600	AA+	0.600	845	04/25/2017
3133ECPA6	13051502	Federal Farm Credit Bank		05/15/2013	2,000,000.00	1,984,860.00	2,000,000.00	0.600	AA+	0.600	865	05/15/2017
3134G43S5	13051501	Fed Home Loan Mortgage Corp		05/15/2013	2,000,000.00	1,979,860.00	2,000,000.00	0.650	AA+	0.650	865	05/15/2017
3133EDPC0	14062701	Federal Farm Credit Bank		06/27/2014	2,000,000.00	1,994,400.00	2,000,000.00	1.000	AA+	1.000	908	06/27/2017
3133EDEB4	14012801	Federal Farm Credit Bank		01/28/2014	2,000,000.00	2,002,240.00	2,000,000.00	1.100	AA+	1.100	909	06/28/2017
3133EDXH0	14101401	Federal Farm Credit Bank		10/14/2014	2,000,000.00	2,029,820.00	2,000,000.00	1.000	AA+	1.000	925	07/14/2017
3133EDKP6	14050101	Federal Farm Credit Bank		05/01/2014	2,000,000.00	1,995,100.00	2,000,000.00	1.070	AA+	1.070	974	09/01/2017
3134G3J68	13053001	Fed Home Loan Mortgage Corp		05/30/2013	2,000,000.00	1,982,080.00	1,997,336.60	0.900	AA+	0.950	991	09/18/2017
3133ED3Z3	13100401	Federal Farm Credit Bank		10/04/2013	2,000,000.00	2,004,140.00	2,000,000.00	1.230	AA+	1.230	1,007	10/04/2017
3136G0L58	12101801	Federal Nat'l. Mortgage Assoc		10/18/2012	1,000,000.00	994,650.00	1,000,000.00	1.000	AA+	1.000	1,021	10/18/2017
3130A3QQ0	14122901	Federal Home Loan Bank		12/29/2014	1,000,000.00	998,920.00	1,000,000.00	1.150	AA+	1.150	1,093	12/29/2017
3135G0UE1	13021401	Federal Nat'l. Mortgage Assoc		02/14/2013	3,000,000.00	2,968,410.00	3,000,000.00	1.000	AA+	1.000	1,140	02/14/2018
3136G23B1	14081501	Federal Nat'l. Mortgage Assoc		08/15/2014	2,000,000.00	1,992,800.00	2,000,000.00	1.300	AA+	1.300	1,141	02/15/2018
3136G1DG1	13022701	Federal Nat'l. Mortgage Assoc		02/27/2013	2,000,000.00	1,981,100.00	2,000,000.00	1.050	AA+	1.050	1,153	02/27/2018
3133ECW75	13080101	Federal Farm Credit Bank		08/01/2013	2,000,000.00	2,025,120.00	2,000,000.00	1.610	AA+	1.610	1,308	08/01/2018
3136G24C8	14082901	Federal Nat'l. Mortgage Assoc		08/29/2014	3,000,000.00	3,040,800.00	3,000,000.00	2.000	AA+	2.000	1,698	08/26/2019
3136G25W3	14091201	Federal Nat'l. Mortgage Assoc		09/12/2014	2,000,000.00	1,987,780.00	2,000,000.00	1.000	AA+	2.174	1,715	09/12/2019
		Subtotal and Average	**62,109,316.88**		**63,000,000.00**	**62,984,640.00**	**63,012,132.33**			**0.932**	**805**	
Federal Agency Discounts												
		Subtotal and Average	**32,258.06**									
Treasury Coupon Securities												
912828SZ4	12062201	United States Treasury Note		06/22/2012	3,000,000.00	3,003,510.00	2,999,662.33	0.375	AA+	0.400	165	06/15/2015
912828UG3	13012801	United States Treasury Note		01/28/2013	3,000,000.00	3,001,875.00	2,999,226.55	0.375	AA+	0.400	379	01/15/2016
912828VC1	13053101	United States Treasury Note		05/31/2013	2,000,000.00	1,995,780.00	1,994,502.31	0.250	AA+	0.452	500	05/15/2016
912828VG2	13062401	United States Treasury Note		06/24/2013	2,000,000.00	2,001,562.50	1,994,886.01	0.500	AA+	0.678	531	06/15/2016
912828VL1	13071501	United States Treasury Note		07/15/2013	2,000,000.00	2,003,900.00	1,997,123.34	0.625	AA+	0.720	561	07/15/2016
912828VR8	13082601	United States Treasury Note		08/26/2013	2,000,000.00	2,003,280.00	1,994,415.90	0.625	AA+	0.800	592	08/15/2016
912828RJ1	11101101	United States Treasury Note		10/11/2011	2,000,000.00	2,014,687.50	1,998,298.29	1.000	AA+	1.050	638	09/30/2016
912828C32	14032001	United States Treasury Note		03/20/2014	1,000,000.00	999,610.00	997,466.77	0.750	AA+	0.867	804	03/15/2017
912828WH9	14051501	United States Treasury Note		05/15/2014	2,000,000.00	2,001,100.00	1,998,374.18	0.875	AA+	0.910	865	05/15/2017
912828TB6	14061302	United States Treasury Note		06/13/2014	1,000,000.00	996,250.00	995,523.78	0.750	AA+	0.932	911	06/30/2017
912828WT3	14071501	United States Treasury Note		07/15/2014	2,000,000.00	1,997,660.00	1,993,135.26	0.875	AA+	1.013	926	07/15/2017

City of Milpitas
Portfolio Management
Portfolio Details - Investments
December 31, 2014

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	S&P	YTM 365	Days to Maturity	Maturity Date
Treasury Coupon Securities												
912828G20	14111701	United States Treasury Note		11/17/2014	2,000,000.00	1,990,556.69	1,993,039.43	0.875	AA+	1.000	1,049	11/15/2017
912828G79	14121501	United States Treasury Note		12/15/2014	2,000,000.00	1,995,312.50	1,994,769.90	1.000	AA+	1.090	1,079	12/15/2017
912828VE7	13062101	United States Treasury Note		06/21/2013	2,000,000.00	1,980,625.00	1,981,232.34	1.000	AA+	1.285	1,246	05/31/2018
		Subtotal and Average	**27,029,554.98**		**28,000,000.00**	**27,985,709.19**	**27,931,656.39**			**0.792**	**690**	
GNMA												
36216NNL3	88021601A	GNMA		07/01/1997	1,201.65	1,207.44	1,201.65	9.500	AA+	9.615	653	10/15/2016
362174T46	87042001C	GNMA		07/01/1997	3,563.76	3,662.40	3,563.76	8.000	AA+	8.075	804	03/15/2017
36217FKE8	87042001A	GNMA		07/01/1997	10,027.07	10,156.52	10,027.07	8.000	AA+	8.076	835	04/15/2017
		Subtotal and Average	**15,053.56**		**14,792.48**	**15,026.36**	**14,792.48**			**8.201**	**813**	
Negotiable CDs -2												
02587DQD3	13071801	American Express Centurion Bnk		07/18/2013	250,000.00	250,000.00	250,000.00	0.700	A-	0.700	200	07/20/2015
254672BR8	14101602	Discover Bank		10/16/2014	250,000.00	250,000.00	250,000.00	1.050	BBB	0.844	655	10/17/2016
36163CWS5	14101001	GE Capital Bank		10/10/2014	250,000.00	251,577.75	250,000.00	1.450	AA+	1.451	1,013	10/10/2017
140420QD5	14101601	Capital One Bank USA		10/16/2014	250,000.00	251,586.98	250,000.00	1.450	BBB+	1.451	1,019	10/16/2017
38148JBF7	14102901	Goldman Sachs Bank USA		10/29/2014	250,000.00	250,000.00	250,000.00	1.450	A	1.249	1,033	10/30/2017
05580AAY0	14111401	BMW Bank of North America		11/14/2014	250,000.00	251,039.10	250,000.00	1.400		1.401	1,048	11/14/2017
29266NF28	14120501	EnerBank USA		12/05/2014	250,000.00	249,366.05	250,000.00	1.200	NR	1.201	1,069	12/05/2017
		Subtotal and Average	**1,717,741.94**		**1,750,000.00**	**1,753,569.88**	**1,750,000.00**			**1.185**	**862**	
		Total and Average	**154,840,882.47**		**152,916,313.86**	**152,935,989.42**	**152,924,177.06**			**0.709**	**517**	

City of Milpitas
Portfolio Management
Portfolio Details - Cash
December 31, 2014

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	S&P	YTM 365	Days to Maturity
Money Market Funds											
SYS1000	1000	Cash in Bank			273,413.00	273,413.00	273,413.00	0.020		0.020	1
SYS1000	131127930	Cash in Bank			291,158.16	291,158.16	291,158.16	0.020		0.020	1
SYS1030	1030	Cash with Fiscal Agent			1,859,030.02	1,859,030.02	1,859,030.02			0.000	1
		Average Balance	**0.00**								**1**
	Total Cash and Investments		**154,840,882.47**		**155,339,915.04**	**155,359,590.60**	**155,347,778.24**			**0.709**	**517**

City of Milpitas
Portfolio Management
Activity By Type
December 1, 2014 through December 31, 2014

CUSIP	Investment #	Issuer	Stated Rate	Transaction Date	Purchases or Deposits	Redemptions or Withdrawals	Balance
LAIF (Monthly Summary)							
SYS82000010	82000010	Local Agency Invest. Fd - City	0.267		3,700,000.00	4,800,000.00	
SYS97090401	97090401	Local Agency Invest. Fd - MPFA	0.267		0.00	400,000.00	
		Subtotal			**3,700,000.00**	**5,200,000.00**	**43,700,000.00**
Money Market Funds (Monthly Summary)							
SYS1000	1000	Cash in Bank	0.020		273,413.00	286,953.00	
SYS1000	131127930	Cash in Bank	0.020		4.49	4,212.43	
SYS	12020109	Dreyfus Treasury & Agency Fund	0.010		1,000,029.12	0.00	
SYS1030	1030	Cash with Fiscal Agent			1,859,030.02	1,859,020.64	
		Subtotal			**3,132,476.63**	**2,150,186.07**	**3,451,521.38**
Corporate Notes							
		Subtotal					**13,064,074.48**
Federal Agency							
3130A3QQ0	14122901	Federal Home Loan Bank	1.150	12/29/2014	1,000,000.00	0.00	
		Subtotal			**1,000,000.00**	**0.00**	**63,012,132.33**
Federal Agency Discounts							
313589R62	14051502	Federal Nat'l Mort Asssoc Disc	0.070	12/02/2014	0.00	1,000,000.00	
		Subtotal			**0.00**	**1,000,000.00**	**0.00**
Treasury Coupon Securities							
912828G79	14121501	United States Treasury Note	1.000	12/15/2014	1,994,687.50	0.00	
		Subtotal			**1,994,687.50**	**0.00**	**27,931,656.39**
GNMA							
36217FKE8	87042001A	GNMA	8.000	12/15/2014	0.00	345.89	
362174T46	87042001C	GNMA	8.000	12/15/2014	0.00	168.73	
36216NNL3	88021601A	GNMA	9.500	12/15/2014	0.00	63.48	
		Subtotal			**0.00**	**578.10**	**14,792.48**
Negotiable CDs -2							
29266NF28	14120501	EnerBank USA	1.200	12/05/2014	250,000.00	0.00	
		Subtotal			**250,000.00**	**0.00**	**1,750,000.00**

City of Milpitas
Portfolio Management
Activity By Type
December 1, 2014 through December 31, 2014

CUSIP	Investment #	Issuer	Stated Rate	Transaction Date	Purchases or Deposits	Redemptions or Withdrawals	Balance
		Total			10,077,164.13	8,350,764.17	152,924,177.06

City of Milpitas

Investment Broker Dealer List

Cantor Fitzgerald & Co.

Dreyfus Institutional Services

Mischler Financial Group, Inc.

Morgan Stanley Smith Barney

State of California Local Agency Investment Fund

Vining Sparks IBG, L.P.

*9

City of Milpitas, California

BUDGET CHANGE FORM

Type of Change	From		To	
	Account	Amount	Account	Amount
Check one: ☒ Budget Appropriation ☐ Budget Transfer	100-2940	$ 1,400,000	100-920-4701	$ 1,400,000
	350-2940	4,600,000	350-920-4701	4,600,000
	350-3718	7,838,901	350-910-4841	7,838,901
	312-2940	115,920	312-3999	115,920
	311-9514270-15-3899	115,920	311-9514270-7-4800	115,920
	310-3999	23,100	310-2940	23,100
	221-2909	23,100	221-3909	23,100
	311-9514275-15-3802	23,100	311-9514278-15-3899	23,100
	235-2940	7,375	235-413-4237	7,375
	236-2940	6,375	236-413-4237	6,375
	100-2940	1,500	100-840-4223	1,500

Explain the reason for the budget change:

Background: To maintain conformity with the City's budget policy that any additional appropriations to a department or a capital improvement project's budget or re-appropriation of monies from one fund to another must be approved by the City Council, staff submits the budget change form and justification memoranda from the requesting departments for review and consideration by the City Council.

Necessary budget adjustments include the following:

1) Increase the budget appropriation to the General Fund and Transit Area Impact Fee Fund by $6 million to pay for the final installment payments to Mission West Properties related to the purchase of the McCandless property. The source of funding will be from the General Fund and Transit Area Impact Fund for $1.4 million and $4.6 million respectively. The installment payments were previously paid by the Economic Development Corporation and therefore not budgeted in the City's Funds. Due to settlement of the lawsuit with the State of California and the County of Santa Clara, the City has assumed the obligation to pay for the property.

2) Increase the budget appropriation for various Transit Area infrastructure projects by $7,838,901. The Transit Area Plan identified many public infrastructure improvements that are needed. In order to fund these projects, the City collects Transit Area Impact fee from new developments. The City has entered into various Credit Reimbursement Agreements with developers and required them to build the public infrastructure improvement. The reimbursements are either in the form of fee credit or actual reimbursement from the City. It is necessary to increase the budget appropriations in the Transit Area Impact Fee fund in order to recognize the costs for constructing these infrastructure improvements.

3) Increase the budget appropriation for the 2014 Road Rehabilitation Project (CP4270) by $115,920 to include the rehabilitation work needed at Aspen Village due to road erosion. The funding source is from fees collected from developer. Staff also requests transfer of $23,100 from Gas Tax Fund to fund the 2015 Street Resurfacing Project (CP4275). Originally, $23,100 was to be funded from the Street Fund but due to insufficient fund balance in the Street Fund, the Gas Tax Fund will make up the difference. The total project budget for CP4275 will remain at $4,250,000 as originally programmed.

4) Increase the budget appropriation for the Engineering Department by $13,750 to cover expenses associated with the contract with NBS Government Finance Group for the required annual administration of the City's Lighting Landscape Maintenance Districts (LLMD). The source of funding will be from the LLMD Funds.

5) Increase the budget appropriation for the Fire Department by $1,500 for the food purchased for the residents sheltered at the Sport Center during the December 11, 2014 storm. The source of funding will be from the General Fund.

Fiscal Impact: The total budget adjustment request is $13,993,171. The impacts to the General Fund and the LLMD Funds are $1,401,500 and $13,750 respectively. The remaining budget requests are primarily funded by Transit Area impact fees and developer fees. There are sufficient fund balances in these various funds to accommodate the budget adjustment requests.

Recommendations: Approve the Fiscal Year 2014-15 mid-year budget appropriations as itemized in the budget change form which is included in the City Council agenda packet.

☒ **Check if City Council Approval required.** **Meeting Date:** February 3, 2015

Requested by:	**Department Head:**	**Date:** January 22, 2015
Reviewed by:	**Finance Director:** Tim C Kal	**Date:** 1/23/15
Approved by:	**City Manager:**	**Date:**
Date approved by City Council, if required:		**Confirmed by:**

FY 2014/15 Revenue Report
For Fiscal Year-To-Date Deceember 31, 2014
With comparative Information for the same period in FY 13/14

	FY 13/14			FY 14/15				FY 14-15 Revised vs. Budget Increase (Decrease)	
	Actual	Year to Date	Percentage of Actual	Budget	Year to Date	Percentage of Budget	Revised Projection	Amount	Percentage
Revenues									
General Fund									
Property Taxes	$ 17,943,631	$ 4,600,842	25.64%	$ 18,349,000	5,047,951	27.51%	19,049,000	$ 700,000	3.81%
Sales and Use Taxes	19,766,138	6,527,539	33.02%	20,606,000	5,479,060	26.59%	19,967,000	(639,000)	-3.10%
Franchise Fees	3,453,139	687,613	19.91%	3,398,000	736,598	21.68%	3,489,000	91,000	2.68%
Business License Tax	334,139	172,799	51.71%	349,000	151,991	43.55%	349,000	-	0.00%
Hotel/Motel (TOT) Tax	7,473,691	3,023,448	40.45%	7,114,000	3,530,921	49.63%	7,776,000	662,000	9.31%
Building Permits	5,953,478	3,328,612	55.91%	4,536,727	3,837,155	84.58%	4,729,000	192,273	4.24%
Fire Permits and Inspection Fees	1,775,280	777,548	43.80%	1,679,000	675,332	40.22%	1,760,000	81,000	4.82%
Fines and Forfeitures	415,396	163,491	39.36%	382,000	178,192	46.65%	410,000	28,000	7.33%
Investment Income	384,551	173,375	45.09%	168,000	23,267	13.85%	134,000	(34,000)	-20.24%
Intergovernmental	1,397,209	395,831	28.33%	1,056,758	538,863	50.99%	1,192,258	135,500	12.82%
Charges for Current Services	5,563,026	2,549,715	45.83%	5,437,000	2,839,367	52.22%	5,728,000	291,000	5.35%
Other Revenue Sources	774,656	343,994	44.41%	742,283	488,164	65.77%	879,000	136,717	18.42%
Total General Fund Revenue	**65,234,335**	**22,744,807**	34.87%	**63,817,768**	**23,526,862**	**36.87%**	**65,462,258**	**1,644,490**	**2.58%**
RFTTF Distributions	9,663,929	-	0.00%	3,500,000	0	0.00%	3,835,000	335,000	9.57%
Water M & O Fund									
Charges for Services	21,191,565	12,544,335	59.19%	21,885,000	12,118,134	55.37%	20,947,000	(938,000)	-4.29%
Sewer M & O Fund									
Sewer Service Charges	12,687,777	6,384,617	50.32%	13,860,000	7,228,460	52.15%	13,901,000	41,000	0.30%

General Fund Expenditures by Department - December 2014

	Budget	YTD Expenditures	50.00% Of Budget
City Council	$ 249,961	$ 104,441	41.78%
City Manager	1,331,518	353,693	26.56%
City Clerk	432,098	215,873	49.96%
Policy Planning	2,013,577	674,007	33.47%
Building & Safety	3,355,033	1,388,322	41.38%
City Attorney	1,174,835	402,050	34.22%
Finance	2,193,067	905,661	41.30%
Public Works/Engineering	7,268,838	3,176,733	43.70%
Planning	2,002,598	880,063	43.95%
Police	25,063,164	11,652,487	46.49%
Fire	15,292,144	7,496,178	49.02%
Information Svcs	2,171,280	1,099,856	50.65%
Human Resources	995,548	544,051	54.65%
Recreation	3,712,285	1,670,888	45.01%
Non-Departmental	8,361,086	4,524,618	54.12%
Total	73,603,455	34,414,914	46.76%

***11**

RESOLUTION NO. ______

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING AMENDMENT OF THE SENIOR ADVISORY COMMISSION BYLAWS

WHEREAS, the Senior Advisory Commission serves as an advisory body to the City Council on matters pertaining to recreation, leisure, and nutrition services for the Senior Citizens of Milpitas.

WHEREAS, at the August 26, 2014 Senior Advisory Commission meeting, the Commission approved amendments to the current Bylaws subject to City Council approval; and

WHEREAS, the proposed Bylaws amendment includes clarification on volunteer hours expected from commissioners, elimination of the role of Treasurer (which is currently handled by staff or Vice-Chair) and general language updates, as set forth in <u>Exhibit A</u> attached hereto.

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

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

2. The City Council hereby approves the amendment to the Senior Advisory Commission Bylaws as set forth in the attached <u>Exhibit A</u>.

PASSED AND ADOPTED this ____ day of __________, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:	APPROVED:
______________________________	______________________________
Mary Lavelle, City Clerk	Jose S. Esteves, Mayor

APPROVED AS TO FORM:

____
Michael J. Ogaz, City Attorney

EXHIBIT A

CITY OF MILPITAS
SENIOR ADVISORY COMMISSION
BYLAWS

The Senior Advisory Commission was established by the Milpitas City Council on April 20, 1993.

Section 1. Purpose

The City of Milpitas recognizes senior citizens as an important and viable section of the total community, and that this portion of the community is entitled to the same opportunities as other age groups. Therefore, the City of Milpitas will provide a place and opportunity for senior citizens to meet together and pursue mutual interests, receive services, and take part in activities that will encourage their involvement in and with the community.

The Senior Advisory Commission will serve as an active advisory group to the City Council. This Commission will advise the staff and Council on planning and organizing various activities that provide meaningful recreational, social, educational and health services to the community's senior citizens. The Senior Advisory Commission will strive to be a channel of communication between staff, senior citizens and the community. They will take an active part in supporting the program through involvement and development of programs and fund raising to provide for these programs. They will provide the assessment of current and future needs of the older population in our community for the purpose of program planning.

Section 2. Membership

The Senior Advisory Commission shall consist of nine (9) senior representatives and two (2) alternate senior representatives who are Milpitas residents or residents within the boundaries of the Milpitas Unified School District, members of the Milpitas Senior Center at the time of appointment and are attuned to the needs of the senior citizens. In addition, the City Council may appoint a Council liaison to serve on the Senior Advisory Commission in a non-voting capacity.

Of the nine seats on the Senior Advisory Commission, the following selection processes will be followed:

1. Nine seats and the two alternates will be appointed by the Mayor and approved by the City Council.

Section 3. Term of Office & Removal

The term of office for Senior Advisory Commission members and alternates is two years or until reappointed or a successor is appointed. Members and alternates are expected to attend all meetings and should expect to volunteer a minimum of 36 hours per year, outside of regular commission meetings on Senior Advisory Commission projects or Senior Center activities/events. When any member or alternate has three or more unexcused absences in a 12-month period, the Commission shall forward this information to the City Council for review and possible removal of the member or alternate from the Commission. Any member or alternate of the Senior Advisory Commission may be removed from office by a majority vote of the City Council at a regularly scheduled Council meeting.

Members and alternates may apply for reappointment by submitting a letter or e-mail of interest to the Mayor with a copy to the Commission Chair one month prior to the expiration of his/her term of office. Any member or alternate of the Commission who wishes to resign should submit a letter of resignation or email to the Mayor with a copy to the Commission Chair.

Section 4. Vacancies

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

Section 5. Officers

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

Section 6. Meetings

The Senior Advisory Commission shall hold meetings the fourth Tuesday of even months (February, April, June, August, October, and December) at 1:30 p.m. at the Milpitas City Hall or a designated location. All meetings shall be open to the public. Should a scheduled meeting occur on a holiday, said meeting will be deferred to the same day of the following week or to a date agreed upon by a majority of the Commission. Special meetings may be called by majority vote, the Chair, or the City Council. Notice of any special meeting shall be given as required by law. Except as other provided by these Bylaws, the Commission will follow the latest edition of Robert's Rules of Order for the orderly conduct of meetings.

Section 7. Quorum

Any ~~six (6)~~ five (5) members shall constitute a quorum for the transaction of business.

Section 8. Voting and Seating of Alternates

Voting authority is extended to the nine (9) regular members. An alternate member shall vote only if seated in the absence of a regular member. In the event that a regular member is absent, alternate members shall be seated in order of their alternate position. If a member arrives after an alternate has been seated, the alternate shall remain as the voting member until the end of the meeting.

Section 9. Duties of Commission to be Advisory Only

It is intended that the Commission shall be an advisory body to the City Council. Nothing herein contained shall be construed as a limitation on the power of the City Council or the administrative staff of the City in their supervision or authority over property or personnel under their jurisdictions.

Section 10. Subcommittees

A. Other committees within the Milpitas Senior Center will be subcommittees of the Senior Advisory Commission. The Senior Advisory Commission may appoint such subcommittees, with at least one Senior Advisory Commission member on the subcommittee.

B. All funds of subcommittees will be deposited into the Senior Advisory Commission's account. No subcommittees will have separate accounts. Funds for each subcommittee will be earmarked for those committees in the Senior Advisory Commission's account.

Section 11. Finances

A. ~~The Commission's Treasurer or Chair~~ City Staff and the Commission Chair shall review and approve the ~~monthly~~ Commission's bi-monthly financial report for accuracy to provide for oversight before the report is submitted to the full Commission for final approval.

B. All Commission expenditures ~~over \$100.00~~ shall be approved by the Commission~~'s~~. ~~Treasurer or the~~ Expenditure receipts over \$100 shall be signed by the Commission Chair and the City's Recreation Services Supervisor or Recreation Services Manager. Expenditure receipts less than \$100 shall be signed by Recreation Services Supervisor or Recreation Services Manager.

~~C. All Commission expenditures \$100.00 or less shall be approved by the Recreation Services Supervisor or Recreation Services Manager.~~

C. Monies collected for the Senior Advisory Commission and subcommittees for their programs and fundraisers shall be deposited daily and financial records maintained in the Senior Center and the Finance Department.

Section 12. Budget

The Senior Advisory Commission budget will be prepared on a fiscal year basis for review at the June meeting.

Section 13. Assistance of Staff

The City Manager of the City of Milpitas or his/her designee shall provide the Senior Advisory Commission with ~~such~~ information and staff assistance at the Senior Advisory Commission's ~~may~~

~~from time to time~~ request, subject to the limitations imposed by the City Council. The staff member designated by the City Manager shall attend meetings of the Senior Advisory Commission and submit such reports as said Senior Advisory Commission may request and as deemed necessary or desirable, subject to limitations imposed by the City Council.

Section 14. Amendments

These Bylaws and operating procedures may be amended by simple majority of those voting at any legal Senior Advisory Commission meeting, subject to approval by the City Council.

PASSED AND ADOPTED by the Senior Advisory Commission, the 19th day of February, 2002.

PASSED AND ADOPTED by the Milpitas City Council on the 19th day of August, 2003.

PASSED AND ADOPTED by the Senior Advisory Commission, the 28th day of December, 2004.

PASSED AND ADOPTED by the Milpitas City Council on the 19th day of April, 2005.

PASSED AND ADOPTED by the Milpitas City Council on the 2nd day of June, 2009.

PASSED AND ADOPTED by the Milpitas City Council on the 3rd day of February, 2015.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS ADOPTING THE MEMORANDUM OF UNDERSTANDING WITH THE MID-MANAGEMENT AND CONFIDENTIAL UNIT (MIDCON) FOR THE PERIOD OF FEBRUARY 4, 2015, THROUGH JUNE 30, 2016

WHEREAS, the most recent Memorandum of Understanding (MOU) between the Mid-Management and Confidential Unit (MidCon) and the City of Milpitas covered the period of January 1, 2013 through December 31, 2013; and

WHEREAS; representatives of MidCon and the City of Milpitas met in good faith and negotiated a successor Memorandum of Understanding; and

WHEREAS, the new Memorandum of Understanding between MidCon and the City of Milpitas shall be effective February 4, 2015, through June 30, 2016, a copy of which is attached as "Exhibit A."

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

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

2. The MOU between the Mid-Management and Confidential Unit and the City of Milpitas, attached hereto as Exhibit A, is hereby approved and the City Representatives are hereby authorized to execute it.

PASSED AND ADOPTED this ______day of _________, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: APPROVED:

_______________________________ _______________________________

Mary Lavelle, City Clerk Jose S. Esteves, Mayor

APPROVED AS TO FORM:

____

Michael J. Ogaz, City Attorney

EXHIBIT A

MEMORANDUM OF UNDERSTANDING

BETWEEN THE

CITY OF MILPITAS

AND

UNITED PUBLIC EMPLOYEES OF CALIFORNIA
(UPEC LOCAL 792, AFL-CIO)

(MID-MANAGEMENT AND CONFIDENTIAL UNIT)

February 4, 2015 – June 30, 2016

TABLE OF CONTENTS

MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MILPITAS THE MID-MANAGEMENT AND CONFIDENTIAL UNIT, REPRESENTED BY UPEC LOCAL 792, AFL-CIO

February 4, 2015 – June 30, 2016

PREAMBLE

The term of the prior MOU expired December 31, 2013. The terms and provisions of that MOU and any amendments are continued in full force and effect in accord with law through the beginning date of this MOU of February 4, 2015. The term of this MOU is from February 4, 2015 through June 30, 2016.

This MOU shall apply to represented permanent and probationary employees hereafter referred to as "employee(s)" unless otherwise specifically indicated, assigned to those classes listed in the salary schedule set forth in Appendix "A" attached hereto. When classes are created which the City determines fall under the representation of the Union, this MOU shall also apply.

Appendix "A" also indicates whether employees covered by this MOU are "hourly non-exempt" employees whom the City pays overtime or "exempt" employees whom the City does not pay overtime.

SECTION 1.00 - EMPLOYEE RIGHTS

1.01 Any employee in the City's competitive service may join, organize or maintain membership in a labor organization if the employee so desires. The City neither encourages nor discourages these activities, nor does membership or non-membership in any labor organization affect the employee's standing or right as a City employee. The right to join, organize, or maintain membership in a labor organization is also extended to any association of municipal employees not identified with any labor organization.

The right to join a labor union or any association of municipal employees also includes the right not to join. Any employee desiring to join, remain a member, or become independent of any such organization or association must be free to exercise their right without undue influence, coercion, intimidation, or pressure of any kind from any person.

1.02 City employees participating in organizational or other labor union activities or similar activities of any employee association are required to conduct such activities on their own time and not during regularly assigned working hours, with the following exceptions:

1.02.1 A steward representing or assisting a fellow employee in the presentation of a grievance may utilize such time as is essential for the presentation of the grievance to management during working hours; however, solicitation of grievances shall be on the steward and employee's own time.

1.02.2 Officials of any organization representing City employees may meet on City time with the City Manager or other City officials when such meeting times are approved by the City Manager or designee.

1.02.3 Representatives of the Union, having business (other than recruiting of members) with the officers or individual members of the Union may meet and confer with such officers or members during the course of the working day for a reasonable period of time provided that permission is first obtained from the Department Head or the employee's immediate supervisor, and further provided that the conduct of such business will in no way conflict with the performance of City business.

1.03 Use of work place or premises for organizational activities other than the presentation of a grievance or the conduct of business as provided for above, is permitted only after working hours, with the advance notice to the Human Resources Director or City Manager and shall in no way interfere with the performance of official duties of on-duty personnel. Official bulletin boards may be used only for notice of meetings of any employee organizations and for no other organizational purpose. The City shall, however, provide space upon request at any City facility for a union or employee association furnished, installed and maintained bulletin board for posting of notices and bulletins and a magazine rack for the distribution of union or association literature.

1.04 Any employee covered by this MOU may join the Union and authorize the City to deduct dues; representation fees and/or initiation fees from their paychecks and remit said monies to the Union. The City and the Union agree to recognize all deduction authorizations of dues, representation fees, and/or initiation fees submitted by the employee(s).

1.05 The Union shall provide the City advance written notice of any change in the Union’s fees, dues, or assessments that the Union believes warrant a change in deduction. The City shall implement such change, to the extent consistent with this provision and applicable law, within thirty (30) calendar days of receiving written notice from the Union.

SECTION 2.00 - CITY RIGHTS

2.01 Unless specifically in conflict with this MOU or any formal legislative action by the City Council (i.e. resolution or ordinance), all management rights shall remain vested exclusively with the City. City management rights include, but are not limited to, the following rights, which the City may exercise in its discretion:

2.02.1 To determine the mission of all constituent departments, commissions, and boards;

2.02.2 To set standards of service;

2.02.3 To determine the appropriate levels of City services, except where defined in the MOU;

2.02.4 To take disciplinary action for just and sufficient cause(s);

2.02.5 To determine the procedures and standards of selection for employment;

2.02.6 To organize and reorganize its departments and affairs, and to otherwise exercise complete control and discretion over its organization;

2.02.7 To employ any appropriate means or method to maintain the efficiency of governmental operations and administration;

2.02.8 To determine the methods, means, and personnel by which government operations are to be conducted;

2.02.9 To determine the procedure and standards for selection for employment and determine the content of job classifications;

2.02.10 To determine when an emergency exists and to take all necessary action to carry out its mission in emergencies, including recalling and deploying off-duty personnel and requiring that employees work overtime;

2.02.11 To exercise complete control and discretion over its organization and technology;

2.02.12 Except in case of emergency the City shall give written notice in advance of any contract with third parties which shall result in the lay-off, demotion, or transfer of any employee represented by the union and shall meet and confer with the union regarding the same upon reasonable written notice;

2.02.13 To direct employees, make assignments, and require overtime work;

2.02.14 To transfer or reassign employees, as outlined in the MOU;

2.02.15 To layoff employees by position for reasons such as elimination of positions through City Council resolution, lack of work, budgetary considerations (including without limitation lack of funds or revenue downturn), reorganization, and failed probation so long as the reason is legitimate.

2.02.16 Any agreement between the City and the Union evidenced by a Memorandum of Understanding pursuant to Government Code Section 3500 et. seq. shall take precedence over any of the above enumerated employee and management rights; and that such a Memorandum of Understanding shall be honored in good faith during the life of this contract;

2.02.17 Any violation of the policies and procedures created by this MOU may be subject to disciplinary action as defined by this MOU; and

2.02.18 The parties acknowledge that the City shall have the right to amend its personnel rules and regulations, personnel ordinances and resolutions, and employer-employee relations resolution during the term of the Memorandum of Understanding. Such rules and policies may be implemented following compliance with the Meyers-Millias-Brown Act.

SECTION 3.00 – DISCIPLINE

3.01 Grounds for Discipline

Discipline shall be imposed for good cause based upon, but not limited to, the following conduct:

3.01.1 Fraud in securing appointment or falsification concerning records, fellow employees, or work performed;

3.01.2 Failure to perform satisfactorily the duties and responsibilities of an employee's classification;

3.01.3 Neglect of duty;

3.01.4 Insubordination;

3.01.5 Reporting for or performing duty under impairment as a result of alcohol and/or drug use;

3.01.6 Dishonesty or misuse of, or misappropriation of City property and funds;

3.01.7 Conviction of any crime relating to the function of an employee's classification;

3.01.8 Unauthorized absence;

3.01.9 Non-observance of employee’s work hours, including tardiness, and abuse of sick leave privileges;

3.01.10 Discourteous or non-cooperative treatment of the public or other employees;

3.01.11 Conduct, either during or outside of duty hours, which is of such a nature that it causes discredit to the employee's department or the City;

3.01.12 Any discriminatory act or omission based on race, age, sex, religion, political opinion or affiliation, national origin, marital status, physical or mental disability, color, creed, ancestry, sexual orientation, or medical condition towards employees, applicants, independent contractors, City Council and Commission members, and/or citizens.

3.01.13 Violation of any condition of employment set forth in the Municipal Code, Personnel Rules and Regulations, City or department policies or procedures, or Memoranda of Understanding approved by formal action of the Council;

3.01.14 Violation of the City’s, department’s or this MOU’s outside employment work policy;

3.01.15 Knowingly filing or pursuing a false charge;

3.01.16 Acceptance of a gift or gratuity for performing a City employment related favor or service;

3.01.17 Threats of violence or acts of unjustified non-defensive violence towards fellow employees or members of the public in the workplace.

3.02 Types of Disciplinary Actions

3.02.1 Written Reprimand: A written memorandum outlines the violation(s) being addressed and the expected actions to be taken by the employee in response to the memorandum. The written reprimand contains an indication of subsequent disciplinary steps to be taken in the event that the employee fails to respond appropriately. A copy of the written reprimand shall be placed in the employee's official personnel record.

The Human Resources Director shall remove a letter of reprimand from a personnel file based upon a written request submitted by the employee provided there has been no additional disciplinary actions during the subsequent twenty-four (24) months.

3.02.2 Suspension: In the event of more severe or repeated violations, the employee may be relieved of duty by the City for a specified period of time without pay. Such suspension shall not exceed thirty (30) calendar days.

3.02.3 Reduction in Salary Range: In the event of more severe or repeated violations, the employee's salary may be reduced by the City within the range for the position held. Such reduction in salary may be made on a permanent or temporary basis.

3.02.4 Involuntary Demotion: In the event of more severe or repeated violations, the employee may be reduced in rank and pay by the City. Such demotion may be made on a permanent or temporary basis.

3.02.5 Termination of Employment: In the event of more severe or repeated violations, the City may dismiss the employee from City service.

3.03 Pre-Disciplinary Procedures

In the case of a termination, demotion, suspension of at least three (3) working days or equivalent reduction in salary, or involuntary disciplinary demotion, the following pre-disciplinary procedures shall apply:

3.03.1 The City shall notify the employee in writing of the following:

(a) The proposed disciplinary action;

(b) The nature of the charges and/or violation of City ordinances, resolutions, written procedures, municipal code, or departmental regulations and policies;

(c) The reasons for the proposed action;

(d) The materials upon which the action is based;

(e) The opportunity of the employee to respond to the charge(s) in writing and/or in person before a designated City representative at a specified place and time; and

(f) The right of the employee to have a representative present at any disciplinary meeting or hearing.

3.03.2 Any employee who desires to respond orally may do so by appearing at the appointed place and time. However, the employee is not entitled to an evidentiary hearing, and the sole purpose of the meeting shall be to hear the response of the employee to the charges. The employee shall be entitled to representation, but shall not be entitled to present witnesses, unless the City determines that the presentation of witnesses is necessary.

3.03.3 In the event that the employee is unable to respond to the charges within the time permitted, and demonstrates the reasonableness of a continuance, the City may grant a continuance.

3.03.4 As soon as practical after the employee has had an opportunity to present a response, the City shall notify the employee in writing of the nature and extent of the discipline, if any, and the time of commencement thereof. Said notification shall also advise the employee of any right of appeal.

3.04 Appeal: An employee may appeal a termination, suspension of at least three (3) working days or equivalent reduction in salary, or involuntary disciplinary demotion in the same manner as a grievant may appeal a grievance determination as set forth in Section 7.03.6. of this MOU.

SECTION 4.00 - LAYOFF

4.01 Any layoff shall be according to the procedures and seniority as defined in Municipal Code Section VI-102.

4.01.1 The City Manager, after review with the Department Head and the Human Resources Director, may lay off an employee because of material change in duties, organization, or shortage of work or funds in the department or the City.

4.01.2 The Human Resources Director shall notify the affected employee(s) in writing at least thirty (30) days in advance of the intended layoff and of their option to accept a voluntary demotion in lieu of layoff.

4.01.3 Employees laid-off or accepting demotions in lieu of layoff shall be placed on a Re-employment List in inverse order of displacement for an appropriate classification for three (3) years.

SECTION 5.00 - RESIGNATION

5.01 An employee wishing to resign in good standing shall file with the Department Head a written resignation at least two calendar weeks before the effective date of termination, stating the reasons for leaving. The resignation shall be forwarded to the Human Resources Director. Failure to comply with this requirement shall be entered in the service record of the employee and may be cause for denying future employment with the City.

SECTION 6.00 - OTHER EMPLOYMENT

6.01 Employees may engage in other employment or business activity that does not conflict with the employee's duties and which does not involve time demands that would reduce the employee's efficiency.

6.02 An employee's outside employment, activity, or enterprise may be prohibited if it:

6.02.1 Involves the use for private gain or advantage of City time, facilities, equipment and supplies; or the badge, uniform, prestige or influence of the City office or employment.

6.02.2 Involves receipt or acceptance by the employee of any money or other consideration from anyone other than the City for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course of hours of City employment or as a part of regular duties.

6.02.3 Involves the performance of an act, which may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other employee of the City.

6.02.4 Involves such time demands as would reduce the Employee's efficiency or safe operations of equipment, such as sleep deprivation or physical exhaustion prior to start of employees shift. In no case shall the employee conduct non city business during City work hours.

6.03 Employees must obtain approval from their Department Head and the Human Resources Director of other employment or business activities in writing prior to engaging in such activities. Disapproval of other employment may be appealed to the City Manager whose decision shall be final

SECTION 7.00 – GRIEVANCE PROCEDURE

7.01. Definitions

7.01.1 For the purposes of this section, a "grievance" is any dispute, which involves the interpretation or application of this MOU, or appeal of certain formal disciplinary actions. If any party initiates litigation including but not limited to administrative proceedings with a state or federal agency such as OSHA, EEOC, DFEH, PERB, etc. concerning a matter which is otherwise subject to the grievance process, the other party may (at their discretion) deem the litigating party as having elected judicial/administrative remedies and waived any rights under this grievance procedure. Performance appraisal reviews are not grievable.

7.01.2 A "grievant" is any employee adversely affected by an alleged violation of the specific provisions of the MOU, or the Union, on behalf of one or more employees in the Mid-Management and Confidential Unit adversely affected by an alleged violation of the specific provisions of the MOU.

7.01.3 A "working day" is any day in which City Hall is open for business.

7.01.4 "Employee organization" is the Mid-Management and Confidential Unit, represented by UPEC Local 792, AFL-CIO.

7.02 General Provisions

7.02.1 Every effort will be made by the parties to settle grievances at the lowest possible level.

7.02.2 Until final disposition of a grievance, a grievant employee shall comply with the directions of the grievant's immediate supervisor.

7.02.3 No party to a grievance shall take any reprisals against the other party to the grievance because the party participated in an orderly manner in the grievance procedure.

7.02.4 Failure of the grievant to adhere to the time deadlines shall mean that the grievance is withdrawn. The grievant and the City may extend any time deadline by written mutual agreement. Furthermore, if there is a mutual written agreement, the grievant may skip a step in the grievance process. The employee concerned shall be personally present at all stages of the grievance procedure unless that employee specifically waives the right in writing.

7.02.5 Every effort will be made to schedule meetings for the processing of grievances at times, which will not interfere with the regular working day of the participants. If any grievance meeting or hearing must be scheduled during duty hours, any employee required by either party to participate as a witness or grievant in such meeting or hearing shall be released from regular duties without loss of pay for a reasonable amount of time. Overtime is not provided for off-duty time except for witnesses requested to testify by the City.

7.02.6 Either the City or the grievant may be represented at any step of the procedure by an individual of the party's choice.

7.02.7 An employee may at any time present grievances to the City and have such grievances adjusted without the intervention of the Union, as long as the adjustment is reached prior to arbitration and is not inconsistent with the terms of this MOU or the Personnel Rules; provided that the City shall not agree to a resolution of a grievance until the employee organization has received a copy of the grievance and the proposed resolution and has been given the opportunity to file a response.

7.02.8 The City and the Union may agree to consolidate grievances at any level.

7.03 Procedure

7.03.1 Grievances must be in writing, and initiated within twenty (20) working days following the occurrence, or knowledge of the events on which the grievance is based. Failure to do so will result in the employee being barred from advancing the grievance. A grievance, or a copy of the grievance, should be provided to the grievant's supervisor, Department Head, and the Director of Human Resources.

7.03.2 Element of a Grievance

The written grievance shall include:

(a) a description of the specific facts and grounds upon which the grievance is based including names, dates, and places necessary for a complete understanding of the grievance;
(b) a specific explanation of how the grievant has been adversely affected;
(c) listing of the provisions of the MOU, which are alleged to have been violated;
(d) a listing of specific actions requested by the grievant of the City which will remedy the grievance, including a specific dollar amount, and the basis for the dollar amount, of any alleged damages at issue, provided the employee has access to relevant financial data;
(e) a statement declaring self representation or the selection of representation by the Union for said grievance;
(f) the printed name and signature of the grievant;
(g) the name, address and telephone number of the person(s) to whom notices may be sent regarding the grievance; and
(h) date of grievance.

Grievances that fail to include these elements may not be considered or appealed unless the City waives this section.

7.03.3 Informal Resolution

It is the intent to deal with and settle grievances informally, at the nearest practical organizational level, and as promptly and fairly as possible. An employee who has a grievance shall first try to settle it through discussions with the employee's immediate supervisor. The immediate supervisor shall respond within thirty (30) working days which may be extended ten (10) working days with notice to the grievant and/or the parties may by mutual agreement extend the time which is necessary to resolve the grievance. Any decisions rendered shall be consistent with the authority to do so. If the employee is not satisfied with the outcome of the informal resolution the employee may advance the grievance to Level I.

7.03.4 Level I – Department Head

If the employee is not in agreement with the informal decision rendered, he/she shall have the right to file a formal written appeal to the Department Head (with a copy to the Human Resources Director) within fifteen (15) working days after the date a decision has been rendered. The appeal shall include a copy of the written response(s) provided by the City during the informal step of this grievance procedure. The appeal shall contain an explanation why the grievant believes the decision at the informal grievance step was unsatisfactory. The Department Head shall consider the grievance, and submit a written response within fifteen (15) working days.

7.03.5 Level II– City Manager

If the employee is not in agreement with the decision rendered by the Department Head, he/she shall have the right to file a formal written appeal to the City Manager (with a copy to the Human Resources Director) within ten (10) working days after the date a decision has been rendered at Level I. This appeal shall include a copy of the written grievance, the grievant's appeal to Level I, and any written response(s) provided by the City during the prior steps of the grievance process. The appeal shall contain an explanation why the grievant believes the decision at Level I was unsatisfactory. The City Manager shall consider the grievance, and submit a written response within fifteen (15) working days. Unless the grievance is subject to arbitration (as defined herein), the City Manager's decision is final.

7.03.6 Level III – Arbitration

(a) In the case of a disciplinary appeal of a termination, suspension of at least three (3) working days or equivalent reduction in salary, or involuntary disciplinary demotion, an employee may appeal to arbitration as set forth in this Section a final disciplinary decision made under Section 3.03.4 of this MOU.

In the case of a grievance concerning interpretation or application of this MOU, and if the grievance is otherwise subject to arbitration, and the Union is not satisfied with the decision of the City Manager, the Union may within fifteen (15) working days of the date of the City Manager's decision submit a request in writing to the Human Resources Director that the grievance be submitted to arbitration. The Union and the City shall attempt to agree upon an arbitrator. If no agreement can be reached, they shall request that the State Conciliation Service supply a panel of five (5) names of persons experienced in hearing grievances involving public employees. Each party shall alternately strike a name until only one (1) name remains. The remaining panel member shall be the arbitrator. The order of striking shall be determined by lot.

(b) If either the City or the Union so requests, an arbitrator shall hear the merits of any issue raised regarding arbitrability of a grievance first. No hearing on the merits of the grievance will be conducted until the issue of arbitrability has been decided. If the issue of arbitrability is heard by an arbitrator and the arbitrator decides the underlying dispute is arbitrable, a different arbitrator shall hear the merits of the underlying grievance, if the City or the Union so requests.

(c) The arbitrator shall, as soon as possible, hear evidence and render a decision on the issues or issues. If the parties cannot agree upon a submission agreement, the arbitrator shall determine the issues by referring to the written grievance and the answers thereto at each step. A certified court reporter shall record the entire arbitration hearing unless the parties mutually agree otherwise.

(d) The jurisdiction and authority of the arbitrator so selected and the opinions the arbitrator expresses will be confined exclusively to the interpretation of the express provision or provisions of the MOU. The arbitrator shall be without power or authority to make any decision that requires the City to do an act prohibited by law.

(e) After a hearing and after both parties have had an opportunity to make written arguments, the arbitrator shall submit written findings and a decision which is final and binding on all parties.

(f) The fees and expenses of the arbitrator and the certified court reporter shall be shared equally by the City and the Union. The one exception is that the City shall pay all the fees and expenses of the arbitrator for employee appeals of disciplinary actions in which the Union chooses not to represent the employee at the appeal. Financial responsibility shall be confirmed prior to selection of an arbitrator. All other expenses shall be borne by the party incurring them, and neither party shall be responsible for the expense of witnesses called by the other. A party requesting a transcript shall bear the cost thereof; or if each party receives a copy the cost will be shared equally.

(g) This grievance procedure is the exclusive remedy to resolve disputes as described herein.

SECTION 8.00 - ANNUAL VACATION LEAVE

8.01 All employees shall be entitled to paid annual vacation leave beginning at the end of the first six months of service with the City. However, vacation credits shall be accrued beginning with the date of initial appointment. For non-exempt employees, vacation is earned on the basis of hours in paid status. For purposes of this section, a "working day" shall refer to eight (8) work hours.

8.01.1 During the first through fourth years of service, vacation shall be accrued at the rate of 11 working days per year for hourly employees, and 16 working days per year for exempt employees.

8.01.2 Beginning the fifth year of employment through the ninth year of employment, vacation shall be accrued at the rate of 16 working days per year for hourly employees, and 21 working days per year for exempt employees.

8.01.3 Beginning the tenth year of employment through the fourteenth year of employment, vacation shall be accrued at the rate of 21 working days per year for hourly employees, and 26 working days per year for exempt employees.

8.01.4 Beginning the fifteenth year of employment through the nineteenth year of employment, vacation shall be accrued at the rate of 26 working days per year for hourly employees, and 31 working days per year for exempt employees.

8.01.5 Beginning and following the twentieth year of employment, vacation shall be accrued at the rate of 31 working days per year for hourly employees, and 36 working days per year for exempt employees.

8.02 Employees who work less than full time shall earn vacation credits on a pro-rated basis.

8.03 Each employee shall be required to have served the equivalent of one year of continuous service in the City in order to be eligible for the employee's full annual vacation leave, provided however, that after six months of continuous service hourly employees may be permitted to take vacation leave not to exceed forty (40) work hours and exempt employees may be permitted to take vacation leave not to exceed the equivalent of one work week.

8.04 The times during a calendar year at which an employee may take vacation shall be determined by the department head or designee with due regard for the wishes of the employee and particular regard for the needs of the municipal service. If the requirements of the municipal service are such that an employee must defer part or all of his/her annual vacation in a particular calendar year, the appointing power shall permit the employee to take such deferred vacation during the following calendar year or allow the employee to cash out said vacation at his/her option, to the extent of the deferred portion.

8.05 On the last day of the pay period that includes December 31, no employee may accumulate and carry-over a vacation accrual amount in excess of 260 work-hours, without the express approval of the City Manager or designee. On the first full pay period after December 31, any hours above 260 will be cashed out. No employee shall be allowed to be on paid leave for a period of over three-hundred and twenty (320) consecutive work hours.

8.06 In the event one or more municipal holidays fall within an annual vacation leave, such holidays shall not be charged as vacation leave.

8.07 Upon separation from the service for any reason, an employee shall be compensated for accrued vacation leave.

8.08 Each fiscal year, an employee may elect to cash out up to forty (40) hours of accrued vacation, except for employees whose annual vacation accrual rate at the time of requested cash out exceeds 15 working days per year who may cash out up to eighty (80) hours, as follows:

8.08.1 The employee uses at least one full workday of paid vacation leave. Vacation cash-outs must be requested in advance and are contingent upon having an approved vacation leave within thirty (30) days, either before or after; or

8.08.2 Requests for cash-outs other than during approved vacations must be submitted to Finance for payment in June by May 31st or in December by November 30th of each year.

SECTION 9.00 - SICK LEAVE

9.01 Employees shall be granted paid sick leave credits beginning with date of original employment at the rate of twelve (12) prorated days for each year of service. Employees become eligible to take accrued sick leave upon completion of one full month of continuous service. Sick leave is not a privilege, which an employee may use at the employee's discretion, but shall be allowed only in case of necessity and actual sickness or disability. Medical and dental appointments should be scheduled and approved in advance. The City Manager shall direct and enforce such administrative control as may be necessary to prevent abuse of sick leave privilege.

9.02 Employees who work less than full-time shall earn the sick leave described above on a pro-rated basis.

9.03 For employees hired on or before July 17, 1999, the City agrees to pay an employee who is separating from the City in good standing with at least five (5) years service an amount equal to 2-1/2% per year of service for unused accrued sick leave. The pay-out formula shall be: 2.5% x years of service x highest hourly rate x sick leave hours accrued. Good standing shall be based on the employee's overall work record and the decision of the Human Resources Director. (See Sections 21.04 and 21.04.1.)

9.04 For employees hired on or before July 17, 1999, each November, an employee with five or more years of service may elect to cash out accrued sick leave. Payout shall be in accordance with appropriate pay out formulas described in section 9.03. However, the maximum annual amount an employee may cash out shall not exceed 50% of the employee's sick leave balance and cannot result in the employee's sick leave balance dropping below 240 hours.

9.05 The City agrees to provide PERS Credit for Unused Sick Leave provision (20965). (See MOU Section 21.04.1.)

SECTION 10.00 - FAMILY LEAVE

10.01 Employees having available sick leave to their credit may draw upon such sick leave for family medical purposes when a member in the employee's immediate family is involved.

10.01.1 As defined for the purpose of this section, family medical purposes shall be construed to mean illness, accident, medical appointments or other related occurrences.

10.01.2 Spouse shall include registered domestic partner.

10.01.3 Immediate family is defined to include: mother, father, spouse, brother, sister, son/daughter, or registered domestic partner, whether the immediate family member is of the employee's or employee's spouse's family, including step and adoptive relatives.

10.01.4 Each employee shall be allowed to use a maximum of up to 50% of the employee's annual accrued sick leave per year per calendar year for this purpose. Additional leave may be granted in unusual circumstances by the Human Resources Director.

10.01.5 In addition, each employee shall be allowed to use fourteen (14) days of accrued sick leave for the birth or adoption of a child.

SECTION 11.00 - COMPASSIONATE LEAVE

11.01 The City agrees to provide compassionate leave when death occurs to a member of the employee's immediate family not to exceed forty hours for hourly employees and one regular workweek for exempt employees.

11.02 Immediate family is defined to include: mother, mother-in-law, father, father-in-law, spouse, registered domestic partner, brother, sister, son, daughter, grandparent, grandchild, adoptive parents or adoptive children, whether the immediate family is of the employee's or the employee's spouse's family.

11.03 Salary paid during this leave is not deducted from any leave balance. Additional leave may be granted in special circumstances by the Human Resources Director.

11.04 In special circumstances, the Human Resources Director may allow an employee to utilize compassionate leave for individuals who are not members of the employee's immediate family.

SECTION 12.00 - MILITARY LEAVE

12.01 Military leave shall be granted, in accordance with the provisions of State and Federal Law. Employees entitled to military leave shall give the City an opportunity within the limits of military regulations to determine when such leave shall be taken.

SECTION 13.00 - LEAVE OF ABSENCE

13.01 The Human Resources Director may grant a permanent employee a leave of absence without pay not to exceed one year. Leave shall be considered upon written request of the employee.

13.01.1 The Human Resources Director shall consider the recommendation of the Department Head, departmental workload, the best interests of the City, the employee's duration of employment, the employee's performance record, and the reason for the leave.

13.01.2 Any permanent employee with a non-work-related injury or medical condition who has exhausted all sick leave may request a leave of absence with a doctor's certificate. At the City's discretion and expense, the City at any time may require a medical exam at a facility selected by the City.

13.01.3 An employee in a leave without pay status shall not earn any employment benefits (including, but not limited to, such benefits as vacation leave, medical benefits, sick leave, retirement benefits, credit for time employed or seniority entitlements of any kind) for the period of such status. It is the intent of this subsection that an employee on leave without pay status is deemed unemployed for the period of such status in terms of earning benefits.

13.01.4 The City Manager or designee may authorize continuation of the employee's elected medical and/or dental coverage for all or part of the duration of leave without pay. This shall be done only in extraordinary circumstances and when it is deemed to be in the best interest of the City.

13.02 A Department Head shall have the authority to approve an unpaid leave not to exceed 160 work hours for hourly employees (and four weeks for exempt employees) per fiscal year.

13.03 Nothing herein shall preclude an employee from waiving in writing the right to reinstatement as a condition to approval for a leave of absence. Any employee who waives the right may be reinstated in accordance with the City's Personnel Rules & Regulations as if they had been subject to a reduction in force, except that they shall be placed at the bottom of a reemployment list for any position for which they qualify.

SECTION 14.00 - JURY LEAVE

14.01 When called to jury service, an employee shall be given leave with pay to do so subject to these conditions:

14.01.1 The employee shall notify the Department Head immediately upon receipt of the notice to serve; and

14.01.2 Any payment received by the employee while on jury leave for jury service shall be remitted to the City, except for mileage allowance and out-of-pocket expenses.

SECTION 15.00 - WORKERS' COMPENSATION LEAVE

15.01 An employee unable to work because of a work-related illness or injury is eligible for workers' compensation leave, provided that the employee has notified superiors of the illness or injury and the claim has not been denied by the Human Resources Director or workers' compensation insurance administrator authorized by the City.

15.02 For all employees, workers' compensation leave per incident shall be paid up to a maximum of 320 hours as follows:

Hours of Leave	Percent of Salary Paid
First 80 hours	100%
Next 240 hours	80%

This leave shall cover all time off from work related to the injury, including doctor's appointments and therapy treatments, provided that said hours do not exceed available workers' compensation leave. Following a maximum of 320 hours of workers' compensation leave, the City shall discontinue direct workers' compensation payments to the employee. This benefit shall be prorated based on the budgeted position. An employee may apply separately for long-term disability insurance, which becomes effective after 320 hours of workers' compensation.

Any employee sustaining such injury or disability may be entitled to compensation to the extent provided by the State Workers' Compensation Insurance Act. An employee who has exhausted eligible workers' compensation leave shall receive full salary to the extent the employee's accrued sick, comp, or vacation time may be integrated.

15.03 An employee returning from a work-related injury shall be reinstated to the position occupied at the time the injury occurred subject to written release by the attending physician.

15.04 Injured employees designated Maximum Medical Improvement (MMI) or accepted into a Supplemental Job Displacement Program and unable to return to their prior occupations may be involuntarily terminated or retired.

15.05 The City is currently developing a policy on the subject of light duty. Mid-Management/Confidential agrees to meet and confer with the City during the term of the MOU regarding the policy.

SECTION 16.00 – OVERTIME (HOURLY EMPLOYEES ONLY)

16.01 Hourly employees who work more than forty hours in a workweek shall be entitled to overtime as follows:

16.01.1 All overtime shall be compensated at the rate of time and one-half pay or the equivalent in compensatory time off (CTO) in lieu of overtime pay.

16.01.2 In the event the City requires the hourly employee to work overtime, overtime pay or accrual of CTO shall be at the discretion of the employee. However, the determination as to whether overtime pay or CTO shall be taken must be made by the employee at the time the "Request for Additional Pay" form is submitted to the supervisor for signature.

16.01.3 Employees who work less than eight (8) minutes beyond their normal work hours shall not receive overtime.

16.01.4 Overtime occurring on a paid City holiday shall result in pay or CTO at the rate of time and one-half in addition to base pay.

16.01.5 A minimum of two hours pay or its equivalent in compensatory time off at the option of the employee shall be guaranteed for any hourly employee, at the rate of time and one-half, who after leaving their place of duty is required without prior notice to return for emergency duties.

16.01.6 CTO may be accrued by the employee throughout the year. However, the accrued hours may not exceed eighty (80) as of the last day of the pay period that includes December 31. Hours in excess of eighty (80) hours on that date shall be paid to the employee in the following paycheck so the employee's CTO accrual bank is reduced to eighty (80) hours.

16.01.7 Any paid accrued leave, including sick leave, vacation leave, compensation leave, or compensatory time off, taken by an employee during any work week shall be counted as hours worked for the purpose of calculating overtime.

SECTION 17.00 - HOLIDAYS

17.01 The following shall be paid holidays for City of Milpitas employees:

1. January 1 (New Year's Day)
2. Third Monday in January (Observance of Dr. Martin Luther King Jr.'s Birthday)
3. February 12 (President Lincoln's Birthday)
4. Third Monday in February (Observance of President Washington's Birthday)
5. Last Monday in May (Observance of Memorial Day)
6. July 4 (Independence Day)
7. First Monday in September (Labor Day)
8. November 11 (Veteran's Day)
9. Thanksgiving Day
10. Day after Thanksgiving
11. Christmas Eve (to be observed last working day prior to Christmas Day)
12. Christmas Day
13. One Floating Holiday[1]

17.01.1 In the event a holiday falls on a Sunday, the following Monday shall be the holiday instead.

17.01.2 In the event a holiday falls on a Saturday, the preceding Friday shall be the holiday instead.

17.01.3 Any other holiday declared by the City Council as a City Holiday for City employees.

17.01.4 For hourly employees on other than five (5) day workweeks, any workweek which includes one or more holidays shall be reduced in hours commensurately. The number of days worked during the workweek shall be subject to the approval of the Department Head.

17.02 For hourly employees where one of these holidays falls on a working day, employees shall be granted the day off with pay and City offices shall be closed except for such municipal services that must be maintained on an around-the-clock basis seven days a week. Hourly employees who work less than full time shall be entitled to credit for paid holidays on a pro-rated basis. Hourly employees required to perform their regular duties on a holiday shall be granted pay or compensatory time off, at the rate of time and one-half in addition to base salary. For the purposes of this section a holiday shall be deemed to begin and end at 12 midnight.

---

[1] Each employee shall receive one "Floating Holiday" every calendar year. The Floating Holiday will become effective the first day of January or on the date of hire. Floating Holiday must be used during the calendar year accrued; otherwise, they will be lost. Prior approval must be received in order to utilize the Floating Holiday.

SECTION 18.00 - TRAINING

18.01 If an employee is directed to participate in a training program, which is related to their job, the City shall provide compensation for the following:

18.01.1 Regular wages for time away from the job (if during working hours);

18.01.2 For hourly employees, overtime or compensatory time off whenever an employee’s combined training time and work time exceeds forty (40) hours in a work week;

18.01.3 Costs of tuition and/or registration for the training;

18.01.4 Reimbursement for authorized transportation cost to and from the training (i.e. mileage reimbursement if an employee uses their personal automobile as allowed by the City. However, if employees car-pool to a training session, only the employee who is the owner of the automobile shall be entitled to mileage reimbursement).

SECTION 19.00 - ATTENDANCE

19.01 Unauthorized Absence

19.01.1 An hourly employee whose absence is not authorized shall not receive pay or benefits for the absent period and shall be subject to discipline. Failure on the part of the employee absent without leave to return to duty shall be grounds for discipline up to and including discharge. It shall be the responsibility of an employee absent without leave to notify the Department Head or designee of the reason the employee is absent and of the employee's availability for duty.

19.01.2 Employees should notify their supervisors of the need to miss work. An employee’s failure to report to his/her supervisor or higher authority his/her absence at or prior to the beginning of the shift may result in an unauthorized absence.

19.02 Breaks for Hourly Employees

19.02.1 Employees shall be entitled to two fifteen (15) minute breaks during each standard workday.

19.02.2 No employee shall schedule a break at such time as to leave the office in which the employee works unstaffed.

(a) Persons whose responsibility includes public contacts shall advise a responsible person in their office before leaving for a break.

(b) Persons alone in an office should leave a sign on the door, lock the door, and advise the receptionist before leaving for a break, in order to ease the handling of incoming phone calls and customers that call at the office.

19.02.3 For workdays from 8:00 a.m. to 5:00 p.m., the morning break shall be taken between 9:30 a.m. and 11:00 a.m., and the afternoon break shall be taken between 2:30 p.m. and 4:00 p.m. For irregular workdays, breaks shall be taken after the first one- and-one-half hours and before the last hour of each half shift.

SECTION 20.00 - PAY PLAN

20.01 Advancement shall be based on satisfactory performance and increased service value of an employee to the City as exemplified by the recommendations of the supervising official, length of service, performance record, special training undertaken or other pertinent evidence. No salary advancement shall be made so as to exceed the maximum rate established in the pay plan for the class to which the advanced employee's position is allocated.

20.02 In administering the Pay Plan, the following rules shall be observed for non-exempt hourly employees:

20.02.1 Step “A” is the minimum rate for a position and shall be the hiring rate for said position. Initial appointment at a rate higher than Step “A” may be made in the case of an unusually well qualified person or where other special conditions warrant, but only with prior approval of the City Manager.

20.02.2 Step “B” represents an incentive adjustment. An employee shall be eligible for Step “B” only after completion of one year from the date of employment on recommendation from the Department Head and approval of the City Manager.

20.02.3 Step “C” represents the rate at which a qualified and experienced employee should be paid after a reasonable period of service. An employee shall become eligible for Step “C” only after he/she has proven himself/herself satisfactory in the given classification for a period of at least one year after completion of his/her probationary period, upon recommendation of the Department Head and approval of the City Manager.

20.02.4 Step “D” represents an incentive adjustment for satisfactory performance and increased effectiveness. An employee shall become eligible for Step “D” after completion of one year at Step “C” upon recommendation of the Department Head and approval of the City Manager.

20.02.5 Step “E” represents an incentive adjustment for increasingly satisfactory performance. An employee shall be eligible for Step “E” after completion of one year at Step “D” upon recommendation of the Department Head and approval of the City Manager.

20.02.6 Employees who have demonstrated outstanding ability may be advanced to the next higher step prior to completion of one year's service at the current step upon recommendation of the Department Head and approval of the City Manager.

20.03 In administering the Pay Plan, the following rules shall be observed for exempt employees:

20.03.1 A salary shall be paid within the range established for that classification. The minimum rate for the classification generally shall apply upon original appointment. However, when circumstances warrant, appointment may be made at a higher level upon approval of the City Manager or Human Resources Director.

20.03.2 Eligibility for salary advancement occurs on employees’ anniversary date, provided that the maximum level of the established compensation range has not been met. Advancement shall be based upon satisfactory performance documented in a Performance Appraisal Review completed in a timely manner. In addition, a merit increase prior to the normal anniversary date may be granted to a permanent employee for outstanding performance or unusual employment conditions at any time, on the recommendation of the Department Head and the approval of the Human Resources Director or the City Manager.

20.03.3 Advancement shall be at an amount recommended by the Department Head and approved by the City Manager or the Human Resources Director.

20.04 Performance Appraisal Review - Performance appraisals are an important personnel tool, and the City should endeavor to make them promptly.

20.05 Salary Following Promotion

Employees receiving a promotion to a position within the bargaining unit shall receive at least a 5% increase in salary unless limited by the maximum salary range.

20.06 In the event an employee receives overpayment by the City, the employee shall reimburse the City for the total overpayment. Typically, such repayment shall occur over a schedule equal to the amount of time over which the overpayment occurred and the City may obtain reimbursement by payroll deduction. However, at the employee's request, the City may extend such repayment over a longer period, to be determined by mutual agreement of the employee and the Finance Director.

20.07 "Y" Rate Policy: Whenever an employee would sustain an actual decrease in salary as a result of downward reclassification or reorganization within an existing department unit, without fault or inability on the part of the employee, the City Council shall adopt a "Y" rate to apply only to the employee so affected. A "Y" rate is defined as a monthly salary rate for an individual employee, which is greater than the established range for the employee's class. An employee for whom a "Y" rate is established shall not receive any increase in salary until such time as the employee's rate of compensation is within the established range for the employee's class. An employee who accepts a reassignment to a lower paid position in-lieu of layoff, shall not be "Y" rated.

20.08 During the term of this MOU the City shall endeavor to review classifications in the Mid-Management/Confidential Unit.

SECTION 21.00 - RETIREMENT PLAN

21.01 The City will provide the 2% @ 62 CalPERS retirement plan based on the highest 3 year annual average pensionable compensation, depending on the eligibility of the new hires, for employees hired on or after January 1, 2013. Employee shall be responsible for the employee portion of the contribution to PERS retirement.

21.02 The City will provide the 2% at 60 CalPERS retirement plan based on the highest 3 year annual average pensionable compensation to all new hires (Section 20475: Different Level of Benefits Provided for New Employees) and Section 20037 (Three-Year Final Compensation) hired on or after October 9, 2011 (City Council Adoption). Employee shall be responsible for the employee portion of the contribution to PERS Retirement.

21.03 For employees hired before October 9, 2011, the City shall continue, during the term of this Understanding, the present retirement plan, commonly referred to as the 2.7% at 55 plan, including the final year compensation amendment and 1959 Survivors Benefit in full force and effect.

Effective July 1, 1995, the City agrees, as allowed under Internal Revenue Code Section 414(h) (2), the implementation of the Public Employees' Retirement System (PERS) “Pick-Up” program (TDMC) as outlined in PERS Circular Letter 100-364. In completing the conversion to the IRS 414 (h) (2) program, the increase in salary shall be calculated on the employee's base salary.

21.04 Effective the first full pay period after City Council Acceptance and execution of the MOU, in addition to paying the employee PERS contribution rate to the Miscellaneous plan, employees will pay 8.3% of PERSable salary toward the employer PERS contribution rate on a pre-tax basis.

Effective the first full pay period including July 1, 2015 employees will pay 4.3% of PERSable salary toward the employer PERS contribution rate on a pre-tax basis.

21.05 Upon retirement, disability retirement, or death, for those employees who were hired on or before July 17, 1999, and who had at least five (5) years of service, the City shall pay the separating employee or his or her estate, for unused accrued sick leave. The amount paid shall be equal to 2.5% per year of service for unused accrued sick leave. The pay-out formula shall be: 2.5% x years of service x highest hourly rate x sick leave hours accrued.

21.05.1 Upon retiring with PERS, all employees shall be eligible for the PERS Credit for Unused Sick Leave provision (20965) of the City's PERS Retirement plan. Employees hired on or before July 17, 1999, may elect either the pay-out formula in Section 21.04 or the PERS Credit for Unused Sick Leave plan.

21.06 For the purpose of this section, an employee who is retiring is one who has submitted an application for retirement and retires under the Public Employees Retirement System (PERS).

21.07 Retiree Medical

21.07.1 For permanent employees hired before July 1, 1995, who have at least five (5) years of service in the City of Milpitas, the City agrees to pay up to the single, medical premium rate (at a rate no higher than any single plan paid by City for active employees), as long as the retiree maintains enrollment in one of the eligible health plans.

21.07.2 For permanent employees hired on or after July 1, 1995, the City agrees to pay up to the single, medical premium rate (at a rate no higher than any single plan paid by City of active employees), as long as the retiree maintains enrollment in one of the eligible health plans and shall be subject to the following provisions with respect to the retirement benefits:

(a) Upon completion of the fifth through the ninth year of service, and upon retirement, the City shall provide 25% of the medical insurance premium payment for the employee only, as long as the employee remains in one of the City sponsored eligible health care programs.

(b) Upon completion of the ninth year, this payment of the retiree's medical insurance shall increase to 50%.

(c) Upon completion of the fourteenth year, this payment of the retiree's medical insurance shall increase to 75%.

(d) Upon completion of the nineteenth year, this payment of the retiree's medical insurance shall increase to 100%.

(e) Once any retiree becomes Medicare eligible, the retiree. City shall pay up to the appropriate Medicare rate per the above sections.

(f) Retirees may elect to continue coverage for dependents under the retiree group medical plan provided that the dependent is covered by the group plan at the time the employee retires and maintains enrollment as set forth in Section 22.01.

21.08 Nothing contained in this Section 21.00 is intended and should not be construed, to restrict the CalPERS retirement rights under state and/or federal law otherwise applicable to bargaining unit employees.

SECTION 22.00 - RETIREE DEPENDENT HEALTH CARE

22.01 The Retiree Dependent Health Care Fund

Each year, the City will contribute 1% of payroll with benefits to a fund to be used to help pay the medical premiums of retirees' dependents (the “Fund”). The City’s annual 1% of payroll with benefits contribution shall be recalculated each year based on the Mid-Management/Confidential Units payroll as of the last full pay period in June. The City will annually deposit this amount in the Fund approximately fifteen (15) days following the last day of the last full pay period in June.

The City will periodically present a report to the Mid-Management/Confidential Unit representative indicating the City’s annual contribution, the total dollars in the Fund, and a brief description of how and the extent to which the 1% was used in the previous fiscal year to pay for the medical premiums of retirees’ dependents. The City will use this report to set retiree dependent contribution rates.

22.02 Contributions from the Fund toward Retiree Dependent Premiums

Contributions from the Fund toward the medical premiums of retirees’ dependents shall be as follows:

22.02.1 For permanent Mid-Management/Confidential employees hired before July 1, 1995, and retired on or after January 2, 2007 (City Council adoption), who have at least five (5) years of full-time or equivalent service with the City of Milpitas, the City agrees to pay from the Fund up to the family, medical premium rate (at a rate no higher than any family plan paid by the City for active employees), as long as the retiree maintains enrollment in one of the eligible health plans.

22.02.2 For permanent Mid-Management/Confidential employees hired on or after July 1, 1995, and retired on or after January 2, 2007 (City Council adoption), who have at least five (5) years of full-time or equivalent service with the City of Milpitas; the City agrees to pay from the Fund up to the family, medical premium rate (at a rate no higher than any family plan paid by the City for active employees), as long as the retiree maintains enrollment in one of the eligible health plans and shall be subject to the following provisions with respect to the retirement benefits:

(a) Upon completion of the fifth through the ninth year of service, and upon retirement, the City agrees to provide 25% of the medical insurance premium payment from the Fund for the retiree dependent, as long as the employee remains in one of the City sponsored eligible health care programs.

(b) Upon completion of the ninth year, this payment of the retiree's dependent medical insurance shall increase to 50%.

(c) Upon completion of the fourteenth year, this payment of the retiree's dependent medical insurance shall increase to 75%.

(d) Upon completion of the nineteenth year, this payment of the retiree's dependent medical insurance shall increase to 100%.

(e) Once any dependent becomes Medicare eligible, the City agrees to pay from the Fund up to the appropriate Medicare rate per the above sections.

In no case will the City be required to place funds in the Fund above the 1% of payroll with benefits amount. If funds are depleted before the next year's City contribution is due, dependent medical premiums will be the responsibility of the retiree and/or dependent. If less than 1% of payroll with benefits is used in a given year for the medical premiums of retirees' dependents, the remainder shall remain in the Fund and may be used in future years to supplement the City's annual 1% of payroll with benefits contribution if this contribution is insufficient in a given year to make all the payments set forth in 22.01 above.

SECTION 23.00 - BENEFITS

23.01 The City shall provide active employees the CalPERS medical insurance for health benefits. The total monthly health benefit per employee shall be based on the Kaiser rates for employee, employee + 1, and family plan, etc. Only employees who have eligible dependents shall be compensated above the single rate plans.

23.01.1 The City reserves the right to discontinue offering any of the medical plans due to any of the following:

(a) The plan imposes exorbitant costs upon the City;
(b) The health care carrier refuses to provide services to the City;
(c) The health care provider no longer offers the services; or
(d) The health plan is discontinued.

23.01.2 If the City discontinues use of CalPERS health care, to the extent possible, the City will provide similar services.

23.01.3 Mid-Management Confidential Unit agrees to discuss a "cafeteria style" benefit plan upon request of the City.

23.01.4 The City will provide a life insurance policy in the amount of $50,000.00 for each full-time member.

23.01.5 The City shall provide a Short Term Disability Plan with the current benefit level for the term of the Agreement.

23.01.6 The City shall provide a Long Term Disability Plan with the current benefit level for the term of the Agreement.

23.01.7 Payroll deductions for benefit costs above the City benefit contribution shall be permitted, provided that the City shall not assume unreasonable administrative costs.

23.01.8 Employees who are covered as an eligible dependent under another health insurance plan may waive health coverage and receive a total of one hundred and twenty-five dollars ($125.00) per month. Employees who wish to waive health insurance coverage must complete the City of Milpitas' "Health Insurance Waiver" indicating they agree to abide by the terms and conditions of the waiver.

23.01.9 During the effective dates of this MOU, the City will pay seventy-five dollars ($75.00) per month toward deferred compensation for each member. The City's payments will be paid over twenty-six (26) pay periods per year.

23.02 Benefit Contribution: Regular Part-Time Employees: The City agrees to contribute monthly premiums for health and life insurance in an amount to reflect hours budgeted, pro-rated against the amount contributed for full time employees. For example, half-time employees may elect to take any or all of the benefits and the City and the employee will both pay 50% or half of the elected benefit cost(s). The City agrees to provide short-term disability and long-term disability benefits at no cost to part-time employees.

SECTION 24.00 - WORK OUT OF CLASS / SPECIAL ASSIGNMENT

24.01 General: Upon specific written assignment by the Department Head or Department Head's designee, an employee may be required to assume the duties, responsibilities, authority and accountability of a higher classification, or to perform work on a special project. An employee assigned to work out of class or on a special assignment may be paid at a rate up to 15% above the employee's current base salary as set forth in Sections 24.02 and 24.03.

24.02 Work Out of Class Pay: A non-hourly employee assigned to work out of class for two or more consecutive full work days shall qualify for work out of class pay. An hourly employee assigned to work out of class for two or more full work days within a pay period, whether consecutive work days or not, shall qualify for work out of class pay.

24.03 Special Assignment Pay: An employee assigned to work on a special assignment shall be paid at a rate up to 15% above the employee's current base salary.

24.04 Voluntary Training: An employee seeking additional training in another classification may waive his/her right to work out of classification pay in order to pursue desired training.

24.05 An employee who serves in a special assignment in a vacant position for a minimum of three months, and receives a permanent appointment to the same position by the appointing authority, may receive credit toward completion of probation in the position up to the duration of the special assignment.

SECTION 25.00 - NO DISCRIMINATION

25.01 The City of Milpitas shall not discriminate in employment practices in regard to race, color, ancestry, national origin, religious creed, sex, sexual preference, age, medical condition (cured or rehabilitated cancer), physical or mental disability, marital status, or political opinion or affiliation or Union activity, unless such factor shall be a bona fide occupational qualification for the position, or such action is required to comply with federal or state law.

25.02 The Union shall not restrict its membership in regard to race, color, ancestry, national origin, religious creed, sex, sexual preference, age, medical condition (cured or rehabilitated cancer), physical or mental disability, marital status, or political opinion or affiliation or Union activity, unless such factor shall be a bona fide occupational qualification for the position, or such action is required to comply with federal or state law.

SECTION 26.00 - SALARY

26.01 The annual salary schedule labeled Appendix "A" and attached hereto is hereby made a part of this Memorandum of Understanding.

26.02 Effective after City Council adoption of MOU "confidential" pay will be eliminated. Those employees currently receiving confidential pay shall retain the pay.

SECTION 27.00 – BILINGUAL PAY

27.01 Effective after City Council adoption of the MOU bilingual pay will be eliminated. Those employees currently receiving bilingual pay shall retain the pay.

SECTION 28.00 – EYEGLASS REIMBURSEMENT

28.01 The City shall reimburse an employee up to $175 per fiscal year for eyeglasses when prescribed by a physician for use at a video display terminal, provided the glasses are not fully covered by the employee's health care plan. The employee must apply for any available insurance coverage.

SECTION 29.00 - MOU NEGOTIATIONS

29.01 Negotiations for a new MOU shall commence following written notification by either party on or after January 1 of the desire to begin negotiations.

SECTION 30.00 - EMPLOYEE FITNESS PROGRAM AT THE MILPITAS SPORTS CENTER

30.01 The City of Milpitas agrees to provide a fitness program that allows employees the opportunity to participate in City-sponsored sports and fitness programs at no cost during the employee's non-working hours. All conditions and requirements regarding the "fitness center," as set by the Recreation Services Manager, must be followed to remain eligible for this program.

30.02 Resident fees for all other recreational programs, classes and activities shall apply to bargaining unit employees, unless modified by the City Council.

SECTION 31.00 - MILEAGE REIMBURSEMENT

31.01 When available, the City shall furnish vehicles from the City's car pool to conduct official City business. In the event a pool car is unavailable, the employee shall use the employee's own vehicle.

31.02 An employee shall receive authorization from their Department Head or their designee prior to using the employee's own vehicle.

31.03 Employees who use their car on a temporary basis shall be reimbursed by the City at the rate established by the IRS.

31.04 Any employee who drives their own vehicle on official City business must have a valid California driver's license and proof of valid insurance.

SECTION 32.00 - TUITION REIMBURSEMENT

32.01 The City of Milpitas will provide a tuition reimbursement program for educational activities, which are job related and approved, in advance, by the Department Head and the Human Resources Director. The amount of the fund shall not exceed the amount budgeted for this purpose. Subject to the availability of monies in the fund, individual employees are subject to a total reimbursement cap for tuition and required course-related texts of up to $1,700 per fiscal year. Reimbursement is subject to the guidelines outlined in the applicable S.O.P.

32.02 Effective with the 2004-05 fiscal year, the City shall reimburse employees in the classification of Principal Civil Engineer and Traffic Engineer up to $75 every other fiscal year for the renewal of their engineering licenses when it is a condition of employment.

SECTION 33.00 - REPLACEMENT OF PERSONAL ARTICLES

33.01 The City shall replace, within reason, personal articles damaged or stolen during performance of duty upon recommendation of the individual's immediate supervisor and Department Head, and approval of the Human Resources Director. The prior condition of the article, precautions taken to protect the article, and the exercise of proper judgment of wearing or using an expensive article on the job that has certain hazards connected with it shall be considered in determining the amount of replacement. An employee shall obtain approval from his/her supervisor to bring in and use personal articles in the line of work.

SECTION 34.00 - EMPLOYEE ASSISTANCE PROGRAM

34.01 The City agrees to continue to provide, fund and make available a confidential employee assistance program for employees in the bargaining unit.

SECTION 35.00 - NO STRIKE CLAUSE

35.01 The Union, on its own behalf and on behalf of the unit employees it represents, agrees that during the term of this MOU, and throughout all periods when there is any effort or procedure underway to arrive at a successor MOU and during any period when the law specifically prohibits strike activity, there will be no strikes, work stoppages, concerted unauthorized absences, slow-downs, or refusals to cross picket lines of any sort; and that the Local will not directly or indirectly encourage or condone such actions by unit employees, and will undertake all possible steps to cause any such actions to cease.

35.02 Any bargaining unit member violating this provision shall be subject to disciplinary action up to and including termination of employment.

35.03 This provision may be specifically enforced in any court of competent jurisdiction.

SECTION 36.00 - SAVINGS CLAUSE

36.01 If any section, subsection, sentence, or clause or phrase of this MOU is for any reason held illegal, invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

UNION REPRESENTATIVES:	CITY REPRESENTATIVE:
______________________________	______________________________
Steve Allen Advocate-Organizer, UPEC Local 792	Carmen Valdez, HR Director
______________________________	______________________________
Leslie Stobbe	Mary Lavelle, City Clerk
______________________________	______________________________
Stephanie Douglas	Emma Karlen, Assistant City Manager
______________________________	
Christopher Schroeder	

Date ________________________

Appendix A – SALARY SCHEDULE			
Job Classification	**Annual Salary**		
Administrative Analyst I	$ 67,041	-	$ 88,246
Administrative Analyst II	$ 74,041	-	$ 97,461
Budget Manager	$ 93,143		$ 122,604
Buyer	$ 71,149	-	$ 93,655
Confidential Fiscal Asst II*	$ 58,531	-	$ 71,145
Crime Analyst	$ 85,952	-	$ 113,139
Deputy City Clerk	$ 81,844	-	$ 99,483
Emergency Services Coordinator	$ 94,548	-	$ 124,452
Executive Secretary*	$ 75,338	-	$ 91,575
GIS Manager	$100,551	-	$ 132,356
Human Resources Analyst I	$ 67,041	-	$ 88,246
Human Resources Analyst II	$ 74,041	-	$ 97,461
Human Resources Technician*	$ 58,531	-	$ 71,145
Human Resources Assistant*	$ 51,147	-	$ 62,167
Network Manager	$100,551	-	$ 132,356
Operations Manager	$100,551	-	$ 132,356
Permit Center Manager	$ 109,034	-	$ 132,533
Principal Civil Engineer	$105,890	-	$ 139,384
Housing & Neighborhood Services Manager	$103,791	-	$ 134,744
Public Information Specialist	$ 74,041	-	$ 97,461
Purchasing Agent	$ 88,484	-	$ 114,103
Recreation Services Supervisor	$ 74,041	-	$ 97,461
Secretary*	$ 68,499	-	$ 83,261
Senior Accountant	$ 80,994	-	$ 106,612
Senior Administrative Analyst	$ 85,952	-	$ 113,139
Senior Human Resources Analyst	$ 85,952	-	$ 113,139
Senior Planner	$101,390	-	$123,241
Systems Administrator	$ 90,929	-	$ 119,689
Telecommunications Manager	$100,551	-	$ 132,356
Traffic Engineer	$105,890	-	$ 139,384
Video Media Specialist	$ 74,041	-	$ 97,461

* = Non-Exempt Status

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS ADOPTING THE MEMORANDUM OF UNDERSTANDING WITH THE MILPITAS PROFESSIONAL AND TECHNICAL GROUP (PROTECH) FOR THE PERIOD OF FEBRUARY 4, 2015, THROUGH JUNE 30, 2016

WHEREAS, the most recent Memorandum of Understanding (MOU) between the Milpitas Professional and Technical Group (Protech) and the City of Milpitas covered the period of January 1, 2013, through December 31, 2013; and

WHEREAS; representatives of Protech and the City of Milpitas met in good faith and negotiated a successor Memorandum of Understanding; and

WHEREAS, the new Memorandum of Understanding between Protech and the City of Milpitas shall be effective February 4, 2015, through June 30, 2016, a copy of which is attached as “Exhibit A.”

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

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

2. The MOU between the Milpitas Professional and Technical Group and the City of Milpitas, attached hereto as Exhibit A, is hereby approved and the City Representatives are hereby authorized to execute it.

PASSED AND ADOPTED this ______day of _________, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:	APPROVED:
______________________________	______________________________
Mary Lavelle, City Clerk	Jose S. Esteves, Mayor

APPROVED AS TO FORM:

____

Michael J. Ogaz, City Attorney

EXHIBIT A

MILPITAS PROFESSIONAL AND TECHNICAL GROUP (PROTECH)

AN AFFILIATE OF LIUNA/UPEC LOCAL 792, AFL-CIO

MEMORANDUM

OF

UNDERSTANDING

February 4, 2015 – June 30, 2016

TABLE OF CONTENTS

CITY OF MILPITAS AND MILPITAS PROFESSIONAL AND TECHNICAL GROUP (PROTECH), AN AFFILIATE OF LIUNA/UPEC LOCAL 792, AFL-CIO COMPREHENSIVE MEMORANDUM OF UNDERSTANDING ON SALARIES, FRINGE BENEFITS, AND WORKING CONDITIONS

February 4, 2015 – June 30, 2016

The authorized representatives of the City Council of the City of Milpitas, hereafter referred to as the "City" and the authorized representatives of the Milpitas Professional and Technical Group, hereafter referred to as the " Union" do jointly accept and agree to all the terms and conditions of employment set forth in this Comprehensive Memorandum of Understanding (MOU), pursuant to Section 15.13 of the Personnel Rules and Regulations of the City of Milpitas (as amended).

The term of the prior MOU expired on December 31, 2013. The terms and provisions of that MOU and any amendments are continued in full force and effect in accord with law through the beginning date of this MOU of February 4, 2015. The term of this MOU is from February 4, 2015 through June 30, 2016. This Memorandum of Understanding shall apply to represented permanent and probationary employees hereafter referred to as "employee(s)" unless otherwise specifically indicated, assigned to those classes listed in the salary schedule set forth in Appendix "A" attached hereto. When classes are created which the City determines fall under the representation of the Union, this Understanding shall also apply.

The terms and conditions of employment set forth in this Memorandum of Understanding have been discussed in good faith by the authorized representatives of the City and the authorized representatives of this Union. The authorized representatives of the Union agree to recommend acceptance by the employees of all terms and conditions set forth herein. Following said acceptance by the employees authorized representatives of the City agree to recommend to the Milpitas City Council that all terms and conditions set forth herein be approved by resolution. Upon adoption of said resolution, all terms and conditions so incorporated shall become effective without further action by either party.

Unless otherwise specifically amended by the terms of this MOU, any term or condition of employment previously known to and approved by the City (and not terminated by the City) remains as previously established.

SECTION 1.00 - EMPLOYEE RIGHTS

1.01 Any employee in the City's competitive service may join, organize or maintain membership in a labor organization if the employee so desires. The City neither encourages nor discourages these activities, nor does membership or non-membership in any labor organization affect the employee's standing or right as a City employee. The right to join, organize or maintain membership in a labor organization is also extended to any association of municipal employees not identified with any labor organization.

The right to join a labor union or any association of municipal employees also includes the right not to join. Any employee desiring to join, remain a member, or become independent of any such organization or association must be free to exercise their right without undue influence, coercion, intimidation or pressure of any kind from any person.

1.02 Agency Shop Provision

1.02.1 Except as set forth in this provision, employees working in classifications represented by the Union ("represented employees") must, as a condition of continued employment, either join the Union or pay the Union a service fee in an amount not to exceed the Union's standard initiation fee, periodic dues, and general assessments. All represented employees must notify the City in writing of their election or claim of exemption within thirty (30) calendar days following (a) ratification of the MOU by the Milpitas City Council, (b) the employee commencing work as a represented employee, or (c) the employee returning to work for the City in a represented classification following a layoff or voluntary leave of absence of 60 or more calendar day, whichever is later.

1.02.2 If an employee fails to timely notify the City as required under Section 1.02.1, the Union may request in writing that the City begin deducting the service fee from the employee's paychecks. The City shall begin deducting the service fee from the employee's paychecks as soon as is practicable after receiving all of the following from the Union:

(a) the Union's written request to deduct the service fee; and

(b) certification from the Union that the employee has not (1) joined the Union, (2) voluntarily paid the Union the representation/service fee, or (3) qualified for an exemption; and

(c) certification from the Union that it has provided the employee with (a) and (b).

1.02.3 The Union shall provide the City advance written notice of any increase or decrease in the Union's fees, dues or assessments that the Union believes warrants a change in the service fee to be deducted. The City shall implement such change, to the extent consistent with this provision and applicable law, within thirty (30) calendar days of receiving written notice from the Union.

1.02.4 Employees who are on voluntary leave without pay, temporarily working outside of a classification represented by the Union, or who have been terminated from employment or are otherwise not on the City's payroll for any reason, including, but not limited to, layoffs, shall not be subject to the representation/service fee obligation.

1.02.5 Any employee who is a member of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support the Union as a condition of employment. Such employee shall, in lieu of a service fee, pay an equal amount to the employee's choice of the following: American Cancer Society, American Heart Association, Sickle Cell Anemia Foundation or any other recognized minority serviced organization which qualifies for tax exemption under Section 501(c) of the Internal Revenue Code. The employee shall make proof of such payments to the City on a monthly basis as a condition of continued exemption from the requirement of financial support to the Union.

1.02.6 The Union shall keep an adequate itemized record of its financial transactions and shall make available annually to the City and the Union’s members, within 60 days after the end of the Union’s fiscal year, a detailed written financial report in the form of a balance sheet and an operating statement, certified as to accuracy by (a) its president and treasurer or corresponding principal officer, or (b) by a certified public accountant. To the extent the Union is required to file financial reports under the Labor-Management Disclosure Act of 1959 or under Labor Code section 3546.5, the Union may satisfy its financial reporting obligation to the City under this provision by providing the City with a copy of such financial reports.

1.02.7 This agency shop provision shall not apply to management, confidential, or supervisory employees. For purposes of this provision, “management employee” means an employee having responsibility for formulating, administering or managing the implementation of City policies and programs. “Confidential employee” means an employee who is privy to information that could affect employer-employee relations. “Supervisory employee” means any employee having authority, in the interest of the City, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action if the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

1.02.8 The Union shall pay for the City’s defense, and indemnify the City, in connection with any administrative and/or legal challenge of an action taken by the City consistent with its obligations under this provision. The City reserves the right to select and retain its own counsel in connection with any such administrative and/or legal challenge.

1.03 City employees participating in organizational or other labor union activities or similar activities of any employee association are required to conduct such activities on their own time and not during regularly assigned working hours, with the following exceptions:

1.03.1 A steward representing or assisting a fellow employee in the presentation of a grievance may utilize such time as is essential for the presentation of the grievance to management during working hours; however, solicitation of grievances shall be on the steward and employee's own time.

1.03.2 Officials of any organization representing City employees may meet on City time with the City Manager or other City officials when such meeting times are approved by the City Manager.

1.03.3 Representatives of the Union, having business (other than recruiting of members) with the officers or individual members of the Union may meet and confer with such officers or members during the course of the working day for a reasonable period of time provided that permission is first obtained from the Department Head, and the employee's immediate supervisor, and further provided that the conduct of such business will in no way conflict with the performance of City business.

1.04 Use of work place or premises for organizational activities other than the presentation of a grievance or the conduct of business as provided for above, is permitted only after working hours, with the advance notice to the Department Head or City Manager and shall in no way interfere with the performance of official duties of on-duty personnel. Official bulletin boards may be used only for notice of meetings of any employee organizations and for no other organizational purpose. The City shall, however, provide space upon request at any City facility for a union or employee association furnished, installed and maintained bulletin board for posting of notices and bulletins and a magazine rack for the distribution of union or association literature.

1.05 For employees who may wish to belong to a public employees Association or Union, the City shall cause dues to be deducted where specifically authorized by the employee in advance. The employee may, at any time and for any reason, cancel his/her authorization for such a payroll deduction. The employee's cancellation of such authorized deductions shall in no way affect his/her job or standing as an employee.

1.06 Time off for Association Meetings/Trainings

The City shall provide annual paid release time for Association officers and members to conduct Association business such as negotiations, conventions, symposia, etc. excluding political activity, upon reasonable written notice to and prior approval by the appropriate department head. Release time shall not result in overtime by an employee. These events shall include but are not limited to:

Event	Personnel	Time
Labor Negotiations Training	2	5 days
Health Benefit Meetings	2	4 hours
CalPERS Meetings	2	1 day
Association Conferences	1	5 days
Total		144 hours

SECTION 2.00 - CITY RIGHTS

2.01 The City continues to possess exclusively the rights listed below, plus all other rights to which by law the City is entitled. These rights may not be abridged or modified in any way, except by formal legislative action by the City Council (i.e. -- resolution or ordinance). The City has the right and may exercise its discretion:

2.02.1 To determine the mission of all constituent departments, commissions and boards;

2.02.2 To set standards of service;

2.02.3 To determine the appropriate levels of City services, except where defined in the MOU;

2.02.4 To take disciplinary action for just cause;

2.02.5 To determine the procedures and standards of selection for employment and the content of job classifications.

2.02.6 To organize and reorganize its departments and affairs, and to otherwise exercise complete control and discretion over its organization;

2.02.7 To relieve its employees from duty because of lack of work or other legitimate reasons;

2.02.8 To employ any appropriate means or method to maintain the efficiency of governmental operations and administration;

2.02.9 To determine the methods, means and personnel by which government operations are to be conducted;

2.02.10 To determine when an emergency exists and to take all necessary action to carry out its mission in emergencies, including recalling and deploying off-duty personnel and requiring that employees work overtime;

2.02.11 To exercise complete control and discretion over its organization and technology;

2.02.12 Except in case of emergency the City shall give written notice (30 days in advance of any contract with third parties which shall result in the lay-off, demotion, or transfer of any employee represented by the union and shall meet and confer with the union regarding the same upon reasonable written notice;

2.02.13 To direct employees, make assignments and require overtime work;

2.02.14 To transfer or reassign employees, as outlined in the MOU;

2.02.15 To layoff employees by position as result of: elimination of positions through City Council resolution; lack of work; budgetary considerations (including without limitation lack of funds or revenue downturn); reorganization; or other related reasons;

2.02.16 Any agreement between the City and the Union evidenced by a Memorandum of Understanding pursuant to Government Code Section 3500 et. seq. shall take precedence over any of the above enumerated employee and management rights; and that such a Memorandum of Understanding shall be honored in good faith during the life of this contract.

2.02.17 Any violation of the policies and procedures created by this MOU may be subject to disciplinary action as defined by this MOU.

2.02.18 The parties acknowledge that the City shall have the right to amend its personnel rules and regulations, personnel ordinances and resolutions, and employer-employee relations resolution during the term of the Memorandum of Understanding such rules and policies may be implemented after meeting and consulting, as appropriate, under the Meyers-Millias-Brown Act.

SECTION 3.00 - ADVANCE NOTICE AND APPEALS PROCEDURE

Except in cases of emergency as provided in this section, the City shall give reasonable written notice to each recognized employee organization affected by an ordinance, rule, resolution, or regulation directly relating to matters within the scope of representation including actions taken under City Rights that affect wages, hours and other terms and conditions of employment proposed to be adopted by the City and shall give such recognized employee organizations the opportunity to meet with City representatives.

SECTION 4.00 - DISCIPLINARY ACTION

The City may take disciplinary action against any Employee for just cause. The City recognizes the practice of progressive discipline; however, depending on the severity of the offense, the City may immediately impose more severe discipline.

4.01 Grounds for Discipline: Discipline may be imposed for just cause, including without limitation for the following grounds:

4.01.1 Fraud in securing appointment or falsification concerning records, fellow employees, or work performed;

4.01.2 Failure to perform satisfactorily the duties and responsibilities of an employee's position;

4.01.3 Neglect of duty;

4.01.4 Insubordination;

4.01.5 Reporting for or performing duty under impairment as a result of alcohol and/or drug use;

4.01.6 Dishonesty or misuse of, or misappropriation of City property and funds;

4.01.7 Conviction of any crime involving moral turpitude, or substantially relating to the function of an employee's position;

4.01.8 Unauthorized absence;

4.01.9 Non-observance of work hours, including tardiness, and abuse of sick leave privileges;

4.01.10 Discourteous or non-cooperative treatment of the public or other employees;

4.01.11 Conduct, either during or outside of duty hours, which is of such a nature that it causes discredit to the employee's department or the City;

4.01.12 Failure to abide by any condition of employment stipulated in the: Municipal Code; Personnel Rules and Regulations; any City or department policies or procedures; or Memoranda of Understanding approved by formal action of the Council;

4.01.13 Knowingly filing or pursuing a false charge;

4.01.14 Threats of violence or acts of violence towards fellow employees or members of the public in the workplace;

4.01.15 Abuse of any City and/or Department policies and procedures.

4.02 Pre disciplinary Procedures

4.02.1 Prior to taking any disciplinary action, as defined in Section 4.02.6, except for Section 4.03.1- Written Reprimand, against a permanent employee, the City shall notify the employee and Union in writing of the following:

(a) The proposed disciplinary action;

(b) The nature of the charges and/or violation of City ordinances, resolutions, written procedures, municipal code, or departmental regulations and policies;

(c) The reasons for the proposed action;

(d) The materials upon which the action is based;

(e) The opportunity of the employee to appear before a designated City representative and respond to the charges at a specified place and time;

(f) The right of the employee to be represented by an attorney or other representative at any disciplinary conferences or proceedings.

4.02.2 If the City representative determines that he or she cannot be impartial, or upon timely written request by the employee or the Union, the Human Resources Director or designee may hear the employee's response.

4.02.3 Any employee notified pursuant to 4.02.1 above who desires an opportunity to respond may do so by appearing at the appointed place and time. Said response may be oral or in writing. The employee is not entitled to an evidentiary hearing, and the sole purpose of the meeting shall be to hear the response of the employee to the charges. The employee shall be entitled to representation, but shall not be entitled to present witnesses, unless the City determines that the presentation of witnesses is necessary.

4.02.4 In the event that the employee is unable to respond to the charges within the time permitted, and demonstrates the reasonableness of a continuance, the City may grant a continuance.

4.02.5 As soon as practical after the employee has had an opportunity to present a response, the City will notify the employee and the Union in writing of the nature and extent of the discipline, if any, and the time of commencement thereof. Said notification will also advise the employee of any right of appeal.

4.02.6 For the purposes of the application of the procedures outlined in sections 4.02.1 through 4.02.5, a disciplinary action shall be defined as a suspension of at least three (3) working days for those employees assigned to a standard 40-hour week, or an equivalent reduction in salary, demotion or discharge.

4.03 Disciplinary Action

4.03.1 Written Reprimand: Repeated violations or more severe misbehavior may require a more formal response by the supervisor to the employee. In this case the employee is provided with a written memorandum which outlines the violations being addressed and the expected actions to be taken by the employee in response to the memorandum. The written reprimand contains an indication of subsequent disciplinary steps to be taken in the event that the employee fails to respond appropriately. A copy of the written reprimand shall be placed in the employee's official personnel record.

4.03.2 The Human Resources Director shall remove a letter of reprimand from a personnel file based upon a written request submitted by the employee provided there has been no additional disciplinary actions during the subsequent twenty-four (24) months.

4.03.3 Suspension: In the event of more severe or repeated violations, the employee may be relieved of duty by the City for a specified period of time without pay. Such suspension shall not exceed thirty (30) calendar days and shall be subject to the procedures outlined in sections 4.02.

4.03.4 Reduction in Salary Range: In the event of more severe or repeated violations, the employee's salary may be reduced by the City within the range for the position held. Such reduction in salary shall be subject to the procedure outlined in Section 4.02 Reduction shall be made on a permanent or temporary basis.

4.03.5 Involuntary Demotion: In the event of more severe or repeated violations, the employee may be reduced in rank and pay by the City. Such demotion shall be in conformance with Section 4.02 Demotions shall be made on a permanent or temporary basis.

4.03.6 Termination of Employment: The City may terminate the employment of an employee for more severe or repeated violations of the City or Department rules, regulations, policies or procedures. Such termination shall be in conformance with Section 4.02.

4.04. Appeal of Discipline: An employee subject to disciplinary action as defined in section 4.02.6 may appeal the discipline pursuant to the grievance and arbitration process outlined in Section 8.00 of this MOU.

SECTION 5.00 - LAYOFF

5.01 Any layoff shall be according to seniority and the procedures defined in Municipal Code Section VI-102.

5.01.1 The City Manager, after review with the Department Head and the Human Resources Director, may lay off an Employee because of material change in duties, organization, or shortage of work or funds in the department or the City.

5.01.2 The Human Resources Director shall notify the affected Employee(s) in writing at least thirty (30) days in advance of the intended layoff and of their option to accept a voluntary demotion in lieu of layoff.

5.01.3 Employees’ laid-off or accepting demotions in lieu of layoff shall be placed on a Re-Employment List in inverse order of displacement for an appropriate Class for three (3) years.

SECTION 6.00 - RESIGNATION

An Employee wishing to resign in good standing shall file with the Department Head a written resignation at least two calendar weeks before the effective date of termination, stating the reasons for leaving. The resignation shall be forwarded to the Human Resources Director. Failure to comply with this requirement shall be entered in the service record of the Employee and may be cause for denying future employment with the City.

SECTION 7.00 - OTHER EMPLOYMENT

7.01 Employees may engage in other employment or business activity that does not conflict with the Employee's duties.

7.02 An employee's outside employment, activity or enterprise may be prohibited if it:

7.02.1 Involves the use for private gain or advantage of City time, facilities, equipment and supplies; or the badge, uniform, prestige or influence of the City office or employment.

7.02.2 Involves receipt or acceptance by the Employee of any money or other consideration from anyone other than the City for the performance of an act which the Employee, if not performing such act, would be required or expected to render in the regular course of hours of City employment or as a part of regular duties.

7.02.3 Involves the performance of an act, which may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other Employee of the City, or has the potential for creating a conflict of interest.

7.02.4 Involves such time demands as would reduce the Employee's efficiency or safe operation of equipment, such as sleep deprivation or physical exhaustion prior to start of employees shift. In no case shall the employee conduct non city business during City work hours.

7.03 Employees must obtain approval from their Department Head and the Human Resources Director of other employment or business activities in writing prior to engaging in such activities. Disapproval of other employment may be appealed to the City Manager whose decision shall be final. Other employment notices shall be kept in the Employee's personnel file and maintained according to Personnel Rules Section 11.00.

7.04 Employees who engage in outside employment that is in conflict with their duties or who intentionally fail to submit a timely notice to engage in outside employment shall be subject to disciplinary action.

SECTION 8.00 – GRIEVANCE PROCEDURE

8.01. Definition

8.01.1 For the purposes of this section a “grievance” is any dispute which involves the interpretation or application of this Memorandum of Understanding (hereinafter “MOU”), or appeal of a formal disciplinary action. For the purposes of arbitration, a disciplinary action shall be defined in Section 4.02.6 of this MOU. Complaints or disputes in which a specific review is provided by law (i.e. OSHA, EEOC, DFEH) or by the City’s personnel rules, or reserved as city rights (except as provided in

Personnel Rule Sections 15.05, 15.07) shall not be subject to the grievance procedure. If any party initiates litigation concerning a matter which is otherwise subject to the grievance process, the other party may (at their discretion) deem the litigating party as having elected court remedies and waived any rights under this grievance procedure. Performance appraisal reviews are not grievable.

8.01.2 A "grievant" is any Employee adversely affected by an alleged violation of the specific provisions of the MOU or a formal disciplinary action, or the Professional and Technical Group on behalf of more than one employee, adversely affected by an alleged violation of the specific provisions of the Memorandum of Understanding.

8.01.3 A "working day" is any day in which City Hall is open for business.

8.01.4 "Employee organization" is the Professional and Technical Group.

8.02 General Provisions

8.02.1 Every effort will be made by the parties to settle grievances at the lowest possible level.

8.02.2 Until final disposition of a grievance, the grievant shall comply with the directions of the grievant's immediate supervisor.

8.02.3 Documents dealing with the processing of a disciplinary grievance shall be filed in the personnel file of the grievant.

8.02.4 No party to a grievance shall take any reprisals against the other party to the grievance because the party participated in an orderly manner in the grievance procedure.

8.02.5 Failure of the grievant to adhere to the time deadlines shall mean that the grievance is withdrawn. The grievant and the City may extend any time deadline by written mutual agreement. Furthermore, if there is a mutual written agreement, the grievant may skip a step in the grievance process. The employee concerned shall be personally present at all stages of the grievance procedure unless that employee specifically waives the right in writing.

8.02.6 Every effort will be made to schedule meetings for the processing of grievances at times which will not interfere with the regular working day of the participants. If any grievance meeting or hearing must be scheduled during duty hours, any employee required by either party to participate as a witness or grievant in such meeting or hearing shall be released from regular duties without loss of pay for a reasonable amount of time. Overtime is not provided for off-duty time except for witnesses requested to testify by the City.

8.02.7 Either the City or the grievant may be represented at any step of the procedure by an individual of the party's choice.

8.02.8 Any employee may at any time present grievances to the City and have such grievances adjusted without the intervention of the Association, as long as the adjustment is reached prior to arbitration and is not inconsistent with the terms of this MOU or the Personnel Rules.

8.02.9 The City and the employee organization may agree to consolidate grievances at any level.

8.03 Procedure

8.03.1 Employees must initiate a written grievance within twenty (20) working days following the occurrence, or knowledge of the events on which the grievance is based. Failure to do so will result in the employee being barred from advancing the grievance. A grievance, or a copy of the grievance, should be provided to the grievant's supervisor, Department Head, and the Director of Human Resources.

8.03.2 Elements of a Grievance

The written grievance shall include:

(a) A description of the specific facts and grounds upon which the grievance is based including names, dates, and places necessary for a complete understanding of the grievance;
(b) A specific explanation of how the grievant has been adversely affected;
(c) Listing of the provisions of the MOU which are alleged to have been violated;
(d) A listing of specific actions requested by the grievant of the City which will remedy the grievance, including a specific dollar amount, and the basis for the dollar amount, of any alleged damages at issue, provided the employee has access to relevant financial data;
(d) A statement declaring self-representation or the selection of representation by the Association for said grievance;
(e) The printed name and signature of the grievant;
(f) The name, address and telephone number of the person(s) to whom notices may be sent regarding the grievance
(g) Date of grievance.

Grievances that fail to include these elements may not be considered or appealed unless the City waives this section.

8.03.3 Informal Resolution

It is the intent to deal with and settle grievances informally, at the nearest practical organizational level, and as promptly and fairly as possible. An employee who has a grievance shall first try to settle it through discussions with the employee's immediate supervisor. The immediate supervisor shall respond within thirty (30) working days which may be extended ten (10) working days with notice to the grievant and/or the parties may by mutual agreement extend the time which is necessary to resolve the grievance. Any decisions rendered shall be consistent with the authority to do so. If the employee is not satisfied with the outcome of the informal resolution the employee may advance the grievance to Level I.

8.03.4 Level I – Department Head

If the employee is not in agreement with the informal decision rendered, he/she shall have the right to file a formal written appeal to the Department Head (with a copy to the Human Resources Director) within fifteen (15) working days after the date a decision has been rendered. The appeal shall include a copy of the written response(s) provided by the City during the informal step of this grievance procedure. The appeal shall contain an explanation why the grievant believes the decision at the informal grievance step was unsatisfactory. The Department Head shall consider the grievance, and submit a written response within fifteen (15) working days.

8.03.5 Level II – City Manager

If the employee is not in agreement with the decision rendered by the Department Head, he/she shall have the right to file a formal written appeal to the City Manager (with a copy to the Human Resources Director) within ten (10) working days after the date a decision has been rendered at Level I. This appeal shall include a copy of the written grievance, the grievant's appeal to Level I, and any written response(s) provided by the City during the prior steps of the grievance process. The appeal shall contain an explanation why the grievant believes the decision at Level I was unsatisfactory. The City Manager shall consider the grievance, and submit a written response within fifteen (15) working days. Unless the grievance is subject to arbitration (as defined herein), the City Manager's decision is final.

8.03.6 Level III – Arbitration

(a) If the matter is subject to arbitration as defined herein, and the grievant is not satisfied with the decision of the City Manager, the grievant may within fifteen (15) working days of the date of the decision submit a request in writing to the Human Resources Director that the grievance be submitted to arbitration. The grievant and the City shall attempt to agree upon an arbitrator. If no agreement can be reached, they shall request that the State Conciliation Service supply a panel of five (5) names of persons experienced in hearing grievances involving public employees. Each party shall alternately strike a name until only one (1) name remains. The remaining panel member shall be the arbitrator. The order of striking shall be determined by lot.

(b) If either the City or the grievant so requests, an arbitrator shall hear the merits of any issue raised regarding arbitrability of a grievance first. No hearing on the merits of the grievance will be conducted until the issue of arbitrability has been decided. If the issue of arbitrability is heard by an arbitrator and the arbitrator decides the underlying dispute is arbitrable, a different arbitrator shall hear the merits of the underlying grievance, if the City or the union so requests.

(c) The arbitrator shall, as soon as possible, hear evidence and render a decision on the issues or issues. If the parties cannot agree upon a submission agreement, the arbitrator shall determine the issues by referring to the written grievance and the answers thereto at each step. A certified court reporter shall record the entire arbitration hearing unless the parties mutually agree otherwise.

(d) The jurisdiction and authority of the arbitrator so selected and the opinions the arbitrator expresses will be confined exclusively to the interpretation of the express provision or provisions of the MOU. The arbitrator shall be without power or authority to make any decision that requires the City to do an act prohibited by law.

(e) Arbitrators shall have no authority to award back pay or other monetary relief extending more than forty (40) days prior to submission of the initial written grievance except in cases of grievance claims for incorrect pay.

(f) After a hearing and after both parties have had an opportunity to make written arguments, the arbitrator shall submit written findings and a decision, which is final and binding on all parties.

(g) The fees and expenses of the arbitrator and the certified court reporter shall be shared equally by the City and the grievant, or employee organization, if the employee organization represents the grievant at the arbitration. Financial responsibility shall be confirmed prior to selection of an arbitrator. All other expenses shall be borne by the party incurring them, and neither party shall be responsible for the expense of witnesses called by the other. A party requesting a transcript shall bear the cost thereof; or if each party receives a copy the cost will be shared equally.

(h) This grievance procedure is the exclusive remedy to resolve disputes as described herein.

SECTION 9.00 - ANNUAL VACATION LEAVE

9.01 All employees shall be entitled to paid annual vacation leave beginning at the end of the first six months of service with the City. However, vacation credits shall be accrued beginning with the date of initial appointment. Vacation is earned on an hourly basis. A day is defined as eight (8) work hours.

9.01.1 During the first through fourth years of service, vacation shall be computed at the rate of 11 working days per year.

9.01.2 From the fifth year of employment through the ninth year of employment, all covered employees shall accrue 16 prorated days of vacation leave for each year of service.

9.01.3 From the tenth year of employment through the fourteenth year of employment, all covered employees shall accrue 21 prorated days of vacation leave credit for each year of service.

9.01.4 From the fifteenth year of employment through the nineteenth year of employment, all covered employees shall accrue 26 prorated days of vacation leave credit for each year of service.

9.01.5 From the twentieth year of employment, all covered employees shall accrue 31 prorated days of vacation leave credit for each year of service.

9.02 Employees who work less than full time shall earn vacation credits on a pro-rated basis.

9.03 Each employee shall be required to have served the equivalent of one year of continuous service in the City in order to be eligible for the employee's full annual vacation leave, provided however, that after six months of continuous service the employee may be permitted to take vacation leave not to exceed forty (40) work hours.

9.04 The times during a calendar year at which an employee may take vacation shall be determined by the department head with due regard for the wishes of the employee and particular regard for the needs of the municipal service. If the requirements of the municipal service are such that an employee must defer part or all of his/her annual vacation in a particular calendar year, the appointing power shall permit the employee to take such deferred vacation during the following calendar year or allow the employee to cash out said vacation at his/her option, to the extent of the deferred portion.

9.05 On the last day of the pay period that includes December 31, no employee may accumulate more than 260 work-hours of vacation without the express approval of the City Manager. On the first full pay period after December 31, any hours above 260 will be cashed out. No employee shall be allowed to be on paid leave for a period of over three hundred and twenty (320) consecutive work hours.

9.06 In the event one or more municipal holidays fall within an annual vacation leave, such holidays shall not be charged as vacation leave.

9.07 Upon separation from the service for any reason, an employee shall be compensated for accrued vacation leave.

9.08 On or about December 1 of each year, each Department Head may circulate a vacation roster for the forthcoming calendar year. Employees are then encouraged to indicate vacation choices. On or about January 1 of each calendar year, the Department Head shall notify employees of the approved vacation calendar for the year. Approval shall be granted after the supervisor and Department Head give consideration to the employee's wishes and the needs of the City. Employees may change vacation dates with the approval of the Department Head. In the event the needs of the City necessitate canceling of vacation scheduled for a minimum of 90 days in advance, which results in a financial loss to an employee, the City shall reimburse the employee the full amount of loss provided the employee demonstrates the impossibility of obtaining a refund and can document the amount of loss.

9.09 Each fiscal year, an employee may elect to cash out a maximum of forty (40) hours of accrued vacation, and an employee whose annual vacation accrual rate exceeds one hundred and twenty (120) hours may elect to cash out a maximum of eighty (80) hours as follows:

9.09.1 The employee uses at least one full workday of paid vacation leave. Vacation cash-outs must be requested in advance and are contingent upon having an approved vacation leave within thirty (30) days, either before or after; or

9.09.2 Requests for cash-outs in accordance to Section 9.09 must be submitted to Finance for payment in June by May 31st or in December by November 30th of each year.

SECTION 10.00 - SICK LEAVE

10.01 Employees shall be granted paid sick leave credits beginning with date of original employment at the prorated rate of 12 days for each year of service. Employees become eligible to take accrued sick leave upon completion of one full month of continuous service. Sick leave shall not be considered as a privilege, which an employee may use at the employee's discretion, but shall be allowed only in case of necessity and actual sickness or disability. Medical or dental appointments may be charged against sick leave, but shall be limited to a maximum of four (4) hours per appointment and should be scheduled and approved in advance. Approval of sick leave for appointments in excess of four (4) hours are subject to the discretion of the Division Head. The City Manager shall direct and enforce such administrative control as may be necessary to prevent abuse of sick leave privilege.

10.02 Employees who work less than full-time shall earn sick leave on a pro-rated basis.

10.03 For employees hired on or before July 17, 1999, the City agrees to pay an employee who is separating from the City in good standing with at least five (5) years service an amount equal to 2-1/2% per year of service for unused accrued sick leave. The pay-out formula shall be: 2.5% x years of service x highest hourly rate x sick leave hours accrued. Good standing shall be based on the employee's overall work record and the decision of the Human Resources Director. (See Sections 22.02 and 22.02.1.)

10.03.1 For employees hired on or before July 17, 1999, each November, an employee with five or more years of service may elect to cash out accrued sick leave. Payout shall be in accordance with appropriate pay out formulas described in section 10.03. However, the maximum annual amount shall not exceed 50% of employee's sick leave balance. Employees eligible for this benefit shall at all times maintain a sick leave balance of at least 240 hours.

10.04 The City agrees to provide PERS Credit for Unused Sick Leave provision (20965)—see MOU Section 22.02.1.

SECTION 11.00 - FAMILY LEAVE

11.01 Employees having available sick leave to their credit may draw upon such sick leave for family medical purposes when a member in the employee's immediate family is involved.

11.01.1 As defined for the purpose of this section, family medical purposes shall be construed to mean illness, accident, medical appointments or other related occurrences.

11.01.2 Spouse shall include registered domestic partner.

11.01.3 Immediate family is defined to include: mother, mother–in-law, father, father-in-law, spouse, registered domestic partner, brother, sister, son, daughter, grandparent, grandchild, adoptive parents or adoptive children, and foster children whether the immediate family is of the employee’s or the employee’s spouse’s family.

11.01.4 Each employee shall be allowed to use a maximum of eighty (80) hours of accrued sick leave per fiscal year for this purpose. Additional leave may be granted in unusual circumstances by the Human Resources Director.

11.01.5 In addition, each employee shall be allowed to use fourteen (14) days of accrued sick leave for birth or adoption of a child.

SECTION 12.00 - COMPASSIONATE LEAVE

12.01 The City agrees to provide compassionate leave when death occurs to a member of the employee's immediate family not to exceed one week. (40 hours)

12.02 Immediate family is defined to include: mother, mother –in-law, father, father-in-law, spouse, registered domestic partner, brother, sister, son, daughter, grandparent, grandchild, adoptive parents or adoptive children and foster children whether the immediate family is of the employee's or the employee's spouse's family.

12.03 Salary paid during this leave is not deducted from any leave balance. Additional leave may be granted in special circumstances by the City Manager or designee.

12.04 In special circumstances, the City Manager or designee may allow an employee to utilize compassionate leave for individuals who are not members of the employee's immediate family.

SECTION 13.00 - MILITARY LEAVE

13.01 Military leave shall be granted, in accordance with the provisions of State and Federal Law. Employees entitled to military leave shall give the City an opportunity within the limits of military regulations to determine when such leave shall be taken.

SECTION 14.00 - LEAVE OF ABSENCE

14.01 The Human Resources Director may grant a Permanent Employee leave of absence one time per calendar year without pay not to exceed one year. Leave shall be considered upon written request of the Employee.

14.01.1 Human Resources Director shall consider the recommendation of the Department Head, departmental workload, the best interests of the City, the Employee's duration of employment, the Employee's performance record, and the reason for the leave.

14.01.2 Any Permanent Employee with a non-work-related injury or medical condition who has exhausted all sick leave may request a leave of absence with a doctor's certificate. At the City's discretion and expense, the City at any time may require a medical exam at a facility selected by the City.

14.01.3 On leave without pay status shall not earn any employment benefits (including, but not limited to, such benefits as vacation leave, medical benefits, sick leave, retirement benefits, credit for time employed or seniority entitlements of any kind) for the period of such status. It is the intent of this subsection that one on leave without pay status is deemed unemployed for the period of such status in terms of earning benefits.

14.01.4 The City Manager may authorize continuation of the employee's elected medical and/or dental coverage for all or part of the duration of leave without pay. This shall be done only in extraordinary circumstances and when it is deemed to be in the best interest of the City.

14.02 A Department Head shall have the authority to approve an unpaid leave not to exceed 160 work hours per fiscal year.

14.03 Nothing herein shall preclude an employee from waiving in writing the right to reinstatement as a condition to approval for a leave of absence. Any employee who waives the right may be reinstated in accordance with the City's Personnel Rules & Regulations as if they had been subject to a reduction in force, except that they shall be placed at the bottom of a reemployment list for any position for which they qualify.

SECTION 15.00 - JURY LEAVE

15.01 When called to serve on a jury, an employee shall be given leave with pay to do so subject to these conditions:

15.01.1 The employee shall notify the Department Head immediately upon receipt of the notice to serve; and

15.01.2 Any payment received by the employee while on jury leave for serving on the jury shall be remitted to the City, except for mileage allowance and out-of-pocket expenses.

SECTION 16.00 – WORKERS' COMPENSATION LEAVE

16.01 Employees unable to work because of a work-related illness or injury are eligible for worker's compensation leave, provided that the Employee has notified superiors of the illness or injury and the claim has not been denied by the Human Resources Director or worker's compensation insurance administrator authorized by the City.

16.02 For all Employees, worker's compensation leave per incident, shall be paid up to a maximum of 320 hours according to the following table,

HOURS			SALARY RATE
First	80	@	100%
Next	240	@	80%

This leave shall cover all time off from work related to the injury, including doctor's appointments and therapy treatments, provided that said hours do not exceed available workers' compensation leave. Following a maximum of 320 hours of workers' compensation leave, the City shall discontinue direct workers' compensation payments to the employee. This benefit shall be prorated based on the budgeted position. An employee may apply separately for long-term disability insurance, which becomes effective after 320 hours of workers' compensation.

Any employee sustaining such injury or disability may be entitled to compensation to the extent provided by the State Workers' Compensation Insurance Act. An employee who has exhausted eligible workers' compensation leave shall receive full salary to the extent the employee's accrued sick leave or vacation time may be integrated.

16.03 An Employee returning from a work-related injury shall be reinstated to the position occupied at the time the injury occurred subject to written release by the attending physician.

16.04 Injured Employees designated Maximum Medical Improvement (MMI) or accepted into a Supplemental Job Displacement Plan and unable to return to their prior occupations may be involuntarily terminated or retired.

16.05 The City is currently developing a policy on the subject of light duty. ProTech agrees to meet and confer with the City during the term of the MOU regarding the policy.

SECTION 17.00 - OVERTIME

17.01 Employees who work more than a standard forty (40) hour workweek shall be compensated as follows:

17.01.1 All overtime shall be compensated at the rate of time and one-half pay or the equivalent in compensatory time off (CTO) in lieu of overtime pay.

17.01.2 In the event the City requires the employee to work overtime, overtime pay or accrual of CTO shall be at the discretion of the employee. However, the determination as to whether overtime pay or CTO shall be taken must be made by the employee at the time the “Request for Additional Pay” form is submitted to the supervisor for signature. Usage of CTO shall be scheduled at the convenience of the City and may be used in the same manner as vacation leave.

17.01.3 A minimum of two hours pay or its equivalent in compensatory time off, at the rate of time and one-half, to be taken at the convenience of the city shall be guaranteed for any employee who, after leaving the employee's place of duty, is required to return to work.

17.01.4 Employees who work less than eight (8) minutes beyond their normal work hours shall not receive overtime.

17.01.5 Overtime occurring on a paid City holiday shall result in pay or CTO at the rate of time and one half in addition to base pay.

17.01.6 CTO may be accrued by the employee throughout the year. However, the accrued hours may not exceed eighty (80) on the last day of the pay period that includes December 31. Hours in excess of that limit on that date shall be paid to the employee on the following paycheck, and the accrual bank shall be reduced to eighty (80) hours.

17.01.7 Any paid accrued leave, specifically sick leave, vacation leave, compensation leave, or compensatory time off, taken by an employee during any work week shall be counted as hours worked for the purpose of calculating overtime.

17.01.8 If a Building Inspector, Public Works Inspector or Housing and Neighborhood Specialist is required to work overtime which extends past 12:00 a.m., the employee will not be required to report to their next regular scheduled shift until eight (8) hours after the completion of the overtime. The employee shall be paid from the beginning of their regular scheduled shift.

SECTION 18.00 - HOLIDAYS

18.01 The following shall be paid holidays for the City of Milpitas employees:

1. January 1 (New Year's Day)
2. Third Monday in January (Observance of Dr. Martin Luther King Jr.'s Birthday)
3. February 12 (President Lincoln's Birthday)
4. Third Monday in February (Observance of President Washington's Birthday)
5. Last Monday in May (Observance of Memorial Day)
6. July 4 (Independence Day)
7. First Monday in September (Labor Day)
8. November 11 (Veteran's Day)
9. Thanksgiving Day
10. Day after Thanksgiving
11. Christmas Eve (to be observed last working day prior to Christmas Day)
12. Christmas Day
13. One Floating Holiday[1]

18.01.1 In the event a holiday falls on a Sunday, the following Monday shall be the holiday instead.

18.01.2 In the event a holiday falls on a Saturday, the preceding Friday shall be the holiday instead.

18.01.3 A holiday is defined as eight (8) regular work hours.

18.01.4 Any other holiday declared by the City Council as a City Holiday for City employees.

18.01.5 For other than five (5) day workweeks, any workweek which includes one or more holidays shall be reduced in hours commensurately. The number of days worked during the workweek shall be subject to the approval of the Department Head.

18.02 Where one of these holidays falls on a working day, employees shall be granted the day off with pay and City offices shall be closed except for such municipal services that must be maintained on an around-the-clock basis seven days a week. Employees who work less than full time shall be entitled to credit for paid holidays on a pro-rated basis. Employees required to perform their regular duties on a holiday shall be granted pay or compensatory time off, at the rate of time and one-half in addition to base salary. For the purposes of this section a holiday shall be deemed to begin and end at 12 midnight.

18.03 Employees shall be permitted to take Good Friday as a vacation day by submitting a written request at least two weeks in advance to the supervisor.

---

[1] Each employee shall receive one "Floating Holiday" every calendar year. The Floating Holiday will become effective the first day of January or on the date of hire. Floating Holiday must be used during the calendar year accrued. Prior approval must be received in order to utilize the Floating Holiday.

SECTION 19.00 – TRAINING

19.01 If an employee is directed to participate in a training program, which is related to their job, the City shall provide compensation for the following:

19.01.1 Regular wages for time away from the job (if during working hours);

19.01.2 Overtime or compensatory time off whenever an employee's combined training time and work time exceeds forty (40) hours in a workweek;

19.01.3 Costs of tuition and/or registration for the training;

19.01.4 Reimbursement for authorized transportation cost to and from the training. (i.e. Mileage reimbursement if an employee uses their personal automobile as allowed by the City. However, if employees car-pool to a training session, only the employee who is the owner of the automobile shall be entitled to mileage reimbursement).

19.02 Participation in and successful completion of training course may be considered in making employment advancements and promotions.

SECTION 20.00 - ATTENDANCE

20.01 General

Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holidays and leaves.

20.02 Unauthorized Absence

20.02.1 An employee whose absence is not authorized shall not receive pay or benefits for the absent period and shall be subject to discipline. Failure on the part of the employee absent without leave to return to duty shall be grounds for discharge. It shall be the responsibility of an employee absent without leave to notify the Department Head of the reason the employee is absent and of the employee's availability for duty.

20.02.2 Except in emergency situations when an employee is physically unable to do so, an employee shall report absence at or prior to the beginning of shift to the supervisor or higher authority. Failure to do so may result in an unauthorized absence.

20.03 Breaks

Employees shall be entitled to the privilege of two 15-minute breaks during each standard workday.

20.04 Responsibility to Maintain Service

No employee shall schedule a break at such time as to leave the office in which the employee works unstaffed.

20.04.1 Persons whose responsibility includes public contacts shall advise a responsible person in their office before leaving for a break.

20.04.2 Persons alone in an office should leave a sign on the door, lock the door, and advise the receptionist before leaving for a break, in order to ease the handling of incoming phone calls and customers that call at the office.

20.05 Limitations for Breaks

20.05.1 For workdays from 8:00 a.m. to 5:00 p.m., the morning break shall be taken between 9:30 a.m. and 11:00 a.m., and the afternoon break shall be taken between 2:30 p.m. and 4:00 p.m.

20.05.2 For irregular workdays, breaks shall be taken after the first one- and-one-half hours and before the last hour of each half shift.

SECTION 21.00 - PAY PLAN

21.01 Advancement shall be based on satisfactory performance and increased service value of an employee to the City as exemplified by the recommendations of the supervising official, length of service, performance record, special training undertaken or other pertinent evidence. No salary advancement shall be made so as to exceed the maximum rate established in the pay plan for the class of to which the advanced employee's position is allocated.

21.02 In administering the Pay Plan, the following rules shall be observed:

21.02.1 Step “A” is the minimum rate for a position and shall be the hiring rate for said position. Initial appointment at a rate higher than Step “A” may be made in the case of an unusually well qualified person or where other special conditions warrant, but only with prior approval of the City Manager.

21.02.2 Step “B” represents an incentive adjustment. An employee shall be eligible for Step “B” only after completion of one year from the date of employment on recommendation from the Department Head and approval of the City Manager.

21.02.3 Step “C” represents the rate at which a qualified and experienced employee should be paid after a reasonable period of service. An employee shall become eligible for Step “C” only after he/she has proven himself/herself satisfactory in the given classification for a period of at least one year after completion of his/her probationary period, upon recommendation of the Department Head and approval of the City Manager.

21.02.4 Step “D” represents an incentive adjustment for satisfactory performance and increased effectiveness. An employee shall become eligible for. Step “D” after completion of one year at Step “C” upon recommendation of the Department Head and approval of the City Manager.

21.02.5 Step “E” represents an incentive adjustment for increasingly satisfactory performance. An employee shall be eligible for Step “E” after completion of one year at Step “D” upon recommendation of the Department Head and approval of the City Manager.

21.02.6 Employees who have demonstrated outstanding ability may be advanced to the next higher step prior to completion of one year's service at the current step upon recommendation of the Department Head and approval of the City Manager.

21.03 Performance Appraisal Review - Performance appraisals are an important personnel tool, and the City should endeavor to make them promptly.

21.04 The City shall evaluate employee’s annually from their date of hire or the date they entered their classification. The classification date shall supersede the hire date. In any case, an employee must be evaluated at the completion of probation, be it initial, or as a result of promotion. Effective September 1, 1995, if an employee does not receive a performance appraisal on the date it is due and is not at the top step of the salary range for his/her classification, the Human Resources Department shall process the forms necessary to advance the employee to the next step in the pay range effective the first pay period following the anniversary date. Supervisors must complete a Performance Appraisal Review on a timely basis if they intend to withhold a step advancement for the employee.

If a supervisor subsequently finds that the employee was entitled to a step increase (under this Section) as of that due date, and did not receive it, the step increase shall become effective retroactively as of the due date of the performance appraisal.

If an employee does not receive a performance appraisal within 30 working days after it is due the employee shall have the right to file a grievance. The contents of the “PAR” are not grievable. Grievances are to be conducted under the rules of Section 8.00 etc. of this MOU.

21.05 Salary Following Promotion

Employees receiving a promotion shall receive at least a 5% increase in salary unless limited by the maximum salary range.

21.06 In the event an employee receives overpayment by the City, the employee shall reimburse the City for the total overpayment. Typically, such repayment shall occur over a schedule equal to the amount of time over which the overpayment occurred, and the City may obtain reimbursement by payroll deduction. However, at the employee's request, the City may extend such repayment over a longer period, to be determined by mutual agreement of the employee and the Finance Director.

21.07 "Y" Rate Policy: Whenever an employee would sustain an actual decrease in salary as a result of downward reclassification or reorganization within an existing department unit, without fault or inability on the part of the employee, the City Council shall adopt a "Y" rate to apply only to the employee so affected. A "Y" rate is defined as a monthly salary rate for an individual employee, which is greater than the established range for the employee's class. An employee for whom a "Y" rate is established shall not receive any increase in salary until such time as the employee's rate of compensation is within the established range for the employee's class. An employee who accepts a reassignment to a lower paid position in-lieu of layoff, shall not be "Y" rated.

SECTION 22.00 - RETIREMENT PLAN

22.01 The City will provide the 2% @ 62 CalPERS retirement plan based on the highest 3 year annual average pensionable compensation, depending on the eligibility of the new hires, for employees hired on or after January 1, 2013. Employee shall be responsible for the employee portion of the contribution to PERS retirement.

22.02 The City will provide the 2% at 60 CalPERS retirement plan based on the highest 3 year annual average pensionable compensation to all new hires (Section 20475: Different Level of Benefits Provided for New Employees) hired on or after October 9, 2011 the date that the PERS ordinance was adopted by the City Council. Employees shall be responsible for the employee portion of the contribution to PERS retirement.

22.03 For employees hired before October 9, 2011, the City agrees to continue the 2.7% @ 55 Public Employees' Retirement System (PERS) retirement benefit for the term of this contract, including the final year compensation amendment and 1959 Survivors Benefit in full force and effect.

Effective July 1, 1995, the City agrees, as allowed under Internal Revenue Code Section 414(h)(2), the implementation of the Public Employees' Retirement System (PERS) "Pick-Up" program (TDMC) as outlined in PERS Circular Letter 100-364. In completing the conversion to the IRS 414 (h) (2) program, the increase in salary was calculated on the employee's base salary.

Effective the first full pay period after City Council adoption, in addition to paying the employee PERS contribution rate to the Miscellaneous Plan, employees will pay 8.9% of PERSsable salary toward the employer PERS contribution rate on a pre-tax basis.

Effective the first full pay period including July 1, 2015 employees will pay 4.9% of PERSable salary toward the employer PERS contribution rate on a pre-tax basis.

22.04 Upon retirement, disability retirement, or death, for those employees who were hired on or before July 17, 1999, and who had at least five (5) years of service, the City shall pay the separating employee or his or her estate, for unused accrued sick leave. The amount paid shall be equal to 2.5% per year of service for unused accrued sick leave. The pay-out formula shall be: 2.5% x years of service x highest hourly rate x sick leave hours accrued.

22.04.1 Upon retiring with PERS, all employees shall be eligible for the PERS Credit for Unused Sick Leave provision (20965) of the City's PERS Retirement plan. Employees hired on or before July 17, 1999, may elect either the payout formula in Section 22.02 or the PERS Credit for Unused Sick Leave plan.

22.05 For the purpose of this section, an employee who is retiring is one who has submitted an application for retirement to the Public Employees Retirement System (PERS).

22.06 Retiree Medical

22.06.1 For permanent employees hired before July 1, 1995, and retired between July 1, 1990 and September 1, 2002, who had at least five (5) years of service in the City of Milpitas, the City agrees to pay any single, medical premium rate, as long as the retiree maintains enrollment in one of the eligible health plans.

22.06.2 For permanent employees hired before July 1, 1995, and retired after September 1, 2002, who had at least five (5) years of service in the City of Milpitas, the City agrees to pay up to the single, medical premium rate (at a rate no higher than any single plan paid by City for active employees), as long as the retiree maintains enrollment in one of the eligible health plans.

22.06.3 For permanent employees hired on or after July 1, 1995, and retiring on or after September 1, 2002, the City agrees to pay up to the single, medical premium rate (at a rate no higher than any single plan paid by City of active employees), as long as the retiree maintains enrollment in one of the eligible health plans and shall be subject to the following provisions with respect to the retirement benefits:

(a) Upon completion of the fifth through the ninth year of service with the City of Milpitas, and upon retirement, the City shall provide 25% of the medical insurance premium payment for the employee only, as long as the employee remains in one of the City sponsored eligible health care programs.

(b) Upon completion of the ninth year, this payment of the retiree's medical insurance shall increase to 50%.

(c) Upon completion of the fourteenth year, this payment of the retiree's medical insurance shall increase to 75%.

(d) Upon completion of the nineteenth year, this payment of the retiree's medical insurance shall increase to 100%.

(e) Once any retiree becomes Medicare eligible, City shall pay up to the appropriate Medicare rate per the above sections~~.~~

(f) Retirees may elect to continue coverage for a dependent under the retiree dependent medical fund provided that the dependent is covered by the group plan at the time the employee retires and maintains enrollment as set forth in Section 22.05.2.

22.07 Retiree Dependent Health Care

22.07.1 The Retiree Dependent Health Care Fund

Each year, the City will contribute 1% of payroll with benefits to a fund to be used to help pay the medical premiums of retirees' dependents (the “Fund”). The City’s annual 1% of payroll with benefits contribution shall be recalculated each year based on ProTech’s payroll as of the last full pay period in June. The City will annually deposit this amount in the Fund approximately fifteen (15) days following the last day of the last full pay period in June.

The City will annually present a report to the ProTech president indicating the City’s annual contribution, the total dollars in the Fund, and a brief description of how and the extent to which the 1% was used in the previous fiscal year to pay for the medical premiums of retirees’ dependents. The City will use this report to set retiree dependent contribution rates. The City will also prepare projections for the following fiscal year for contributions and expenditures. The Human Resources Director and ProTech president will meet to discuss corrective measures so the fund does not deplete or end with a negative balance before the next year's contributions is due.

22.07.2 Contributions From the Fund toward Retiree Dependent Premiums

Contributions from the Fund toward the medical premiums of retirees' dependents shall be as follows:

(a) For permanent ProTech employees hired before July 1, 1995, and retired on or after December 5, 2006 (City Council adoption), who have at least five (5) years of full-time or equivalent service with the City of Milpitas, the City agrees to pay from the Fund up to the family, medical premium rate (at a rate no higher than any family plan paid by the City for active employees), as long as the retiree maintains enrollment in one of the eligible health plans.

(b) For permanent ProTech employees hired on or after July 1, 1995, and retired on or after December 5, 2006 (City Council adoption), who have at least five (5) years of full-time or equivalent service with the City of Milpitas; the City agrees to pay from the Fund up to the family, medical premium rate (at a rate no higher than any family plan paid by the City for active employees), as long as the retiree maintains enrollment in one of the eligible health plans and shall be subject to the following provisions with respect to the retirement benefits:

(1) Upon completion of the fifth through the ninth year of service, and upon retirement, the City agrees to provide 25% of the medical insurance premium payment from the Fund for the retiree dependent, as long as the employee remains in one of the City sponsored eligible health care programs.

(2) Upon completion of the ninth year, this payment of the retiree's dependent medical insurance shall increase to 50%.

(3) Upon completion of the fourteenth year, this payment of the retiree's dependent medical insurance shall increase to 75%.

(4) Upon completion of the nineteenth year, this payment of the retiree's dependent medical insurance shall increase to 100%.

(5) Once any dependent becomes Medicare eligible, the City agrees to pay from the Fund up to the appropriate Medicare rate per the above sections.

22.07.3 In no case will the City be required to place funds in the Fund above the 1% of roll with benefits amount. If funds are depleted before the next year's City contribution is due, dependent medical premiums will be the responsibility of the retiree and/or dependent. If less than 1% of payroll with benefits is used in a given year for the medical premiums of retirees' dependents, the remainder shall remain in the Fund and may be used in future years to supplement the City's annual 1% of payroll with benefits contribution if this contribution is insufficient in a given year to make all the payments set forth in 22.06.2 above.

SECTION 23.00 - BENEFITS

23.01 The City shall provide active employees the CalPERS medical insurance for health benefits. The total monthly health benefit per employee shall be based on the Kaiser rates for employee, employee + 1, and family plan. Only employees who have eligible dependents shall be compensated above the single rate plans.

23.01.1 The City reserves the right to discontinue offering any of the medical plans due to any of the following:

(a) The plan imposes exorbitant costs upon the City;
(b) The health care carrier refuses to provide services to the City;
(c) The health care provider no longer offers the services; or
(d) The health plan is discontinued.

23.01.2 If the City discontinues use of CalPERS health care, to the extent possible, the City will provide similar services.

23.01.3 The City will provide a life insurance policy in the amount of $50,000.00 for each full-time member of the Association.

23.01.4 The City shall provide a Short Term Disability Plan with the current benefit level for the term of Agreement.

23.01.5 The City shall provide a Long Term disability with the current benefit level for the term of Agreement.

23.01.6 Payroll deductions for benefit costs above the City benefit contribution shall be permitted, provided that the City shall not assume unreasonable administrative costs.

23.01.7 Employees who are covered as an eligible dependent under another health insurance plan may waive health coverage and receive a total of one hundred and twenty-five dollars ($125.00) per month. Employees who wish to waive health insurance coverage must complete the City of Milpitas' "Health Insurance Waiver" indicating they agree to abide by the terms and conditions of the waiver.

23.01.8 ProTech agrees to discuss a "cafeteria style" benefit plan upon request of the City.

23.01.9 Effective the first full pay period after City Council adoption of this MOU, the City will pay $900 annually toward deferred compensation for each member. The City's payments will be paid over twenty-six (26) pay periods per year.

23.02 Benefit Contribution – Regular Part-Time Employees: The City agrees to contribute monthly premiums for medical, dental and life insurance in an amount to reflect hours budgeted, pro-rated against the amount contributed for full time employees. For example, half-time employees may elect to take any or all of the benefits and the City and the employee will both pay 50% or half of the elected benefit cost(s). The City agrees to provide short-term disability and long-term disability insurance benefits, at the current benefit level for the term of Agreement.

SECTION 24.00 - WORK OUT OF CLASS

24.01 The City agrees that upon specific written assignment by the Department Head, or the designated representative, an employee may be required to assume the duties, responsibilities, authority and accountability of a higher classification. Such assignment shall be made only to existing authorized positions, which are not currently occupied due to the temporary absence of the regularly appointed employee. Such assignment shall not be made to vacant positions.

24.02 Employees assigned to duties of a higher class for at least sixteen (16) hours shall be compensated at a rate up to 10% above the employee's current base salary, except where such increase exceeds the pay range allocated to the assigned position. The employee shall be compensated at the appropriate rate retroactive to the start of the assignment.

24.03 An employee seeking additional training in another class may waive his/her right to work out of class pay in order to pursue desired training.

SECTION 25.00 - TEMPORARY APPOINTMENTS

25.01 Any employee receiving a temporary appointment to a vacant position for at least forty (40) hours shall be paid at an hourly rate based on the class of the position filled. Any employee who has satisfactorily served in a temporary capacity for a minimum of three months, and is selected for a permanent appointment to the same class by the appointing authority, may receive credit towards completion of the probationary period up to the duration of the temporary appointment.

SECTION 26.00 - NO DISCRIMINATION

26.01 The City of Milpitas shall not discriminate in employment practice in regard to race, color, ancestry, national origin, religious creed, sex, sexual preference, age, medical condition (cured or rehabilitated cancer), physical handicap, marital status, or political opinion or affiliation or Association activity, unless such factor shall be a bona fide occupational qualification for the position, or such action is required to comply with federal or state law.

26.02 The Association shall not restrict its membership in regard to race, color, ancestry, national origin, religious creed, sex, sexual preference, age, medical condition (cured or rehabilitated cancer), physical handicap, marital status, or political opinion or affiliation or Association activity, unless such factor shall be a bona fide occupational qualification for the position, or such action is required to comply with federal or state law.

SECTION 27.00 - SALARY

27.01 The monthly salary schedules labeled Appendix “A” and attached hereto are hereby made a part of this Memorandum of Understanding.

SECTION 28.00 - BILINGUAL ASSIGNMENT

28.01 Effective after the City council adoption of the MOU bilingual pay will be eliminated. Those employees currently receiving bilingual pay shall retain the pay.

SECTION 29.00 - WORK SCHEDULES

29.01 All employees shall work a standard bi-weekly schedule of eighty (80) hours. The Department Head shall have the authority to review and as necessary modify the work schedule provided employees are given 60 day notice. In establishing the schedule, consideration shall be given to the staffing needs of the department and the concerns of the employees. It is understood and agreed, that this shall not restrict or limit the ability of the City to modify schedules to respond to emergencies or immediate service needs of the City.

29.02 An employee may request consideration of a flexible work schedule to meet legitimate personal needs, such as childcare, transportation, etc. The Department Head shall consider each such request, and based on the needs of the City and the employee, make a final determination.

29.03 The City agrees to review requests for Alternate Work Schedules. Proposals for alternate work schedules shall be evaluated within each department and for each position. Alternate work schedules may not be appropriate for all departments or employees. In reviewing requests, the City shall take into consideration the City's desire to maintain a level of service, determined by the City, in addition to the employees' needs. The Department Head shall make a recommendation to the City Manager, whose decision is final and not grievable.

Alternate work schedules, which have been approved, shall be subject to Section 29.01.

SECTION 30.00 - HEALTH & SAFETY

30.01 The Risk Management & Safety Committee: The City is committed to the concept that the work place be a safe environment for all employees. In recognition of the City's and the Association's mutual interest in mitigating and/or eliminating present and future health hazards in the work place, the Risk Management & Safety Committee was created.

30.02 For classifications in the Building Inspectors and Public Works Inspectors series, the City shall reimburse up to $175 per employee per fiscal year-towards the purchase of safety prescription eyeglasses provided that they are not fully covered by the employee's health plan. Replacement costs may be covered upon approval of the Human Resources Director if there has been a significant change in the employee's prescription or damage occurred as a result of a work-related accident.

30.03 The City of Milpitas will assess the workstations of employees under the guidance of a specialist in Ergonomics. The Ergonomic specialist shall make recommendations and the City of Milpitas will act accordingly.

30.04 The City shall reimburse an employee up to $175 per fiscal year for eyeglasses when prescribed by a physician for use at a video display terminal, provided the glasses are not fully covered by the employee's health care plan. The employee must apply for any available insurance coverage.

30.05 For Building Inspectors and Public Works Inspectors, the City shall provide up to $200 reimbursement per employee per fiscal year for the purchase of safety shoes and accessories with the provision that said footwear meets safety guidelines set by the City.

For classifications in the Housing and Neighborhood Preservation Specialists, Plan Checkers, and Engineers series, the City shall provide up to $200 reimbursement per employee bi-annually, on a fiscal year basis, for the purchase of safety shoes and accessories with the provision that said footwear meets safety guidelines set by the City.

30.06 It is understood that the wearing of said items is mandatory for field work when reimbursement is provided.

SECTION 31.00 - MISCELLANEOUS

31.01 Working Hours: Any modification of hours of employment, which are not diminimus, shall be subject to the rules and regulations of the Meyers-Millias-Brown Act ("MMBA").

31.02 Replacement of Personal Articles: City may replace, within reason, personal articles damaged or stolen during performance of duty upon recommendation of the individual's immediate supervisor and Department Head. The prior condition of the article, precautions taken to protect the article, and the exercise of proper judgment of wearing or using an expensive article on the job that has certain hazards connected with it shall be considered in determining the amount of replacement. An employee must obtain prior approval from his/her supervisor to bring in and use personal articles in the line of work.

31.03 Negotiations: Negotiations for a new Memorandum of Understanding shall commence three months before the end of the last contract year.

31.04 The City shall endeavor to study the classifications and salaries of Protech members during the term of this MOU.

SECTION 32.00 - EMPLOYEE FITNESS PROGRAM AT THE MILPITAS SPORTS CENTER

32.01 The City of Milpitas agrees to provide to the employees a fitness program that allows employees the opportunity to participate in City-sponsored sports and fitness programs at no cost during the employee's non-working hours. All conditions and requirements regarding the "fitness center" are located in the Fitness Center S.O.P

SECTION 33.00 - LATERAL TRANSFERS

33.01 Employees shall be considered for lateral transfer subject to the following conditions:

33.01.1 The transfer must be recommended by both the outgoing and incoming supervisor and approved by the Department Head.

33.01.2 The transfer must be approved by both the outgoing and incoming Department and/or Division Head.

33.01.3 Probationary employees shall not be eligible for lateral transfer.

33.01.4 Employees who are transferred by request between Departments or between different classifications shall be subject to a new six-month probationary period. Employees failing to complete probation following such a transfer shall be reinstated to the position from which transferred.

33.01.5 Employees who are performing "below expectations" or "unsatisfactory" shall not be considered. This shall be determined by examination of the most recent employee appraisal on file. If the appraisal on file is more than ten (10) months old, a new appraisal shall be done prior to the time the transfer is finalized.

33.01.6 All vacant permanent positions shall be opened to lateral transfer within the same classification.

33.01.7 Written notice of a vacant permanent position shall be circulated by the Human Resources Department. The notice shall include the opening and closing dates for the acceptance of lateral transfer requests.

33.01.8 A period of ten (10) working days shall be allowed during which written requests for lateral transfer must be submitted by any interested employee.

33.01.9 Requests shall be reviewed and all applicants notified of their status and scheduled for an oral interview within five (5) working days of the closing date.

33.01.10 Oral interviews of eligible employees shall be conducted by the hiring supervisor.

33.01.11 Written notice of the results of the interview process shall be made by the hiring supervisor within five (5) working days of the last interview.

33.01.12 Exceptions to the above process due to working conditions and/or the needs of the City may be approved by the Department Head.

SECTION 34.00 - MILEAGE REIMBURSEMENT

34.01 When available, the City shall furnish vehicles from the City's car pool to conduct official City business. In the event a pool car is unavailable, the employee shall use the employee's own vehicle on a temporary basis.

34.02 An employee shall receive authorization from their Department Head or their designee prior to using the employee's own vehicle.

34.03 Temporary basis shall be defined as no more than five (5) consecutive working days unless otherwise agreed to by the employee. Employees who use their car on a temporary basis shall be reimbursed by the City at the rate established by the IRS.

34.04 Any employee who drives their own vehicle on official City business must have a valid California driver's license and proof of valid insurance.

SECTION 35.00 - TUITION REIMBURSEMENT

35.01 The City of Milpitas will provide a tuition reimbursement program for educational activities which are job related and approved in advance by the Department Head and the Human Resources Director. The amount of the fund shall not exceed the amount budgeted for this purpose. Subject to the availability of monies in the fund, individual employees are subject to a total reimbursement of $1,400 per fiscal year. Reimbursement is subject to the guidelines outlined in the Tuition Reimbursement S.O.P.

SECTION 36.00 – NO STRIKE CLAUSE

36.01 The Union, on its own behalf and on behalf of the unit employees it represents, agrees that during the term of this MOU, and throughout all periods when there is any effort or procedure underway to arrive at a successor MOU and during any period when the law specifically prohibits strike activity, there will be no strikes, work stoppages, concerted unauthorized absences, slow-downs, or refusals to cross picket lines of any sort; and that the Local will not directly or indirectly encourage or condone such actions by unit employees, and will undertake all possible steps to cause any such actions to cease.

36.02 Any bargaining unit member violating this provision shall be subject to disciplinary action up to and including termination of employment.

36.03 This provision may be specifically enforced in any court of competent jurisdiction.

SECTION 37.00 – LIUNA NATIONAL (INDUSTRIAL) PENSION FUND

37.01 Protech members currently participate in the LIUNA National Pension Fund under terms set forth in former Section 37.00 of the Memorandum of Understanding approved by City Council on February 19, 2013, and covering the period from January 1, 2013 through December 31, 2013, (hereafter “PRIOR MOU”) and the Standard Form of Participation Agreement signed by the City and Protech in 2001. It is agreed between the Parties that this section 37.00 shall replace that earlier Section 37.00 part of the PRIOR MOU for now and in the future until such time as Protech, or its successor bargaining group or individual employee successors no longer participate in the LIUNA National Pension Fund and there exists no obligation on behalf of the City or Protech or its successor bargaining group or individual employee successors to contribute funds to the LIUNA National Pension Fund, or this Section 37.00 is rescinded or modified by mutual agreement.

37.02 It is further agreed between the Parties that all obligation to make payments to the LIUNA National Pension Fund (including the $.56 City contribution referred to in Section 37.01 of the PRIOR MOU) for pension coverage for Protech employees shall be paid by Protech employees and the City will have the right to deduct the payment from Protech employee wages and make such payments as are due directly to the LIUNA National Pension Fund. This shall include any obligation to make payments to the LIUNA National Pension Fund as now exist or increased amounts which may be imposed in the future for rehabilitation plans imposed, plan restructuring, election for “preferred” benefits under the current Rehabilitation Plan or any other reason. It is further agreed that the City as employer shall elect, if such option is available, the “preferred” payment option, allowing Protech employees enhanced benefits, payment for which Protech employees will be responsible, as agreed and set forth above, but with the understanding that if payments are also due for past obligations under the “preferred” plan, then Protech employees shall be responsible for such amounts which the City may also deduct in reasonable payment amounts from Protech employee wages.

37.03 Employee liability for LIUNA pension payments as described in paragraph 37.02 above do not include any fund liability for the City’s unilateral withdrawal from the LIUNA National Pension Fund, were that to occur in the future. Responsibility for such liability, were it to occur, shall remain subject to future negotiations between the Parties.

37.04 Deductions from Protech employee wages, as set forth in paragraph 37.02 above, shall be processed and deducted as pre-tax pension benefit payments from current and future Protech employees and will include a pro rata share of the indebtedness owed for Protech employees, including retirees, , until such time as that indebtedness is satisfied.

37.05 To the extent this Section is inconsistent with the PRIOR MOU this Section shall prevail and constitute the intent and govern the rights of the Parties.

37.06 By inclusion of this section in this MOU, all parties agree that this matter has been fully discussed amongst the Parties and all meet and confer obligations under the law, including the Meyers Milias Brown Act, have been fully complied with.

This comprehensive Memorandum of Understanding represents a complete and final understanding of all issues negotiated between the City representatives and the Association's representatives and is endorsed this 3rd Day of February 2015.

ASSOCIATION REPRESENTATIVES	CITY REPRESENTATIVES
Nick Wolf	Carmen Valdez, HR Director
Lynette Wilson	Emma Karlen, Assistant City Manager
Steve Allen UPEC, Local 792	Mary Lavelle, City Clerk

APPENDIX "A"

SALARY SCHEDULE			
As of February 4, 2015			
Job Classification	**Monthly Salary**		
Account Technician	$ 5,270.75	-	$ 6,406.51
Accountant	$ 6,499.17	-	$ 7,899.86
Assistant Civil Engineer	$ 7,246.69	-	$ 8,808.43
Assistant Planner	$ 6,561.12	-	$ 7,975.11
Assistant Transportation Planner	$ 6,561.12	-	$ 7,975.11
Associate Civil Engineer	$ 8,333.62	-	$ 10,129.67
Associate Planner	$ 7,545.28	-	$ 9,171.33
Building Permit Technician	$ 5,187.64	-	$ 6,305.62
Building/NP Inspector	$ 7,033.07	-	$ 8,548.71
CAD Technician	$ 6,035.51	-	$ 7,229.76
Desktop Technician	$ 5,765.75	-	$ 7,008.18
Document Processing Technician	$ 4,817.71	-	$ 5,855.93
Electrical/Building Inspector	$ 7,384.76	-	$ 8,976.17
Engineering Aide	$ 5,762.99	-	$ 7,004.84
Engineering Permit Technician	$ 5,187.64	-	$ 6,305.62
Fiscal Assistant I	$ 4,355.81	-	$ 5,294.53
Fiscal Assistant II	$ 4,791.36	-	$ 5,823.91
Housing & Neighborhood Specialist	$ 5,530.68	-	$ 6,722.61
Junior Civil Engineer	$ 6,587.85	-	$ 8,007.63
Junior Planner	$ 5,964.62	-	$ 7,250.01
Junior Transportation Planner	$ 5,964.62	-	$ 7,250.01
Neighborhood Preservation Asst	$ 4,701.08	-	$ 5,714.18
Office Assistant I	$ 3,787.77	-	$ 4,604.03
Office Assistant II	$ 4,166.39	-	$ 5,064.17
Office Assistant II-PT	$ 4,166.39	-	$ 5,064.17
Office Specialist	$ 4,791.34	-	$ 5,823.91
Plan Check Engineer	$ 8,114.14	-	$ 9,862.72
Plan Checker	$ 7,033.07	-	$ 8,548.71
Program Coordinator	$ 5,221.37	-	$ 6,872.86
Public Service Assistant I	$ 4,355.81	-	$ 5,294.53
Public Services Assistant II	$ 4,791.36	-	$ 5,823.91
Public Works Inspector	$ 7,033.07	-	$ 8,548.71
Recreation Srvs Assistant I	$ 2,462.09	-	$ 2,992.73
Recreation Srvs Assistant II	$ 2,923.31	-	$ 3,553.57
Recreation Srvs Assistant III	$ 3,360.31	-	$ 4,084.39
Recreation Srvs Assistant IV	$ 3,942.42	-	$ 4,792.08
Senior Building Inspector	$ 8,123.13	-	$ 9,873.70
Senior Fiscal Assistant	$ 5,270.50	-	$ 6,406.32
Senior Code Enforcement Officer	$ 6,489.36	-	$ 7,887.82
Senior Plan Check Engineer	$ 8,925.48	-	$ 10,849.04
Senior Public Works Inspector	$8,123.19	-	$ 9,873.70

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS ADOPTING THE MEMORANDUM OF UNDERSTANDING WITH THE MILPITAS EMPLOYEES ASSOCIATION (MEA) FOR THE PERIOD OF FEBRUARY 4, 2015 THROUGH JUNE 30, 2016

WHEREAS, the most recent Memorandum of Understanding (MOU) between the Milpitas Employees Association (MEA) and the City of Milpitas covered the period of July 1, 2012, through December 31, 2013; and

WHEREAS; representatives of MEA and the City of Milpitas met in good faith and negotiated a successor Memorandum of Understanding; and

WHEREAS, the new Memorandum of Understanding between MEA and the City of Milpitas shall be effective February 4, 2015, through June 30, 2016, a copy of which is attached as "Exhibit A."

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

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

2. The MOU between the Milpitas Employees Association and the City of Milpitas, attached hereto as Exhibit A, is hereby approved and the City Representatives are hereby authorized to execute it upon condition that MEA execute a full and complete dismissal with prejudice of its PERB Charge (SF-CE-956-M) pending on appeal.

PASSED AND ADOPTED this ______day of _________, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: APPROVED:

______________________________ ______________________________
Mary Lavelle, City Clerk Jose S. Esteves, Mayor

APPROVED AS TO FORM:

____
Michael J. Ogaz, City Attorney

EXHIBIT A

MEMORANDUM OF UNDERSTANDING

BETWEEN

MILPITAS EMPLOYEES ASSOCIATION

(An Affiliate of Laborers' International Union of North America (LIUNA/UPEC)

AND THE

CITY OF MILPITAS

February 4, 2015 - June 30, 2016 unless extended

As Adopted by the Milpitas City Council on
February 3, 2015

TABLE OF CONTENTS

CITY OF MILPITAS AND MILPITAS EMPLOYEES' ASSOCIATION COMPREHENSIVE MEMORANDUM OF UNDERSTANDING ON SALARIES, FRINGE BENEFITS AND WORKING CONDITIONS

February 4, 2015 through June 30, 2016 unless extended

This Memorandum of Understanding (hereafter "Agreement") is made between the City of Milpitas ('the City") and the Milpitas Employees Association (hereafter "the Union"). The Union confirms that it is an affiliate of the Laborers' International Union of North America (LIUNA/UPEC), AFL-CIO, Local 792.

SECTION 1.00 PREAMBLE

1.01 The term of the prior MOU expired on December 31, 2013. The terms and provisions of that MOU and any amendments are continued in full force and effect in accord with law through the beginning date of this MOU of February 4, 2015.

The term of this Agreement shall commence at 12:01 a.m. on February 4, 2015 and terminate on June 30, 2016 unless extended as hereafter provided. If on or before April 1, 2016, the City Manager of the City, in his or her sole discretion, notifies the Union in writing of the intention to extend this Agreement, the Agreement shall be extended one full year until June 30, 2017. If the City extends the Agreement as provided herein, the City shall grant to all employee Union members a 3% salary increase beginning the first full pay period including July 1, 2016 and for the remainder of the Agreement. The Agreement is subject to all ordinances, resolutions and personnel rules of the City, except as expressly provided to the contrary by this Agreement, and all applicable federal and state laws.

1.02 The Union and the City shall attempt to create a working environment free from hostility and intimidation. To that end, the Union and the City shall encourage all employees to treat their fellow employees with dignity and respect.

1.03 The terms and conditions of employment set forth in this Agreement have been discussed in good faith by the authorized representatives of the City and the authorized representatives of the Union. The authorized representatives of the Union agree to recommend acceptance by the employees of all terms and conditions set forth herein. Following said acceptance by the employees, authorized representatives of the City agree to recommend to the Milpitas City Council that all terms and conditions set forth herein be approved by resolution. Upon adoption of said resolution, all terms and conditions so incorporated shall become effective without further action by either party.

SECTION 2.00 - NO DISCRIMINATION

2.01 The City of Milpitas shall not discriminate in employment practice in regard to race, color, ancestry, national origin, religious creed, sex, sexual orientation, age, medical condition (cured or rehabilitated cancer), physical or mental disability, marital status, or political opinion or affiliation or union activity, unless such factor shall be a bona fide occupational qualification for the position, or such action is required to comply with federal or state law.

2.02 The Union shall not discriminate based on race, color, ancestry, national origin, religious creed, sex, sexual orientation, age, medical condition (cured or rehabilitated cancer), physical or mental disability, marital status, or political opinion or affiliation or union activity, unless such factor shall be a bona fide occupational qualification for the position, or such action is required to comply with federal or state law.

SECTION 3.00 - EMPLOYEE RIGHTS

3.01 Employees receiving permanent appointment prior to July 1, 1986, are subject to the provisions of this subsection:

3.01.1 Any employee in the City's competitive service may join, organize or maintain membership in a labor organization if the employee so desires. The City neither encourages nor discourages these activities, nor does membership or non-membership in any labor organization affect the employee's standing or right as a City employee. The right to join, organize, or maintain membership in a labor organization is also extended to any association of municipal employees not identified with any labor organization.

3.01.2 The right to join a labor union or any association of municipal employees also includes the right not to join. Any employee desiring to join, remain a member, or become independent of any such organization or association must be free to exercise their right without undue influence, coercion, intimidation, or pressure of any kind from any person. Any attempt by one City employee to unduly influence or pressure another employee regarding the employee's membership in any organization or association is contrary to this Memorandum of Understanding, and any offender shall be subject to disciplinary action. Undue influence or pressure for these purposes is an attempt to persuade an employee to change their mind by any means other than written or verbal discussion of the pros and cons of membership or non-membership.

3.01.3 For employees who may wish to belong to the employee's union, the City shall cause dues to be deducted from their paycheck where specifically authorized by the employee in advance. Employees shall authorize deduction of dues in writing. The employee may, at any time, and for any reason, cancel his/her authorization for such a payroll deduction. The employee's cancellation of such authorized deductions shall in no way affect his/her job or standing as an employee. Any employee desiring to join, remain a member, or become independent of any such organization or association must be free to exercise their right without undue influence, coercion, intimidation or pressure of any kind from any person.

3.02 All represented employees receiving a permanent appointment on or after July 1, 1986 shall be required to pay an amount, established by the Association, not to exceed the monthly membership dues, to the Association. The City agrees that the payment of said amount shall be a condition of employment, and further agrees to cause deduction of one-half the monthly sum due, from each of the first two payroll checks issued in each calendar month. The Association agrees that membership and participation in Association or union activities is not required beyond the payment of the monthly charge. The above subsection shall be applied in accordance with federal, state and local law.

3.02.1 The City and the Association recognize the right of employees to form, join and participate in lawful activities of employee organizations and the equal, alternative right of employees to refuse to form, join and participate in employee organizations. Neither party shall discriminate against an employee in the exercise of these alternative rights.

Accordingly, membership in the Association shall not be compulsory. A unit member has the right to choose, either: to become a member of the Association; or to pay to the Association a fee for representation services, or to refrain from either of the above courses of action upon the grounds set forth in Paragraph 3.02.07 below.

3.02.2 A bargaining unit member who does not fall within one of the exempted categories as set forth in Paragraph 3.02.07 below, and who has not voluntarily made application for membership in the Association within thirty, (30), days of either the date upon which this Agreement is executed, or the date upon which said unit member has been employed by the City, whichever is later, must, as a condition of employment in the City, pay monthly by payroll deduction to the Association, a representation/ service fee in exchange for representation services necessarily performed by the Association in conformance with its legally imposed duty of fair representation on behalf of said unit member.

3.02.3 The representation/service fee to be collected from non-Association unit members shall be an amount not to exceed the standard initiation fee, periodic dues, and general assessments of the Association.

3.02.4 Any dispute as to the amount of the representation fee shall be resolved by an arbitration panel consisting of three members: 1) Milpitas Employees Association Treasurer, 2) City Director of Financial Services, 3) member selected by the grieved party. Pending such resolution, the representation/service fees deducted shall be held in an escrow account pending a determination of the correct amount of the fee.

3.02.5 Unit members on voluntary leave without pay, and unit members who are on laid-off status shall be exempt from these provisions herein; except that the election as to the membership or payment of a fee as set forth in Paragraph 3.02 above must be exercised within the first ten, (10), workdays upon return to paid status.

3.02.6 Any unit member may be exempted from payment of any representation/service fees to the Association if that person is a member of a bona fide religious body or section which he/she historically held conscientious objections to joining or financially supporting public employee organizations. Such exempt unit member shall, as an alternative to payment of a representation/service fee to the

Association, pay an amount equivalent to such representation/service fee to a choice of any of the following: American Cancer Society, American Heart Association, Sickle Cell Anemia Foundation or any other recognized minority service organization which qualifies for tax exemption under Section 501 (c)3 of the IRS code.

3.02.7 The City, upon written request from the Association, shall require such exempt unit member to submit a written affidavit to the Association verifying the existence and nature of the allowable objection to payment of a representative/service fee and in addition, shall require such exempt unit member to submit proof of payment of an amount equivalent to such representation/service fee to the organizations listed above.

3.02.8 A unit member shall sign and deliver to the City a written authorization to deduct the properly established representation/service fee as defined in Paragraph 3.02 above. Upon receipt of the authorization duly completed and executed, the City shall deduct from the pay of unit members and pay to the Association the normal and regular monthly representation/service fee.

3.02.9 In the event that a unit member who is not exempted from payment under Paragraph 3.02.7 above does not sign and deliver to the City an authorization pursuant to Paragraph 3.02.8 above, the Association shall request in writing that the City deduct from the pay of the unit member and pay to the Association the normal and regular monthly representation fee without the approval of the unit member. In such case, the City shall begin automatic payroll deduction for the representation/service fee due from the date of ratification of this Agreement or the first date of the unit member's employment, whichever is later. There shall be no charge to the Association for such mandatory representation/service fee deductions.

3.02.10 Prior to beginning such payroll deduction pursuant to Subsection 3.02.9, the Association shall certify to the City in writing that the unit member whose pay is affected by the deduction has: 1) not joined the Association; 2) not voluntarily tendered the amount of the representation/service fee as defined herein; and 3) has not qualified for an exemption under Paragraph 3.02.7 herein. The Association shall also notify the unit member in writing that due to the unit member's failure to fulfill any of the above three, (3), requirements, the Association has requested the City to begin automatic payroll deduction of the representation/service fee. The Association shall provide the City with a copy of said written notice to the unit member. Thereafter, the City shall begin the automatic deductions.

3.02.11 The City is under no obligation to make payroll deductions for periods during which a unit member is either terminated from employment or not on the City's payroll for any reason, including, but not limited to, layoff and voluntary leave of absence for more than thirty, (30) days.

3.02.12 Upon the rehiring of any unit member, the City shall treat such unit member as a new unit member for purposes of this Section.

3.02.13 The City's sole and exclusive obligation under this Section is to notify any unit member who has failed to comply with the provisions of this Section that, as a condition of employment in the City, such unit member must either become an Association member, pay a representation/service fee, either through voluntary or involuntary deductions, or establish an exempt status and make payment pursuant to Paragraph 3.02.7 of this Section, and to make payroll deductions pursuant to Paragraph 3.02.8 of this Section. Under no circumstances shall the City be required to dismiss any unit member for failure to fulfill his/her obligation to pay the fees established herein.

3.02.14 The Association, as defined in this Section, shall hold the City harmless, and shall fully and promptly reimburse the City for any fees, costs, charges, or penalties incurred In responding to or defending against claims, dispute, challenges which are actually brought against the City or any of its agents, in connection with the administration or enforcement of any subsection of the Section pertaining to representation/service fee. Such reimbursement shall include, but not be limited to, court costs, litigation expense, and attorney's fees incurred by the City.

3.03 City employees participating in organizational or other labor union activities or similar activities of any employee association are required to conduct such activities on their own time and not during regularly assigned working hours, with the following exceptions:

3.03.1 A steward representing or assisting a fellow employee in the presentation of a grievance may utilize such time as is essential for the presentation of the grievance to management during working hours; however, solicitation of grievances shall be on the steward and employee’s own time.

3.03.2 Officials of any organization representing City employees may meet on City time with the City Manager or other City officials when such meeting times are approved by the City Manager.

3.03.3 Business agents or representatives of the union or other association, or their affiliates, having business, (other than recruiting of members), with the officers or individual members of the union or other recognized employee groups may meet and confer with such officers or members during the course of the working day for a reasonable period of time provided that permission is first obtained from the department head, if on duty, and the employee’s immediate supervisor, and further provided that the conduct of such business shall in no way conflict with the performance of City business.

3.04 Use of the work place or premises for organizational activities other than the presentation of a grievance or the conduct of business as provided for above, is permitted before or after working hours only with the advance approval of the City Manager or his/her designee; is subject to the availability of the desired facility, and shall in no way interfere with the performance of official duties of on-duty personnel. Official bulletin boards may be used only for notice of meetings of any employee organizations and for no other organizational purpose. The City shall, however, provide space upon request at any City facility for a union or employee association furnished, installed and maintained bulletin board for posting of notices and bulletins and a magazine rack for the distribution of union or association literature.

3.05 Time Off For Association Meeting/Training:

The City shall provide annual paid release time for Association Business such as negotiations, conventions symposia, etc., excluding political activity, upon reasonable written notice to and prior approval by the appropriate department head. Release time shall not result in overtime by any employee. These events shall include but are not limited to:

Event	**Personnel**	**Time**
Labor Negotiations Training	2	5 days
LTD/Health Benefit Meetings	2	4 hours
PERS Meetings	2	1 day
Association Conferences	1	5 days
	Total	144 hours

SECTION 4.00 - CITY RIGHTS

4.01 The City continues to possess exclusively the rights listed below, plus all other rights to which by law the City is entitled. These rights may not be abridged or modified in any way, except by formal legislative action by the City Council (i.e. resolution or ordinance). The City has the right and may exercise its discretion:

1. To determine the mission of its constituent departments, commissions and boards;
2. To set standards of service.
3. To direct employees, make assignments and require overtime work;
4. To take disciplinary action;
5. To relieve its employees from duty because of lack of work or other legitimate reasons;
6. To determine the methods, means and personnel by which government operations are to be conducted;
7. To determine the procedure and standards for selection for employment and determine the content of job classifications;
8. To determine when an emergency exists and to take all necessary action to carry out its mission in emergencies, including recalling and deploying off-duty personnel and requiring that employees work overtime;
9. To exercise complete control and discretion over its organization and technology of performing its work;
10. To transfer or reassign employees, as outlined in the MOU
11. To layoff employees by position as a result of: a material change in duties, organization, or shortage of work or funds in the Department or the City.

Any violation of the policies and procedures created by this MOU may be subject to disciplinary action as defined by this MOU. Any agreement between the City and the

Association evidenced by a Memorandum of Understanding pursuant to Government Code section 3500 et. seq. shall take precedence over any of the above enumerated employee and management rights. Such a Memorandum of Understanding will be honored in good faith during the life of this contract.

Except in cases of emergency the City shall give written notice (30 days in advance of any contract with third parties) which shall result in the lay-off, demotion, or transfer of any employee represented by the Association and shall meet and confer with the Association regarding the same upon reasonable notice.

SECTION 5.00 - ADVANCE NOTICE

5.01 Except in cases of emergency as provided in this section, the City shall give reasonable written notice to each recognized employee organization affected by an ordinance, rule, resolution, or regulation directly relating to matters within the scope of representation including actions taken under City Rights that affect wages, hours and other terms and conditions of employment proposed to be adopted by the City and shall give such recognized employee organizations the opportunity to meet with City representatives.

SECTION 6.00 - DISCIPLINARY ACTION/APPEALS PROCEDURE

6.01 The City may take disciplinary action against any Employee for just cause. The City recognizes the practice of progressive discipline; however, depending on the severity of the offense, the City may immediately impose more severe discipline.

6.02 Causes for Disciplinary Action:

6.02.1 Grounds for Discipline: Discipline may be imposed for just cause, including without limitation for the following grounds:

(a) Fraud in securing appointment or falsification concerning records, fellow employees, or work performed.

(b) Failure to satisfactorily perform the duties and responsibilities of an employee’s position.

(c) Neglect of Duty.

(d) Insubordination.

(e) Reporting for or performing duty under impairment as a result of alcohol and/or drug use.

(f) Dishonesty or misuse of or misappropriation of City property and funds.

(g) Conviction of any crime involving moral turpitude, or substantially relating to the function of an employee’s position.

(h) Unauthorized absence.

(i) Non-observance of work hours, including tardiness, and abuse of sick leave privileges.

(j) Discourteous or non-cooperative treatment of the public or other employees.

(k) Conduct, either during or outside of duty hours, which is of such a nature that it causes discredit to the employee's department or the City.

(l) Failure to abide by any condition of employment stipulated in the: Municipal Code; Personnel Rules and Regulations; any City or department policies or procedures; or Memoranda of Understanding approved by formal action of the Council;

(m) Knowingly filing or pursuing a false charge;

(n) Threats of violence or acts of violence towards fellow employees or members of the public in the workplace.

(o) Abuse of any City and/or Department policies and procedures.

(p) Abandonment of job (5 days absence without authorization).

6.03 Disciplinary Action:

6.03.1 Written Reprimand: Repeated violations or more severe misbehavior may require a more formal response by the supervisor to the employee. In this case the employee is provided with a written memorandum, which outlines the violation(s) and the expected actions to be taken by the employee in response to the memorandum. The written reprimand contains an indication of subsequent disciplinary steps to be taken in the event that the employee fails to respond appropriately. A copy of the written reprimand shall be placed in the employee's official personnel record.

6.03.2 Suspension: In the event of more severe or repeated violations, the employee may be relieved of duty by the City for a specified period of time without pay. Such suspension shall not exceed thirty (30) calendar days and shall be subject to the procedures outlined in Section 6.05.

6.03.3 Reduction in Salary Range: In the event of more severe or repeated violations, the employee's salary may be reduced by the City within the range for the position held. Such reduction in salary shall be subject to the procedure outlined in Section 6.05. Reduction shall be made on a permanent or temporary basis.

6.03.4 Involuntary Demotion: In the event of more severe or repeated violations, the employee may be reduced in rank and pay by the City. Such demotion shall be in conformance with Section 6.05 Demotions shall be made on a permanent or temporary basis.

6.03.5 Termination of Employment: The City may terminate the employment of an employee for more severe or repeated violations of the City or Department rules, regulations, policies or procedures. Such termination shall be in conformance with Section 6.05.

6.04 Authority for Disciplinary Actions:

The Department Head, or designated representative, shall have authority to take disciplinary action.

6.05 Proposed Discipline Notice to Employees:

6.05.1 Prior to taking any disciplinary action, as defined in Section 6.03 except for Section 6.03.1 - Written Reprimand, against a permanent employee, the City shall notify the employee in writing of the following:

(a) The proposed disciplinary action;

(b) The nature of the charges and/or violation of City ordinances, resolutions, written procedures, municipal code, or departmental regulations and policies;

(c) The reasons for the proposed action;

(d) The materials upon which the action is based;

(e) The opportunity of the employee to appear before a designated City representative and respond to the charges at a specified place and time;

(f) The right of the employee to be represented by an attorney or other representative at any disciplinary conferences or proceedings.

(g) The employee has the right to submit a written response within 10 days to the Human Resources Director. Responses will be attached to the Written Reprimand.

6.05.2 Any employee notified pursuant to 6.05.1 above who desires an opportunity to respond may do so by appearing at the appointed place and time. Said response may be oral or in writing. The employee is not entitled to an evidentiary hearing, and the sole purpose of the meeting shall be to hear the response of the employee to the charges. The employee shall be entitled to representation, but shall not be entitled to present witnesses, unless the City determines that the presentation of witnesses is necessary. If the City representative determines that he or she cannot be impartial, or upon timely written request by the employee, the Human Resources Director or designee may hear the employee's response.

In the event that the employee is unable to respond to the charges within the time permitted, and demonstrates the reasonableness of a continuance, the City may grant a continuance.

As soon as practical after the employee has had an opportunity to present a response, the City will notify the employee in writing of the nature and extent of the discipline, if any, and the time of commencement thereof. Said notification will also advise the employee of any right of appeal.

6.05.3 For the purposes of the application of the procedures outlined in Sections 6.05, a disciplinary action shall be defined as a suspension of at least three (3) working days for those employees assigned to a standard 40-hour week, or an equivalent reduction in salary, demotion or discharge.

6.06 Notification – Disciplinary Action: The City agrees that in any disciplinary action, except oral reprimand, taken against employees represented by the Association, the Association shall be notified by memorandum within forty-eight hours (48) hours following employees notification of pending disciplinary action, subject to employee's consent to such notification.

6.07 Right of Appeal:

6.07.1 Reprisals:

No party to the discipline process shall retaliate against any other party to the discipline process because the party participated in the discipline process.

6.07.2 Written Reprimand:

The Human Resources Director shall remove a letter of reprimand from a personnel file upon written request by the employee, provided there have been no additional disciplinary actions of a similar nature during the subsequent twenty-four (24) months.

If the employee's performance appraisal review contains any reference to the letter of reprimand which has been removed from the employee's personnel file, that section or page of the employee's performance appraisal review shall be rewritten and any reference to the letter of reprimand shall be deleted at the written request of the employee.

Written reprimands are not subject to the Discipline Appeal process covered in Arbitration (Section 6.07.3) and/or the Grievance Process (Section 10.00).

6.07.3 Appeals of Suspensions, reduction in step, involuntary termination: Arbitration

Within ten (10) working days of the receipt of final disciplinary action, the disciplined employee may appeal the disciplinary action to arbitration by filing a written request. The request for arbitration shall be made to the Department Head with a copy sent to the Human Resources Director.

If either the City or the disciplined employee so requests, the arbitrator shall hear the merits of any issue raised regarding the arbitrability of the discipline appeal first. No hearing on the merits of the discipline appeal will be conducted until the issue of arbitrability has been decided.

The parties shall request a list of seven (7) arbitrators within ten (10) working days after receipt of the employee's request for arbitration from the California State Mediation and Conciliation Service.

The fees and expenses of the arbitrator and the certified court reporter shall be shared equally by the City and the disciplined employee, or employee organization, if the employee organization represents the disciplined employee at the arbitration. The services of the certified court reporter are optional. However, both parties must agree if a certified court reporter is employed. Financial responsibility shall be established before the selection of an arbitrator. All other expenses shall be borne by the party incurring them, and neither party shall be responsible for the expense of witnesses called by the other.

The arbitrator's power and authority is limited to the issue of whether the grievant was disciplined for good or just cause, and if not, what the appropriate remedy should be. The arbitrator shall be without power or authority to make any decision or award that requires the City or the administration to do an act prohibited by law.

If, as a result of an arbitration award, an employee's disciplinary action is deleted or modified in any way and if the employee's performance appraisal review contains any reference to the disciplinary action, that section or page of the employee's performance appraisal review shall be rewritten and any reference to the disciplinary action shall be deleted.

Decision - Final and Binding: The decision of the arbitrator shall: (a) be made in writing within thirty (30) working days of the close of the hearing or submission of written briefs and (b) shall be final and binding upon both parties.

6.08 Every effort shall be made to schedule meetings for the processing of disciplinary actions/appeals procedure at times which will not interfere with the regular workday of the participants. If any disciplinary meeting or hearing must be scheduled during duty hours, any employee required by either party to participate in such meeting or hearing shall be released from regular duties without loss of pay for a reasonable amount of time. Overtime is not provided for off-duty time except for witnesses requested by the City.

6.09 Waiver of Steps or Time Limits: Notwithstanding any provision in this section, any time limit or stage of procedure specified in this section may be waived or extended upon written consent of all parties.

SECTION 7.00 - LAYOFF

7.01 Any layoff shall be according to seniority and the procedures as defined and set forth in Municipal Code Section Vl-102 et seq.

7.01.1 The City Manager, after review with the Department Head and the Human Resources Director, may lay off an employee because of material change in duties, organization, or shortage of work or funds in the department or the City.

7.01.2 The Human Resources Director shall notify the affected Employee(s) in writing at least thirty (30) days in advance of the intended layoff and of their option to accept a voluntary demotion in lieu of layoff.

7.01.3 Employees laid-off or accepting demotions in lieu of layoff shall be placed on a Re-Employment List in inverse order of displacement for an appropriate Class for three (3) years.

SECTION 8.00 - RESIGNATION

8.01 An employee wishing to resign in good standing shall file with the Department Head a written resignation at least two calendar weeks before the effective date of termination, stating the reasons for leaving. The resignation shall be forwarded to the Human Resources Director. Failure to comply with this requirement shall be entered in the service record of the Employee and may be cause for denying future employment with the City.

SECTION 9.00 - OTHER EMPLOYMENT

9.01 Employees may engage in other employment or business activity that does not conflict with the Employee's duties and which does not involve time demands that would reduce the Employee's efficiency or safe operation of equipment, such as sleep deprivation or physical exhaustion prior to start of employees' shift. In no case shall the employee conduct non-city business during city work hours.

9.02 An employee's outside employment, activity or enterprise may be prohibited if it:

(a) Involves the use for private gain or advantage of City time, facilities, equipment and supplies; or the badge, uniform, prestige or influence of the City office or employment.

(b) Involves receipt or acceptance by the Employee of any money or other consideration from anyone other than the City for the performance of an act which the Employee, if not performing such act, would be required or expected to render in the regular course of hours of City employment or as a part of regular duties.

(c) Involves the performance of an act which may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other Employee of the City.

(d) Involves such time demands as would reduce the Employee’s efficiency or safety.

9.03 Employees must notify the Human Resources Director of other employment or business activities in writing prior to engaging in such activities. Disapproval of other employment may be appealed to the City Manager whose decision shall be final. Documents concerning other employment shall be kept in the employee’s personnel file.

9.04 Employees who engage in outside employment that conflicts with duties or who intentionally fails to submit a timely notice to engage in outside employment shall be subject to disciplinary action.

SECTION 10.00 - GRIEVANCE PROCEDURE

10.01 Definitions:

(a) A grievance is any dispute which involves the interpretation or application of any provision of this MOU. A grievance does not include disciplinary actions, as a different review procedure for disciplinary matters is otherwise provided in this MOU. Performance appraisal reviews are not grievable.

(b) A “grievant” is any employee, or union representative on behalf of an employee adversely affected by an alleged violation of the specific provisions of a Memorandum of Understanding.

(c) A “working day” is any day in which the City Hall is open for business.

(d) “Employee organization” is the Milpitas Employees Association, an affiliate of LIUNA/UPEC, Local 792.

10.02 Representation:

At any step in the grievance procedure, the employee concerned may choose to represent himself/herself; or be represented by the certified employee organization which has been recognized by the City for that representation unit to which the employee’s classification is assigned; or by legal counsel. The employee concerned shall be personally present at all stages of the grievance procedure unless that employee specifically waives the right in writing.

10.03 Scheduling/Attendance:

Every effort will be made to schedule meetings for the processing of grievances at times which will not interfere with the regular workday of the participants. If any grievance meeting or hearing must be scheduled during duty hours, any employee required by either party to participate as a witness or grievant in such meeting or hearing shall be released from regular duties without loss of pay for a reasonable amount of time. Overtime is not provided for off-duty time except f o r witnesses requested by the City.

10.04 Informal Grievance

It is the intent to deal with and settle grievances informally, at the nearest practical organizational level, and as promptly and fairly as possible. In any instance of grievance, the Grievant shall first raise the issue with their immediate supervisor within thirty (30) calendar days following the occurrence, or knowledge of the events on which the grievance is based. Employees waive the right to grieve beyond this thirty (30) day period. Every effort shall be made to resolve such grievance at this level.

10.05 Formal Grievance--Level 1

If a mutually satisfactory solution of a grievance as specified in the paragraph above is not reached, then within ten (10) working days of the immediate supervisor's decision, the grievant shall submit a grievance statement in writing. The written grievance shall set forth all of the issues involved; shall be dated and signed by the grievant; and shall be submitted to the Department Head. The grievance shall contain each of the following (providing the grievant possesses the knowledge required in order to comply):

a. A description of the specific facts and grounds upon which the grievance is based including names, dates, and places necessary for a complete understanding of the grievance;
b. A specific explanation of how the grievant has been adversely affected;
c. A listing of the provisions of the MOU which are alleged to have been violated;
d. A listing of specific actions requested by the grievant of the City which will remedy the grievance, including a specific dollar amount, and the basis for the dollar amount, of any alleged damages at issue;
e. An explanation why the grievant believes the decision at the informal grievance step was unsatisfactory;
f. A statement declaring self-representation; and
g. The name, address, and telephone number of the person(s) to whom notices may be sent regarding the grievance.

The Department Head, or designated representative, shall investigate the facts and issues and reach a conclusion at the earliest date consistent with the nature of the investigation and within normal conduct of the department's business. Upon reaching such conclusion, but in any event within ten (10) working days of the receipt of the grievance statement, the Department Head or designated representative shall reply in writing stating the department's view of the issue involved.

10.06 Formal Grievance--Level II

If the grievance has not been disposed of at Level I, the grievant, within ten (10) working days after receipt of the department's written reply at the completion of Level I, shall forward the said written grievance to the City Manager or designated representative. The City Manager or designated representative shall review the facts and issues and further investigate as is necessary and will reach a conclusion at the earliest date consistent with the nature of the investigation and within normal conduct of the City's business. Upon reaching such conclusion, but in any event, within ten (10) working days of the receipt of the grievance statement, the City Manager or designee shall issue a written decision on the grievance appeal.

10.07 Arbitration

Within ten (10) working days of the receipt of City Manager's final decision, the Grievant may request arbitration by filing a written request to the Human Resources Director.

If either the City or the grievant so requests, the arbitrator shall hear the merits of any issue raised regarding the arbitrability of a grievance first. No hearing on the merits of the grievance will be conducted until the issue of arbitrability has been decided.

The parties shall request a list of seven (7) arbitrators within ten (10) working days after receipt of the employee's request for arbitration from the California State Mediation and Conciliation Service.

The fees and expenses of the arbitrator and the certified court reporter shall be shared equally by the City and the grievant, or employee organization, if the employee organization represents the grievant at the arbitration. The services of the certified court reporter are optional; however, if any party and/or the arbitrator desires a certified court reporter, a court reporter will be employed. The parties will share the cost of the Court Reporter, including the original transcript, and shall pay for their own copies of the transcript. However, if 1) the arbitrator does not desire a transcript or require a court reporter, and 2) a party states in writing before the beginning of the hearing both that the party (a) does not desire a court reporter and (b) will not order a transcript, that party shall not be responsible for paying any portion of the cost of the court reporter. All other expenses shall be borne by the party incurring them, and neither party shall be responsible for the expense of witnesses called by the other.

The arbitrator's power and authority is limited to the interpretation of this Agreement. The arbitrator shall be without power or authority to render any decision or award that requires the City or the administration to do an act prohibited by law.

10.08 Decision - Final and Binding:

The decision of the arbitrator shall (a) be made in writing within thirty (30) working days of the close of the hearing or the submission of written briefs; and (b) shall be final and binding upon both parties.

10.09 Waiver of Steps or Time Limits:

Notwithstanding any provision in this section, any time limit or stage of the procedure specified in this section may be waived or extended upon written consent of all parties involved.

SECTION 11.00 - WORK SCHEDULES

11.01 Employees shall work a 37.5 or 40 hour workweek. The department head shall have the authority to review, and as necessary, modify the work schedule. each April 1, and September 1. However, any such modification shall not include changing from a four day work week to any alternative schedule without meeting and conferring on the specifics of the proposed change. Said schedule shall be circulated 30 calendar days prior to the beginning of each April 1, and September 1, respectively to all affected employees. In establishing the schedule, consideration shall be given to the staffing needs of the department and the concerns of the employees. It is understood and agreed, however, that this shall not restrict or limit the ability of the City to modify schedules to respond to emergencies or immediate service needs of the City.

11.02 In all cases, employees who are assigned to shifts in which one-half of their hours fall between the hours of 6:00 p.m. and 8:00 a.m. three or more times within an established work week shall receive a five percent (5%) premium.

SECTION 12.00 - WORKING TITLES

12.01 It is agreed that working titles may be adopted within established job classifications with approval of the Department head.

SECTION 13.00 - TEMPORARY APPOINTMENTS

13.01 Any employee receiving a temporary appointment to a vacant position shall serve in accordance with the City's Personnel Rules and Regulations. Any employee who has satisfactorily served in a temporary capacity for three months or longer, and is selected for a permanent appointment to the same class by the appointing authority, shall receive credit towards completion of the probationary period for the duration of the temporary appointment from the first date of the assignment. A performance appraisal of the employee is required at the time of the permanent appointment.

SECTION 14.00 - ATTENDANCE

14.01 General:

Employees shall be in attendance at their work place in accordance with the rules regarding hours of work, holidays, and leaves.

14.02 Unauthorized Absence:

14.02.1 An employee whose absence is not authorized shall not receive pay or benefits for the absent period and may be subject to discipline. Failure on the part of the employee absent without leave to return to duty shall be grounds for discharge. It shall be the responsibility of an employee absent without leave to notify the Department Head of the reason the employee is absent and of the employee’s availability for duty.

14.02.2 Any employee shall report his/her absence at or prior to the beginning of shift of the same day to the supervisor or higher authority. Failure to do so may result in unauthorized absence.

14.03 Breaks:

Employees shall be entitled to the privilege of two 15-minute breaks during each standard work day.

14.04 Responsibility to Maintain Service:

No employee shall schedule a break at such time as to leave the office in which the employee works unstaffed.

14.04.1 Persons whose responsibility includes public contact shall advise a responsible person in their office before leaving for a break.

14.04.2 Persons alone in an office should leave a sign on the door, lock the door, and advise the receptionist before leaving for a break, in order to ease the handling of incoming phone calls and customers that may call at the office.

14.05 Limitations for Breaks:

14.05.1 For work days from 8:00 a.m. to 5:00 p.m., the morning break shall be taken between 9:30 a.m. and 11:00 a.m., and the afternoon break shall be taken between 2:30 p.m. and 4:00 p.m.

14.05.2 For irregular work days, breaks shall be taken after the first one and one-half hours and before the last hour of each half shift.

SECTION 15.00 - PAY PLAN

15.01 Advancement shall not be automatic, but shall depend upon increased service value of an employee to the City as exemplified by the recommendations of the supervising official, length of service, performance record, special training undertaken or other pertinent evidence. No salary advancement shall be made so as to exceed the maximum rate established in the pay plan for the class to which the advanced employee’s position is allocated.

The following is the basis of compensation for Employees on a five-step range.

15.01.1 Step “A” is the minimum rate for a position and shall be the hiring rate for said position. Initial appointment at a rate higher than step “A” may be made in the case of an unusually well qualified person or where other special conditions warrant, but only with the approval of the City Manager.

15.01.2 Step “B” represents an incentive adjustment. An employee shall be eligible for step “B” only after completion of one year from the date of employment on recommendation from the Department Head and approval of the City Manager.

15.01.3 Step “C” represents the rate at which a qualified and experienced employee should be paid after a reasonable period of service. An employee shall become eligible for step “C” only after he/she has proven himself/herself satisfactory in the given classification for a period of at least one year after completion of his/her probationary period, upon recommendation of the Department Head and approval of the City Manager.

15.01.4 Step “D” represents an incentive adjustment for satisfactory performance and increased effectiveness. An employee shall become eligible for step “D” after completion of one year at step “C” upon recommendation of the Department Head and approval of the City Manager.

15.01.5 Step “E” represents an incentive adjustment for increasingly satisfactory performance. An employee shall be eligible for step “E” after completion of one year at step “D” upon recommendation of the Department Head and approval of the City Manager.

15.01.6 A merit increase prior to the normal anniversary date may be granted to a Permanent Employee for outstanding performance or unusual employment conditions at any time, on the recommendation of the Department Head and the approval of the Human Resources Director or City Manager.

15.02 Performance Appraisal Review - Performance appraisals are an important personnel tool, and the City should endeavor to conduct them in a timely manner.

15.03 The City shall evaluate employees annually, (1) from their date of hire, or (2) the date they entered their class (when promoted or demoted the classification date shall supersede the hire date). In any case, an employee shall be evaluated at the completion of probation, be it initial, or as a result of promotion. Effective January 1, 2007, if an employee does not receive a performance appraisal on the date it is due and is not at top step of the salary range for his/her classification, the Human Resources Department shall process the forms necessary to advance the employee to the next step in the pay range effective with the nearest full pay period to eligibility. The nearest full pay period are defined in Section 15.06. Supervisors must complete a Performance Appraisal Review (PAR) on a timely basis if they intend to withhold a step advancement for the employee. If a supervisor subsequently finds that the employee would have been entitled to a step increased, (under this Section) as of that due date, the step increase shall become effective retroactively as of the due date of the performance appraisal. If an employee does not receive a performance appraisal within at least 30 working days after it is due, the employee shall have the right to file a grievance under Section 10 of this Understanding.

15.04 Salary Following Promotion:

Employees receiving a promotion shall receive at least a 5% increase in salary unless limited by the maximum salary range.

15.05 In the event an employee receives overpayment by the City, the employee shall reimburse the City for the total overpayment. Typically, such repayment shall occur over a schedule equal to the amount of time over which the overpayment occurred. However, at the employee's request, the City may extend such repayment over a longer period, to be determined by mutual agreement of the employee and the Director of Financial Services.

15.06 All salary advancements specified within this section shall be effective with the nearest full pay period to eligibility. The nearest full pay period shall be defined as follows:

For eligibility dates which fall within the first seven (7) days of a pay period, any increase shall be effective at the beginning of that pay period.

For eligibility dates which fall within the second seven (7) days of a pay period, any increase shall be effective at the beginning of the following pay period.

15.07 "Y" Rate Policy - Whenever an employee would sustain an actual decrease in salary as a result of downward reclassification or reorganization within an existing department unit, without fault or inability on the part of the employee, the City Council shall adopt a "Y-Rate" to apply only to the employee so attached. A "Y-Rate" is defined as a monthly salary rate for an individual employee, which is greater than the established range for the employee's class. An employee for whom a "Y-rate" is established shall not receive an increase in salary until such time as the employee's rate of compensation is within the established range for the employee's class. An employee who accepts a reassignment to a lower paid position in lieu of layoff shall not be "Y-Rated."

SECTION 16.00 - SALARY

16.01 The monthly salary schedule labeled Appendix "A" and attached hereto is hereby made a part of this Memorandum of Understanding.

SECTION 17.00 - OVERTIME

17.01 Where, in the course of performing their duties, it is necessary for an employee to work more than their standard 37.5 or 40 hour workweek, said employee shall be compensated as follows:

17.02 A minimum of two hours pay or its equivalent in compensatory time off at the option of the employee shall be guaranteed for any employee, at the rate of time and one-half, who after leaving their employee's place of duty is required without prior notice to return for emergency duties.

17.03 A minimum of three hours pay or its equivalent in compensatory time off at the option of the employee shall be guaranteed for any employee, at the rate of time and one-half, who after leaving their employee's place of duty is required without prior notice to return for emergency duties between the hours of 10 p.m. and 5 a.m.

17.04 All other overtime, scheduled or unscheduled, shall be compensated at the rate of time and one-half pay or the equivalent in compensatory time off at the option of the employee, however, that employees required to work up to eight (8) minutes beyond their normal work hours shall not receive overtime.

17.05 Overtime occurring on a paid City holiday shall result in pay, or compensatory time off, at the rate of time and one-half in addition to base pay.

17.06 Compensatory time off credits may be accrued by employees, up to a maximum of 160 hours on the last day of the pay period that includes December 31 of any year. Employees shall receive pay for the hours of compensatory time off earned which exceeds the 160-hour limit at calendar year end.

17.07 In the event an employee is required to work overtime beyond his/her regular shift and does not receive at least four, (4), hours off before the next day's shift, he/she shall be deemed not to have left work and shall receive overtime compensation, until a break of four, (4), hours or greater is taken.

17.08 After working overtime and not having at least eight consecutive hours of off duty, an employee shall not be required to report to work until eight hours after the completion of the overtime assignment. The employee shall be paid from the beginning of the employee’s next regular shift.

17.09 Permanent MEA employees will be given the first priority in the assignment of scheduled and unscheduled overtime. Temporary employees will not be assigned to scheduled or unscheduled overtime if appropriate permanent employees are reasonably available or except in the case of an emergency and/or immediate service need of the City.

17.10 Any paid accrued leave, specifically sick leave, vacation leave, worker's compensation leave, or compensatory time off, taken by an employee during any work week shall be counted as hours worked for the purpose of calculating overtime.

17.11 All overtime is subject to prior authorization from the supervisor.

SECTION 18.00 - STANDBY ASSIGNMENT

18.01 The City reserves the right to assign employees to standby status during non-work hours, including week nights, weekends and holidays. Employees assigned to this status shall be required to be available for immediate return to work upon notification by their supervisor or the Police Department Communications Dispatcher. No employee shall be required to respond to a call back via cell phone, pager or other electronic device provided by the City unless they are compensated for such time waiting or on Stand-by.

When assigned to standby status, the following conditions shall apply:

18.01.1 Standby assignments shall be made to Maintenance Worker II's or higher with a Class B license and tanker endorsement.

18.01.2 A City vehicle shall be provided for use by the employee.

18.01.3 In the event the employee leaves home, the location and telephone number where that employee may be contacted must be provided to the Police Department Communications Dispatcher.

18.01.4 Travel precluding reasonable response time shall not be permitted.

18.01.5 Failure to respond shall automatically result in a loss of compensation for the shift of standby during which the failure to respond occurred, and may cause further disciplinary action if warranted when taking the circumstances into consideration.

18.01.6 Preliminary stand-by schedules for a six month period shall be prepared six weeks in advance. The schedule shall be distributed to stand-by eligible personnel for a two week review for changes prior to release.

18.01.7 Employees shall have the right to refuse a standby assignment only in the case of a personal emergency defined as a time-sensitive and serious or life threatening medical situation for the employee or the employee's immediate family member, or in the case of the death of an employee's immediate family member. Employees have the right to execute two changes (trades), three weeks prior to their scheduled stand-by week, each fiscal year. In the event of a trade, the accepting employee shall not be deemed to have exercised one of his/her trades/changes.

18.01.8 No employee shall be assigned mandatory standby when at least two volunteers are available for assignment.

18.01.9 Employees on standby assignments shall provide coverage for the entire week and be paid three hundred ($300) per week per employee on standby. For each holiday which occurs while an employee is on standby, the employee shall receive an additional fifty ($50) dollars.

18.01.10 Employees on standby who are contacted and consulted by telephone about a City emergency between the hours of 10 p.m. and 5 a.m. and who provides advice, shall be paid at an overtime rate or the equivalent in compensatory time off for the actual time on the phone, or one hour or the equivalent in compensatory time off, whichever is more.

18.01.11 Employees must complete lateral cross-training within a year to be considered for the stand-by program in an area outside of their assigned area (e.g. utility, facilities, signal, pump station alarm, etc.).

18.01.12 Employees on light duty or with a performance below standard (2 or less) will not be eligible for stand-by duty.

SECTION 19.00 - BILINGUAL ASSIGNMENT

19.01 Effective after City Council adoption of this MOU, bilingual pay will be eliminated. Those employees currently receiving bilingual pay shall retain the pay.

SECTION 20.00 - WORK OUT OF CLASS

20.01 The City agrees that upon specific assignment by the Department Head, or the designated representative, an employee may be required to perform the duties of a higher classification. Such assignment shall be made only to existing authorized positions.

20.02 Employees assigned to duties of a higher class for at least one shift shall be compensated at a rate of 10% above the employee's current base salary while working out of class, except where such increase exceeds the pay range allocated of the assigned position. The employee shall be compensated at the appropriate rate commencing with completion of one shift. Assignments shall not be made for less than one shift. Should an assignment be made for less than one shift the 10% rate shall be paid for the full shift.

20.03 General:

(a) Work out of class assignments shall be given on a rotational basis, when practical.
(b) Work out of class assignments shall not, as a matter of routine practice, be given to probationary employees or Maintenance Worker 1's.
(c) Work out of class Assignments shall not, as a matter of routine practice, be given to employees performing at less than a competent level as determined by the last performance appraisal.

20.03.1 Out of class Supervisor assignment shall be made (a) when a supervisor is unavailable for one shift, (b) usually to the next lower classification in the section, (c) for specific assignment where a lower classification must serve in a capacity of a higher class, (d) when required to perform the duties of a classification with a higher pay range and outside the bargaining unit (i.e., inspection work in lieu of a Public Works Inspector). Should an assignment be made for less than one shift, the 10% rate shall be paid for the full shift.

20.03.2 Out of class Maintenance Worker Ill assignment shall be made (a) in the scheduled or unscheduled absence of the III normally assigned, (b) when assigned to operate certain heavy equipment. Exception: Work out of class assignments may not be made where permanent schedules exist without an assigned Maintenance Worker II on duty.

20.04 Exceptions to this policy due to working conditions and/or the needs of the City may be approved by the Department Head.

20.05 An employee seeking additional training in another class may waive his/her right to work out of class pay in order to pursue desired training.

SECTION 21.00 - LATERAL TRANSFERS

21.01 Employees shall be considered for lateral transfer subject to the following conditions:

21.01.1 The transfer must be recommended by both the outgoing and incoming supervisor and approved by the Department Head.

21.01.2 The transfer must be approved by both the outgoing and incoming Department and/or Division Head. Employees hired on or after January 1, 2007 must be within the same classification to be eligible for a lateral transfer. Any employee within the same classification who can clearly demonstrate knowledge and experience would be eligible to apply.

21.01.3 Probationary employees shall not be eligible for lateral transfer.

21.01.4 Employees who are transferred by request between Departments or between different Classifications shall be subject to a new six-month Probationary Period. Employees failing to complete Probation following such a transfer shall be reinstated to the Position from which transferred.

21.01.5 Employees who are performing "below expectations" or "unsatisfactory" shall not be considered. This shall be determined by examination of the most recent employee appraisal on file. If the appraisal on file is more than twelve (12) months old, a new appraisal shall be done prior to the time the transfer is finalized.

21.02 All vacant permanent positions shall be opened to lateral transfer prior to consideration for filling that position from an outside source.

21.02.1 Written notice of a vacant permanent position shall be circulated by the Human Resources Department. The notice shall include the opening and closing dates for the acceptance of lateral transfer requests.

21.02.2 A period of ten (10) working days shall be allowed during which written requests for lateral transfer must be submitted by any interested employee.

21.02.3 Requests shall be reviewed and all applicants notified of their status and scheduled for an oral interview within five (5) working days of the closing date.

21.02.4 Oral interviews of eligible employees shall be conducted by the hiring supervisor. Lateral transfer applicants shall be rated using a rating form pre-approved by the Department Head.

21.02.5 Written notice of the results of the interview process shall be made by the incoming supervisor within five (5) working days of the last interview.

21.02.6 Exceptions to the above process due to working conditions and/or the needs of the City may be approved by the Department Head.

SECTION 22.00 - HOLIDAYS

22.01 The following shall be paid holidays for employees:

1. January 1 (New Year's Day)
2. Third Monday in January (Observance of Dr. Martin Luther King Jr's Birthday)
3. February 12 (President Lincoln's Birthday)
4. Third Monday in February (Observance of President Washington's Birthday)
5. Last Monday in May (Observance of Memorial Day)
6. July 4 (Independence Day)
7. First Monday in September, (Labor Day)
8. November 11 (Veteran's Day)
9. Thanksgiving Day
10. Day after Thanksgiving
11. Christmas Eve, (to be observed last working day prior to Christmas Day)
12. Christmas Day
13. Each employee shall be credited with one (1) floating holiday each calendar year, which must be used by December 31, or it is lost without compensation. Section 22.03 applies in the case of the floating holiday.
14. In the event a holiday falls on a Sunday, the following Monday will be observed as the holiday instead.
15. In the event a holiday falls on a Saturday, the preceding Friday will be observed as the holiday instead.
16. Any other holiday declared by the City Council as a City holiday for City employees.
17. For other than 5-day work weeks, any work week which includes one or more holidays shall be reduced in hours commensurately. The number of days worked during the work week shall be subject to the approval of the Department Head.
18. Employees shall be permitted to take Good Friday as a vacation day by submitting a written request at least two weeks in advance to the Department Head.

22.02 Where one of these holidays falls on a working day, employees shall be granted the day off with pay and City offices shall be closed except for such municipal services that must be maintained on an around-the-clock basis seven days a week. Employees who work less than full-time shall be entitled to credit for paid holidays on a pro-rated basis. Employees required to perform their regular duties on a holiday shall be granted pay or compensatory time off, at the rate of time and one-half in addition to base salary. For the purposes of this section, a holiday shall be deemed to begin and end at 12 midnight.

22.03 Employees assigned to four-day, 37.5 hour work schedules shall work four 9.5 hour days at straight time and be paid for 37.5 hours. The additional one half hour per week worked shall be credited toward accrued holiday leave hours. During weeks in which one or two full day paid holidays occur, those employees shall work 9.5 hour days for four days less the number of paid holidays at 7.5 hours per holiday. The balance shall be paid from the accrued holiday hours for a total of 37.5 hours for the holiday week (less any paid or unpaid leave).

Any positive balance remaining at the time of separation of employment by an employee shall be paid at the employee's current hourly rate.

22.04 Employees who work less than full-time shall earn holiday leave on a pro-rated basis based on their regularly scheduled assignment.

SECTION 23.00 - VACATION LEAVE

23.01 All employees shall be entitled to paid annual vacation leave beginning at the end of the first six months of service with the City. However, vacation credits shall be accrued beginning with the date of initial appointment. The accrual rates, in hours per pay period, are as follows:

	37.5 Hour Workweek In Hours/pay period	40 Hour Workweek In Hours/pay period
From date of hire through the fourth year of employment	3.17	3.38
From fifth through ninth year of employment	4.61	4.92
From tenth through fourteenth year of employment	6.05	6.46
From fifteenth through nineteenth year of employment	7.50	8.00
From twentieth year of employment and on	8.94	9.53

23.02 Employees who work less than full time shall earn vacation credits on a pro-rated basis based on their regularly scheduled assignment.

23.03 Each employee shall be required to have served the equivalent of one year of continuous service in the City in order to be eligible for the employee's full annual vacation leave, provided however, that after six month of continuous service, the employee may be permitted to take vacation leave not to exceed 37.5 or 40 work hours, depending on the employee's regular work schedule. During the first six months of initial employment an employee shall not qualify for any vacation leaves regardless of paycheck stub figures.

23.04 The times during a calendar year at which an employee may take vacation shall be determined by the department head with due regard for the wishes of the employee and particular regard for the needs of the municipal service. If the requirements of the municipal service are such that an employee must defer part or all of his/her annual vacation in a particular calendar year, the appointing power shall permit the employee to take such deferred vacation during the following calendar year or allow the employee to cash out said vacation at his/her option, to the extent of the deferred portion.

23.05 No employee may accumulate and carryover more than 300 hours of vacation as of the last day of the pay period that includes December 31 without the express written consent of the City Manager. No employee shall be allowed to be on paid leave for a period of over 225 consecutive work hours.

23.06 In the event one or more municipal holidays fall within the annual vacation leave, such holidays shall not be charged as vacation leave.

23.07 Upon separation from the City for any reason, an employee shall be compensated for accrued vacation leave.

23.08 Approval shall be granted after the supervisor and department head give consideration to the employee's wishes and the needs of the City. Employees may change vacation dates with the approval of the department head. In the event, the needs of the City necessitate canceling of vacation scheduled for a minimum of 90 days in advance, which results in a financial loss to an employee, the City shall reimburse the employee the full amount of loss provided the employee demonstrates the impossibility of obtaining a refund and can document the amount of loss. At the time of making an expenditure, each employee shall advise the department head of the amount of said expenditure. In the event an employee fails to advise the department head, the employee may lose all rights to reimbursement.

23.09 An employee may elect to cash-out a maximum of 40 hours accrued annual leave per fiscal year as follows. An employee whose accrued annual vacation leave exceeds 120 hours may elect to cash out a maximum of 80 hours per fiscal year.

Cash-outs are subject to the following:

(a) The employee uses at least one full work day of paid vacation leave. Vacation cash-out must be requested in advance and contingent upon having an approved vacation leave within thirty (30) calendar days, either before or after.

(b) Requests for cash-outs other than during approved vacations must be submitted to Finance for payment in June by May 31 or December by November 30 of each year.

(c) Vacation leave may not be carried-over to cash-out in subsequent years, (except upon separation from City service).

SECTION 24.00 - SICK LEAVE

24.01 Employees shall be granted paid sick leave credits beginning with the date of original employment at the rate of 3.46 hours biweekly for 37.5 hour employees and 3.69 hours for 40 hour employees on a bi-weekly basis. Employees become eligible to take accrued sick leave upon completion of one full month of continuous services. Sick leave shall not be considered as a privilege which an employee may use at the employee's discretion, but shall be allowed only in case of necessity and actual sickness or disability. Medical or dental appointments may be charged against sick leave, but shall be limited to a maximum of four (4), hours per appointment and should be scheduled and approved in advance. Approval of sick leave for appointments in excess of four, (4), hours are subject to the discretion of the Department/Division Head. The Human Resources Director shall direct and enforce such administrative control as may be necessary to prevent abuse of sick leave privilege.

24.02 Employees who work less than full-time shall earn sick leave on a pro-rated basis based on their regularly scheduled assignment.

24.03 The City agrees to provide PERS Credit for Unused Sick Leave (GC 20965) provision—see MOU section 31.0—for all employees retiring from the City through PERS.

24.04 Employees hired on or before July 17, 1999, each November, an employee with five or more years of service may elect to cash out accrued sick leave. Payout shall be in accordance with appropriate pay out formulas described in Section 24.05. However, the maximum annual amount shall not exceed 50% of employee's sick leave balance. Employees eligible for this benefit shall at all times maintain a sick leave balance of at least 240 hours.

24.05 For employees hired on or before July 17, 1999, the City agrees to provide PERS Credit for Unused Sick Leave (GC 20965) or pay an employee who is separating from the City in good standing with at least five, (5), years of service an amount equal to 2.5% per year of service for unused accrued sick leave. The pay-out formula shall be 2.5% x years of service x highest hourly rate x sick leave hours accrued. Good standing shall be based on the employee's overall work record and the decision of the Human Resources Director.

SECTION 25.00 - FAMILY LEAVE

25.01 Employees with available sick leave accruals may use such sick leave for family medical purposes when a member in the employee's immediate family is involved.

25.01.1 In this section, family medical purposes shall mean illness, accident, medical appointments or other related occurrences.

25.01.2 Immediate family is defined to include: mother, mother-in-law, father, father-in-law, spouse, domestic partner, brother, sister, son, daughter, grandparent, grandchild, adoptive parents or adoptive children, whether the immediate family is of the employee's or the employee's spouse's family.

25.01.3 Each employee shall be allowed to use a maximum of up to half (50%) of the employee's annual earned sick leave per calendar year for this purpose. Additional leave may be granted in unusual circumstances by the Human Resources Director.

25.01.4 Employees may use accrued sick leave up to fourteen (14) consecutive calendar days leave for birth or adoption of a child beginning with the day of adoption or birth.

SECTION 26.00 - COMPASSIONATE LEAVE

26.01 The City agrees to provide compassionate leave when death occurs to a member of the employee's immediate family, not to exceed one work week. (37.5 or 40 hours).

26.02 Immediate family is defined to include: mother, mother-in-law, father, father-in-law, spouse, domestic partner, brother, sister, son, daughter, grandparent, grandchild, adoptive parents or adoptive children, whether the immediate family is of the employee's or the employee's spouse's family.

26.03 Salary paid during this leave is not deducted from any leave balance. Additional leave may be granted in special circumstances by the Human Resources Director.

26.04 In special circumstances, the Human Resources Director may allow an employee to utilize compassionate leave for individuals who are not members of the employee's immediate family.

SECTION 27.00 - MILITARY LEAVE

27.01 Military leave shall be granted in accordance with the provision of State and Federal law. All employees entitled to military leave shall give the appointing power an opportunity within the limits of military regulations to determine when such leave shall be taken. An employee shall notify and provide applicable orders to the Department Head of the need for military leave as soon as possible after learning of the need.

SECTION 28.00 - WORKERS' COMPENSATION LEAVE

28.01 Employees unable to work because of a work-related illness or injury are eligible for workers' compensation leave, provided that the Employee has notified superiors of the illness or injury and the claim has not been denied by the Human Resources Director or worker's compensation insurance administrator authorized by the City.

Workers' Compensation leave shall be 100% of regular pay for two (2) calendar weeks,(80 hours or 75 hours, depending on the employee's regular work schedule), followed by 80% of regular pay for six weeks (32 hours or 30 hours per week, depending on the employee's regular work schedule) to a maximum of sixty (60) calendar days. This leave shall cover all time off from work related to the injury, including doctor's appointments and therapy treatments, provided that said hours do not exceed available worker's compensation leave. Leave accruals shall be prorated accordingly.

In addition, any employee incurring such an injury or disability shall be entitled to compensation to the extent provided in the State Workers' Compensation Insurance Act. An employee who has exhausted eligible workers compensation leave shall receive full salary to the extent the employee's accrued sick leave or vacation time may be integrated. Charges to the employee's leave accounts shall be based on the ratio with Workers' Compensation Insurance temporary disability payments payment received by the City to the employee's salary for the same time period, provided that such full salary payments are subject to the following conditions:

(a) Compensation insurance payments received by the employee, except for payments received for permanent total or partial disability, shall be withheld by the City for the period subject employee continues to receive full salary from the City through the use of leave balances.

(b) Upon expiration of available workers' compensation leave, all time lost (including doctors' appointments and therapy treatments less than one full workday) shall be charged to earned vacation and sick leave, if available.

(c) Upon expiration of available earned comp time, vacation and sick leave, payment of salary by the City shall be discontinued and compensation insurance payments shall be sent to the subject employee.

28.02 An employee returning from a work-related injury shall be reinstated to the position occupied at the time the injury occurred subject to written release by the attending physician.

28.03 Injured employees designated permanent and stationary or accepted into a qualified rehabilitation program and unable to return to their prior occupations may be retired (if eligible) or involuntarily terminated.

SECTION 29.00 - LEAVE OF ABSENCE

29.01 The Human Resources Director may grant a Permanent employee leave of absence one time per calendar year without pay not to exceed one year. Leave shall be considered upon written request of the Employee.

29.01.1 In evaluating employee requests, the Human Resources Director shall consider the recommendation of the Department Head, departmental workload, the best interests of the City, the employee’s duration of employment, the employee’s performance record, and the reason for the leave.

29.01.2 Any Permanent employee with a non-work-related injury or medical condition who has exhausted all sick leave may request a leave of absence with a doctor's certificate. At the City's discretion and expense, the City at any time may require a medical exam at a facility selected by the City.

29.01.3 An employee who is on leave without pay status shall not earn any employment benefits (including, but not limited to, such benefits as vacation leave, medical benefits, sick leave, retirement benefits, credit for time employed or seniority entitlements of any kind) for the period of such status. It is the intent of this subsection that one on leave without pay status is deemed unemployed for the period of such status in terms of earning benefits.

29.01.4 The Human Resources Director may authorize continuation of the employee’s elected medical and/or dental coverage for all or part of the duration of leave without pay. This shall be done only in extraordinary circumstances and when it is deemed to be in the best interest of the City.

29.02 A department head shall have the authority to approve an unpaid leave not to exceed 150 work hours each fiscal year.

29.03 Nothing herein shall preclude an employee from waiving in writing the right to reinstatement as a condition to approval for a leave of absence. Any employee who waives the right may be reinstated in accordance with the City's Personnel Rules & Regulations as if they had been subject to a reduction in workforce, except that they shall be placed at the bottom of a reemployment list for any position for which they qualify.

29.04 Failure on the part of an employee on leave to report to duty on the date and time that leave terminates may be cause for discharge.

SECTION 30.00 - LIGHT DUTY

30.01 The City recognizes the importance of providing support and encouragement to employees who are recovering from an injury or illness in an effort to assist in making a complete and healthy recovery. Therefore, the City agrees to make every reasonable effort to temporarily provide light duty as follows:

30.01.1 Any assignment of light duty shall be conditioned upon receipt of a statement from a physician which either recommends or requires light duty.

30.01.2 No employee assigned to light duty shall be required to return to their regular duties without a written release from a physician.

30.01.3 The temporary assignment of light duty may be in any department of the City provided that the assignment is compatible with the employee’s ability, consistent with the written recommendations of the employee’s physician, and is subject to the approval of the Department Head.

30.01.4 Said employee shall not be increased nor reduced in pay or benefit solely by virtue of said temporary transfer.

30.01.5 Provided that the City may verify said disability by having said employee examined by a physician of the City's choosing at the City's expense.

30.01.6 In the event of conflicting medical opinions, no employee shall be required to accept a light duty assignment.

30.01.7 The City is currently developing a policy on the subject of light duty. MEA agrees to meet and confer with the City during the term of the MOU regarding the policy.

SECTION 31.00 - RETIREMENT

31.01 The City will provide the 2% @ 62 CalPERS retirement plan based on the highest 3 year annual average pensionable compensation depending on the eligibility of the new hires, hired on or after January 1, 2013. Employee shall be responsible for the employee portion of the contribution to PERS retirement.

The City will provide the 2% at 60 CalPERS retirement plan based on the highest 3 year annual average pensionable compensation plan to all new hires (Section 20475: Different Level of Benefits Provided for New Employees) hired on or after October 9, 2011 the effective date of PERS ordinance adopted by the City Council. Employees shall be responsible for the employee portion of the contribution to PERS retirement.

For employees hired before October 9, 2011, the City shall continue, during the term of this Understanding, the present retirement plan, commonly referred to as the 2.7% at 55 plan, including the final year compensation amendment and 1959 Survivors Benefit in full force and effect. Employees shall be responsible for 8% contribution to PERS retirement.

31.02 Upon retirement, disability retirement or death, for those employees who were hired on or before July 17, 1999 only, and who had at least five (5) years of service, the City shall pay the separating employee, or his or her estate, for unused accrued sick leave. The amount paid shall be equal to 2.5% per year of service for unused sick leave. The pay-out formula shall be: 2.5% x years of service x highest hourly rate x sick leave hours accrued; or

31.02.1 Upon retiring with PERS, all eligible employees may participate in the PERS Credit for Unused Sick Leave (GC 20965) provision of the City's PERS retirement plan.

31.03 For the purpose of this section, an employee who is retiring is one who has submitted an application for retirement to the Public Employees Retirement System, (PERS), and had it approved.

31.04 Retiree Medical

31.04.1 For employees hired before June 30, 1996, the City agrees to pay the premiums for employee-only health coverage for all employees, with at least five (5) years of service, who retire after July 17, 1999 and as long as the employee maintains enrollment in one of the City health plans. Employees receiving disability retirements shall be eligible for retiree health coverage until they are covered by another health plan (such as another employer or through a spouse). Retirees may elect to continue coverage for a spouse under the retiree group medical plan provided that the spouse is covered by the group plan at the time the employee retires and maintains enrollment. The retiree is responsible for the additional monthly premium.

31.04.2 When the City contributes toward retiree premiums, the maximum allowable shall be based on the lowest single rate for active employees. This maximum allowable City contribution shall not apply to persons who retire prior to the date this MOU is adopted by the Milpitas City Council.

31.04.3 Employees hired after June 30, 1996, shall be subject to the following provisions with respect to the retiree health plan benefits:

Upon completion of the first through the ninth year of service, and upon retirement, the City shall provide 25% of the lowest cost single medical insurance premium payment for the employee only (no more than any active employee's single lowest cost premium rate), as long as the employee remains in one of the City sponsored health care programs.

Upon completion of the ninth year, this payment of the retiree's medical insurance shall increase to 50%.

Upon completion of the fourteenth year, this payment of the retiree's medical insurance shall increase to 75%.

Upon completion of the nineteenth year, this payment of the retiree's medical insurance shall increase to 100%.

31.05 Effective December 22, 1996, the City agrees, as allowed under Internal Revenue Code Section 414(h) (2), the implementation of the Public Employees' Retirement System (PERS) "Pick-Up" program (TDMC) as outlined in PERS Circular Letter 100-364. In completing the conversion to the IRC 414 (h) (2) program, the increase in salary shall be calculated on the employee's base salary. The City implemented a one-time increase of 7.53% for this purpose.

31.06 PERS Contract Amendment - Credit for Unused Sick Leave

31.06.1 Effective July 18, 1999, the City has amended its PERS contract to provide for the Credit for Unused Sick Leave as set forth in Government Code Section 20862.8.

31.06.2 All employees hired on or after July 18, 1999 shall not be entitled to sick leave cash out and Sections 24.03 and 31.02 of the MOU shall not apply to them.

SECTION 32.00 - BENEFITS

32.01 The City shall provide active employees the CalPERS medical insurance for health benefits. The total monthly health benefit per employee shall be based on the Kaiser rates for employee, employee +1, and family plan. Only employees who have eligible dependents shall be compensated above the single rate plans.

1. The aforementioned health care plan is currently being offered by the City of Milpitas. The City reserves the right to discontinue offering CalPERS due to the following:

   a. The plan imposes exorbitant costs upon the City;
   b. The health care carrier refuses to provide services to the City;
   c. The health care provider no longer offers the services; or
   d. The health plan is discontinued.

2. If the City discontinues use of CalPERS they will provide a health care provider with similar services.

3. The City will provide a life insurance policy in the amount of $50,000.00 for each member of the Association.

4. The City shall continue to provide a Short Term Disability Plan at the current benefit level.

5. The City shall continue to provide a Long Term Disability Plan at the current benefit level.

6. The City will provide a vision plan for each member of the Association and eligible dependents.

7. MEA agrees to discuss a "cafeteria style" benefit plan upon request of the City.

8. Payroll deductions for benefit costs above the City benefit contribution shall be permitted, provided that the City shall not assume unreasonable administrative costs.

9. Employees who are covered as an eligible dependent under another health insurance plan may waive health coverage and receive a total of one hundred and twenty-five dollars ($125.00) per month. Employees who wish to waive health insurance coverage must complete the City of Milpitas' "Health Insurance Waiver" indicating they agree to abide by the terms and conditions of the waiver.

32.02 Benefit Contribution Part Time Employees: The City agrees to contribute monthly premiums for medical, dental and life insurance in an amount to reflect hours budgeted, pro-rated against the amount contributed for full time employees. For example if an employee is budgeted to work twenty (20) hours per week, the City will contribute fifty percent (50%) of the benefit contribution for full time employees. Similarly, if a part-time employee is budgeted to work thirty (30) hours per week, the City will contribute seventy-five percent (75%) of the benefit contribution. The City agrees to provide short-term disability and long-term disability insurance benefits, with similar coverage to the one the members of the Association possesses as of June 30, 1999, at no cost to part-time employees.

SECTION 33.00 - TRAINING

33.01 If an employee is directed to participate in a training program, which is related to their job, the City shall provide compensation for the following:

a. Regular wages for time away from the job (if during working hours);
b. Overtime or compensatory time off whenever an employee's combined training time and work time exceeds the scheduled work day;
c. Costs of tuition and/or registration for the training;
d. Reimbursement for authorized transportation cost to and from the training. (i.e. Mileage reimbursement if an employee uses their personal automobile as allowed by the City. However, if employee car pool to a training session, only the employee who is the owner of the automobile shall be entitled to mileage reimbursement).

33.02 Participation in and successful completion of training course may be considered in making employment advancements and promotions.

33.03 The City agrees to provide all supervisors who have MEA members under their authority a copy of the most recent MOU.

33.03.1 The City of Milpitas will provide a tuition reimbursement program for educational activities, which are job related and approved in advance by the Department Head and the Human Resources Director. The amount of the fund shall not exceed the amount budgeted for this purpose. Subject to the availability of monies in the fund, individual employees are subject to a total reimbursement of $1,400 per fiscal year. Reimbursement is subject to the guidelines outlined in the Tuition Reimbursement S.O.P.

SECTION 34.00 - UNIFORMS

34.01 The City agrees to provide uniform work clothes for M.E.A. employees who are required to wear such uniforms on an annual basis. Uniforms are to identify City employees. Shirts and hats shall have the city emblem, Public Works or Parks & Recreation and/or the words City of Milpitas.

34.02 The following shall be provided:

a. Nine (9) work pants; and
b. A combination of fourteen (14) tee-shirts, polo shirts and tailored shirts. A maximum of nine (9) may be the tailored shirts.
c. Four (4) sweatshirts
d. One (1) jacket
e. Choice of five (5) baseball type or brim type hats per employee annually with two (2) beanies

34.02.1 The City shall provide each employee with four (4) sweatshirts annually and one jacket during the term of the MOU

34.02.2 In the event a uniform becomes damaged in the course of work, the City shall replace the damaged item.

34.03 Exemption from wearing uniform:

34.03.1 If it is determined by a physician that there is a medical reason which prevents an employee from wearing a City uniform (i.e., fiber content), then such employee shall not be required to wear a uniform. To be eligible for this exemption, the employee must submit a physician's statement to his/her supervisor verifying the above. The City reserves the right to have the employee examined by the City physician (at the City's expense) at any time.

34.04 Uniform option: It is agreed that field maintenance employees shall be allowed to wear tailored walking shorts. No athletic shorts or “cut-offs” are permitted.

34.05 Uniform colors: All employees will wear same color uniforms, and the color and quality of uniforms shall be approved by the Department Head. The City is agreeable to two different colors to be determined by the Department Head.

SECTION 35.00 - HEALTH & SAFETY

35.01 The City shall reimburse up to $175 ($200 for bifocals) per employee per year towards the purchase of safety prescription eyeglasses provided that they are not covered by the employee's health plan. Replacement costs may be covered upon approval of the City Manager or his/her designee if there has been a significant change in the employee's prescription or damage occurred as a result of a work-related incident.

35.02 In addition, the City shall provide a maximum of $200 reimbursement per employee annually for the purchase of safety shoes. If additional funds after the purchase of the shoes are available the employee may use the funds for related footwear accessories or repairs. The wearing of said items is mandatory and said footwear must meet safety guidelines set by the City.

35.03 Employee Fitness Program:

35.03.1 Purpose: To provide employees the opportunity to voluntarily participate in City-sponsored recreation programs at no cost during non-work hours.

35.03.2 Scope of Services: This program shall allow employee participation in all adult fitness and sports related activities offered by the Recreation Services Division. Employees shall be granted use of all sports facilities operated and/or maintained by the Recreation Services Division at the Milpitas Sports Center.

35.03.3 Cost: Programs shall be offered at no cost to employees. Spouses shall be required to pay full registration and non-resident fees if applicable. Each non-employee participant in an organized team activity shall be required to pay a fee equal to the team registration fee divided by the number of participants. The City agrees to waive fees for use of City parks by employees for softball team practice, except for costs if field lights are used.

35.03.4 Restrictions:

(a) Each employee shall be required to complete a registration form, medical history card, and a contract and/or a participant waiver form limiting the City's liability during the employee's participation in a particular program or activity.

(b) Organized adult athletic programs and leagues, such as softball or basketball, require that employees register in advance. Employees choosing to participate in any of the drop-in programs shall either be issued a pass (for programs which utilize passes) or use their employee ID card (which is issued to all employees at the time of initial appointment) for admission purposes.

(c) Employees shall not be afforded preferential treatment in instances where a program or activity has already reached its maximum enrollment, and shall be added to an established waiting list as appropriate.

(d) Participation in program requiring advanced registration shall follow the same time schedule as those established by the Division for local residents.

(e) No limit shall be placed on the number of programs or activities in which an employee may participate except that the activity must be within the scope of services offered by the Recreation Services Division.

(f) Participation in the program is voluntary and must not conflict with normal work schedules and shall take place during off-duty periods.

35.04.5 These items are not meant to be an all-inclusive list of provisions and restrictions that shall otherwise need to be applied to this program, as it is likely that instances will arise that will require further adjustments. This program shall be evaluated annually with respect to its overall effectiveness and possible application to other Recreation Services programs outside of those offered at the Milpitas Sports Center.

SECTION 36.00 - MISCELLANEOUS

36.01 When available, the City shall furnish vehicles from the City's car pool to conduct official City business. In the event a pool car is unavailable, the employee shall use the employee's own vehicle on a temporary basis.

(a) An employee shall receive authorization from their Department Head or their designee prior to using the employee's own vehicle.

(b) Temporary basis shall be defined as no more than five (5) consecutive working days unless otherwise agreed to by the employee. Employees who use their car on a temporary basis shall be reimbursed by the City at the rate established by the IRS.

(c) Any employee who drives their own vehicle on official City business must have a valid California driver's license and proof of valid insurance.

36.02 The City recognizes that air-conditioned City-owned/leased vehicles can contribute to a comfortable and productive working environment. When ordering new vehicles, the City intends within reason to order air-conditioning in said vehicles when said equipment is offered by the manufacturer as an option.

36.03 Experimentation, Working Hours - Any experimentation with hours of employment or other related criteria shall be subject to meeting and conferring.

36.04 Replacement of Personal Articles - The City shall replace, within reason, personal articles damaged or stolen during performance of duty upon recommendation of the individual's immediate supervisor and Department Head, and approval of the City Manager. The prior condition of the article, precautions taken to protect the article, and the exercise of proper judgment of wearing or using an expensive article on the job that has certain hazards connected with it shall be considered in determining the amount of replacement. An employee shall obtain approval from his/her supervisor to bring in and use personal articles in the line of work.

36.05 Seniority - The City agrees to recognize and consider seniority as a factor in approving requests for vacation leave, work schedules, work assignments, and lateral transfers, when all other factors for employees are equal. The needs of the City, however, shall also be considered, and may in some instances be the determining factor for approving such requests.

36.06 The City agrees to provide sick and vacation accruals rates on employee's biweekly pay stubs.

36.07 Employees assigned as pesticide applicators shall be able to use required respirator equipment safely.

36.08 Copying Charges: The City agrees to waive copying charges for Association business that fall below $10.00 per month providing that:

(a) the Association shall not use City copying facilities or supplies to promote positions or causes which could be inflammatory or cause adverse reactions against the City;

(b) if the copying charge for any one month exceeds $10.00, then the full amount shall be payable to the Accounting Office within 30 days of receipt of statement;

(c) the City shall have the right to withdraw this privilege for non-compliance with 1 and 2 above.

36.09 Special Equipment Operation: A field maintenance employee who is assigned to operate the ten- wheel dump truck or the ten-wheel hydraulic vacuum line cleaning truck shall be a Maintenance Worker III. In the event that an employee in a class with a lesser pay range is assigned to operate one of these pieces of equipment, that employee shall receive work out-of-class pay in accordance with Section 20.00 of the Memorandum of Understanding.

36.10 All employees shall be permitted release time to vote in public elections as provided for in Election Code 14000.

36.11 The City and MEA are aware that department heads and/or their designees do periodically promulgate SOPS. The City acknowledges that when the effect of any such SOP is a change regarding matters within the scope of representation, the SOP implementation shall be undertaken in accord with the Millias-Meyers-Brown-Act.

SECTION 37.00 - NO LABOR ACTION

37.01 Neither the Association nor its agents or any employee, for any reason, shall authorize, institute, aid, condone, or engage in a work stoppage, slowdown, strike, sick-out, or any other interference with the work and statutory functions or obligations of the City while this Memorandum of Understanding is in effect. While this Memorandum is in effect, neither the City nor its agents for any reason shall authorize, institute, aid, or promote any lockout of employees covered by this Memorandum.

SECTION 38.00 - FMLA

38.01 The City intends to implement a revised FMLA policy. The City and MEA / Local 792 agree to meet and confer to the extent required by law prior to implementation.

SECTION 39.00 - SEASONAL WORKERS

39.01 Seasonal workers shall be limited to nine hundred ninety nine (999) hours of work per fiscal year. Seasonal workers shall be limited to the duties they may perform according to section. Seasonal workers may operate any class C vehicle that is not equipped for a special purpose. The only-power equipment they may operate is equipment in the 600 & 6000 series, with the exception of chain saws and augers.

SECTION 40.00 - RETIREE CONTRIBUTION FUND

40.01 The City shall contribute half (50%) of 82% of the bargaining unit's 1% of payroll with benefits figure for the MILPITAS EMPLOYEES TRUST fund.

40.02 Effective January 1, 2009 the City shall contribute 82% of the bargaining unit's 1% of payroll with benefits figure for the MILPITAS EMPLOYEES TRUST fund.

40.03 The City's commitment to the fund will be determined as of the last full pay period of June of each year. At that time, the benefit figure will be recalculated. Approximately fifteen (15) days from the last day of the full pay period in June, the computed amount will be contributed to the MILPITAS EMPLOYEES TRUST fund.

40.04 This agreement does not guarantee or commit future City funding for retiree or retiree dependent health insurance premiums.

SECTION 41.00 - INCENTIVE PAY

41.01 The City may at the discretion of the Department Head, provide a four percent (4%) base salary increase for up to forty-two (42) special certifications, licenses, or special assignments within the Public Works and Parks & Recreation Departments. This program does not apply to job classifications that require certificates or licenses. Said 4% base salary increases/incentives shall be available for assignment effective January 1, 2001. Types of incentives may be increased or modified at the discretion of the Department Head.

41.02 Longevity Pay

Effective the first full pay period following City Council adoption (June 19, 2007), employees shall be eligible for longevity pay as follows:

(a) Effective the first full pay-period after the employee's 9th year of service, a longevity incentive of one half percent (.5%) over base pay.
(b) Effective the first full pay-period after the employee's 14th year of service, a longevity incentive of one-half percent (.5%) over base pay, (i.e. an additional one-half percent above the previous one-half percent (.5%) for a total of 1% over base pay).
(c) Effective the first full-pay period after the employee's 19th year of service, a longevity incentive on one-half percent (.5%) over base pay, (i.e. an additional one-half percent (.5%) over the previous 1% for a total of 1.5% over base pay).

SECTION 42.00 – LIUNA NATIONAL (INDUSTRIAL) PENSION FUND

42.01 MEA members currently participate in the LIUNA National Pension Fund under terms set forth in former Section 42.00 of the Memorandum of Understanding approved by City Council on June 7, 2011, (hereafter "PRIOR MOU") and the Standard Form of Participation Agreement signed by the City and MEA in 2002. It is agreed between the Parties that this section 42.00 shall replace that earlier Section 42.00 part of the PRIOR MOU for now and in the future until such time as MEA, or its successor bargaining group or individual employee successors no longer participate in the LIUNA National Pension Fund and there exists no obligation on behalf of the City or MEA or its successor bargaining group or individual employee successors to contribute funds to the LIUNA National Pension Fund, or this Section 42.00 is rescinded or modified by mutual agreement.

42.02 It is further agreed between the Parties that all obligation to make payments to the LIUNA National Pension Fund (including the $1.00 City contribution referred to in Section 42.01 of the PRIOR MOU) for pension coverage for MEA employees shall be paid by MEA employees and the City will have the right to deduct the payment from MEA employee wages and make such payments as are due directly to the LIUNA National Pension Fund. This shall include any obligation to make payments to the LIUNA National Pension Fund as now exist or increased amounts which may be imposed in the future for rehabilitation plans imposed, plan restructuring, election for "preferred" benefits under the current Rehabilitation Plan or any other reason. It is further agreed that the City as employer shall elect, if such option is available, the "preferred" payment option, allowing MEA employees enhanced benefits, payment for which MEA employees will be responsible, as agreed and set forth above, but with the understanding that if payments are also due for past obligations under the "preferred" plan, then MEA employees shall be responsible for such amounts which the City may also deduct in reasonable payment amounts from MEA employee wages.

42.03 Employee liability for LIUNA pension payments as described in paragraph 42.02 above do not include any fund liability for the City's unilateral withdrawal from the LIUNA National Pension Fund, were that to occur in the future. Responsibility for such liability, were it to occur, shall remain subject to future negotiations between the Parties.

42.04 Deductions from MEA employee wages, as set forth in paragraph 42.02 above, shall be processed and deducted as pre-tax pension benefit payments from current and future MEA employees and will include a pro rata share of the indebtedness owed for MEA employees, including retirees, for the period from January 1, 2012, through the present time, until such time as that indebtedness is satisfied.

42.05 This section does not constitute a change in conditions from those set forth in the PRIOR MOU and any LOU incorporated therein, governing MEA and the City. To the extent this Section is inconsistent with the PRIOR MOU and any LOU incorporated therein, this Section shall constitute the intent and govern the rights of the Parties.

42.06 By inclusion of this section in this MOU, all parties agree that this matter has been fully discussed amongst the Parties and all meet and confer obligations under the law, including the Meyers-Milias Brown Act, have been fully complied with.

SECTION 43.00 - SAVINGS CLAUSE

43.01 If any section, subsection, sentence, or clause or phrase of this MOU is for any reason held illegal, invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Date:___________________________

City Representatives:	Union Representatives:
______________________________ Carmen Valdez	______________________________ Robert DeLong
______________________________ Mary Lavelle	______________________________ James Levers
______________________________ Emma Karlen	______________________________ Debbie Barbey
	______________________________ Pete Scrempos
	______________________________ Dan Lopez
	______________________________ Frank Chin
	______________________________ Sunny Gallegos
	______________________________ Steve Allen UPEC Local 792

Appendix “A” – Salary Schedule

REPRESENTED CLASSIFICATIONS
MILPITAS EMPLOYEES ASSOCIATION

SALARY SCHEDULE

The monthly base salary will be adjusted as follows:

.

Job Classification	Monthly Salary Range	
Equipment Maintenance Worker I	$ 4,483.32	- $ 5,449.54
Equipment Maintenance Worker II	$ 4,931.69	- $ 5,994.52
Equipment Maintenance Worker III	$ 5,556.67	- $ 6,754.14
Fleet Maintenance Assistant - 40	$ 4,454.39	- $ 5,414.38
Fleet Maintenance Assistant - 37.5	$ 4,175.97	- $ 5,075.97
Fleet Maintenance Worker I	$ 4,306.54	- $ 5,234.58
Fleet Maintenance Worker II	$ 4,737.18	- $ 5,758.03
Fleet Maintenance Worker III	$ 5,447.73	- $ 6,621.79
Maintenance Custodian I - 37.5	$ 3,304.26	- $ 4,016.41
Maintenance Custodian II - 37.5	$ 3,634.75	- $ 4,418.06
Maintenance Custodian I - 40	$ 3,524.58	- $ 4,284.13
Maintenance Custodian II - 40	$ 3,877.09	- $ 4,712.62
Maintenance Custodian III	$ 4,179.91	- $ 5,080.76
Maintenance Worker I - 37.5	$ 3,634.75	- $ 4,418.06
Maintenance Worker II - 37.5	$ 3,998.20	- $ 4,859.82
Maintenance Worker I - 40	$ 3,877.02	- $ 4,712.62
Maintenance Worker II - 40	$ 4,264.73	- $ 5,183.80
Maintenance Worker III	$ 4,597.86	- $ 5,588.81
Water Meter Reader I	$ 3,634.66	- $ 4,418.01
Water Meter Reader II	$ 3,998.20	- $ 4,859.82
Assistant Water Operator	$ 4,931.69	- $ 5,994.52
Water Systems Operator	$ 5,556.64	- $ 6,754.14

Appendix “A-1”- Salary Restoration

6.5% Salary Restoration Effective February 8, 2015			
Job Classification	Monthly Salary Range		
Equipment Maintenance Worker I	$4,807.02	-	$5,843.00
Equipment Maintenance Worker II	$5,287.76	-	$6,427.32
Equipment Maintenance Worker III	$5,957.86	-	$7,241.79
Fleet Maintenance Assistant - 40	$4,776.00	-	$5,805.30
Fleet Maintenance Assistant - 37.5	$4,477.48	-	$5,442.46
Fleet Maintenance Worker I	$4,617.47	-	$5,612.52
Fleet Maintenance Worker II	$5,079.20	-	$6,173.76
Fleet Maintenance Worker III	$5,841.06	-	$7,099.88
Maintenance Custodian I - 37.5	$3,542.83	-	$4,306.39
Maintenance Custodian II - 37.5	$3,897.18	-	$4,737.04
Maintenance Custodian I - 40	$3,779.05	-	$4,593.44
Maintenance Custodian II - 40	$4,157.02	-	$5,052.87
Maintenance Custodian III	$4,481.70	-	$5,447.59
Maintenance Worker I - 37.5	$3,897.18	-	$4,737.04
Maintenance Worker II - 37.5	$4,286.87	-	$5,210.70
Maintenance Worker I - 40	$4,156.94	-	$5,052.87
Maintenance Worker II - 40	$4,572.64	-	$5,558.07
Maintenance Worker III	$4,929.83	-	$5,992.32
Water Meter Reader I	$3,897.08	-	$4,736.99
Water Meter Reader II	$4,286.87	-	$5,210.70
Assistant Water Operator	$5,287.76	-	$6,427.32
Water Systems Operator	$5,957.83	-	$7,241.79

Appendix “A-2”- Salary Restoration

3.5% Salary Restoration Effective June 28, 2015			
Job Classification	Monthly Salary Range		
Equipment Maintenance Worker I	$4,981.51	-	$6,055.10
Equipment Maintenance Worker II	$5,479.70	-	$6,660.64
Equipment Maintenance Worker III	$6,174.13	-	$7,504.67
Fleet Maintenance Assistant - 40	$4,949.37	-	$6,016.03
Fleet Maintenance Assistant - 37.5	$4,640.01	-	$5,640.02
Fleet Maintenance Worker I	$4,785.09	-	$5,816.25
Fleet Maintenance Worker II	$5,263.58	-	$6,397.87
Fleet Maintenance Worker III	$6,053.09	-	$7,357.61
Maintenance Custodian I - 37.5	$3,671.43	-	$4,462.72
Maintenance Custodian II - 37.5	$4,038.65	-	$4,909.00
Maintenance Custodian I - 40	$3,916.23	-	$4,760.19
Maintenance Custodian II - 40	$4,307.92	-	$5,236.29
Maintenance Custodian III	$4,644.39	-	$5,645.34
Maintenance Worker I - 37.5	$4,038.65	-	$4,909.00
Maintenance Worker II - 37.5	$4,442.48	-	$5,399.85
Maintenance Worker I - 40	$4,307.84	-	$5,236.29
Maintenance Worker II - 40	$4,738.63	-	$5,759.83
Maintenance Worker III	$5,108.78	-	$6,209.84
Water Meter Reader I	$4,038.55	-	$4,908.94
Water Meter Reader II	$4,442.48	-	$5,399.85
Assistant Water Operator	$5,479.70	-	$6,660.64
Water Systems Operator	$6,174.10	-	$7,504.67

Appendix “A-3”- Salary Increase

3.0% Salary Increase at City Manager Discretion Effective First Full Pay Period Including July 1, 2016			
Job Classification	Monthly Salary Range		
Equipment Maintenance Worker I	$5,130.96	-	$6,236.75
Equipment Maintenance Worker II	$5,644.09	-	$6,860.46
Equipment Maintenance Worker III	$6,359.36	-	$7,729.81
Fleet Maintenance Assistant - 40	$5,097.85	-	$6,196.51
Fleet Maintenance Assistant - 37.5	$4,779.21	-	$5,809.22
Fleet Maintenance Worker I	$4,928.64	-	$5,990.74
Fleet Maintenance Worker II	$5,421.49	-	$6,589.80
Fleet Maintenance Worker III	$6,234.68	-	$7,578.34
Maintenance Custodian I - 37.5	$3,781.58	-	$4,596.60
Maintenance Custodian II - 37.5	$4,159.81	-	$5,056.27
Maintenance Custodian I - 40	$4,033.72	-	$4,902.99
Maintenance Custodian II - 40	$4,437.15	-	$5,393.38
Maintenance Custodian III	$4,783.72	-	$5,814.70
Maintenance Worker I - 37.5	$4,159.81	-	$5,056.27
Maintenance Worker II - 37.5	$4,575.76	-	$5,561.84
Maintenance Worker I - 40	$4,437.07	-	$5,393.38
Maintenance Worker II - 40	$4,880.79	-	$5,932.62
Maintenance Worker III	$5,262.04	-	$6,396.14
Water Meter Reader I	$4,159.70	-	$5,056.21
Water Meter Reader II	$4,575.76	-	$5,561.84
Assistant Water Operator	$5,644.09	-	$6,860.46
Water Systems Operator	$6,359.32	-	$7,729.81

INDEX

CITY OF MILPITAS

COMMUNITY CENTER AUDITORIUM AV SYSTEM UPGRADE
PROJECT NO. 3406

*15

GENERAL NOTES:

1. DESIGN INTENT: THESE DRAWINGS AND ACCOMPANYING TECHNICAL SPECIFICATIONS REPRESENT THE GENERAL DESIGN, INTENT TO BE IMPLEMENTED ON THE SITE. CONTRACTOR SHALL BE RESPONSIBLE FOR CONTACTING THE ENGINEER FOR ANY ADDITIONAL CLARIFICATION OR DETAILS NECESSARY TO ACCOMMODATE SITE CONDITIONS.
2. CONTRACTOR COORDINATION: CONTRACTOR SHALL COORDINATE AND OTHERWISE INTEGRATE HIS WORK WITH THAT OF OTHERS IN AN EFFICIENT, CRAFTSMANLIKE AND TIMELY MANNER SO AS TO PROVIDE THE CITY WITH A WELL-CONSTRUCTED, EASILY MAINTAINABLE PROJECT. EACH CONTRACTOR SHALL NOTIFY OTHERS AT LEAST TWO WORKING DAYS IN ADVANCE OF COVERING, COMPLETING OR EXPOSING WORK TO BE INSTALLED BY OTHERS.
3. COMPOSITE BASE SHEET: THE PROPOSED IMPROVEMENTS SHOWN ON THESE DRAWINGS ARE SUPERIMPOSED ON A BASE SHEET. THIS SHEET IS COMPILED FROM A BOUNDARY AND A PARTIAL TOPOGRAPHIC SURVEY, OTHER ARCHITECTURAL AND/OR ENGINEERING DOCUMENTS AND OTHER DATA AS MADE AVAILABLE BY THE SURVEYOR TO THE ENGINEER WHO SHALL NOT BE HELD LIABLE FOR CHANGES, INACCURACIES, OMISSIONS OR OTHER ERROS ON THESE DOCUMENTS. THE COMPOSITE BASE SHEET IS PROVIDED ONLY AS AN AID, AND THE CONTRACTOR SHALL BE RESPONSIBLE FOR REVIEWING THESE DOCUMENTS AND INCORPORATING/INTEGRATING ALL CONSTRUCTION AS REQUIRED TO ACCOMMODATE SAME.
4. SITE CONDITIONS: THE CONTRACTOR SHALL EXAMINE AND CHECK ALL EXISTING CONDITIONS, DIMENSIONS, LEVELS AND MATERIALS AND NOTIFY THE ENGINEER OF ANY DISCREPANCIES.
5. STAGING: CONTRACTOR SHALL LIMIT WORK AND STAGING TO PROJECT SITE (CITY PROPERTY).
6. ALL WORK IS NEW UNLESS DENOTED (E) FOR EXISTING.
7. ALL CONSTRUCTION NOT SPECIFICALLY DETAILED SHALL BE BUILT TO CONFORM WITH SIMILAR CONSTRUCTION SHOWN, ALL CONSTRUCTION SHALL BE PER THE REQUIREMENTS OF THE CALIFORNIA BUILDING CODE (CBC), 2013 AS ADOPTED BY THE CITY OF MILPITAS MUNICIPAL CODE.
8. ALL MATERIAL AND WORKMANSHIP SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE APPROVED PLANS, SPECIFICATIONS, LATEST EDITION OF STANDARDS AND ORDINANCES OF THE CITY OF MILPITAS AND THE LATEST STATE STANDARD SPECIFICATIONS. STANDARD DRAWINGS AND DETAILS ARE AVAILABLE AT THE ENGINEERING DEPARTMENT, 408-586-3300.
9. CONTRACTOR MUST NOTIFY THE CITY PROJECT MANAGER 48 HOURS IN ADVANCE BEFORE STARTING ANY WORK FOR THIS PROJECT.
10. ALL QUANTITIES AND PAY ITEMS ARE AND WILL BE BASED ON ACTUAL FIELD MEASUREMENTS. ALL LOCATIONS OF IMPROVEMENTS NOT SPECIFICALLY DIMENSIONED ARE APPROXIMATE AND SHALL BE FIELD LOCATED PRIOR TO INSTALLATION.
11. CONTRACTOR SHALL MEET WITH PROJECT INSPECTOR AND SIGN OFF ON QUANTITIES WITHIN 48 HOURS OF COMPLETING EACH SEGMENT.
12. CONTRACTOR IS RESPONSIBLE FOR VERIFYING QUANTITIES AND SHALL OBTAIN AN APPROVED CHANGE ORDER PRIOR TO EXCEEDING ESTIMATED QUANTITIES.
13. ALL RESPONSIBLE CONTRACTOR REPRESENTATIVES (CONTRACTOR'S SUPERINTENDENT AND SUBCONTRACTOR'S SUPERINTENDENT WILL BE REQUIRED TO ATTEND A PRE-CONSTRUCTION MEETING WHICH WILL BE SCHEDULED BY THE CITY PRIOR TO THE COMMENCEMENT OF ANY WORK.
14. CONTRACTOR SHALL SUBMIT A CONSTRUCTION SCHEDULE TO THE CITY ENGINEER (AND UPDATE AS REQUIRED PER SPECIFICATIONS) FOR APPROVAL AT LEAST 15 CALENDAR DAYS PRIOR TO THE BEGINNING OF ANY WORK WITHIN THE CONSTRUCTION SITE.
15. ALL EXISTING UTILITIES AND IMPROVEMENTS THAT BECOME DAMAGED DURING CONSTRUCTION SHALL BE COMPLETELY RESTORED TO THE SATISFACTION OF THE CITY ENGINEER, AT CONTRACTOR'S SOLE EXPENSE.
16. SAFETY MEASURES: AT ALL TIMES THE CONTRACTOR SHALL BE SOLELY AND COMPLETELY RESPONSIBLE FOR CONDITIONS OF THE JOB SITE INCLUDING PUBLIC SAFETY, WORKER SAFETY AND PROPERTY, INCLUDING COMPLIANCE WITH REQUIREMENTS AND PERMIT CONDITIONS OF THE STATE OF CALIFORNIA DIVISION OF INDUSTRIAL SAFETY, (THIS REQUIREMENT SHALL APPLY CONTINUOUSLY AND NOT JUST DURING WORKING HOURS) AND FOR ALL NECESSARY INDEPENDENT ENGINEERING REVIEWS OF THE CONDITIONS, THE ENGINEER'S JOB SITE REVIEW IS NOT INTENDED TO INCLUDE REVIEW OF THE ADEQUACY OF THE CONTRACTOR'S SAFETY MEASURES.
17. NO CONSTRUCTION IS PERMITTED ON THE FOLLOWING HOLIDAYS: NEW YEARS DAY, MARTIN LUTHER KING BIRTHDAY, PRESIDENT'S DAY, MEMORIAL DAY, INDEPENDENCE DAY, LABOR DAY, VETERANS DAY, THANKSGIVING DAY, DAY AFTER THANKSGIVING, DAY BEFORE CHRISTMAS, AND CHRISTMAS DAY.
18. CONTRACTOR SHALL MAINTAIN THE PROJECT SITES IN A NEAT AND PROFESSIONAL CONDITION AT ALL TIMES.
19. CONTRACTOR SHALL COMPLY WITH THE PROVISIONS OF SECTION C-29, "SOUND CONTROL" OF THE PROJECT SPECIFICATIONS. FURTHER, BY THE CITY OF MILPITAS ORDINANCE, THE CONTRACTOR SHALL NOT ENGAGE OR PERMIT OTHERS TO ENGAGE IN ANY CONSTRUCTION RELATED OPERATIONS INCLUDING DELIVERY OF MATERIALS AND/OR EQUIPMENT TO OR FROM THE CONSTRUCTION SITE EXCEPT WITHIN THE HOURS OF 7:00 AM TO 7:00 PM ON WEEKDAYS AND WEEKENDS.
20. CONTRACTOR'S LICENSE REQUIREMENTS ARE NOTED IN THE CONTRACT SPECIFICATIONS AND NOTICE INVITING BIDS.
21. THE CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD THE OWNER, THE CITY OF MILPITAS AND ITS AUTHORIZED REPRESENTATIVES AND THE ENGINEER HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF THE WORK ON THIS PROJECT, EXCEPTING FOR LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE OWNER OR THE ENGINEER.

BID NOTES:

1. NO CONTRACTOR OR SUBCONTRACTOR MAY BE LISTED ON A BID PROPOSAL FOR A PUBLIC WORKS PROJECT (SUBMITTED ON OR AFTER MARCH 1, 2015) UNLESS REGISTERED WITH THE DEPARTMENT OF INDUSTRIAL RELATIONS PURSUANT TO LABOR CODE SECTION 1725.5 [WITH LIMITED EXCEPTIONS FROM THIS REQUIREMENT FOR BID PURPOSES ONLY UNDER LABOR CODE SECTION 1771.1(a)].

2. NO CONTRACTOR OR SUBCONTRACTOR MAY BE AWARED A CONTRACT FOR PUBLIC WORK ON A PUBLICE WORKS PROJECT (AWARDED ON OR AFTER APRIL 1, 2015) UNELSS REGISTERED WITH THE DEPARTMENT OF INDUSTRIAL RELATIONS PURSUANT TO LABOR CODE SECTION 1725.5.

3. THIS PROJECT IS SUBJECT COMPLIANCE MONITORING AND ENFORCEMENT BY THE DEPARTMENT OF INDUSTRIAL RELATIONS.

PROJECT SITE LOCATION
Not To Scale

NOTE: CONTRACTOR'S LICENSE
A prime contractor bidding on this project shall possess a Class C-7 license from the Contractor's State License Board.

SHEET INDEX:

SCOPE OF WORK:

BASE SCOPE: AV SYSTEMS UPGRADE TO INCLUDE WIRING INFRASTRUCTURE, PORTABLE DIGITAL AUDIO MIXING CONSOLE, MICROPHONE AUTOMIXER, 2-CHANNEL HANDHELD WIRELESS MICROPHONES, 2-CHANNEL PRODUCTION INTERCOM, AUDIO MONITORING TO ALL TECHNICAL AREAS, AUDIO REINFORCEMENT /AMPLIFICATION, FM ASSISTED LISTENING SYSTEM WITH (16) RECEIVERS & ACCESSORIES, PROGRAM AUDIO MONITORING TO BACKSTAGE AREAS, TOUCHSCREEN CONTROL SYSTEM, WIRE, PULL AND SYSTEM INTEGRATION AND INSTALLATION.

INCLUDES ELECTRICAL POWER FOR NEW AV SYSTEMS, PLUS LOW-VOLTAGE CONDUIT & BACKBOXES FOR AV SYSTEMS.

ADD/ALT #1: INCLUDES ADDITIONAL LOUDSPEAKERS, AMPLIFIERS, AND SIGNAL PROCESSING TO ALLOW AN ALTERNATE “END-STAGE” ROOM CONFIGURATION. WIRE, PULL AND SYSTEM INTEGRATION AND INSTALLATION.

ADD/ALT #2: INCLUDES 8,000 LUMEN HD VIDEO PROJECTOR, MOTORIZED ROLL-DOWN SCREEN, VIDEO SWITCHER WITH REMOTE INPUTS FOR HDMI AND VGA, AND SIMPLE CAMERA MONITORING SYSTEM FOR BACKSTAGE AREAS.

ADD/ALT #3: INCLUDES (16) CHANNEL PORTABLE DIGITAL WIRELESS MICROPHONE SYSTEM WITH BOTH HANDHELD AND BODYPACK TRANSMITTERS AND LAVALIERE ELEMENTS, RECHARGEABLE BATTERIES AND ACCESSORIES, ANTENNA DISTRIBUTION, CASES, AND NECESSARY CABLING.

ADD/ALT #4: ALLOWANCE TO INCLUDE PORTABLE AV EQUIPMENT, SUCH AS MICROPHONES, CABLES, STANDS, PORTABLE LOUDSPEAKERS, PRODUCTION INTERCOM PACKS & HEADSETS, PATCH CABLES, ETC.

COMMUNITY CENTER
AV Systems Upgrade

The Shalleck Collaborative Inc.
Planning and Design of Theatres and Production Systems
400 Montgomery St., Suite 500, San Francisco, CA 94104
tel 415-956-4100
fax 415-840-0494

RECORD DRAWINGS

Project Engineer ______ Date _____

Designer ______ Date _____

Public Works Inspector ______ Date _____

Public Improvements Initially Accepted by the City Council on ___________

CITY OF MILPITAS
ENGINEERING DIVISION
Recommended for Bidding by:

Steve Erickson, Capital Improvement Program Manager

Date

Approved for Bidding by:

Steve Machida, Acting Public Works Director/City Engineer

Date

PROJECT #

MARK	DATE	DESCRIPTION
	01/23/15	BID SET

DRAWING TITLE
PROJECT INFO

ISSUE DATE 01-23-15
DRAWN BY IdH
CHECKED BY --
DRAWING NO. AV0.0

SA3

RESOLUTION NO. ____

A RESOLUTION OF THE BOARD OF THE SUCCESSOR AGENCY TO THE FORMER MILPITAS REDEVELOPMENT AGENCY CONFIRMING THE ISSUANCE OF TAX ALLOCATION REFUNDING BONDS PURSUANT TO AN INDENTURE OF TRUST, APPROVING PRELIMINARY AND FINAL OFFICIAL STATEMENTS AND PROVIDING OTHER MATTERS RELATING THERETO

WHEREAS, pursuant to Section 34172(a) of the California Health and Safety Code (unless otherwise noted, all Section references hereinafter being to such Code), the Milpitas Redevelopment Agency (the "Former Agency") has been dissolved and no longer exists as a public body, corporate and politic, and pursuant to Section 34173, the Successor Agency to the Former Milpitas Redevelopment Agency (the "Successor Agency") has become the successor entity to the Former Agency; and

WHEREAS, prior to dissolution of the Former Agency, the Former Agency issued its Milpitas Redevelopment Agency Redevelopment Project Area No. 1, 2003 Tax Allocation Bonds (the "2003 Bonds"), in the initial principal amount of $200,000,000, for the purpose of refinancing and financing redevelopment activities of the Former Agency; and

WHEREAS, Section 34177.5 authorizes the Successor Agency to issue refunding bonds pursuant to Article 11 (commencing with Section 53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code (the "Refunding Law") for the purpose of achieving debt service savings within the parameters set forth in Section 34177.5(a)(1) (the "Savings Parameters"); and

WHEREAS, the Successor Agency, pursuant to Resolution No. SA 6 (the "SA Resolution"), adopted on December 2, 2014, approved the issuance of its Successor Agency to the Former Milpitas Redevelopment Agency Tax Allocation Refunding Bonds (Redevelopment Project Area No. 1) (the "Refunding Bonds"), subject to the Savings Parameters being met, and requested that the Oversight Board for the Successor Agency (the "Oversight Board") approve the issuance of the Refunding Bonds by the Successor Agency; and

WHEREAS, the Oversight Board, by Resolution No. 50 (the "OB Resolution") adopted on December 2, 2014, approved the issuance of the Refunding Bonds by the Successor Agency, and the OB Resolution, together with additional materials, were submitted to the California Department of Finance for its approval of the OB Resolution and the issuance of the Refunding Bonds; and

WHEREAS, the Successor Agency, with the assistance of its disclosure counsel, Jones Hall, A Professional Law Corporation, has prepared a draft of the Official Statement for the Refunding Bonds (the "Official Statement"), which contains information regarding the Refunding Bonds, the Former Agency and the Successor Agency, the preliminary form of which is on file with the Secretary of the Successor Agency; and

WHEREAS, the Successor Agency, with the aid of its staff, has reviewed the Official Statement and wishes at this time to approve its use and distribution as in the public interests of the Successor Agency and applicable taxing entities; and

WHEREAS, in connection with the issuance of the Refunding Bonds, the Successor Agency also desires to approve the form of and authorize the execution and delivery of a Depository Agreement, by and between the Successor Agency and U.S. Bank National Association (the "Depository Agreement"), appointing U.S. Bank National Association to hold certain bond proceeds of the Successor Agency; and

NOW, THEREFORE, BE IT RESOLVED by the Board of the Successor Agency to the Former Milpitas Redevelopment Agency, as follows:

1. Confirmation of Approval of Issuance of the Refunding Bonds. The Successor Agency hereby confirms its actions in the SA Resolution authorizing and approving the issuance and sale of the Refunding Bonds.

2. Approval of Official Statement. The Successor Agency hereby approves the preliminary Official Statement in substantially the form on file with the Secretary of the Successor Agency. Distribution of the preliminary Official

Statement by the Successor Agency and its underwriters (the "Underwriters") is hereby approved and, prior to the distribution of the preliminary Official Statement, the Chair, the Executive Director and the Assistant Executive Director of the Successor Agency (each, an "Authorized Officer"), each acting alone, are authorized and directed, on behalf of the Successor Agency, to deem the preliminary Official Statement "final" pursuant to Rule 15c2-12 under the Securities Exchange Act of 1934 (the "Rule"). The execution of the final Official Statement, which shall include such changes and additions thereto deemed advisable by any Authorized Officer executing the same, and such information permitted to be excluded from the preliminary Official Statement pursuant to the Rule, is hereby approved for delivery to the purchasers of the Refunding Bonds, and the Authorized Officers, each acting alone, are authorized and directed to execute and deliver the final Official Statement for and on behalf of the Successor Agency, to deliver to the Underwriters a certificate with respect to the information set forth therein and to deliver to the Underwriters a Continuing Disclosure Certificate or Agreement substantially in the form appended to the final Official Statement.

3. Approval of Depository Agreement. The Successor Agency hereby approves the Depository Agreement appointing U.S. Bank National Association to hold certain bond proceeds of the Successor Agency. Each Authorized Officer is hereby authorized and directed to execute and deliver the Depository Agreement for and in the name and on behalf of the Successor Agency, in substantially the form on file with the Secretary of the Successor Agency, with such changes therein, deletions therefrom and additions thereto as the Authorized Officer executing the same shall approve, such approval to be conclusively evidenced by the execution and delivery of the Depository Agreement. The Successor Agency hereby authorizes the delivery and performance of the Depository Agreement.

4. Official Actions. The Authorized Officers and any and all other officers of the Successor Agency are hereby authorized and directed, for and in the name and on behalf of the Successor Agency, to do any and all things and take any and all actions, which they, or any of them, may deem necessary or advisable in connection with the issuance, sale and delivery of the Refunding Bonds. Whenever in this Resolution any officer of the Successor Agency is directed to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer is absent or unavailable.

5. Effective Date. This Resolution shall take effect from and after the date of approval and adoption thereof.

PASSED AND ADOPTED this _______ day of _______________, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

____

Mary Lavelle, Successor
Agency Secretary

APPROVED:

____

Jose S. Esteves, Successor
Agency Chair

APPROVED AS TO FORM:

____

Michael J. Ogaz, Successor
Agency Counsel

M E M O R A N D U M

Successor Agency to the Former Milpitas Redevelopment Agency

To: Board of Directors – Successor Agency to the Former Milpitas Redevelopment Agency

From: Emma C. Karlen, Successor Agency Assistant Executive Director

Subject: **Preliminary Official Statement for the Successor Agency to the Former Milpitas Redevelopment Agency 2015 Tax Allocation Refunding Bonds**

Date: January 23, 2015

Staff recommends that the Successor Agency to the Former Milpitas Redevelopment Agency adopt a resolution confirming the issuance of the 2015 Tax Allocation Refunding Bonds (the "Refunding Bonds") and approving the form, and authorizing the distribution of, a preliminary official statement for such Refunding Bonds ("Preliminary Official Statement"). The near final version of the Preliminary Official Statement is attached for your review and approval.

The attached Preliminary Official Statement has been reviewed and approved for transmittal to the Board by the Successor Agency's financing team. The distribution of the Preliminary Official Statement by the Successor Agency is subject to federal securities laws, including the Securities Act of 1933 and the Securities Exchange Act of 1934. These laws require the Preliminary Official Statement to include all facts that would be material to an investor in the Refunding Bonds. Material information is information that there is a substantial likelihood would have actual significance in the deliberations of the reasonable investor when deciding whether to buy or sell the Refunding Bonds. If the Board concludes that the Preliminary Official Statement includes all facts that would be material to an investor in the Refunding Bonds, it must adopt a resolution that authorizes staff to execute a certificate to the effect that the Preliminary Official Statement has been "deemed final."

The Securities and Exchange Commission (the "SEC"), the agency with regulatory authority over the Successor Agency's compliance with the federal securities laws, has issued guidance as to the duties of the Board with respect to its approval of the Preliminary Official Statement. In its "Report of Investigation in the Matter of County of Orange, California as it Relates to the Conduct of the Members of the Board of Supervisors" (Release No. 36761 / January 24, 1996) (the "Release"), the SEC indicated that, if a member of the Board has knowledge of any facts or circumstances that an investor would want to know about prior to investing in the Refunding Bonds, whether relating to their repayment, tax-exempt status, undisclosed conflicts of interest with interested parties, or otherwise, he or she should endeavor to discover whether such facts are adequately disclosed in the Preliminary Official Statement. In the Release, the SEC indicated that the steps that a member of the Board could take include becoming familiar with the Preliminary Official Statement and questioning staff and consultants about the disclosure of such facts.

Purpose of Financing

The Refunding Bonds will be issued to refund the outstanding 2003 Tax Allocation Bonds.

Documents for Approval; Security for the Refunding Bonds

The document submitted for approval is the Preliminary Official Statement. A description of the security for the Refunding Bonds is set forth on pages 4 and 15 of the Preliminary Official Statement.

Risks Relating to Repayment and Tax-Exempt Status of the Refunding Bonds

A description of the risks relating to repayment of the Refunding Bonds, including their tax-exempt status, is described in the section of the Preliminary Official Statement entitled, "Risk Factors" commencing on page 51 of the Preliminary Official Statement.

Requested Approvals

Staff requests that the Board adopt a resolution approving the issuance of the Refunding Bonds and the form of the attached Preliminary Official Statement and distribution thereof by the underwriters of the Refunding Bonds. Such resolution also authorizes the "Authorized Officers" who are identified as the Successor Agency Chair, the Successor Agency Executive Director, or the Successor Agency Assistant Executive Director of the City to subsequently execute and deliver the final Official Statement and certain certificates to the underwriters of the Refunding Bonds and to take other official actions necessary for issuing the Refunding Bonds, on behalf of the Successor Agency.

PRELIMINARY OFFICIAL STATEMENT DATED FEBRUARY __, 2015

NEW ISSUE—BOOK-ENTRY **RATINGS: S&P: "__"**
See "CONCLUDING INFORMATION - Rating"

In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, subject, however to certain qualifications described in this Official Statement, under existing law, the interest on the 2015 Bonds is excluded from gross income for federal income tax purposes and such interest is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, although for the purpose of computing the alternative minimum tax imposed on certain corporations, such interest is taken into account in determining certain income and earnings. In the further opinion of Bond Counsel, such interest on the 2015 Bonds is exempt from California personal income taxes. See "TAX MATTERS."

$130,000,000*
SUCCESSOR AGENCY TO THE FORMER MILPITAS REDEVELOPMENT AGENCY
2015 TAX ALLOCATION REFUNDING BONDS
(REDEVELOPMENT PROJECT AREA NO. 1)

Dated: Delivery Date **Due: September 1, as shown on the inside front cover**

Purpose of the 2015 Bonds. The above captioned bonds (the "2015 Bonds") are being issued by the Successor Agency to the Former Milpitas Redevelopment Agency (the "Successor Agency"), as successor to the Milpitas Redevelopment Agency (the "Former Agency") to (i) refund certain outstanding bonds issued by the Former Agency payable from tax increment revenue generated in the Former Agency's Redevelopment Project Area No. 1 (the "Project Area"), (ii) establish a debt service reserve account for the 2015 Bonds and (iii) pay the costs of issuing the 2015 Bonds.

Book-Entry. The 2015 Bonds will be delivered as fully registered bonds, registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"), and will be available to ultimate purchasers ("Beneficial Owners") in the denomination of $5,000 or any integral multiple thereof, under the book-entry system maintained by DTC. Beneficial Owners will not be entitled to receive delivery of bonds representing their ownership interest in the 2015 Bonds.

Payments. Annual principal of, premium if any, and semiannual interest on the 2015 Bonds due March 1 and September 1 of each year, commencing September 1, 2015, will be payable by U.S. Bank National Association, as Trustee (the "Trustee"), to DTC for subsequent disbursement to DTC participants, so long as DTC or its nominee remains the registered owner of the 2015 Bonds. See "THE 2015 BONDS."

Redemption. The 2015 Bonds are subject to optional redemption prior to maturity. See "THE 2015 BONDS – Redemption."

Security for the 2015 Bonds. The 2015 Bonds are payable from and secured by a pledge of (i) Tax Revenues (as described herein) allocable to the Successor Agency under the Dissolution Act (described herein) to be derived from the Project Area, (ii) moneys in certain funds and accounts established under the Indenture of Trust, dated as of March 1, 2015 (the "Indenture"), by and between the Successor Agency and the Trustee and (iii) moneys deposited in the Redevelopment Property Tax Trust Fund established pursuant to the Dissolution Act, as further described in this Official Statement. See "SECURITY FOR THE 2015 BONDS."

The Successor Agency will establish a reserve account for the 2015 Bonds, which may be in the form of a debt service reserve surety bond. See "SECURITY FOR THE 2015 BONDS – Debt Service Reserve Account."

Insurance Policy or Reserve Account Surety Bond. The Successor Agency has applied for a municipal bond insurance policy and a debt service reserve account surety bond and will decide whether to purchase any such municipal bond insurance policy or debt service reserve account surety bond in connection with the pricing of the 2015 Bonds.

---

* Preliminary; subject to change.

Limited Obligations. The 2015 Bonds are special obligations of the Successor Agency and are secured by an irrevocable pledge of, and are payable as to principal, interest and premium, if any, from Tax Revenues and other funds described in this Official Statement. The 2015 Bonds, interest and premium, if any, thereon are not a debt of the City of Milpitas (the "City"), the County of Santa Clara (the "County"), the State of California (the "State") or any of their political subdivisions except the Successor Agency, and none of the City, the County, the State nor any of their political subdivisions except the Successor Agency is liable thereon. The 2015 Bonds, interest thereon and premium, if any, are not payable out of any funds or properties other than those set forth in the Indenture. Neither the members of the Successor Agency, the Oversight Board of the Successor Agency, the County Board of Supervisors nor any persons executing the 2015 Bonds are liable personally on the 2015 Bonds.

This cover page of the Official Statement contains information for quick reference only. It is not a complete summary of the 2015 Bonds. Investors must read the entire Official Statement to obtain information essential to the making of an informed investment decision. Attention is hereby directed to certain risk factors more fully described in this Official Statement. See "RISK FACTORS."

The 2015 Bonds are offered, when, as and if issued, subject to the approval of Jones Hall, A Professional Law Corporation, San Francisco, Bond Counsel to the Successor Agency. Jones Hall, A Professional Law Corporation, is also serving as Disclosure Counsel to the Successor Agency. In addition, certain legal matters will be passed upon for the Successor Agency by the City Attorney of the City, as Successor Agency general counsel. Certain legal matters will be passed on for the Underwriters by Quint & Thimmig LLP, Underwriters' Counsel. It is anticipated that the 2015 Bonds will be available for delivery through the facilities of DTC in New York, New York, on or about March 11, 2015.

The date of this Official Statement is February __, 2015.

MATURITY SCHEDULE

$130,000,000*
SUCCESSOR AGENCY TO THE FORMER MILPITAS REDEVELOPMENT AGENCY
2015 TAX ALLOCATION REFUNDING BONDS
(REDEVELOPMENT PROJECT AREA NO. 1)

Maturity Date (September 1)	Principal Amount*	Interest Rate	Yield	Price	CUSIP† (Base _____)
2015					
2016					
2017					
2018					
2019					
2020					
2021					
2022					
2023					
2024					
2025					
2026					
2027					
2028					
2029					
2030					
2031					
2032					

*Preliminary; subject to change.

† Copyright 2015, CUSIP Global Services, and a registered trademark of the American Bankers Association. CUSIP data is provided by CUSIP Global Services, which is managed on behalf of American Bankers Association by S&P Capital IQ. Neither the Successor Agency nor the Underwriters assume any responsibility for the accuracy of the CUSIP data.

SUCCESSOR AGENCY TO THE
FORMER MILPITAS REDEVELOPMENT AGENCY
MILPITAS, CALIFORNIA

CITY COUNCIL/SUCCESSOR AGENCY BOARD

Mayor Jose Esteves, *Mayor*
Carmen Montano, *Vice-Mayor*
Debbie Indihar Giordano, *Council Member*
Garry Barbadillo, *Council Member*
Marsha Grilli, *Council Member*

CITY/SUCCESSOR AGENCY STAFF

Thomas C. Williams, *City Manager*
Emma C. Karlen, *Assistant City Manager/Director of Financial Services*
Steven McHarris, *Planning and Neighborhood Services Director*
Steven Machida, *Acting Public Works Director/City Engineer*
Mary Lavelle, *City Clerk*
Michael J. Ogaz, *City Attorney*

SPECIAL SERVICES

Financial Advisor
Fieldman, Rolapp & Associates, Inc.
Irvine, California

Bond and Disclosure Counsel
Jones Hall, A Professional Law Corporation
San Francisco, California

Fiscal Consultant
Fraser & Associates
Roseville, California

Trustee
U.S. Bank National Association
San Francisco, California

Verification Agent
Grant Thornton LLP
Minneapolis, Minnesota

TABLE OF CONTENTS

GENERAL INFORMATION ABOUT THIS OFFICIAL STATEMENT

No Offering May Be Made Except by this Official Statement. No dealer, broker, salesperson or other person has been authorized to give any information or to make any representations with respect to the 2015 Bonds other than as contained in this Official Statement, and if given or made, such other information or representation must not be relied upon as having been authorized.

No Unlawful Offers or Solicitations. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy in any state in which such offer or solicitation is not authorized or in which the person making such offer or solicitation is not qualified to do so or to any person to whom it is unlawful to make such offer or solicitation.

Effective Date. This Official Statement speaks only as of its date, and the information and expressions of opinion contained in this Official Statement are subject to change without notice. Neither the delivery of this Official Statement nor any sale of the 2015 Bonds will, under any circumstances, create any implication that there has been no change in the affairs of the Successor Agency or the Project Area since the date of this Official Statement.

Use of this Official Statement. This Official Statement is submitted in connection with the sale of the 2015 Bonds referred to in this Official Statement and may not be reproduced or used, in whole or in part, for any other purpose. This Official Statement is not a contract with the purchasers of the 2015 Bonds.

Preparation of this Official Statement. The information contained in this Official Statement has been obtained from sources that are believed to be reliable, but this information is not guaranteed as to accuracy or completeness.

The Underwriters have provided the following sentence for inclusion in this Official Statement: The Underwriters have reviewed the information in this Official Statement in accordance with, and as part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriters do not guarantee the accuracy or completeness of such information.

Document References and Summaries. All references to and summaries of the Indenture or other documents contained in this Official Statement are subject to the provisions of those documents and do not purport to be complete statements of those documents.

Stabilization of and Changes to Offering Prices. The Underwriters may overallot or take other steps that stabilize or maintain the market price of the 2015 Bonds at a level above that which might otherwise prevail in the open market. If commenced, the Underwriters may discontinue such market stabilization at any time. The Underwriters may offer and sell the 2015 Bonds to certain dealers, dealer banks and banks acting as agent at prices lower than the public offering prices stated on the cover page of this Official Statement, and those public offering prices may be changed from time to time by the Underwriters.

Bonds are Exempt from Securities Laws Registration. The issuance and sale of the 2015 Bonds have not been registered under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, in reliance upon exemptions for the issuance and sale of municipal securities provided under Section 3(a)(2) of the Securities Act of 1933 and Section 3(a)(12) of the Securities Exchange Act of 1934.

Estimates and Projections. Certain statements included or incorporated by reference in this Official Statement constitute "forward-looking statements" within the meaning of the United States Private Securities Litigation Reform Act of 1995, Section 21E of the United States Securities Exchange Act of 1934, as amended, and Section 27A of the United States Securities Act of 1933, as amended. Such statements are generally identifiable by the terminology used such as "plan," "expect," "estimate," "budget" or other similar words.

THE ACHIEVEMENT OF CERTAIN RESULTS OR OTHER EXPECTATIONS CONTAINED IN SUCH FORWARD-LOOKING STATEMENTS INVOLVE KNOWN AND UNKNOWN RISKS, UNCERTAINTIES AND OTHER FACTORS WHICH MAY CAUSE ACTUAL RESULTS, PERFORMANCE OR ACHIEVEMENTS DESCRIBED TO BE MATERIALLY DIFFERENT FROM ANY FUTURE RESULTS, PERFORMANCE OR ACHIEVEMENTS EXPRESSED OR IMPLIED BY SUCH FORWARD-LOOKING STATEMENTS. THE SUCCESSOR AGENCY DOES NOT PLAN TO ISSUE ANY UPDATES OR REVISIONS TO THOSE FORWARD-LOOKING STATEMENTS IF OR WHEN ITS EXPECTATIONS, OR EVENTS, CONDITIONS OR CIRCUMSTANCES ON WHICH SUCH STATEMENTS ARE BASED OCCUR.

Website. The City maintains an Internet website, but the information on the website is not incorporated in this Official Statement.

OFFICIAL STATEMENT

$130,000,000*
SUCCESSOR AGENCY TO THE FORMER MILPITAS REDEVELOPMENT AGENCY
2015 TAX ALLOCATION REFUNDING BONDS
(REDEVELOPMENT PROJECT AREA NO. 1)

This Official Statement, including the cover page, is provided to furnish information in connection with the sale by the Successor Agency to the Former Milpitas Redevelopment Agency (the "**Successor Agency**") of the captioned bonds (the "**2015 Bonds**").

INTRODUCTION

This introduction is not a summary of this Official Statement. It is only a brief description and guide to, and is qualified by, the more complete and detailed information contained in the entire Official Statement including the cover page and the appendices, and the documents summarized or described herein. A full review should be made of the entire Official Statement. The offering of the 2015 Bonds to potential investors is made only by means of the entire Official Statement.

Authority and Use of Proceeds

The Successor Agency is issuing the 2015 Bonds pursuant to authority granted by Part 1 (commencing with Section 33000) and Part 1.85 of Division 24 (commencing with Section 34170) of the California Health and Safety Code (the "**Law**"), Article 11 (commencing with Section 53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California (the "**Refunding Law**"), and an Indenture of Trust dated as of March 1, 2015 (the "**Indenture**") by and between the Successor Agency and U.S. Bank National Association, as trustee (the "**Trustee**"). See "THE 2015 BONDS – Authority for Issuance."

The Successor Agency is issuing the 2015 Bonds in order to defease and redeem the outstanding Milpitas Redevelopment Agency Redevelopment Project Area No. 1 2003 Tax Allocation Bonds (the "**Prior Bonds**") issued by the Milpitas Redevelopment Agency (the "**Former Agency**"). The proceeds of the Prior Bonds were used to finance or refinance redevelopment activities in the Project Area (as defined below).

Proceeds of the 2015 Bonds will also be used to establish a debt service reserve account and pay the costs of issuing the 2015 Bonds.

The City and the Successor Agency

The City and the County. The City of Milpitas (the "**City**") is located in the County of Santa Clara (the "**County**"). The City covers approximately 13.5 square miles and is located 45

* Preliminary; subject to change.

miles south of San Francisco, and is adjacent to the City of San Jose in the northern part of the County. The City's estimated population at January 1, 2014 was approximately 70,100. The City was incorporated in 1954 as a general law city. It is administered by a Council-Manager form of government. There are four City Council members who are elected at-large for staggered four –year terms, and the Mayor is selected every two years in a separate citywide election.. For certain information regarding the City, see "APPENDIX G - CITY OF MILPITAS AND SANTA CLARA COUNTY GENERAL INFORMATION." The 2015 Bonds are not an obligation of the City or the County.

Former Agency. The Successor Agency is the successor entity to the Former Agency, which was dissolved under the Dissolution Act (described below). The Former Agency was a redevelopment agency with all of the powers vested in such entities under the Community Redevelopment Law (the "**Redevelopment Law**"). The City Council of the City (the "**City Council**") was the legislative body of the Former Agency and is the governing board of the Successor Agency.

Dissolution Act. On June 29, 2011, Assembly Bill No. 26 ("**AB 1X 26**") was enacted together with a companion bill, Assembly Bill No. 27 ("**AB 1X 2**7"). The provisions of AB 1X 26 provided for the dissolution of all redevelopment agencies statewide as of February 1, 2012. The provisions of AB 1X 27 permitted redevelopment agencies to avoid such dissolution by the payment of certain amounts. A lawsuit was brought in the California Supreme Court, *California Redevelopment Association, et al., v. Matosantos, et al.,* 53 Cal. 4th 231 (Cal. Dec. 29, 2011), challenging the constitutionality of AB 1X 26 and AB 1X 27. The California Supreme Court largely upheld AB 1X 26, invalidated AB 1X 27, and held that AB 1X 26 may be severed from AB 1X 27 and enforced independently. As a result of AB 1X 26 and the decision of the California Supreme Court in the California Redevelopment Association case, as of February 1, 2012, all redevelopment agencies in the State were dissolved, including the Former Agency, and successor agencies were designated as successor entities to the former redevelopment agencies to expeditiously wind down the affairs of the former redevelopment agencies.

The primary provisions enacted by AB 1X 26 relating to the dissolution and wind down of former redevelopment agency affairs are found in Parts 1.8 (commencing with Section 34161) and 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code of the State, as amended on June 27, 2012 by Assembly Bill No. 1484 ("**AB 1484**"), enacted as Chapter 26, Statutes of 2012. The provisions of Part 1.85 are referred to in this Official Statement as the "**Dissolution Act**".

Successor Agency. Pursuant to Section 34173 of the Dissolution Act, the City acts as the Successor Agency to the Former Agency. Subdivision (g) of Section 34173 of the Dissolution Act, added by AB 1484, expressly affirms that the Successor Agency is a separate public and legal entity from the City, that the two entities shall not merge, and that the liabilities of the Former Agency will not be transferred to the City nor will the assets of the Former Agency become assets of the City.

The Redevelopment Plan and the Project Area

Redevelopment Plan. The City Council established Project Area No. 1 (the "**Original Area**") and approved the Preliminary Plan for Project Area No. 1 (the "**Original Redevelopment Plan**") pursuant to Ordinance No. 192, adopted on September 21, 1976. Since its adoption, the Original Redevelopment Plan has been amended several times, including, in 2003, when it was amended and restated by the Amended and Restated Redevelopment Plan for the Milpitas

Redevelopment Project Area No. 1 (the "**Amended and Restated Redevelopment Plan**") approved by the City Council on June 17, 2003 pursuant to Ordinance No. 192.14. The Amended and Restated Redevelopment Plan has been amended several times since its adoption and, as so amended, is referred to in this Official Statement as, the "**Redevelopment Plan**").

In 1993, the City Council established the Former Agency's second redevelopment project area, the Great Mall Redevelopment Project (the "**Great Mall Project Area**") and approved the Redevelopment Plan for the Great Mall Redevelopment Project (as amended from time to time, the "**Great Mall Redevelopment Plan**") pursuant to Ordinance No. 192.8, adopted on November 3, 1993. The Great Mall Redevelopment Plan does not provide for the use of tax increment revenues to finance redevelopment activities within the Great Mall Project Area and therefore does not generate any tax increment revenues.

In 2006, the Amended and Restated Redevelopment Plan was amended to merge the Project Area with the Great Mall Project Area to permit tax increment revenues from the Project Area to be used for redevelopment activities in the Great Mall Project Area. The Project Area and the Great Mall Project Area retained separate redevelopment plans after the merger. As discussed more fully in the sections of this Official Statement entitled, "SECURITY FOR THE 2015 BONDS," because the Great Mall Project Area does not generate tax increment revenue, the discussion in this Official Statement regarding the Former Agency's project areas and related redevelopment plans is limited to the Project Area.

See "THE PROJECT AREA - The Redevelopment Plan" for further information about the Redevelopment Plan.

Project Area. The Original Area of the Project Area is composed of approximately 577 acres of land. In 1979, the Original Area was amended to add approximately 483 acres (the "**First Amendment Area**"). In 1982, the Original Area was further amended to add approximately 479 acres (the "**Second Amendment Area**"). In 2003, the Original Area was further amended to add approximately 691 acres (the "**Midtown Area**" and together with the Original Area, the First Amendment Area and the Second Amendment Area, the "**Project Area**") thereby resulting in a total of approximately 2,230 acres within the Project Area. The Project Area includes low density and medium density residential, industrial, commercial and public land uses and encompasses the City's downtown core. The Project Area also includes 245 acres out of 437 acres within the City designated for medium to high-density development pursuant to the City's Transit Area Specific Plan. The City's Transit Area Specific Plan was adopted in June 2008 in anticipation of the extension of the Bay Area Rapid Transit ("**BART**") system to the City and in an effort to attract major retailers to the City and to provide additional housing and amenities such as parks, retail stores and restaurants to the City's residents. Development is anticipated to occur in areas adjacent to a future Milpitas BART train station and two Santa Clara Valley Transportation Authority ("**VTA**") light rail stations.

Tax Allocation Financing

Prior to the enactment of AB X1 26, the Redevelopment Law authorized the financing of redevelopment projects through the use of tax increment revenues, and the Santa Clara County Auditor-Controller (the "**County Auditor-Controller**") apportioned tax increment revenue to all redevelopment agencies in two roughly equal payments in December and April of each fiscal year. An additional payment was made in August to allocate any revenues that had not previously been paid. This method provided that the taxable valuation of the property within a redevelopment project area on the property tax roll last equalized prior to the effective date of the ordinance which adopted the redevelopment plan became the base year valuation. Assuming the taxable valuation never dropped below the base year level, the taxing agencies receiving property taxes thereafter received only that portion of the taxes produced by applying then current tax rates to the base year valuation, and the redevelopment agency was allocated the remaining portion of property taxes produced by applying then current tax rates to the increase in valuation over the base year. Such incremental tax revenues allocated to a redevelopment agency were authorized to be pledged to the payment of redevelopment agency obligations.

Authority to Issue Refunding Bonds

Section 34177.5(a)(1) authorizes the issuance of refunding bonds to provide savings to the successor agency, provided that (i) the total interest cost to maturity on the refunding bonds or other indebtedness plus the principal amount of the refunding bonds or other indebtedness does not exceed the total remaining interest cost to maturity on the bonds or other indebtedness to be refunded plus the remaining principal of the bonds or other indebtedness to be refunded, and (ii) the principal amount of the refunding bonds or other indebtedness does not exceed the amount required to defease the refunded bonds or other indebtedness, to establish customary debt service reserves, and to pay related costs of issuance. See "SECURITY FOR THE 2015 BONDS."

The Dissolution Act authorizes each successor agency to issue refunding bonds secured by a pledge of, and lien on, the revenues that were pledged to the bond or other indebtedness being refunded as well as moneys deposited from time to time in the Redevelopment Property Tax Trust Fund (defined below) established by the county auditor-controller for the successor agency by the Dissolution Act.

Successor agencies have no power to levy property taxes and must rely on the allocation of taxes as described above. See "RISK FACTORS."

Security for the 2015 Bonds

The 2015 Bonds are payable only from Tax Revenues, moneys in certain funds and accounts held by the Trustee under the Indenture and any other moneys deposited from time to time in the Redevelopment Property Tax Trust Fund (as defined below) pursuant to the pledge and lien created with respect to the 2015 Bonds by Section 34177.5(g) of the Law, as described in this Official Statement. See "Limited Obligation" below.

The Dissolution Act requires the County Auditor-Controller to annually determine the amount of property taxes that would have been allocated to the Former Agency from the Project Area had the Former Agency not been dissolved pursuant to the operation of AB X1 26, using current assessed values on the last equalized roll on August 20, and to deposit that amount in the Redevelopment Property Tax Trust Fund for the Successor Agency established and held by the County Auditor-Controller (the "**Redevelopment Property Tax Trust Fund**") pursuant to the Dissolution Act. The Dissolution Act provides that any bonds authorized thereunder to be issued by the Successor Agency will be considered indebtedness incurred by the dissolved Former Agency, with the same lien priority and legal effect as if such bonds had been issued prior to the effective date of AB X1 26, in full conformity with the applicable provisions of the Redevelopment Law that existed prior to that date, and will be included in the Successor

Agency's Recognized Obligation Payment Schedule (see "SECURITY FOR THE 2015 BONDS – Recognized Obligation Payment Schedules").

The Dissolution Act further provides that property tax revenues pledged to any bonds authorized under the Dissolution Act, such as the 2015 Bonds, are taxes allocated to the successor agency pursuant to the provisions of the Redevelopment Law and the State Constitution.

Under the Dissolution Act, property tax revenues are allocated to the Successor Agency on a semi-annual basis (on January 2 and June 1) based on a Recognized Obligation Payment Schedule submitted by the Successor Agency to an oversight board established for the Successor Agency (the "**Oversight Board**") and the State Department of Finance (the "**DOF**"). The County Auditor-Controller distributes funds from the Redevelopment Property Tax Trust Fund for each six-month period in the order specified in the Dissolution Act. See "SECURITY FOR THE 2015 BONDS – Recognized Obligation Payment Schedules."

In accordance with the Dissolution Act, the term "**Tax Revenues**" is defined under the Indenture as all taxes that were eligible for allocation to the Former Agency with respect to the Project Area and are allocated to the Successor Agency pursuant to Article 6 of Chapter 6 (commencing with Section 33670) of the Redevelopment Law and Section 16 of Article XVI of the Constitution of the State, or pursuant to other applicable State laws, and that are deposited in the Redevelopment Property Tax Trust Fund for transfer to the Successor Agency for deposit into the Redevelopment Obligation Retirement Fund, excluding therefrom all amounts required to be paid to taxing entities pursuant to Sections 33607.5 and 33607.7 of the Redevelopment Law unless such payments are subordinated to payments on the 2015 Bonds or any additional Bonds pursuant to Section 33607.5(e) of the Redevelopment Law and 34177.5(c) of the Dissolution Act. The Dissolution Act further authorizes the Successor Agency to issue refunding bonds secured by the pledge and lien created with respect to the 2015 Bonds by Section 34177.5(g) of the Law on moneys deposited from time to time in the Redevelopment Property Tax Trust Fund and the 2015 Bonds are secured by such moneys. The Successor Agency's statutory pass-through obligations are discussed in "SECURITY FOR THE 2015 BONDS."

Limited Obligation

The 2015 Bonds are special obligations of the Successor Agency and are secured by, and are payable from the moneys described in the Indenture. The 2015 Bonds, interest and premium, if any, are not a debt of the City, the County, the State or any of their political subdivisions except the Successor Agency, and none of the City, the County, the State nor any of their political subdivisions (except the Successor Agency) are liable thereon. The 2015 Bonds, interest thereon and premium, if any, are not payable out of any funds or properties other than those set forth in the Indenture. No member, officer, agent, or employee of the Successor Agency, the Oversight Board, the County Board of Supervisors or any person executing the 2015 Bonds is liable personally on the 2015 Bonds by reason of their issuance.

Debt Service Reserve Account

The Successor Agency will establish a debt service reserve account (the "**Reserve Account**") in an amount equal to the "**Reserve Requirement**" (as defined below), to be held in the Reserve Account. The Reserve Requirement may also be met with the deposit of a "**Qualified Reserve Account Credit Instrument**" (as defined below) in the form of a reserve account surety bond or policy. See "SECURITY FOR THE 2015 BONDS – Debt Service Reserve Account."

Application for Bond Insurance and Reserve Account Surety Bond

The Successor Agency has made application for bond insurance for the 2015 Bonds and for a reserve account surety bond. Should the Successor Agency select a bond insurer and/or reserve account surety provider, then the Successor Agency will release such information prior to the offering of the 2015 Bonds, and the Official Statement, including the summary of legal documents included in Appendix A, will be revised to reflect the terms of the commitment to issue such policies.

Professionals Involved in the Offering

Fieldman, Rolapp & Associates, Inc., Irvine, California, served as financial advisor to the Successor Agency and advised the Successor Agency with respect to the financial structure of the refinancing and as to other financial aspects of the transaction. *Payment of the fees and expenses of the financial advisor is contingent upon the sale and delivery of the 2015 Bonds.*

Fraser & Associates, Roseville, California, has acted as fiscal consultant to the Successor Agency (the "**Fiscal Consultant**") and advised the Successor Agency as to the taxable values and Tax Revenues projected to be available to pay debt service on the 2015 Bonds as referenced in this Official Statement. The report prepared by the Fiscal Consultant is referred to as the "**Fiscal Consultant's Report**" and is attached as Appendix H.

All proceedings in connection with the issuance of the 2015 Bonds are subject to the approval of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel to the Successor Agency. Jones Hall is also acting as Disclosure Counsel. Certain legal matters will be passed on for the Underwriters by Quint & Thimmig LLP. In addition, certain legal matters will be passed upon for the Agency by the City Attorney of the City. *Payment of the fees and expenses of Bond Counsel, Disclosure Counsel and Underwriters' Counsel is contingent upon the sale and delivery of the 2015 Bonds.*

Further Information

Brief descriptions of the Redevelopment Law, the Dissolution Act, the Refunding Law, the 2015 Bonds, the Indenture, the Successor Agency, the Former Agency, the Project Area and the City are included in this Official Statement. Such descriptions and information do not purport to be comprehensive or definitive. All references in this Official Statement to the Redevelopment Law, the Dissolution Act, the Refunding Law, the 2015 Bonds, the Indenture, the Constitution and the laws of the State as well as the proceedings of the Former Agency, the Successor Agency, the County and the City are qualified in their entirety by reference to such documents and laws. References in this Official Statement to the 2015 Bonds are qualified in their entirety by the form included in the Indenture and by the provisions of the Indenture. Capitalized terms used in this Official Statement and not otherwise defined shall have the meanings given to such terms as set forth in the Indenture.

During the period of the initial offering of the 2015 Bonds, copies of the draft forms of all documents are available from the Underwriters or from the City Clerk, City of Milpitas, 455 East Calaveras Boulevard, Milpitas, California 95035.

REFUNDING PLAN

The 2015 Bonds are being issued to refund the outstanding Prior Bonds of the Former Agency. The proceeds of the Prior Bonds were used to finance or refinance redevelopment activities in the Project Area.

Redemption of the Prior Bonds

Pursuant to the Irrevocable Refunding Instructions (the "**Refunding Instructions**"), by and between the Successor Agency and U.S. Bank National Association, as trustee of the Prior Bonds (in such capacity, the "**Escrow Bank**"), the Successor Agency will deliver a portion of the proceeds of the 2015 Bonds, along with other available amounts, to the Escrow Bank for deposit in an escrow account established under the Refunding Instructions (the "**Refunding Fund**").

The Escrow Bank will hold such amounts uninvested. From the moneys on deposit in the Refunding Fund, the Escrow Bank will pay, on or about the date the 2015 Bonds are issued, the outstanding principal amount of the Prior Bonds and the accrued interest on the Prior Bonds to the redemption date.

*The amounts held by the Escrow Bank in the Refunding Fund are pledged solely to the amounts due and payable by the Successor Agency under the Indenture of Trust dated as of November 1, 2003, between the Former Agency and U.S. Bank National Association, as trustee for the Prior Bonds (the "**Prior Indenture**"). The funds deposited in the Refunding Fund will not be available for the payment of debt service with respect to the 2015 Bonds.*

The Prior Bonds were issued, in part, to refund bonds issued by the Former Agency in 1996 and 2000. In connection with the issuance of the Prior Bonds, escrows were established that defeased the bonds issued in 1996 and 2000 to their maturity dates. Due to the interest rates on the State and Local Government securities on deposit in those escrows, a transferred proceeds penalty in the amount of $_____________ payable to the Internal Revenue Service will be imposed on the Successor Agency as a consequence of the refunding of the Prior Bonds. Such transferred proceeds penalty will be paid from the proceeds of the 2015 Bonds.

Verification of Mathematical Accuracy

The sufficiency of the deposits in the Refunding Fund for those purposes will be verified by Grant Thornton LLP, Minneapolis, Minnesota (the "**Verification Agent**"). See "VERIFICATION OF MATHEMATICAL ACCURACY." Assuming the accuracy of the Verification Agent's computations, as a result of the deposit and application of funds as provided in the Refunding Fund, the Successor Agency's obligations under the Prior Indenture will be discharged.

The Verification Agent has restricted its procedures to examining the arithmetical accuracy of certain computations and has not made any study or evaluation of the assumptions and information upon which the computations are based and, accordingly, has not expressed an opinion on the data used, the reasonableness of the assumptions, or the achievability of the forecasted outcome.

Estimated Sources and Uses of Funds

The estimated sources and uses of funds are summarized below.

	Amount
Sources:	
Principal Amount of 2015 Bonds	
Plus: Prior Bonds - Available Funds	
Plus: Available Successor Agency Moneys[(1)]	
Less: Underwriters' Discount	
Plus: Net Original Issue Premium/*Less*: Original Issue Discount	
Total Sources	
Uses:	
Redemption of Prior Bonds	
Deposit to Reserve Account	
Excess Transferred Proceeds Penalty [(2)]	
Costs of Issuance Fund [(3)]	
Total Uses	

(1) Represents moneys received by the Successor Agency from the Redevelopment Property Tax Trust Fund pursuant to previous Recognized Obligation Payment Schedules.

(2) Represents a penalty payable to the Internal Revenue Service as a consequence of refunding the Prior Bonds.

(3) Costs of Issuance include fees and expenses for Bond Counsel, Disclosure Counsel, Financial Advisor, Fiscal Consultant, Trustee, premium for bond insurance and a reserve account surety bond or policy, if any, City, Successor Agency administrative staff, Successor Agency Counsel, printing expenses, rating fee, and other costs related to the issuance of the 2015 Bonds.

Debt Service Schedule

The following table shows the annual debt service schedule for the 2015 Bonds, assuming no optional redemption of the 2015 Bonds.

Bond Year Ending September 1	Principal	Interest	Total Debt Service
2015			
2016			
2017			
2018			
2019			
2020			
2021			
2022			
2023			
2024			
2025			
2026			
2027			
2028			
2029			
2030			
2031			
2032			
Total			

THE 2015 BONDS

Authority for Issuance

The issuance of the 2015 Bonds and the execution and delivery of the Indenture were authorized by the Successor Agency pursuant to Resolution No. SA 6 adopted on December 2, 2014 (the "**Resolution**"), and approved by the Oversight Board pursuant to Resolution No. 50 adopted on December 2, 2014 (the "**Oversight Board Resolution**").

Pursuant to the Dissolution Act, written notice of the Oversight Board Resolution was provided to the DOF. On January 13, 2015, the DOF provided a letter to the Successor Agency stating that based on the DOF's review and application of the law, the Oversight Board Resolution approving the 2015 Bonds is approved by the DOF. See "APPENDIX F – STATE DEPARTMENT OF FINANCE APPROVAL LETTER."

Section 34177.5(f) of the Dissolution Act provides that when, as here, a successor agency issues refunding bonds with the approval of the oversight board and the DOF, the oversight board may not unilaterally approve any amendments to or early termination of the bonds, and the scheduled payments on the bonds shall be listed in the Recognized Obligation Payment Schedule and are not subject to further review and approval by the DOF or the California State Controller.

Description of the 2015 Bonds

The 2015 Bonds will be issued and delivered in fully-registered form without coupons in the denomination of $5,000 or any integral multiple thereof for each maturity, initially in the name of Cede & Co., as nominee for The Depository Trust Company ("**DTC**"), New York, New York, as registered owner of all 2015 Bonds. The initially executed and delivered 2015 Bonds will be dated the date of delivery (the "**Closing Date**") and mature on September 1 in the years and in the amounts shown on the inside cover page of this Official Statement.

Interest on the 2015 Bonds will be calculated on the basis of a 360-day year of twelve 30-day months at the rates shown on the inside cover page of this Official Statement, payable semiannually on March 1 and September 1 in each year, commencing on September 1, 2015, by check mailed to the registered owners thereof or upon the request of the Owners of $1,000,000 or more in principal amount of 2015 Bonds, by wire transfer to an account in the United States which shall be designated in written instructions by such Owner to the Trustee on or before the Record Date preceding the Interest Payment Date. "Record Date" as defined in the Indenture means, with respect to any Interest Payment Date, the close of business on the fifteenth (15th) calendar day of the month preceding such Interest Payment Date, whether or not such fifteenth (15th) calendar day is a Business Day.

One fully-registered bond will be issued for each maturity of the 2015 Bonds, each in the aggregate principal amount of such maturity, and will be deposited with DTC. See "APPENDIX C – BOOK-ENTRY ONLY SYSTEM."

Redemption

Optional Redemption. The Bonds maturing on or before September 1, 20__, are not subject to optional redemption prior to maturity. The Bonds maturing on and after September 1, 20_, are subject to redemption, at the option of the Successor Agency on any date on or after

September 1, 20__, as a whole or in part, by such maturities as shall be determined by the Successor Agency, and by lot within a maturity, from any available source of funds, at a redemption price equal to the principal amount of the Bonds to be redeemed, together with accrued interest thereon to the date fixed for redemption, without premium.

Notice of Redemption. The Trustee on behalf of and at the expense of the Successor Agency shall mail (by first class mail, postage prepaid) notice of any redemption at least 30 but not more than 60 days prior to the redemption date, to (i) the Owners of any 2015 Bonds designated for redemption at their respective addresses appearing on the Registration Books, and (ii) the Securities Depositories and to the Information Services; but such mailing will not be a condition precedent to a redemption and neither failure to receive such a notice nor any defect therein will affect the validity of the proceedings for the redemption of such 2015 Bonds or the cessation of the accrual of interest on the 2015 Bonds to be redeemed.

The redemption notice shall state the redemption date and the redemption price, shall state that such redemption is conditioned upon the timely delivery of the redemption price by the Successor Agency to the Trustee for deposit in the Redemption Account, shall designate the CUSIP number of the 2015 Bonds to be redeemed, state the individual number of each 2015 Bond to be redeemed or state that all 2015 Bonds between two stated numbers (both inclusive) or all of the 2015 Bonds Outstanding are to be redeemed, and will require that such 2015 Bonds be then surrendered at the Principal Corporate Trust Office of the Trustee for redemption at the redemption price, giving notice also that further interest on the 2015 Bonds to be redeemed will not accrue from and after the redemption date.

The Successor Agency has the right to rescind any notice of the optional redemption of 2015 Bonds by written notice to the Trustee on or prior to the date fixed for redemption. Any notice of optional redemption will be cancelled and annulled if for any reason funds will not be or are not available on the date fixed for redemption for the payment in full of the 2015 Bonds then called for redemption, and such cancellation will not constitute an Event of Default. The Successor Agency and the Trustee have no liability to the Owners or any other party related to or arising from such rescission of redemption. The Trustee will mail notice of such rescission of redemption in the same manner as the original notice of redemption was sent.

Upon the payment of the redemption price of 2015 Bonds being redeemed, each check or other transfer of funds issued for such purpose will, to the extent practicable, bear the CUSIP number identifying, by issue and maturity, the 2015 Bonds being redeemed with the proceeds of such check or other transfer.

Partial Redemption of 2015 Bonds. In the event only a portion of any 2015 Bond is called for redemption, then upon surrender of such Bond the Successor Agency will execute and the Trustee will authenticate and deliver to the Owner thereof, at the expense of the Successor Agency, a new 2015 Bond or 2015 Bonds of the same interest rate and maturity, of authorized denominations, in aggregate principal amount equal to the unredeemed portion of the 2015 Bond to be redeemed.

Effect of Redemption. From and after the date fixed for redemption, if funds available for the payment of the redemption price of and interest on the 2015 Bonds so called for redemption have been duly deposited with the Trustee, the 2015 Bonds so called will cease to be entitled to any benefit under the Indenture other than the right to receive payment of the redemption price and accrued interest to the redemption date, and no interest will accrue thereon from and after the redemption date specified in such notice.

Manner of Redemption. Whenever any 2015 Bonds or portions thereof are to be selected for redemption by lot, the Trustee will make the selection, in such manner as the Trustee deems appropriate.

Parity Debt for Refunding Purposes Only

Parity Debt. The Indenture defines "**Parity Debt**" as any loan, bonds, notes, advances or indebtedness payable from Tax Revenues on a parity with the 2015 Bonds as authorized by the Indenture. The Indenture authorizes the Successor Agency to issue Parity Debt that is payable from Tax Revenues on a parity basis with the 2015 Bonds, subject to the following conditions precedent:

(i) in the case of Parity Debt issued as additional Bonds under a Supplemental Indenture, the amount on deposit in the Reserve Account (and any subaccounts therein) will be increased to the Reserve Requirement taking into account the additional Bonds to be issued;

(ii) in the case of Parity Debt not issued as additional Bonds under a Supplemental Indenture, the Parity Debt Instrument must state whether there will be a reserve account established with respect to such Parity Debt, and shall also set forth the amount, if any, to be deposited in such reserve account as well as the reserve requirement with respect to such Parity Debt; and

(iii) principal with respect to such Parity Debt will be required to be paid on September 1 in any year in which such principal is payable.

The Indenture authorizes the issuance of Parity Debt only for refunding purposes provided that annual debt service on such Parity Debt is lower than annual debt service on the obligations being refunded during every year such obligations would otherwise be outstanding and the final maturity of any such Parity Debt does not exceed the final maturity of the obligations being refunded, as required by the Dissolution Act.

The Indenture does not allow the Successor Agency to issue obligations on a senior basis to the 2015 Bonds.

Subordinate Debt. The Indenture permits the Successor Agency to issue or incur loans, advances or indebtedness, which are either: (a) payable from, but not secured by a pledge of or lien upon, the Tax Revenues, including revenue bonds and other debts and obligations scheduled for payment pursuant to Section 34183(a)(2) of the Redevelopment Law; or (b) secured by a pledge of or lien upon the Tax Revenues which is subordinate to the pledge of and lien upon the Tax Revenues hereunder for the security of the 2015 Bonds.

THE DISSOLUTION ACT

The Dissolution Act requires the County Auditor-Controller to determine the amount of property taxes that would have been allocated to the Former Agency (pursuant to subdivision (b) of Section 16 of Article XVI of the State Constitution) had the Former Agency not been dissolved pursuant to the operation of AB 1X 26, using current assessed values on the last equalized roll on August 20, and to deposit that amount in the Redevelopment Property Tax Trust Fund for the Successor Agency established and held by the County Auditor-Controller pursuant to the Dissolution Act.

The Dissolution Act provides that any bonds authorized thereunder to be issued by the Successor Agency will be considered indebtedness incurred by the Former Agency, with the same lien priority and legal effect as if the bonds had been issued prior to the effective date of AB 1X 26, in full conformity with the applicable provisions of the Redevelopment Law that existed prior to that date, and will be included in the Successor Agency's Recognized Obligation Payment Schedule (see "SECURITY FOR THE 2015 BONDS – Recognized Obligation Payment Schedules").

The Dissolution Act further provides that bonds authorized by the Dissolution Act to be issued by the Successor Agency will be secured by a pledge of, and lien on, and will be repaid from moneys deposited from time to time in the Redevelopment Property Tax Trust Fund, and that property tax revenues pledged to any bonds authorized to be issued by the Successor Agency under the Dissolution Act, including the 2015 Bonds, are taxes allocated to the Successor Agency pursuant to subdivision (b) of Section 33670 of the Redevelopment Law and Section 16 of Article XVI of the State Constitution.

Pursuant to subdivision (b) of Section 33670 of the Redevelopment Law and Section 16 of Article XVI of the State Constitution and as provided in the Redevelopment Plan for the project area, taxes levied upon taxable property in the Project Area each year by or for the benefit of the State, any city, county, city and county, district, or other public corporation (herein sometimes collectively called "**taxing agencies**") after the effective date of the ordinance approving the applicable Redevelopment Plan, or the respective effective dates of ordinances approving amendments to the applicable Redevelopment Plan that added territory to the Project Area, as applicable, are to be divided as follows:

> (a) To Taxing Agencies: That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of the taxing agencies upon the total sum of the assessed value of the taxable property in the Project Area as shown upon the assessment roll used in connection with the taxation of such property by such taxing agency last equalized prior to the effective date of the ordinance adopting the applicable Redevelopment Plan, or the respective effective dates of ordinances approving amendments to the applicable Redevelopment Plan that added territory to the Project Area, as applicable (each, a "**base year valuation**"), will be allocated to, and when collected will be paid into, the funds of the respective taxing agencies as taxes by or for the taxing agencies on all other property are paid; and
>
> (b) To the Former Agency/Successor Agency: Except for that portion of the taxes in excess of the amount identified in (a) above which are attributable to a tax rate levied by a taxing agency for the purpose of producing revenues in an amount sufficient to make annual repayments of the principal of, and the

interest on, any bonded indebtedness approved by the voters of the taxing agency on or after January 1, 1989 for the acquisition or improvement of real property, which portion shall be allocated to, and when collected shall be paid into, the fund of that taxing agency, that portion of the levied taxes each year in excess of such amount, annually allocated within limitations established by the applicable Redevelopment Plan, following the date of issuance of the 2015 Bonds, when collected will be paid into a special fund of the Successor Agency. Section 34172 of the Dissolution Act provides that, for purposes of Section 16 of Article XVI of the State Constitution, the Redevelopment Property Tax Trust Fund shall be deemed to be a special fund of the Successor Agency to pay the debt service on indebtedness incurred by the Former Agency or the Successor Agency to finance or refinance the redevelopment projects of the Former Agency.

That portion of the levied taxes described in paragraph (b) above, less amounts deducted pursuant to Section 34183(a) of the Dissolution Act for permitted administrative costs of the County Auditor-Controller, constitute the amounts required under the Dissolution Act to be deposited by the County Auditor-Controller into the Redevelopment Property Tax Trust Fund. In addition, Section 34183 of the Dissolution Act effectively eliminates the January 1, 1989 date from paragraph (b) above.

SECURITY FOR THE 2015 BONDS

The County Auditor-Controller will deposit property tax revenues into the Redevelopment Property Tax Trust Fund pursuant to the requirements of the Dissolution Act, including *inter alia* Health and Safety Code sections 34183 and 34170.5(b). The 2015 Bonds are payable from and secured by Tax Revenues, moneys in certain funds and accounts held by the Trustee under the Indenture and any other moneys deposited with respect to the Project Area from time to time in the Redevelopment Property Tax Trust Fund pursuant to the pledge and lien created with respect to the 2015 Bonds by Section 34177.5(g) of the Law, as described in this Official Statement.

Pledge Under the Indenture

Except as described in "- Redevelopment Obligation Retirement Fund" below and as required to compensate or indemnify the Trustee, the 2015 Bonds and any Parity Debt are equally secured by a pledge of, security interest in and lien on all of the Tax Revenues including all of the Tax Revenues in the Redevelopment Obligation Retirement Fund and by a first and exclusive pledge of, security interest in and lien upon all of the moneys in the Debt Service Fund, the Interest Account, the Principal Account, the Sinking Account, and the Redemption Account, without preference or priority for series, issue, number, dated date, sale date, date of execution or date of delivery. The 2015 Bonds and all Parity Debt are additionally secured by a first and exclusive pledge of, security interest in and lien upon all of the moneys in the Reserve Account. The 2015 Bonds are also equally secured by the pledge and lien created with respect to the 2015 Bonds by Section 34177.5(g) of the Law on moneys deposited from time to time in the Redevelopment Property Tax Trust Fund. Except for the Tax Revenues and such moneys, no funds or properties of the Successor Agency are pledged to, or otherwise liable for, the payment of principal of or interest on the 2015 Bonds.

In consideration of the acceptance of the 2015 Bonds by purchasers of the 2015 Bonds, the Indenture will be deemed to be and will constitute a contract between the Successor Agency and the Owners from time to time of the 2015 Bonds, and the covenants and agreements set forth in the Indenture to be performed on behalf of the Successor Agency are for the equal and proportionate benefit, security and protection of all Owners of the 2015 Bonds without preference, priority or distinction as to security or otherwise of any of the 2015 Bonds over any of the others by reason of the number or date thereof or the time of sale, execution and delivery thereof, or otherwise for any cause whatsoever, except as expressly provided therein or in the Indenture.

Tax Revenues

Definition. "**Tax Revenues**" is defined in the Indenture to mean all taxes that were eligible for allocation to the Former Agency with respect to the Project Area and are allocated to the Successor Agency pursuant to Article 6 of Chapter 6 (commencing with Section 33670) of the Law and Section 16 of Article XVI of the Constitution of the State, or pursuant to other applicable State laws, and that are deposited in the Redevelopment Property Tax Trust Fund for transfer to the Successor Agency for deposit into the Redevelopment Obligation Retirement Fund, excluding therefrom all amounts required to be paid to taxing entities pursuant to Sections 33607.5 and 33607.7 of the Law unless such payments are subordinated to payments on the 2015 Bonds or any additional Bonds pursuant to Section 33607.5(e) of the Law and 34177.5(c) of the Dissolution Act.

Housing Set-Aside

Before it was amended by the Dissolution Act, the Redevelopment Law required the Redevelopment Agency to set aside not less than 20% of all tax increment generated in the Project Area into a low and moderate income housing fund to be used for the purpose of increasing, improving and/or preserving the supply of low and moderate income housing. These tax increment revenues were commonly referred to as "**Housing Set-Aside**."

The Dissolution Act eliminates the characterization of certain tax increment revenues as Housing Set-Aside. As a result, and because the Successor Agency has no obligations that are payable from Housing Set-Aside, the former Housing Set-Aside is available to pay debt service on the 2015 Bonds; the projection of Tax Revenues prepared by the Fiscal Consultant and set forth in the section of this Official Statement entitled "THE PROJECT AREA – Projected Tax Revenues and Estimated Debt Service Coverage," assumes the availability of the former Housing Set-Aside for this purpose.

Flow of Funds Under the Indenture

General. The Successor Agency previously established the Redevelopment Obligation Retirement Fund pursuant to Section 34170.5(a) of the Dissolution Act and agrees to hold and maintain the Redevelopment Obligation Retirement Fund as long as any of the 2015 Bonds are Outstanding.

Deposit in Redevelopment Obligation Retirement Fund; Transfer to Debt Service Fund. The Indenture provides that the Successor Agency will deposit all of the Tax Revenues received with respect to each six-month period beginning on January 1 of any calendar year and ending on June 30 of such calendar year, and each six-month period beginning on July 1 of any calendar year and ending on December 31 of such calendar year into the Redevelopment Obligation Retirement Fund promptly upon receipt thereof by the Successor Agency. All Tax Revenues received by the Successor Agency in excess of the amount required to pay debt service on the 2015 Bonds and any Parity Debt coming due in the applicable Semiannual Period and except as may be provided to the contrary in the Indenture or in any Supplemental Indenture or Parity Debt Instrument, will be released from the pledge and lien hereunder and will be applied in accordance with the Law, including but not limited to the payment of debt service on any Subordinate Debt. Prior to the payment in full of the principal of and interest and redemption premium (if any) on the 2015 Bonds and the payment in full of all other amounts payable hereunder and under any Supplemental Indentures, the Successor Agency shall not have any beneficial right or interest in the moneys on deposit in the Redevelopment Obligation Retirement Fund, except as may be provided in the Indenture and in any Supplemental Indenture.

Deposit of Amounts by Trustee. A trust fund to be known as the Debt Service Fund, will be held in trust by the Trustee under the Indenture. Concurrently with transfers with respect to Parity Debt pursuant to Parity Debt Instruments, moneys in the Redevelopment Obligation Retirement Fund shall be transferred by the Successor Agency to the Trustee in the following amounts, at the following times, and deposited by the Trustee in the following respective special accounts, which are established in the Debt Service Fund, and in the following order of priority:

> Interest Account. On or before the fourth (4th) Business Day preceding each Interest Payment Date, the Successor Agency will withdraw from the Redevelopment Obligation Retirement Fund and transfer to the Trustee for deposit in the Interest Account an amount which when added to the amount contained in the Interest Account

on that date, will be equal to the aggregate amount of the interest becoming due and payable on the Outstanding Bonds and any Parity Debt on such Interest Payment Date. No such deposit need be made to the Interest Account if the amount contained therein is at least equal to the interest to become due on the next succeeding Interest Payment Date upon all of the Outstanding Bonds and any Parity Debt. All moneys in the Interest Account will be used and withdrawn by the Trustee solely for the purpose of paying the interest on the 2015 Bonds and any Parity Debt as it becomes due and payable.

Principal Account. On or before the fourth (4th) Business Day prior to the September 1 on which the principal of the 2015 Bonds becomes due and payable, and at maturity, in each year beginning September 1, 2015, the Successor Agency will withdraw from the Redevelopment Obligation Retirement Fund and transfer to the Trustee for deposit in the Principal Account an amount which, when added to the amount then on deposit in the Principal Account, will be equal to the amount of principal coming due and payable on the 2015 Bonds and any Parity Debt. No such deposit need be made to the Principal Account if the amount contained therein is at least equal to the principal to become due on the next September 1 on all of the outstanding 2015 Bonds and any Parity Debt. All moneys in the Principal Account will be used and withdrawn by the Trustee solely for the purpose of paying the principal of the 2015 Bonds and any Parity Debt as it becomes due and payable.

Sinking Account. No later than the fourth (4th) Business Day preceding each September 1 on which any 2015 Bonds are subject to mandatory redemption, the Successor Agency will withdraw from the Redevelopment Obligation Retirement Fund and transfer to the Trustee for deposit in the Sinking Account an amount which, when added to the amount then contained in the Sinking Account, will be equal to the aggregate principal amount of the Term Bonds required to be redeemed on such September 1. No such deposit need be made to the Sinking Account if the amount contained therein is at least equal to the Sinking Account payments to become due on the next September 1 on all of the Outstanding Bonds and any Parity Debt. All moneys on deposit in the Sinking Account will be used and withdrawn by the Trustee for the sole purpose of paying the principal of the Term Bonds as it becomes due and payable upon redemption or purchase pursuant to the Indenture.

Reserve Account. Within the Debt Service Fund there will be established separate account known as the "Reserve Account" solely as security for payments payable by the Successor Agency pursuant to the Indenture and pursuant to any other Parity Debt Instrument, which will be held by the Trustee in trust for the benefit of the Owners of the Bonds and any Parity Debt. The Reserve Requirement for the 2015 Bonds may be satisfied by the delivery of a debt service reserve account surety bond on the Closing Date with respect to the 2015 Bonds. In that event, the Successor Agency would have no obligation to replace such debt service reserve account surety bond or to fund the Reserve Account with cash if, at any time that the 2015 Bonds are Outstanding, amounts are not available under the debt service reserve account surety bond.

Except as provided in the preceding paragraph, in the event that the amount on deposit in the Reserve Account at any time becomes less than the Reserve Requirement, the Trustee will promptly notify the Successor Agency of such fact. Upon receipt of any such notice and as promptly as is permitted by the Law, the Successor Agency will transfer to the Trustee an amount sufficient to maintain the Reserve Requirement on deposit in the Reserve Account.

Redemption Account. On or before the Business Day preceding any date on which Bonds are to be redeemed pursuant to the optional redemption provisions of the Indenture, other than mandatory Sinking Account redemption of Term Bonds, the Trustee will withdraw from the Debt Service Fund any amount transferred by the Successor Agency pursuant to the Indenture for deposit in the Redemption Account, such amount being the amount required to pay the principal of and premium, if any, on the 2015 Bonds to be redeemed on such date, pursuant to the Indenture. All moneys in the Redemption Account will be used and withdrawn by the Trustee solely for the purpose of paying the principal of and premium, if any, on the 2015 Bonds to be redeemed pursuant to an optional redemption on the date set for such redemption pursuant to the Indenture, other than mandatory Sinking Account redemption of Term Bonds. Interest due on 2015 Bonds to be redeemed on the date set for redemption will, if applicable, be paid from funds available therefor in the Interest Account.

Debt Service Reserve Account

Definition of Reserve Requirement. The Indenture defines "**Reserve Requirement**" to mean, with respect to the 2015 Bonds and any Parity Debt issued as Bonds pursuant to a Supplemental Indenture, the lesser of (i) 125% of the average Annual Debt Service with respect to the 2015 Bonds and such Parity Debt, as applicable or (ii) Maximum Annual Debt Service with respect to the 2015 Bonds and such Parity Debt, as applicable; provided, that in no event may the Successor Agency, in connection with the issuance of Parity Debt in the form of Bonds pursuant to a Supplemental Indenture be obligated to deposit an amount in the Reserve Account which is in excess of the amount permitted by the applicable provisions of the Code to be so deposited from the proceeds of tax-exempt bonds without having to restrict the yield of any investment purchased with any portion of such deposit and, in the event the amount of any such deposit into the Reserve Account is so limited, the Reserve Requirement is required to, in connection with the issuance of such Parity Debt issued in the form of Bonds, be increased only by the amount of such deposit as permitted by the Code; and, provided further that the Successor Agency may meet all or a portion of the Reserve Requirement by depositing a Qualified Reserve Account Credit Instrument meeting the requirements of the Indenture.

The amount on deposit in the Reserve Account will be maintained at the Reserve Requirement at all times prior to the payment of the 2015 Bonds and any Parity Debt payable from the Reserve Account in full. If there are not sufficient Tax Revenues to transfer an amount sufficient to maintain the Reserve Requirement on deposit in the Reserve Account, the Successor Agency will be obligated to continue making transfers as Tax Revenues become available until there is an amount sufficient to maintain the Reserve Requirement on deposit in the Reserve Account. No such transfer and deposit need be made to the Reserve Account so long as there is on deposit therein a sum at least equal to the Reserve Requirement.

The Reserve Account may be maintained in the form of one or more separate sub-accounts which are established for the purpose of holding the proceeds of separate issues of the 2015 Bonds and any Parity Debt in conformity with applicable provisions of the Code to the extent directed by the Successor Agency in writing to the Trustee. Additionally, the Successor Agency may, in its discretion, combine amounts on deposit in the Reserve Account and on deposit in any reserve account relating to any (but not necessarily all) Parity Debt in order to maintain a combined reserve account for the 2015 Bonds and any (but not necessarily all) Parity Debt.

Use of Moneys in the Reserve Account. All money in the Reserve Account will be used and withdrawn by the Trustee solely for the purpose of making transfers pursuant to any Parity Debt Instrument under the Indenture to the Interest Account, the Principal Account and the Sinking Account in the event of any deficiency at any time in any of such accounts or for the retirement of all the 2015 Bonds then Outstanding, except that so long as the Successor Agency is not in default under the Indenture or under any Parity Debt Instrument, any amount in the Reserve Account in excess of the Reserve Requirement will be withdrawn from the Reserve Account semiannually on or before two Business Days preceding each March 1 and September 1 by the Trustee and deposited in the Interest Account or be applied pro rata in accordance with any applicable provision of a Parity Debt Instrument.

All amounts in the Reserve Account on the Business Day preceding the final Interest Payment Date will be withdrawn from the Reserve Account and will be transferred to the Interest Account and the Principal Account, in such order, to the extent required to make the deposits then required to be made from the Reserve Account or will be applied pro rata as required by any Parity Debt Instrument, as applicable.

Qualified Reserve Account Credit Instrument. "**Qualified Reserve Account Credit Instrument**" is defined in the Indenture to mean (i) a debt service reserve account surety bond to the extent any is purchased on the Closing Date and (ii) an irrevocable standby or direct-pay letter of credit, insurance policy, or surety bond issued by a commercial bank or insurance company and deposited with the Trustee, provided that all of the following requirements are met at the time of acceptance thereof by the Trustee: (a) S&P or Moody's have assigned a long-term credit rating to such bank or insurance company of "A" or higher; (b) such letter of credit, insurance policy or surety bond has a term of at least 12 months; (c) such letter of credit, insurance policy or surety bond has a stated amount at least equal to the Reserve Requirement or, if such letter of credit, insurance policy or surety bond is being provided with respect to only a portion of the Reserve Requirement, such letter of credit, insurance policy or surety bond has a stated amount at least equal to that portion of the Reserve Requirement with respect to which funds are proposed to be released; and (d) the Trustee is authorized pursuant to the terms of such letter of credit, insurance policy or surety bond to draw thereunder an amount equal to any deficiencies which may exist from time to time in the Interest Account or the Principal Account for the purpose of making payments required pursuant to the Indenture.

Limited Obligation

The 2015 Bonds are not a debt of the City, the County, the State or any of their political subdivisions except the Successor Agency, and none of the City, the County, the State or any of their political subdivisions except the Successor Agency are liable therefor. The 2015 Bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. No member of the Successor Agency, the Oversight Board or the Board of Supervisors of the County shall be individually or personally liable for the payment of the principal of or interest on the 2015 Bonds; but nothing contained in the Indenture relieves any such member, officer, agent or employee from the performance of any official duty provided by law.

Recognized Obligation Payment Schedules

Submission of Recognized Obligation Payment Schedule. Not less than 90 days prior to each January 2 and June 1 or such other date specified in the Law as amended after the date of this Official Statement, the Dissolution Act requires successor agencies to prepare, and submit to the successor agency's oversight board and the DOF for approval, a Recognized Obligation Payment Schedule (the "**Recognized Obligation Payment Schedule**") pursuant to which enforceable obligations (as defined in the Dissolution Act) of the successor agency are listed, together with the source of funds to be used to pay for each enforceable obligation.

Payment of Amounts Listed on the Recognized Obligation Payment Schedule. As defined in the Dissolution Act, "**enforceable obligation**" includes bonds, including the required debt service, reserve set-asides, and any other payments required under the indenture or similar documents governing the issuance of the outstanding bonds of the former redevelopment agency or the successor agency, as well as other obligations such as loans, judgments or settlements against the former redevelopment agency or the successor agency, any legally binding and enforceable agreement that is not otherwise void as violating the debt limit or public policy, contracts necessary for the administration or operation of the successor agency, and, under certain circumstances, amounts borrowed from the successor agency's low and moderate income housing fund.

A reserve may be included on the Recognized Obligation Payment Schedule and held by the successor agency when required by a bond indenture or when the next property tax allocation will be insufficient to pay all obligations due under the provisions of the bonds for the next payment due in the following half of the calendar year.

Sources of Payments for Enforceable Obligations. Under the Dissolution Act, the categories of sources of payments for enforceable obligations listed on a Recognized Obligation Payment Schedule are the following: (i) the low and moderate income housing fund, (ii) bond proceeds, (iii) reserve balances, (iv) administrative cost allowance (successor agencies are entitled to receive not less than $250,000, unless that amount is reduced by the oversight board), (v) the Redevelopment Property Tax Trust Fund (but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation or otherwise required under the Dissolution Act), or (vi) other revenue sources (including rents, concessions, asset sale proceeds, interest earnings, and any other revenues derived from the redevelopment agency, as approved by the oversight board).

The Dissolution Act provides that only those payments listed in the Recognized Obligation Payment Schedule may be made by a successor agency and only from the funds specified in the Recognized Obligation Payment Schedule.

Order of Priority of Distributions from Redevelopment Property Tax Trust Fund. Typically, under the Redevelopment Property Tax Trust Fund distribution provisions of the Dissolution Act, a county auditor-controller is to distribute funds for each six-month period in the following order specified in Section 34183 of the Dissolution Act:

(i) first, subject to certain adjustments for subordinations to the extent permitted under the Dissolution Act (if any, as described below under "SECURITY FOR THE 2015 BONDS - Statutory Pass-Through Payments") and no later than each January 2 and June 1, to each local successor agency and school entity, to the extent applicable, amounts required for pass-through payments such entity would have received under provisions of the Redevelopment Law, as those provisions read on January 1, 2011, including negotiated pass-through agreements and statutory pass-through obligations;

(ii) second, on each January 2 and June 1, to the successor agency for payments listed in its Recognized Obligation Payment Schedule, with debt service payments scheduled to be made for tax allocation bonds having the highest priority over payments scheduled for other debts and obligations listed on the Recognized Obligation Payment Schedule;

(iii) third, on each January 2 and June 1, to the successor agency for the administrative cost allowance, as defined in the Dissolution Act; and

(iv) fourth, on each January 2 and June 1, to taxing entities any moneys remaining in the Redevelopment Property Tax Trust Fund after the payments and transfers authorized by clauses (i) through (iii), in an amount proportionate to such taxing entity's share of property tax revenues in the tax rate area in that fiscal year (without giving effect to any pass-through obligations that were established under the Redevelopment Law).

Failure to Submit a Recognized Obligation Payment Schedule. The Recognized Obligation Payment Schedule must be approved by the oversight board and must be submitted by a successor agency to the county administrative office, the applicable county auditor-controller, the DOF, and the State Controller by 90 days before the date of the next January 2 or June 1 property tax distribution. If the successor agency does not submit a Recognized Obligation Payment Schedule by the applicable deadline, the city or county that established the former redevelopment agency will be subject to a civil penalty equal to $10,000 per day for every day the schedule is not submitted to the DOF. Additionally, the successor agency's administrative cost allowance is reduced by 25% if the successor agency did not submit a Recognized Obligation Payment Schedule by the 80th day before the date of the next January 2 or June 1 property tax distribution, as applicable, with respect to the Recognized Obligation Payment Schedule for the subsequent six-month period. For additional information regarding procedures under the Dissolution Act relating to late Recognized Obligation Payment Schedules and implications thereof on the 2015 Bonds, see "RISK FACTORS – Recognized Obligation Payment Schedule."

Relevant Covenant by the Successor Agency. In this regard, the Successor Agency covenants in the Indenture that it will comply with all of the requirements of the Law. Pursuant to Section 34177 of the Dissolution Act, not less than 90 days prior to each January 2 and June 1, the Successor Agency will submit to the Oversight Board and the DOF, a Recognized Obligation Payment Schedule.

The Successor Agency further covenants to take all actions required under the Redevelopment Law and the Dissolution Act to include in the Recognized Obligation Payment Schedule for each Semiannual Period debt service on the 2015 Bonds and any Parity Debt, so as to enable the County Auditor-Controller to distribute from the Redevelopment Property Tax Trust Fund for deposit in the Redevelopment Obligation Retirement Fund on each January 2 and June 1, as applicable, or such other date specified in the Law as amended after the date of this Official Statement, amounts required to enable the Successor Agency to pay timely principal of, and interest on, the 2015 Bonds coming due in the applicable Semiannual Period, as such amounts of debt service are set forth in the Recognized Obligation Payment Schedule attached as an exhibit to the Indenture, or as such Schedule may be hereafter amended. In order to ensure that amounts are available for the Trustee to pay debt service on all Outstanding Bonds on a timely basis, not fewer than 90 days prior to June 1, 2015 (or at such earlier time as may be required by the Dissolution Act), the Successor Agency shall submit an Oversight Board-approved Recognized Obligation Payment Schedule to the DOF and to the County Auditor-Controller that shall include all of the debt service due on all Outstanding Bonds on September 1, 2015 and, not fewer than 90 days prior to each January 2 and June 1 thereafter (or at such earlier time as may be required by the Dissolution Act), for so long as any 2015 Bonds are outstanding, the Successor Agency shall submit an Oversight Board-approved Recognized Obligation Payment Schedule to the DOF and to the County Auditor-Controller that shall include (i) one-half of all debt service due on all Outstanding Bonds for the Bond Year in which such January 2 and June 1 occur, and (ii) any amount required to cure any deficiency in the Reserve Account pursuant to the Indenture (including any amounts required due to a draw on the Qualified Reserve Account Credit Instrument). The Recognized Obligation Payment Schedule shall not be amended except by Supplemental Indenture entered into pursuant to the Indenture.

In addition, the Successor Agency covenants that it will, on or before December 1 of each year, file a Notice of Insufficiency with the County Auditor-Controller if the amount of Tax Revenues available to the Successor Agency from the Redevelopment Property Tax Trust Fund for transfer to the Redevelopment Obligation Retirement Fund on the upcoming January 2 is insufficient to fully fund all required amounts payable from the Redevelopment Obligation Retirement Fund during the next succeeding Semiannual Period. The Successor Agency also covenants that on or before May 1 of each year, it will file a Notice of Insufficiency with the County Auditor-Controller if the amount of Tax Revenues available to the Successor Agency from the Redevelopment Property Tax Trust Fund for transfer to the Redevelopment Obligation Retirement Fund on the upcoming June 1 is insufficient to fully fund all required amounts payable from the Redevelopment Obligation Retirement Fund during the next succeeding Semiannual Period.

The Successor Agency further covenants that in the event the provisions set forth in the Dissolution Act as of the date of issuance of the 2015 Bonds that relate to the filing of Recognized Obligation Payment Schedules are amended or modified in any manner, the Successor Agency will take all such actions as are necessary to comply with such amended or modified provisions so as to ensure the timely payment of debt service on the Bonds and, if the timing of distributions of the Redevelopment Property Tax Trust Fund is changed, the receipt of (i) not less than one of half of debt service due during each Bond Year on all Outstanding Bonds prior to March 1 of such Bond Year, and (ii) the remainder of debt service due during such Bond Year on all Outstanding Bonds prior to the next succeeeding September 1.

The Successor Agency has no power to levy and collect taxes, and various factors beyond its control could affect the amount of Tax Revenues available in any six-month period to pay the principal of and interest on the 2015 Bonds. See "RISK FACTORS."

History of Submission of the Recognized Obligation Payment Schedules. The Successor Agency has procedures in place to ensure full and timely compliance with the above-described covenant. With exception of the Recognized Obligation Payment Schedules for the funding period commencing January 1, 2012 through June 30, 2012 and the funding period commencing July 1, 2012 through December 31, 2012 which were submitted to the DOF by the County Auditor-Controller, under the direction of the Financial Services Director, the Successor Agency has submitted its Recognized Obligation Payment Schedules on a timely basis, as described below.

	Funding Period	ROPS Approved by Oversight Board	Approved ROPS Submitted to DOF	Deadline to Submit ROPS to DOF	ROPS Submitted On Time?
ROPS I	1/1/12-6/30/12	4/10/12	4/18/12	4/15/12	No*
ROPS II	7/1/12-12/31/12	5/9/12	5/8/12	5/15/12	Yes*
ROPS III	1/1/13-6/30/13	8/16/12	8/31/12	9/4/12	Yes
ROPS 2013-14A	7/1/13-12/31/13	2/28/13	3/1/13	3/1/13	Yes
ROPS 2013-14B	1/1/14-6/30/14	9/13/13	9/23/13	10/1/13	Yes
ROPS 2014-15A	7/1/14-12/31/14	2/20/14	2/28/14	3/1/14	Yes
ROPS 2014-15B	1/1/15-6/30/15	9/18/14	9/25/14	10/3/14	Yes

* Submitted to the DOF by the County Auditor-Controller, not the Successor Agency.

In addition, there are strong incentives for the Successor Agency to submit Recognized Obligation Payment Schedules on time. If the Successor Agency does not submit a Recognized Obligation Payment Schedule to the Oversight Board and the DOF at least 90 days prior to each January 2 and June 1, then the Successor Agency will be subject to a $10,000 per day civil penalty for every day the schedule is late. Additionally, if the Successor Agency does not submit a Recognized Obligation Payment Schedule to the Oversight Board and the DOF at least 80-days prior to each January 2 and June 1, then the Successor Agency's administrative cost allowance may be reduced by up to 25%. For additional information regarding procedures under the Dissolution Act relating to late Recognized Obligation Payment Schedules and implications for the 2015 Bonds, see "RISK FACTORS – Recognized Obligation Payment Schedule."

No Negotiated Pass-Through Agreements

The Former Agency did not enter into any negotiated pass-through agreements.

Statutory Pass-Through Payments

General. In certain circumstances, Sections 33607.5 and 33607.7 of the Redevelopment Law require redevelopment agencies and successor agencies to make statutory pass-through payments to taxing agencies whose territory is located within a redevelopment project area, to alleviate the financial burden or detriment caused by the redevelopment project.

Generally speaking, the County Auditor-Controller is required to deduct from the Successor Agency's Redevelopment Property Tax Trust Fund to pay to the affected taxing agencies percentages of tax increment generated in a Project Area as follows:

> Tier 1: throughout the period that the Successor Agency is eligible to receive property tax revenues from a project area, 25% of revenues in excess of revenues generated in the Project Area as of the initial redevelopment plan amendment that triggered the pass-through requirement computed as though housing set-aside is still in effect; plus,
>
> Tier 2: for the 11th year of the receipt of tax increment and thereafter, 21% of revenues in excess of revenues based on assessed values in the project area for the 10th year; plus,
>
> Tier 3: for the 31st year of the receipt of tax increment and thereafter, 14% of revenues in excess of revenues based on assessed values in the project area for the 30th year.

Statutory Pass-Through Obligations in the Project Area. In 1993, the California Legislature enacted Assembly Bill 1290 ("**AB 1290**"), which contained several significant changes in the Redevelopment Law. Among the changes made by AB 1290 was a provision that limits the period of time for incurring and repaying loans, advances and indebtedness payable from tax increment revenues. Under AB 1290, redevelopment agencies were required to commence making pass-through payments under Section 33607.7 of the Redevelopment Law to certain taxing entities with respect to project areas formed on or before 1993, upon amendment of the related redevelopment plans to extend the time during which the redevelopment agency could incur debt, extend the last day the redevelopment agency could incur debt with respect to such project areas, to extend the life of the redevelopment plan or to increase the tax increment limit. Under AB 1290, statutory pass-through payments were required to commence in the first year following the year in which the first of the revised limits would otherwise have gone into effect. With respect to project areas formed or territory added to existing project areas after 1993, AB 1290 required redevelopment agencies to commence making pass-through payments under 33607.7 of the Redevelopment Law upon formation of such project areas.

In 1996, the Original Redevelopment Plan was amended to revise certain time and financial limits contained in Original Redevelopment Plan. The amendments to time and financial limitations in the Redevelopment Plan triggered statutory pass-through payments under Section 33607.7 of the Redevelopment Law with respect to the Original Area, the First Amendment Area and the Second Amendment Area (i.e. the subareas of the Project Area formed or added to the Project Area on or before 1993). Such payments are based on tax increment revenues above the levels that were received in fiscal year 2000-01. Because the Midtown Area was added to the Project Area in 2003, the Former Agency was required to commence making statutory pass-through payments under Section 33607.7 of the Redevelopment Law in 2003. See "APPENDIX H – FISCAL CONSULTANT'S REPORT" for further information regarding statutory pass-through obligations in the Project Areas.

No Subordination of Statutory Pass-Through Payments. Statutory pass-through payments are payable on a senior basis to debt service on bonds under the Dissolution Act, unless the pass-through payments have been subordinated. The Redevelopment Law, as amended by the Dissolution Act, allows statutory pass-through payments to be subordinated to debt service on the Successor Agency's bonds. **However, the Successor Agency did not seek or obtain the consent from any taxing entities to subordinate their right to receive statutory payments to the payment of debt service on the 2015 Bonds.**

See "APPENDIX H – FISCAL CONSULTANT'S REPORT" for information about the Former Agency's statutory pass-through obligations and the County's payment practices with regard to statutory pass-through payments.

Other Obligations

In 2003, the County and the Former Agency entered into a land purchase agreement (the "**Land Purchase Agreement**") pursuant to which the Former Agency purchased approximately 35.6 acres of land adjacent to the Elmwood Rehabilitation Facility. As payment for such land, the Land Purchase Agreement required that the proceeds of any subsequent sale of approximately 33.8 acres of such land by the Former Agency be paid to the County. The Land Purchase Agreement also required the Former Agency to make payments to the County payable from tax increment revenues of the Former Agency, bond proceeds or other moneys available to the Former Agency for an estimated period of 30 years. Subsequently, 33.8 acres were sold by the Former Agency to KB Homes Southbay, Inc. for construction of single-family homes. The remaining 1.08 acres were retained by the Former Agency and used as a community park until such acres were transferred to the City in 2013. Amounts payable by the Successor Agency to the County pursuant to the Land Purchase Agreement are not secured by a lien on or pledge of Tax Revenues and therefore, the projection of Tax Revenues prepared by the Fiscal Consultant and set forth in the section of this Official Statement entitled "THE PROJECT AREA – Project Tax Revenues and Estimated Debt Service Coverage," excludes such payments in determining Tax Revenues available to pay debt service on the 2015 Bonds.

PROPERTY TAXATION IN CALIFORNIA

Property Tax Collection Procedures

Classification. In the State, property which is subject to ad valorem taxes is classified as "secured" or "unsecured." Secured and unsecured property are entered on separate parts of the assessment roll maintained by the County assessor. The secured classification includes property on which any property tax levied by a county becomes a lien on that property. A tax levied on unsecured property does not become a lien against the taxed unsecured property, but may become a lien on certain other property owned by the taxpayer. Every tax which becomes a lien on secured property has priority over all other liens on the secured property arising pursuant to State law, regardless of the time of the creation of other liens.

Generally, ad valorem taxes are collected by a county (the "**Taxing Authority**") for the benefit of the various entities (e.g., cities, schools and special districts) that share in the ad valorem tax (each a taxing entity) and successor agencies eligible to receive distributions from the respective Redevelopment Property Tax Trust Funds.

Collections. Secured and unsecured property are entered separately on the assessment roll maintained by the county assessor. The method of collecting delinquent taxes is substantially different for the two classifications of property. The taxing authority has four ways of collecting unsecured personal property taxes: (i) initiating a civil action against the taxpayer, (ii) filing a certificate in the office of the county clerk specifying certain facts in order to obtain a judgment lien on certain property of the taxpayer, (iii) filing a certificate of delinquency for record in the county recorder's office to obtain a lien on certain property of the taxpayer, and (iv) seizing and selling personal property, improvements or possessory interests belonging or assessed to the assessee. The exclusive means of enforcing the payment of delinquent taxes with respect to property on the secured roll is the sale of the property securing the taxes to the State for the amount of taxes which are delinquent.

Penalty. A 10% penalty is added to delinquent taxes which have been levied with respect to property on the secured roll. In addition, property on the secured roll on which taxes are delinquent is declared in default by operation of law and declaration of the tax collector on or about June 30 of each fiscal year. Such property may thereafter be redeemed by payment of the delinquent taxes and a delinquency penalty, plus a redemption penalty of 1.5% per month to the time of redemption. If taxes are unpaid for a period of five years or more, the property is deeded to the State and then is subject to sale by the county tax collector. A 10% penalty also applies to delinquent taxes with respect to property on the unsecured roll, and further, an additional penalty of 1.5% per month accrues with respect to such taxes beginning on varying dates related to the tax bill mailing date.

Delinquencies. The valuation of property is determined as of the January 1 lien date as equalized in August of each year and equal installments of taxes levied upon secured property become delinquent on the following December 10 and April 10. Taxes on unsecured property are due January 1 and become delinquent August 31.

Supplemental Assessments. California Revenue and Taxation Code Section 75.70 (Chapter 498 of the Statutes of 1983) provides for the reassessment and taxation of property as of the occurrence of a change of ownership or completion of new construction. Such reassessment is referred to as the Supplemental Assessment and is determined by applying the current year's tax rate to the amount of increase in a property's value and prorating the resulting property taxes to reflect the portion of the tax year remaining as determined by the date of the change in ownership or completion of new construction. Supplemental Assessments become a lien against real property. Since fiscal year 1984-85, revenues derived from Supplemental Assessments have been allocated to redevelopment agencies and taxing entities in the same manner as regularly collected property taxes.

Prior to the enactment of this law, the assessment of such changes was permitted only as of the next tax lien date following the change, and this delayed the realization of increased property taxes from the new assessments for up to 14 months. This statute provides increased revenue to the Redevelopment Property Tax Trust Fund to the extent that Supplemental Assessments of new construction or changes of ownership occur within the boundaries of redevelopment projects subsequent to the January 1 lien date. To the extent such Supplemental Assessments occur within the Project Area, Tax Revenues may increase.

Property Tax Administrative Costs. In 1990, the California Legislature enacted SB 2557 (Chapter 466, Statutes of 1990) which allows counties to recover charges for the cost of assessing, collecting and allocating property tax revenues to local government jurisdictions in proportion to the tax-derived revenues allocated to each, in an amount equal to the fiscal year 1989-90 property tax administration costs, as adjusted annually.

SB 1559 (Chapter 697, Statutes of 1992) explicitly includes redevelopment agencies among the jurisdictions which are subject to such charges. The portions of the reimbursement amount that are allocated to each taxing entity within the County are based on the percentage of the total assessed value in the County that each taxing entity's assessed value represents. Based on the County SB 2557 charge to the Successor Agency for fiscal year 2012-13 for the Project Area, the Fiscal Consultant estimates that the SB 2557 charge for fiscal year 2014-15 will be 1.42% of gross tax increment revenues for the Project Area.

In addition, Sections 34182(e) and 34183(a) of the Dissolution Act allow administrative costs of the County Auditor-Controller for the cost of administering the provisions of the Dissolution Act, as well as the foregoing SB 2557/SB 1559 amounts, to be deducted from property tax revenues before monies are deposited into the Redevelopment Property Tax Trust Fund.

The County's administrative charge relating to the dissolution of the Redevelopment Agency was $70,953 for the January 2, 2014 and $33,659 for the June 1, 2014 distributions from the Redevelopment Property Tax Trust Fund.

Recognized Obligation Payment Schedule. See "SECURITY FOR THE 2015 BONDS – Recognized Obligation Payment Schedules" and "RISK FACTORS – Recognized Obligation Payment Schedule."

Rate of Collections

The County has adopted the Alternative Method of Distribution of Tax Levies and Collections and of Tax Sale Proceeds (the "**Teeter Plan**"), which allows each entity levying property taxes in the County to draw on the amount of property taxes levied rather than the amount actually collected. The allocation to redevelopment agencies differs from the County's normal allocation to other taxing entities under the Teeter Plan. Under the Teeter Plan, taxing entities receive 100% of the secured tax levy without regard to the impact of delinquent property taxes, but unsecured taxes are allocated based on actual collections. However, under the

Teeter Plan as applied to the Successor Agency, tax increment generated from both the secured and unsecured tax rolls is allocated based on 100% of the County calculated levy. The Successor Agency is therefore shielded from the impact of delinquent property taxes on both the secured and unsecured roll. The County could elect to terminate this policy and, in such event, the amount of the levy of property tax revenue that could be allocated to the Successor Agency would depend upon the actual collections of the secured taxes within the Project Area. Substantial delinquencies in the payment of property taxes could impair the timely receipt by the Successor Agency of Tax Revenues.

Unitary Property

Legislation enacted in 1986 and 1987 provided for a modification of the distribution of tax revenues derived from utility property assessed by the State Board of Equalization ("**SBE**"), other than railroads. Prior to fiscal year 1988-89, property assessed by the SBE was assessed statewide and was allocated according to the location of individual components of a utility in a tax rate area.

Assembly Bill ("**AB**") 2890 (Statutes of 1986, Chapter 1457) provides that, commencing with fiscal year 1988-89, assessed value derived from State-assessed unitary property (consisting mostly of operational property owned by utility companies) is to be allocated county-wide as follows: (i) each taxing entity will receive the same amount as in the previous year plus an increase for inflation of up to 2%; (ii) if utility tax revenues are insufficient to provide the same amount as in the previous year, each taxing entity's share would be reduced pro rata county wide; and (iii) any increase in revenue above 2% would be allocated in the same proportion as the taxing entity's local secured taxable values are to the local secured taxable values of the county. Additionally, the lien date on State-assessed property is changed from March 1 to January 1.

AB 454 (Statutes of 1987, Chapter 921) further modified Chapter 1457 regarding the distribution of tax revenues derived from property assessed by the SBE. Chapter 921 provides for the consolidation of all State-assessed property, except for regulated railroad property, into a single tax rate area in each county. Chapter 921 further provides for a new method of establishing tax rates on State-assessed property and distribution of property tax revenue derived from State-assessed property to taxing jurisdictions within each county in accordance with a new formula. Railroads will continue to be assessed and revenues allocated to all tax rate areas where railroad property is sited.

To administer the allocation of unitary tax revenues to redevelopment agencies, the County no longer includes the taxable value of utilities as part of the reported taxable values of a project area; therefore, the base year value of the Project Area has been reduced by the amount of utility value that existed originally in the base year.

Article XIIIA of the State Constitution

Article XIIIA limits the amount of ad valorem taxes on real property to 1% of "full cash value" of such property, as determined by the county assessor. Article XIIIA defines "full cash value" to mean "the County Assessor's valuation of real property as shown on the 1975-76 tax bill under 'full cash value,' or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment." Furthermore, the "full cash value" of all real property may be increased to reflect the rate of inflation, as shown by the consumer price index, not to exceed 2% per year, or may be reduced.

Article XIIIA has subsequently been amended to permit reduction of the "full cash value" base in the event of declining property values caused by substantial damage, destruction or other factors, and to provide that there would be no increase in the "full cash value" base in the event of reconstruction of property damaged or destroyed in a disaster and in other special circumstances.

Article XIIIA (i) exempts from the 1% tax limitation taxes to pay debt service on (a) indebtedness approved by the voters prior to July 1, 1978 or (b) bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition; (ii) requires a vote of two-thirds of the qualified electorate to impose special taxes, or certain additional ad valorem taxes; and (iii) requires the approval of two-thirds of all members of the State Legislature to change any State tax laws resulting in increased tax revenues.

The validity of Article XIIIA has been upheld by both the California Supreme Court and the United States Supreme Court.

In the general election held November 4, 1986, voters of the State approved two measures, Propositions 58 and 60, which further amended Article XIIIA. Proposition 58 amended Article XIIIA to provide that the terms "purchase" and "change of ownership," for the purposes of determining full cash value of property under Article XIIIA, do not include the purchase or transfer of (1) real property between spouses and (2) the principal residence and the first $1,000,000 of other property between parents and children. This amendment to Article XIIIA may reduce the rate of growth of local property tax revenues.

Proposition 60 amended Article XIIIA to permit the California Legislature to allow persons over the age of 55 who sell their residence and buy or build another of equal or lesser value within two years in the same county, to transfer the old residence assessed value to the new residence. As a result of the California Legislature's action, the growth of property tax revenues may decline.

Legislation enacted by the California Legislature to implement Article XIIIA provides that all taxable property is shown at full assessed value as described above. In conformity with this procedure, all taxable property value included in this Official Statement is shown at 100% of assessed value and all general tax rates reflect the $1 per $100 of taxable value (except as noted). Tax rates for voter-approved bonded indebtedness and pension liabilities are also applied to 100% of assessed value.

Each year the SBE announces the applicable adjustment factor. Since the adoption of Proposition 13, inflation has, in most years, exceeded 2% and the announced factor has reflected the 2% cap. The changes in the California Consumer Price Index from October of one year and October of the next year are used to determine the adjustment factor for the January assessment date. Through fiscal year 2010-11 there were six occasions when the inflation factor was less than 2%. Until fiscal year 2010-11 the annual adjustment never resulted in a reduction to the base year values of individual parcels; however, the factor that was applied to real property assessed values for the January 1, 2010 assessment date was -0.237% and this resulted in a reductions to the adjusted base year value of parcels. The table below reflects the inflation adjustment factors for the current fiscal year, 10 prior fiscal years and the adjustment factor for fiscal year 2015-16.

Historical Inflation Adjustment Factors

Fiscal Year	Inflation Adj. Factor
2004-05	1.867%
2005-06	2.000
2006-07	2.000
2007-08	2.000
2008-09	2.000
2009-10	2.000
2010-11	-0.237
2011-12	0.753
2012-13	2.000
2013-14	2.000
2014-15	0.454
2015-16	1.998

Appropriations Limitation - Article XIIIB

Article XIIIB limits the annual appropriations of the State and its political subdivisions to the level of appropriations for the prior fiscal year, as adjusted for changes in the cost of living, population and services rendered by the government entity. The "base year" for establishing such appropriations limit is the 1978/79 fiscal year, and the limit is to be adjusted annually to reflect changes in population, consumer prices and certain increases in the cost of services provided by these public agencies.

Section 33678 of the Redevelopment Law provides that the allocation of taxes to a redevelopment agency for the purpose of paying principal of, or interest on, loans, advances, or indebtedness shall not be deemed the receipt by a redevelopment agency of proceeds of taxes levied by or on behalf of a redevelopment agency within the meaning of Article XIIIB, nor shall such portion of taxes be deemed receipt of proceeds of taxes by, or an appropriation subject to the limitation of, any other public body within the meaning or for the purpose of the Constitution and laws of the State, including Section 33678 of the Redevelopment Law. The constitutionality of Section 33678 has been upheld in two California appellate court decisions. On the basis of these decisions, the Successor Agency has not adopted an appropriations limit.

Proposition 87

On November 8, 1988, the voters of the State approved Proposition 87, which amended Article XVI, Section 16 of the State Constitution to provide that property tax revenue attributable to the imposition of taxes on property within a redevelopment project area for the purpose of paying debt service on certain bonded indebtedness issued by a taxing entity (not the Redevelopment Agency or the Successor Agency) and approved by the voters of the taxing entity after January 1, 1989 will be allocated solely to the payment of such indebtedness and not to redevelopment agencies.

Appeals of Assessed Values

Pursuant to California law, a property owner may apply for a reduction of the property tax assessment for such owner's property by filing a written application, in a form prescribed by the SBE, with the appropriate county board of equalization or assessment appeals board.

In the County, a property owner desiring to reduce the assessed value of such owner's property in any one year must submit an application to the County Assessment Appeals Board (the "**Appeals Board**"). Applications for any tax year must be submitted by September 15 of such tax year. Following a review of each application by the staff of the County Assessor's Office, the staff makes a recommendation to the Appeals Board on each application which has not been rejected for incompleteness or untimeliness or withdrawn. The Appeals Board holds a hearing and either reduces the assessment or confirms the assessment. The Appeals Board generally is required to determine the outcome of appeals within two years of each appeal's filing date. Any reduction in the assessment ultimately granted applies only to the year for which application is made and during which the written application is filed. The assessed value increases to its pre-reduction level for fiscal years following the year for which the reduction application is filed. However, if the taxpayer establishes through proof of comparable values that the property continues to be overvalued (known as "ongoing hardship"), the Assessor has the power to grant a reduction not only for the year for which application was originally made, but also for the then current year as well. Appeals for reduction in the "base year" value of an assessment, which generally must be made within four years of the date of change in ownership or completion of new construction that determined the base year, if successful, reduce the assessment for the year in which the appeal is taken and prospectively thereafter. Moreover, in the case of any reduction in any one year of assessed value granted for "ongoing hardship" in the then current year, and also in any cases involving stipulated appeals for prior years relating to base year and personal property assessments, the property tax revenues from which Tax Revenues are derived attributable to such properties will be reduced in the then current year. In practice, such a reduced assessment may remain in effect beyond the year in which it is granted.

See "THE PROJECT AREA - Appeals of Assessed Values; Proposition 8 Reductions" for information regarding historical and pending appeals of assessed valuations by property owners in the Project Area.

Proposition 8

Proposition 8, approved in 1978 (California Revenue and Taxation Code Section 51(b)), provides for the assessment of real property at the lesser of its originally determined (base year) full cash value compounded annually by the inflation factor, or its full cash value as of the lien date, taking into account reductions in value due to damage, destruction, obsolescence or other factors causing a decline in market value. Reductions under this code section may be initiated by the County Assessor or requested by the property owner.

After a roll reduction is granted under this code section, the property is reviewed on an annual basis to determine its full cash value and the valuation is adjusted accordingly. This may result in further reductions or in value increases. Such increases must be in accordance with the full cash value of the property and may exceed the maximum annual inflationary growth rate allowed on other properties under Article XIIIA of the State Constitution. Once the property has regained its prior value, adjusted for inflation, it once again is subject to the annual inflationary factor growth rate allowed under Article XIIIA.

See "THE PROJECT AREA- Appeals of Assessed Values; Proposition 8 Reductions" for information regarding recent history of Proposition 8 reductions in the Project Area.

Propositions 218 and 26

On November 5, 1996, California voters approved Proposition 218—Voter Approval for Local Government Taxes—Limitation on Fees, Assessments, and Charges—Initiative Constitutional Amendment. Proposition 218 added Articles XIIIC and XIIID to the State Constitution, imposing certain vote requirements and other limitations on the imposition of new or increased taxes, assessments and property-related fees and charges. On November 2, 2010, California voters approved Proposition 26, the "Supermajority Vote to Pass New Taxes and Fees Act." Proposition 26 amended Article XIIIC of the California Constitution by adding an expansive definition for the term "tax," which previously was not defined under the California Constitution.

Tax Revenues securing the 2015 Bonds are derived from property taxes that are outside the scope of taxes, assessments and property-related fees and charges which are limited by Proposition 218 and Proposition 26.

Future Initiatives

Article XIIIA, Article XIIIB, Article XIIIC and Article XIIID and certain other propositions affecting property tax levies were each adopted as measures which qualified for the ballot pursuant to California's initiative process. From time to time other initiative measures could be adopted, further affecting Successor Agency revenues or the Successor Agency's ability to expend revenues.

THE SUCCESSOR AGENCY

As described in "INTRODUCTION," the Dissolution Act dissolved the Former Agency as of February 1, 2012. Thereafter, pursuant to Section 34173 of the Dissolution Act, the City became the Successor Agency to the Former Agency. Subdivision (g) of Section 34173 of the Dissolution Act, added by AB 1484, expressly affirms that the Successor Agency is a separate public entity from the City, that the two entities shall not merge, and that the liabilities of the Former Agency will not be transferred to the City nor will the assets of the Former Agency become assets of the City.

Successor Agency Powers

All powers of the Successor Agency are vested in its five members who are elected members of the City Council. Pursuant to the Dissolution Act, the Successor Agency is a separate public body from the City and succeeds to the organizational status of the Former Agency but without any legal authority to participate in redevelopment activities, except to complete any work related to an approved enforceable obligation. The Successor Agency is tasked with expeditiously winding down the affairs of the Former Agency, pursuant to the procedures and provisions of the Dissolution Act. Under the Dissolution Act, substantially all Successor Agency actions are subject to approval by the Oversight Board, as well as review by the DOF.

Status of Compliance with Dissolution Act

The Dissolution Act requires a due diligence review to determine the unobligated balances of each successor agency that are available for transfer to taxing entities. The due diligence review involves separate reviews of each successor agency's low and moderate income housing fund and of all other funds and accounts. Once a successor agency completes the due diligence review and any transfers to taxing entities, the DOF will issue a finding of completion that expands the authority of each successor agency in carrying out the wind down process. A finding of completion allows a successor agency to, among other things, retain real property assets of the dissolved redevelopment agency and utilize proceeds derived from bonds issued prior to January 1, 2011.

The Successor Agency has completed the due diligence process and received its Finding of Completion on June 27, 2014.

After receiving a finding of completion, each successor agency is required to submit a Long Range Property Management Plan detailing what it intends to do with its inventory of properties. Successor agencies are not required to immediately dispose of their properties but are limited in terms of what they can do with the retained properties. Permissible uses include: sale of the property, use of the property to satisfy an enforceable obligation, retention of the property for future redevelopment, and retention of the property for governmental use. These plans must be filed by successor agencies within six months of receiving a finding of completion, and the DOF will review these plans as submitted on a rolling basis.

The DOF had not approved the Successor Agency's Long Range Property Management Plan as of the date of this Official Statement.

THE PROJECT AREA

Project Description

The Project Area consists of approximately 2,230 acres and includes low-density and medium-density residential, industrial, commercial and public land uses. As previously noted, the Project Area is composed of four subareas: the Original Area, the First Amendment Area, the Second Amendment Area, and the Midtown Area.

Original Area. The Original Area consists of approximately 577 acres of land largely developed for commercial, residential and public land uses, including City Hall, 740,000 square feet of commercial space in the Town Center, two hotels totaling 408 rooms and 78,000 square feet of commercial space in Foothill Square. The Original Area also includes a development of 65 new single-family homes adjacent to the Town Center.

First Amendment Area. The First Amendment Area consists of approximately 483 acres of land largely developed for commercial, industrial and residential use, including approximately 3.2 million square feet of industrial space in the Oak Creek Business Park, two hotels totaling 432 rooms, 683 single-family detached homes, condominiums and town homes developed by KB Homes in Fiscal Year 2009-10 and Toyota and Honda car dealerships. Several major high-tech companies also have their headquarters in the First Amendment Area, including Linear Technology, Zollner Electronics, LSI, Nanolabs and Solexel.

Second Amendment Area. The Second Amendment Area consists of approximately 479 acres of land largely developed for commercial use, including, four million square feet of building area in the Milpitas Business Park. The Milpitas Business Park includes four hotels totaling 642 rooms, two shopping centers totaling 250,000 square feet, a 700-child day care center and a Cisco campus totaling 1.1 million square feet. Several major high-tech companies have their headquarters in the Second Amendment Area as well, including SanDisk and KLA-Tencor.

Midtown Area. The Midtown Area consists of approximately 691 acres of land largely developed for commercial and residential use, including a public library, a 103-unit senior housing center and an adjacent primary care health center. A majority of the land within the Project Area designated for development pursuant to the City's Transit Area Specific Plan, including construction of the Milpitas BART train station and two VTA light rail stations, is located within the Midtown Area.

Land Use

The following table summarizes the current land use in the Project Area in the aggregate, by the number of parcels and by assessed secured value for fiscal year 2014-15. As shown, the majority of land within the Project Area (approximately 38.79% in terms of assessed secured valuation) is currently used for residential purposes. The assessed values shown do not include non-homeowner exemptions.

These land use categories are based on land use designations placed on individual parcels by the County Assessor's Office and may not, in every case, coincide with the actual uses found on the parcels.

TABLE 1
SUCCESSOR AGENCY TO THE
FORMER MILPITAS REDEVELOPMENT AGENCY
Project Area No. 1
Land Use by Taxable Value
Fiscal Year 2014-15

Category	No. of Parcels	Taxable Value	% of Total FY 2014-15 Assessed Value
Residential	3,986	$2,304,093,539	38.79
Commercial	195	540,577,642	9.10
Industrial	182	1,465,299,109	24.67
Vacant Land	456	275,204,067	4.63
Other	58	47,345,348	0.80
Total Secured	4,877	4,632,519,705	78.00[(1)]
Unsecured/State Assessed		1,306,666,402	22.00
Grand Total		**$5,939,186,107**	**100.00**

(1) Difference due to rounding.
Source: *Fraser & Associates.*

The Redevelopment Plan

The Original Redevelopment Plan was adopted and approved as the redevelopment plan for the Original Area by Ordinance No. 192, adopted by the City Council of the City on September 21, 1976. Since adoption, the Original Redevelopment Plan has been amended several times, including by the amendments described below.

First Amendment. The Original Redevelopment Plan was first amended by Ordinance No. 192.1, adopted by the City Council of the City on September 4, 1979 (the "**First Amendment**") to add the First Amendment Area to the Project Area.

Second Amendment. The Original Redevelopment Plan was amended a second time by Ordinance No. 192.2, adopted by the City Council of the City on May 4, 1982 (the "**Second Amendment**") to add the Second Amendment Area to the Project Area and, with respect to the First Amendment Area and the Second Amendment Area only, established a cumulative limit on the amount of tax increment that could be collected, limit on bonded indebtedness and time limit on incurrence of such indebtedness.

SB 690; SB 690 Amendment. In 1985, the California Legislature enacted State Bill 690 ("**SB 690**"), which amended the Redevelopment Law to require that redevelopment plans for all project areas adopted prior to October 1, 1976, such as the Original Area, be amended to, among other things, add a cumulative limit on the amount of tax increment that could be collected in such project areas. On December 9, 1986, the City Council of the City adopted Ordinance No. 192.4, which adopted various plan limits, including a cumulative limit on the amount of tax increment that could be collected in the Original Area in accordance with SB 690.

AB 1290; AB 1290 Amendments. On December 9, 1994, the City Council of the City adopted Ordinance No. 192.9, which adopted a series of plan limits related to the Original

Redevelopment Plan to comply with AB 1290. On October 15, 1996, the City Council of the City adopted Ordinance No. 192.11, pursuant to which the limit on the number of dollars of tax increment that could be allocated to the Former Agency was increased thereby triggering the Former Agency's obligation to make statutory pass-through payments in accordance with 33606.7 of the Redevelopment Law with respect to tax increment revenues from the Original Area, the First Amendment Area and the Second Amendment Area pursuant to AB 1290. See "SECURITY FOR THE 2015 BONDS - Statutory Pass-Through Payments" above for further discussion regarding the Successor Agency's statutory pass-through payment obligations.

Amendment and Restatement. The Original Redevelopment Plan was amended and restated by Ordinance No. 192.14 adopted by the City Council of the City on June 17, 2003, approving the Amended and Restated Redevelopment Plan, adding the Midtown Area to the Project Area, establishing certain plan limits with respect to the Midtown Area and amending and restating the plan limits then existing with respect to the Original Area, the First Amendment Area and the Second Amendment Area.

SB 1045; SB 1096; SB 1045 and SB 1096 Amendments. Pursuant to Senate Bill 104 ("**SB 1045**") in connection with the adoption of statutes requiring an Educational Revenue Augmentation Fund ("**ERAF**") shift for fiscal year 2003-04, the State Legislature authorized a number of redevelopment plan changes.

Pursuant to SB 1045, the Amended and Restated Redevelopment Plan was amended pursuant to Ordinance No. 192.15, adopted by the City Council of the City on October 7, 2003, to extend (i) the time limit of the effectiveness of the Amended and Restated Redevelopment Plan with respect to the Original Area, the First Amendment Area and the Second Amendment Area to September 21, 2017, September 4, 2020 and May 4, 2023, respectively, and with respect to the Midtown Area to June 17, 2034, and (ii) the time limit to repay indebtedness and receive tax increment from the Original Area, the First Amendment Area and the Second Amendment Area to September 21, 2027, September 4, 2030 and May 4, 2033, respectively, and with respect to the Midtown Area to June 17, 2049.

Pursuant to SB 1045, the Amended and Restated Redevelopment Plan was amended pursuant to Ordinance No. 192.16, adopted by the City Council of the City on September 19, 2006, to extend (i) the time limit of the effectiveness of the Amended and Restated Redevelopment Plan with respect to the Original Area, the First Amendment Area and the Second Amendment Area to September 21, 2019, September 4, 2022 and May 4, 2025, respectively, and (ii) the time limit to repay indebtedness and receive tax increment from the Original Area, the First Amendment Area and the Second Amendment Area to September 21, 2029, September 4, 2032 and May 4, 2035, respectively.

Merger Amendment. The Amended and Restated Redevelopment Plan was amended pursuant to Ordinance No. 192.19 adopted by the City Council of the City on November 29, 2006, pursuant to which the Project Area was merged with Great Mall Project Area to permit tax increment revenues from the Project Area to be used for redevelopment activities in the Great Mall Project Area. The Project Area and the Great Mall Project Area retained separate redevelopment plans after the merger. The Great Mall Project Area does not generate tax increment revenues and no monies from the Great Mall Project Area are pledged to secure the payment of debt service on the 2015 Bonds.

Redevelopment Plan Limits. Since the Project Area is comprised of various subareas created by amendments to the Redevelopment Plan described above, various limits apply to the Project Area subareas. As amended, the Redevelopment Plan includes the following limits:

Limitation	Original Area	First Amendment Area	Second Amendment Area	Midtown Area
Final Date to Incur Debt:	January 1, 2014	January 1, 2014	January 1, 2014	June 17, 2023
Plan Life:	September 21, 2019	September 4, 2022	May 4, 2025	June 17, 2034
Final Date to Collect Tax Increment and Repay Debt:	September 21, 2029	September 4, 2032	May 4, 2035	June 17, 2049
Cumulative Limit on Tax Increment*:		$2.4 billion (combined)		

*Limit applicable to all of the Project Area on a cumulative basis.

Impact of Cumulative Tax Increment Limit. The Fiscal Consultant reports that it is estimated that the Project Area has generated approximately $707.7 million in tax increment since formation. In addition, based on the Fiscal Consultant's projection of property tax revenue to be generated by the Project Area (which assumes 1.998% annual real property growth in fiscal year 2015-16 and 2% annual real property growth in each fiscal year thereafter as well as certain other assumptions regarding new development within the Project Area and reductions in assessed value related to pending assessment appeals as more particularly described in the Fiscal Consultant's Report), the Successor Agency believes it is unlikely that the cumulative limit on tax increment will be exceeded prior to September 1, 2032 (the final maturity date of the 2015 Bonds). According to the Fiscal Consultant, in order for the $2.4 billion limit to be reached, assessed values within the Project Area would have to increase an average of 7% each year commencing fiscal year 2015-16, which is higher than the average growth rate of 6.41% over the past ten years. The Successor Agency is unable to predict when or if the cumulative limit on tax increment will ever be exceeded. Should growth of taxable values exceed projections, the Project Area will reach the cumulative limit on tax increment earlier. Once such limit is reached, it is possible that the Successor Agency will not receive additional tax increment revenue from the Project Area. However, as indicated above, based on the Fiscal Consultant's projections of Tax Revenues, the Successor Agency believes it is unlikely that the cumulative limit on tax increment will be exceeded prior to the maturity date of the 2015 Bonds.

Impact of the Final Date to Collect Increment/Repay Debt in the Original Area. Because of the varying plan limits discussed above, Tax Revenues will no longer be collected from the Original Area after September 21, 2029. The 2015 Bonds have been structured to take into account this revenue drop. See "THE PROJECT AREA – Projected Available Net Tax Increment and Estimated Debt Service Coverage" for further information.

See APPENDIX H - "FISCAL CONSULTANT'S REPORT" for further description of the Redevelopment Plan and related amendments.

DOF Approach to Plan Limits. The DOF has expressed the opinion that the tax increment limits within former redevelopment plans that had not been reached prior to redevelopment dissolution are inconsistent with the purpose and intent of the Dissolution Act and, therefore, should no longer apply. The DOF has indicated that it plans to introduce legislation to the California Legislature in February 2015 intended to clarify that such tax increment limits do not apply for the purpose of paying obligations of redevelopment agencies and their respective successor agencies that have been determined to be enforceable by the DOF. Until any such proposed legislation is adopted by the California Legislature, the DOF's opinion has no force of law and therefore, it is possible that the tax increment limits contained in the Redevelopment Plan will be applied by the County Auditor-Controller.

Covenant in the Indenture Related to Cumulative Tax Increment Limit. The Successor Agency covenants in the Indenture that unless the plan limits ("**Plan Limits**" as defined in the Indenture) no longer apply to the Successor Agency under the Law, the Successor Agency will annually review the total amount of Tax Revenues remaining available to be received by the Successor Agency under the Plan Limits, as well as future cumulative annual debt service. If remaining Tax Revenues allocable under the Plan Limits are less than 105% of all future debt service on the 2015 Bonds, any Parity Debt and any other obligations of the Successor Agency payable from Tax Revenues, all Tax Revenues not needed to pay current or any past due debt service on any Successor Agency obligations or to replenish the Reserve Account to the Reserve Requirement shall be deposited into a special escrow fund (which shall be held by the Trustee to be applied for the sole purpose of paying the principal of and interest on the 2015 Bonds and any Parity Debt).

Historical and Estimated Assessed Values and Tax Revenues

The table below shows the historical secured, unsecured and state-assessed values for fiscal years 2005-06 to fiscal year 2014-15 based upon the County Auditor-Controller's equalized rolls. The table below also shows the historical secured and unsecured assessed values for such fiscal years with respect to property owned by Cisco Systems, Inc. and its subsidiary Cisco Technology Inc., the top property owner in the Project Area. See "- Major Taxable Property Owners" below for further information regarding the major taxable property owners within the Project Area.

TABLE 2
SUCCESSOR AGENCY TO THE
FORMER MILPITAS REDEVELOPMENT AGENCY
Project Area No. 1
Historical Assessed Values FY 2005-06 - FY 2014-15

						Cisco-Owned Parcels		All Others	
FY	Secured Assessed Value	Unsecured Assessed Value	State-Assessed Value	Total Taxable Value	% Change	Secured Assessed Value	Unsecured Assessed Value	Secured Assessed Value	Unsecured Assessed Value
2005-06	$2,544,690,494	$850,099,181	$0	$3,394,789,675		$129,120,000	$89,521,196	$2,415,570,494	$760,577,985
2006-07	2,798,785,590	575,708,325	0	3,374,493,915	-1%	141,200,000	89,636,582	2,657,585,590	486,071,743
2007-08	3,177,309,608	572,039,432	0	3,749,349,040	11%	217,000,000	105,561,271	2,960,309,608	466,478,161
2008-09	3,688,307,142	689,942,742	145,062	4,378,394,946	17%	318,000,000	115,038,351	3,370,307,142	574,904,391
2009-10	3,775,859,557	784,570,321	145,062	4,560,574,940	4%	318,330,000	170,066,789	3,457,529,557	614,503,532
2010-11	3,703,194,397	746,085,665	145,062	4,449,425,124	-2%	317,575,552	218,589,931	3,385,618,845	527,495,734
2011-12	3,549,429,356	703,478,246	161,180	4,253,068,782	-4%	197,858,736	191,191,381	3,351,570,620	512,286,865
2012-13	3,604,736,835	1,138,773,917	161,180	4,743,671,932	12%	235,490,000	654,431,571	3,369,246,835	484,342,346
2013-14	4,038,508,838	1,178,633,709	161,180	5,217,303,727	10%	316,700,000	654,260,143	3,721,808,838	524,373,566
2014-15	4,632,519,705	1,306,472,986	193,416	5,939,186,107	14%	333,650,000	639,715,875	4,298,869,705	666,757,111

Source: County Assessor; Fraser & Associates; Urbics

As shown in the table above, assessed values within the Project Area have remained relatively steady since fiscal year 2005-06. In addition, the table above shows that since fiscal year 2005-06, a majority of the assessed value within the Project Area is attributable to property owned by taxpayers other than Cisco Systems, Inc. and its subsidiary Cisco Technology Inc. See "- Major Taxable Property Owners" below for further information regarding the major taxable property owners within the Project Area.

The table below shows estimated Tax Revenues for fiscal year 2014-15 generated within each of the subareas within the Project Area. Based on such estimates, Tax Revenues from the First Amendment Area, Second Amendment Area and the Original Area account for 38%, 31% and 28%, respectively, of total estimated Tax Revenues for fiscal year 2014-15.

TABLE 3
SUCCESSOR AGENCY TO THE
FORMER MILPITAS REDEVELOPMENT AGENCY
Project Area No. 1
Estimated FY 2014-15 Tax Revenues By Subarea

	Original Area	First Amendment Area	Second Amendment Area	Midtown Area	Total
FY 2014-15 Tax Revenues	$11,761,722	$15,737,739	$13,007,861	$1,338,569	$41,845,891
% of Total Tax Revenues	28%	38%	31%	3%	100%

Source: County Assessor; Fraser & Associates

The table below shows the historical assessed valuations for fiscal years 2009-10 to 2014-15 based upon the County Auditor-Controller's equalized rolls. The table below also calculates available Tax Revenues in the Project Area for each of the past four fiscal years and an estimate for fiscal year 2014-15.

TABLE 4
SUCCESSOR AGENCY TO THE
FORMER MILPITAS REDEVELOPMENT AGENCY
Project Area No. 1
Historical and Estimated Tax Revenues FY 2009-10 - FY 2014-15

Category	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15
Taxable Values						
Secured	$3,775,859,557	$3,703,194,397	$3,549,429,356	$3,604,736,835	$4,038,508,838	$4,632,519,705
SBE	145,062	145,062	161,180	161,180	161,180	$193,416
Unsecured	784,570,321	746,085,665	703,478,246	1,138,773,917	1,178,633,709	$1,306,472,986
Total	4,560,574,940	4,449,425,124	4,253,068,782	4,743,671,932	5,217,303,727	$5,939,186,107
Percent Change	4%	-2%	-4%	12%	10%	14%
Base Year Value	799,726,839	799,726,839	799,726,839	799,726,839	799,726,839	799,726,839
Incremental Value	3,760,848,101	3,649,698,285	3,453,341,943	3,943,945,093	4,417,576,888	$5,139,459,268
Tax Increment[1]	$39,411,130	$38,246,152	$33,484,133	$36,321,289	$44,866,929	$51,394,593
Supplemental Taxes	1,128,783	415,610	88,297	(36,706)	564,398	0
Unitary Tax Increment	336,336	341,919	306,254	256,257	261,500	261,500
Total Tax Increment	40,876,249	39,003,680	33,878,684	36,540,840	45,692,827	51,656,093
Adjustments to Tax Revenue:						
Property Tax Administration Fees	401,383	419,169	574,505	679,621	649,360	734,106
Property Tax Refunds/Corrections						688,585
Liens on Tax Increment:						
Housing Set-Aside[2]	8,175,250	7,800,736	0	0	0	0
Statutory Pass-Through[3]	3,302,804	2,230,775	1,437,716	2,548,841	4,625,182	8,387,511
Tax Revenue	$28,996,812	$28,553,000	$31,866,463	$33,312,378	$40,418,285	$41,845,890

(1) Reflects actual receipts based on the records of the Successor Agency.
(2) Represents former Housing Set-Aside. Beginning in fiscal year 2011-12, the Housing Set-Aside is no longer required.
(3) Statutory pass-through payments with respect to the Original Area, the First Amendment Area and the Second Amendment Area were triggered in fiscal year 2001-02 pursuant to AB 1290; statutory pass-through payments with respect to the Midtown Area commenced upon its formation in 2003. Statutory pass-through payments for fiscal year 2014-15 include statutory pass-through payments of approximately $953,000 related to fiscal-year 2013-14 that the County Auditor-Controller inadvertently failed to remit to the affected taxing entities in fiscal year 2013-14.
Source: County Assessor; Fraser & Associates

Total assessed values within the Project Area have increased by approximately $1.378 billion, or 30% since fiscal year 2009-10. Between fiscal years 2009-10 and 2014-15, secured taxable value increased by $857 million or approximately 23%. The Fiscal Consultant reports that the growth in total assessed values since fiscal year 2009-10 is due primarily to an increase in secured assessed values in fiscal year 2012-13 through fiscal year 2014-15 of approximately $1 billion, largely driven new residential development within the Project Area (which added $316 million in assessed value to the Project Area), the restoration of assessed values of non-residential properties previously reduced pursuant to Proposition 8 (which added $308 million in assessed value to the Project Area) and the restoration of assessed values of residential properties previously reduced pursuant to Proposition 8 (which added $160 million in assessed value to the Project Area). See “APPENDIX H - FISCAL CONSULTANT’S REPORT” for further discussion regarding historical assessed values within the Project Area.

Unitary Property

As the result of the enactment of Assembly Bill 2890 (Chapter 1457, Statutes of 1986) and Assembly Bill 454 (Chapter 921, Statutes of 1987), a portion of the County-wide unitary values assigned to public utilities is allocated to the Project Area. Any substantial reduction in the values of public utility properties, either because of deregulation of a utility industry or for any other reason, will have an adverse impact on the amount of tax increment revenues. However, any such impact with respect to utility properties within the Project Area will be lessened because the impact will be spread on a County-wide basis.

The amount of unitary revenues to be allocated to the Successor Agency from the Project Area for fiscal year 2014-15 is estimated to be $261,500.

The Fiscal Consultant assumes that allocations of unitary revenues will remain constant for purposes of projecting tax increment available to pay debt service on the 2015 Bonds.

Major Taxable Property Owners

The following table lists the 10 largest taxable property owners within the Project Area in the aggregate for fiscal year 2014-15. Based on fiscal year 2014-15 locally assessed taxable valuations, the top 10 taxable property owners in the Project Area represent approximately 34.62% of the total assessed value of the Project Area and 40.01% of total incremental value. All of the property owned by the 10 largest taxable property owners within the Project Area is listed on the tax rolls for the County as being used research and development and industrial purposes but may not accurately reflect the actual use of such property.

TABLE 5
SUCCESSOR AGENCY TO THE
FORMER MILPITAS REDEVELOPMENT AGENCY
Project Area No. 1
Ten Largest Taxable Property Owners Fiscal Year 2014-15

Property Owner	No. of Parcels	FY 2014-15 Secured Value	FY 2014-15 Unsecured Value	Total Value	% of Total Assessed Value(1)	% of Incremental Value
Cisco Systems, Inc.(2)(3)	6	$333,650,000	$639,715,875	$973,365,875	16.39%	18.94%
KLA Tencor Corporation(3)	2	82,230,000	201,567,337	283,797,337	4.78	5.52
Essex Portfolio(4)	1	131,424,789	0	131,424,789	2.21	2.56
Silicon Valley California I LLC(3)	12	109,472,101	0	109,472,101	1.84	2.13
Fairfield Murphy RD LLC(4)	2	105,345,742	0	105,345,742	1.77	2.05
Headway Technologies Inc.(5)	4	0	100,079,790	100,079,790	1.69	1.95
SPUS6 Murphy Crossing	3	95,431,300	0	95,431,300	1.61	1.86
Sandisk Corporation(5)	6	0	92,560,878	92,560,878	1.56	1.80
Sandbox Expansion LLC	5	89,655,191	0	89,655,191	1.51	1.74
A and P Children Investments	1	75,018,422	0	75,018,422	1.26	1.46
Top 10 Total Valuation		$1,022,227,545	$1,033,923,880	$2,056,151,425	34.62%	40.01%

Total Fiscal Year 2014-15 AV: $5,939,186,107
Total Fiscal Year 2014-15 Incremental AV: $5,139,459,268

(1) Based on taxable value for the Project Area for fiscal year 2014-15 of $5,939,186,107 and incremental value of $5,139,459,268, respectively.
(2) Represents property owned by Cisco Systems, Inc. and Cisco Technology Inc., a subsidiary of Cisco Systems, Inc.
(3) Property owners have pending assessment appeals.
(4) Residential land use, all others are used research and development and industrial uses.
(5) Property owners are lessees of real property within the Project Area on which they maintain personal property; Property owners do not hold fee interests in real property within the Project Area and therefore, are assessed taxes only on personal property maintained on leased real property.
Source: County Assessor; Fraser & Associates

The top property taxpayer in the Project Area is Cisco Systems, Inc. and its subsidiary Cisco Technology Inc., which collectively own six parcels in the Project Area and personal property thereon with a total assessed value of approximately $973.4 million or 18.94% of total incremental value within the Project Area. Cisco Systems, Inc. designs, manufactures and sells internet protocol based networking and communications products and services related to the communications and information technology industry. Seven buildings are located on the parcels owned by Cisco Systems, Inc. within the Project Are which include a 700-child day care center and a Cisco campus used for office space, research and development activities total 1.1 million square feet.

The second largest property taxpayer in the Project Area is KLA Tencor Corporation, which owns three parcels in the Project Area and personal property thereon with a total assessed value of approximately $283.8 million or 5.52% of total incremental value within the Project Area. KLA Tencor Corporation provides management and process control solutions used in the manufacturing of semiconductors. KLA Tencor Corporation maintains its corporate headquarters on such property along with research and development and manufacturing facilities.

New Development

New development continues to occur within the Project Area, including residential and non-residential development pursuant to the City's Transit Area Specific Plan. The following table summarizes new housing developments within the Project Area that were completed, or are in the process of being completed, as of the date of this Official Statement but were not yet recognized fully on the fiscal year 2014-15 tax roll and includes estimates of future increases in assessed value within the Project Area. The projections of Tax Revenues prepared by the Fiscal Consultant and set forth in the section of this Official Statement entitled "THE PROJECT AREA – Projected Available Net Tax Increment and Estimated Debt Service Coverage" include such estimates of future increases in assessed value within the Project Area.

TABLE 6
SUCCESSOR AGENCY TO THE
FORMER MILPITAS REDEVELOPMENT AGENCY
Project Area No. 1
New Housing Developments
(000's Omitted)

Housing Developments	Units	Net New Value	FY 2015-16(1)	FY 2016-17(2)
Second Amendment Area				
Coyote Creek - Housing	98	$45,152	$22,576	$22,576
Third Amendment Area				
Harmony - DR Horton	111	63,996	31,998	31,998
Taylor Morrison	186	96,205	48,103	48,103
Pace Development	82	29,915	14,958	14,958
Main & Abel Apartments	200	52,790	26,395	26,395
Grand Total	677	$288,058	$144,029	$144,029

(1) Represents estimated increases in assessed values within the Project Area in fiscal year 2015-16.
(2) Represents estimated increases in assessed values within the Project Area in fiscal year 2016-17.
Source: Fraser & Associates

See APPENDIX H - "FISCAL CONSULTANT'S REPORT" for further description of new development and the Fiscal Consultant's assumptions related thereto.

Tax Rates

Tax rates will vary from area to area within the State, as well as within a community and a redevelopment project area. The tax rate for any particular parcel is based upon the jurisdictions levying the tax rate for the area where the parcel is located. The tax rate consists of the general levy rate of $1.00 per $100 of taxable value and any over-ride tax rate. The over-ride rate is that portion of the tax rate that exceeds the general levy tax rate and is levied to pay voter approved indebtedness or contractual obligations that existed prior to the enactment of Proposition XIII.

Section 34183(a)(1) of the Dissolution Act requires the County Auditor-Controller to allocate all revenues attributable to tax rates levied to make annual repayments of the principal of and interest on any bonded indebtedness for the acquisition or improvement of real property to the taxing entity levying the tax rate. As a result, the tax increment revenues being deposited into the Redevelopment Property Tax Trust Fund include only revenues derived from the general 1% levy and includes no revenues derived from over-ride tax rates that had been included in tax increment revenues prior to the dissolution of redevelopment agencies. The Fiscal Consultant's projections of tax increment available to pay debt service on the 2015 Bonds are based only on revenue derived from the general levy tax rate.

Teeter Plan

As previously indicated, the County has adopted the Teeter Plan See "PROPERTY TAXATION IN CALIFORNIA - Rate of Collections" for a discussion of the Teeter Plan as adopted and applied by the County.

The following tables provide data regarding collections by the County under the Teeter Plan within the Project Areas for fiscal years 2009-10 through 2013-14.

TABLE 7
SUCCESSOR AGENCY TO THE
FORMER MILPITAS REDEVELOPMENT AGENCY
Project Area No. 1
Collections By County Under Teeter Plan

Fiscal Year	Levy per County[1]	Tax Increment Collected Less Supplementals[2]	% of Levy Collected	Supplementals	Total Tax Increment Collected	% of Levy Collected
2009-10	39,747,466	39,747,466	100.00	1,128,783	40,876,249	102.84
2010-11	38,588,071	38,588,070	100.00	415,610	39,003,680	101.08
2011-12	36,557,004	33,790,387	92.43	88,297	33,878,684	92.67[3]
2012-13	36,277,199	36,577,546	100.83	(36,706)	36,540,840	100.73
2013-14	$44,175,768	$45,128,429	102.16%	$564,398	$45,692,827	103.43%
Average Receipts to Levy			99.23%			100.33%

(1) Levy reported by County Assessor.
(2) Inclusive of property tax administrative fees of County Assessor.
(3) Due to the passage of the Dissolution Act, the Successor Agency received payment for supplemental taxes through April instead of June 2012. Historically, supplemental taxes for May through June of each year account for approximately 7% of total tax increment of each fiscal year.
Source: County Assessor; Fraser & Associates

Appeals of Assessed Values; Proposition 8 Reductions

Pursuant to California law, property owners may apply for a reduction of their property tax assessment by filing a written application, in form prescribed by the SBE, with the appropriate county board of equalization or assessment appeals board.

After the applicant and the assessor have presented their arguments, the Appeals Board makes a final decision on the proper assessed value. The Appeals Board may rule in the assessor's favor, in the applicant's favor, or the Board may set their own opinion of the proper assessed value, which may be more or less than either the assessor's opinion or the applicant's opinion.

Any reduction in the assessment ultimately granted applies to the year for which the application is made and may also affect the values in subsequent years. Refunds for taxpayer overpayment of property taxes may include refunds for overpayment of taxes in years after that which was appealed. Current year values may also be adjusted as a result of a successful appeal of prior year values. Any taxpayer payment of property taxes that is based on a value that is subsequently adjusted downward will require a refund for overpayment.

Appeals for reduction in the "base year" value of an assessment, if successful, reduce the assessment for the year in which the appeal is taken and prospectively thereafter. The base year is determined by the completion date of new construction or the date of change of ownership. Any base year appeal must be made within four years of the change of ownership or new construction date.

Appeals may also be filed under Section 51 of the Revenue and Taxation Code, which requires that for each lien date the value of real property shall be the lesser of its base year value annually adjusted by the inflation factor pursuant to Article XIIIA of the State Constitution or its full cash value, taking into account reductions in value due to damage, destruction, depreciation, obsolescence, removal of property or other factors causing a decline in value. Significant reductions have taken place in some counties due to declining real estate values. Reductions made under this code section may be initiated by the County Assessor or requested by the property owner. After a roll reduction is granted under this section, the property is reviewed on an annual basis to determine its full cash value and the valuation is adjusted accordingly. This may result in further reductions or in value increases. Such increases must be in accordance with the full cash value of the property and it may exceed the maximum annual inflationary growth rate allowed on other properties under Article XIIIA of the State Constitution. Once the property has regained its prior value, adjusted for inflation, it once again is subject to the annual inflationary factor growth rate allowed under Article XIIIA. See "PROPERTY TAXATION IN CALIFORNIA" above.

History of Assessed Value Appeals; Projection of Future Impact of Pending Appeals. The Fiscal Consultant reviewed assessment appeals data from the County for fiscal years 2010-11 through 2012-13, to determine the potential impact that pending appeals may have on the projected Tax Revenues. According to the Fiscal Consultant, a total of 175 appeals were filed during such period. Of those 175 appeals, 93 appeals were resolved and 82 appeals remained outstanding as of December 2014. Of the 93 appeals that were resolved during such period, 77 appeals or 83% of resolved appeals resulted in reductions in assessed value totaling approximately $141 million; representing a total reduction in assessed value of 18%.

As of December 2014, there were appeals pending with respect to property within the Project Area with a total assessed value of approximately $1.339 billion. The Fiscal Consultant notes that, assuming an 18% reduction in assessed value (based on actual reductions of assessed value during fiscal years 2010-11 through 2012-13), the Successor Agency can expect to experience a further reduction in assessed value of approximately $238.5 million thereby resulting in a reduction in Tax Revenues of approximately $2.385 million. Any successful appeals will also result in refunds of property taxes previously paid by property owners, which in some cases could include refunds for multiple fiscal years. The projections of Tax Revenues prepared by the Fiscal Consultant and set forth in the section of this Official Statement entitled "THE PROJECT AREA – Projected Available Net Tax Increment and Estimated Debt Service Coverage" take into account reductions in assessed value related to pending appeals assuming an 18% reduction in assessed value and that such reductions would be reflected in equal amounts on the fiscal year 2015-16 and 2016-17 tax rolls. See "APPENDIX H - FISCAL CONSULTANT'S REPORT" for further information regarding pending assessment appeals.

The Fiscal Consultant reports that all property owned by Cisco Systems, Inc., and its subsidiary Cisco Technology Inc., in the Project Area are the subject of pending appeals. The projections of Tax Revenues prepared by the Fiscal Consultant and set forth in the section of this Official Statement entitled "THE PROJECT AREA – Projected Available Net Tax Increment and Estimated Debt Service Coverage" assume that the such appeals will result in a 18% reduction in assessed value based on historical figures. Owners of the 2015 Bonds should assume that Cisco Systems, Inc., and its subsidiary Cisco Technology Inc., will continue to appeal assessed values in the future.

Proposition 8 Reductions. As discussed in "PROPERTY TAXATION IN CALIFORNIA – Proposition 8" above, Proposition 8 allows a temporary reduction in assessed value when the current market value of a property is less than the current assessed value as of the lien date.

The Fiscal Consultant reviewed data regarding Proposition 8 reductions for residential and non-residential properties in the Project Area for fiscal years 2009-10 through 2014-15. The following table summarizes reductions and increases in assessed value for residential and non-residential properties in the Project Area for fiscal years 2009-10 through 2014-15 tax rolls.

TABLE 8
SUCCESSOR AGENCY TO THE
FORMER MILPITAS REDEVELOPMENT AGENCY
Project Area No. 1
Proposition 8 Reductions and Increases

	Residential Properties	***Non-Residential Properties***	***Total***
Declines - 2009-10 through 2012-13			
Number of Parcel Declines(1)	1,385	70	1,455
Percentage of all Parcels	43%	8%	-
Total Value Decline	$163,266,450	$321,533,787	$484,800,237
Increases - 2012-13 to 2014-15			
Number of Parcel Increases	1,313	64	1,377
Percentage of all Parcels	42%	7%	-
Total Value Increase	$160,136,610	$308,053,554	$468,190,164

(1) With respect to non-residential properties, figures reflect Proposition 8 reductions from fiscal year 2009-10 through fiscal year 2011-12 only.
Source: Fraser & Associates.

As shown in the table above, the assessed values of 1,385 residential parcels (including single and multifamily parcels) in the Project Area were reduced under Proposition 8 during fiscal years 2009-10 through fiscal year 2012-13, resulting in a total reduction in assessed values of residential parcels within the Project Area of approximately $163.3 million. In addition, the assessed values of 70 non-residential parcels in the Project Area were reduced under Proposition 8 during fiscal years 2009-10 through fiscal year 2011-12, resulting in a total reduction in assessed values of non-residential parcels within the Project Area of approximately $321.5 million. The Fiscal Consultant reports that Proposition 8 reductions in assessed values of non-residential parcels within the Project Area occurred primarily during fiscal year 2011-12. The Fiscal Consultant further reports that Proposition 8 reductions were triggered because assessed values of properties within the Project Area exceeded their then current market values as was the case in many areas of the State.

The Fiscal Consultant further reports that in fiscal years 2012-13 through 2014-15, the County partially reversed prior Proposition 8 reductions for 1,313 residential parcels and 64 non-residential parcels within the Project Area, resulting in a total increase in assessed values of approximately $468.2 million.

The Fiscal Consultant also reviewed sales data for the Project Area for calendar years 2013 and 2014 to determine the likelihood of future Proposition 8 reductions. Based on its review, the Fiscal Consultant reports that sale prices of property within the Project Area exceeded assessed values by approximately 79% and 61% in calendar year 2013 and during the first nine months of 2014, respectively. The Fiscal Consultant notes that the sale prices have exceeded assessed values, in part, due to new housing development within the Project Area for which only partial value was recorded on the prior year tax rolls as the units were being constructed. The Fiscal Consultant further notes that as of the date of its report, the County had reversed most of the prior residential Proposition 8 reductions. As a result, the Fiscal Consultant has assumed that there would be no further Proposition 8 reductions in fiscal year 2015-16 or future fiscal years for purposes of projections of Tax Revenues. See "THE PROJECT AREAS – Projected Available Net Tax Increment and Estimated Debt Service Coverage."

See "APPENDIX H - FISCAL CONSULTANT'S REPORT" for further information regarding Proposition 8 reductions and increases.

Projected Tax Revenues and Estimated Debt Service Coverage

The Fiscal Consultant prepared projections of Tax Revenues for the Project Area and are shown in the table below. The projections reflect the inflation factor of 1.998% for fiscal year 2014-15 and assume 2% annual real property assessed value growth in fiscal year 2016-17 and each fiscal year thereafter. Other assumptions made by the Fiscal Consultant in calculating the projected Tax Revenues are described in the Fiscal Consultant's Report. See "APPENDIX H – FISCAL CONSULTANT'S REPORT." Housing Set-Aside is not shown as a separate category of revenues because the former Housing Set-Aside is included in Tax Revenues. See "SECURITY FOR THE 2015 BONDS - Housing Set-Aside."

The Fiscal Consultant has also prepared projections of Tax Revenues for the Project Area that reflect the inflation factor of 1.998% for fiscal year 2014-15 and assume 0% annual real property assessed value growth beginning in fiscal year 2016-17. See "APPENDIX H – Fiscal Consultant's Report" for such projections.

TABLE 9
SUCCESSOR AGENCY TO THE
FORMER MILPITAS REDEVELOPMENT AGENCY
Project Area No. 1
Projection of Incremental Value and Tax Revenues
(000's Omitted)

Fiscal Year	Gross Tax Increment[1]	*Plus* Unitary Revenue[3]	*Less* Admin. Fees[4]	*Less* Property Tax Refunds[5]	*Less* Pass-Through Payments[6]	Tax Revenues
2014-15	$51,395	$262	$734	$689	$8,388	$41,846
2015-16	52,573[2]	262	751	3,211	7,879	40,994
2016-17	53,753[2]	262	768	3,211	8,324	41,711
2017-18	54,755	262	782	0	8,696	45,540
2018-19	55,779	262	796	0	9,074	46,170
2019-20	56,822	262	811	0	9,460	46,812
2020-21	57,886	262	826	0	9,854	47,468
2021-22	58,972	262	842	0	10,256	48,136
2022-23	60,079	262	858	0	10,665	48,818
2023-24	61,209	262	874	0	11,083	49,514
2024-25	62,361	262	890	0	11,509	50,223
2025-26	63,536	262	907	0	11,944	50,947
2026-27	64,735	262	924	0	12,388	51,685
2027-28	65,957	262	941	0	12,840	52,438
2028-29[7]	67,204	262	959	0	13,301	53,206
2029-30	50,584	171	721	0	10,762	39,272
2030-31	51,525	171	735	0	11,111	39,851
2031-32	52,484	171	748	0	11,467	40,441
Total	**$1,046,046**	**$4,437**	**$14,866**	**$7,444**	**$189,001**	**$835,069**

(1) Calculated as 1% of assessed values less base year assessed value of $799,726,839.
(2) Net of estimated reductions in assessed values within the Project Area of approximately $119.2 million in each of fiscal years 2015-16 and 2016-17 as a result of pending appeals and inclusive of projected increases in assessed values attributable to new residential development of approximately $114 million in each of fiscal year 2015-16 and 2016-17 as further described on Table 4 of this Official Statement.
(3) Estimated based on actual unitary revenues for fiscal year 2013-14 and assuming no further increases.
(4) Estimated based on 1.42% of total tax increment, which is the percent such fee represented in fiscal year 2013-14.
(5) Represents estimated refunds of previously collect Tax Revenues as a result of assessment appeals pending as of the date of this Official Statement and prior successful assessment appeals that have not yet been deducted from the Redevelopment Property Tax Trust Fund.
(6) Represent statutory pass-through payments payable pursuant to AB 1290 with respect to the Original Area, the First Amendment Area and the Second Amendment Area.
(7) The Successor Agency may not collect tax increment revenues from the Original Area or repay debt with those revenues after September 1, 2029.
Source: Fraser & Associates

The table below shows estimated debt service coverage on the 2015 Bonds based on the Fiscal Consultant's projections of Tax Revenues for the Project Area assuming an inflation factor of 1.998% for fiscal year 2014-15 and 2% annual real property assessed value growth in fiscal year 2016-17 and each fiscal year thereafter. Other assumptions made by the Fiscal Consultant in calculating projected Tax Revenues in the following table are described in the Fiscal Consultant's Report. See "APPENDIX H – FISCAL CONSULTANT'S REPORT."

TABLE 10
SUCCESSOR AGENCY TO THE
FORMER MILPITAS REDEVELOPMENT AGENCY
Project Area No. 1
Estimated Debt Service Coverage
(000's Omitted)

Fiscal Year	Tax Revenues	Debt Service 2015 Bonds*	Debt Service Coverage on 2015 Bonds*
2014-15	$41,846		
2015-16	40,994		
2016-17	41,711		
2017-18	45,540		
2018-19	46,170		
2019-20	46,812		
2020-21	47,468		
2021-22	48,136		
2022-23	48,818		
2023-24	49,514		
2024-25	50,223		
2025-26	50,947		
2026-27	51,685		
2027-28	52,438		
2028-29[7]	53,206		
2029-30	39,272		
2030-31	39,851		
2031-32	40,441		
Total	**$835,069**		

** Preliminary; subject to change.*
Source: Fraser & Associates; Stifel, Nicolaus & Company

The Fiscal Consultant also reviewed Tax Revenues received by the Successor Agency for each six-month period in fiscal year 2013-14 and estimates of Tax Revenues anticipated to be received in fiscal years 2014-15 and 2015-16 in order to determine debt service coverage on the Prior Bonds and the 2015 Bonds based on such receipts. The table below shows Tax Revenues received by the Successor Agency for each six-month period in fiscal year 2013-14 and estimates of Tax Revenues anticipated to be received by the Successor Agency for each six-month period fiscal years 2014-15 and 2015-16 together with debt service coverage on the Prior Bonds and estimated debt service coverage on the 2015 Bonds. The table below assumes that Tax Revenues equal to one-half of all debt service due on the 2015 Bonds for the period commencing September 2, 2015 though September 1, 2016 will be paid to the Successor Agency on each of January 2, 2016 and June 2, 2016.

TABLE 11
SUCCESSOR AGENCY TO THE
FORMER MILPITAS REDEVELOPMENT AGENCY
Project Area No. 1
Bond Debt Service Coverage Under Dissolution Act

Category	2013-14 Actual January-June 2014	2013-14 Actual July - December 2014	2013-14 Total	2014-15 Estimate January-June 2015	2014-15 Estimated July - December 2015	2014-15 Total	2015-16 Estimate January-June 2016	2015-16 Estimated July - December 2016	2015-16 Total
Tax Increment	$22,701,765	$22,991,062	$45,692,827	$25,491,582	$25,483,754	$50,975,336	$24,812,076	$24,812,076	$49,624,153
Supplemental / Other Taxes	0	0	0	1,611,236	0	1,611,236	0	0	0
Total Tax Increment / Trust Fund(1)	22,701,765	22,991,062	45,692,827	27,102,818	25,483,754	52,586,572	24,812,076	24,812,076	49,624,153
Obligations									
Property Tax Administration Fees(2)	376,544	367,986	744,530	324,319	409,787	734,106	375,430	375,430	750,860
Tax Sharing Payments(3)	2,301,192	2,323,990	4,625,182	4,746,531	3,640,980	8,387,511	3,939,546	3,939,546	7,879,092
Tax Revenues for Debt Service	$20,024,029	$20,299,086	$40,323,115	$22,031,968	$21,432,987	$43,464,955	$20,497,100	$20,497,100	$40,994,200
Prior Bonds Debt Service(4)	3,784,804	9,903,804	13,688,608	3,630,804	10,055,805	13,686,609	0	0	0
2015 Bonds Debt Service*	0	0	0	0	0	0	6,153,575	6,153,575	12,307,150
Total Debt Service	3,784,804	9,903,804	13,688,608	3,630,804	10,055,805	13,686,609	6,153,575	6,153,575	12,307,150
Remaining Revenue	$16,239,225	$10,395,282	$26,634,507	$18,401,164	$11,377,182	$29,778,346	$14,343,525	$14,343,525	$28,687,050
Other Obligations(5)	5,903,487	211,739	6,115,226	5,222,782	0	0	5,222,782	0	0
Coverage	529%	205%	295%	607%	213%	318%	333%	333%	333%

(1) Reflects actual receipts based on the records of the Successor Agency for fiscal years 2012-13 and 2013-14 and the January 2015 ROPS payment.
(2) As reported by the County Auditor-Controller. Fiscal year 2014-15 figures represent estimates.
(3) Represents statutory pass-through payments payable pursuant to AB 1290 with respect to the Original Area, the First Amendment Area and the Second Amendment Area.
(4) Represents bond year debt service for the Prior Bonds.
(5) Represents payments to the County pursuant to the Land Purchase Agreement.
** Preliminary; subject to change.*
Source: Fraser & Associates; Fieldman Rolapp & Associates

RISK FACTORS

The following information should be considered by prospective investors in evaluating the 2015 Bonds. However, the following does not purport to be an exhaustive listing of risks and other considerations which may be relevant to investing in the 2015 Bonds. In addition, the order in which the following information is presented is not intended to reflect the relative importance of any such risks.

The various legal opinions to be delivered concurrently with the issuance of the 2015 Bonds will be qualified as to the enforceability of the various legal instruments by limitations imposed by State and federal laws, rulings and decisions affecting remedies, and by bankruptcy, reorganization or other laws of general application affecting the enforcement of creditors' rights, including equitable principles.

Recognized Obligation Payment Schedule

The Dissolution Act provides that only those payments listed in a Recognized Obligation Payment Schedule may be made by a successor agency from the funds specified in the Recognized Obligation Payment Schedule. Pursuant to Section 34177 of the Dissolution Act, not less than 90-days prior to each January 2 and June 1, the Successor Agency shall submit to the Oversight Board and the DOF, a Recognized Obligation Payment Schedule. For each semiannual period, the Dissolution Act requires each successor agency to prepare and approve, and submit to the successor agency's oversight board and the DOF for approval, a Recognized Obligation Payment Schedule pursuant to which enforceable obligations (as defined in the Dissolution Act) of the successor agency are listed, together with the source of funds to be used to pay for each enforceable obligation. Consequently, Tax Revenues will not be withdrawn from the Redevelopment Property Tax Trust Fund by the County Auditor-Controller and remitted to the Successor Agency without a duly approved and effective Recognized Obligation Payment Schedule to pay debt service on the 2015 Bonds and to pay other enforceable obligations. In the event the Successor Agency were to fail to file a Recognized Obligation Payment Schedule with respect to a six-month period and, if applicable, the following half of the calendar year, the availability of Tax Revenues to the Successor Agency could be adversely affected for such period. See "SECURITY FOR THE 2015 BONDS - Recognized Obligation Payment Schedules."

If a successor agency does not submit a Recognized Obligation Payment Schedule within five business days of the date upon which the Recognized Obligation Payment Schedule is to be used to determine the amount of property tax allocations and the DOF does not provide a notice to the County Auditor-Controller to withhold funds from distribution to taxing entities, amounts in the Redevelopment Property Tax Trust Fund for such six-month period would be distributed to taxing entities as more fully described in the section of this Official Statement entitled, "SECURITY FOR THE 2015 BONDS - Recognized Obligation Payment Schedules."

For a description of the covenants made by the Successor Agency in the Indenture relating to the obligation to submit Recognized Obligation Payment Schedules on a timely basis, and the Successor Agency's history of submissions of Recognized Obligation Payment Schedules, see "SECURITY FOR THE 2015 BONDS – Recognized Obligation Payment Schedules."

AB 1484 also added provisions to the Dissolution Act implementing certain penalties in the event a successor agency does not timely submit a Recognized Obligation Payment Schedule for a six-month period. Specifically, a Recognized Obligation Payment Schedule must be submitted by the successor agency to the oversight board, to the county administrative officer, the county auditor-controller, the DOF, and the State Controller no later than 90 days before the date of the next January 2 or June 1 property tax distribution with respect to each subsequent six-month period. If a successor agency does not submit a Recognized Obligation Payment Schedule by such deadlines, the city or county that established the redevelopment agency will be subject to a civil penalty equal to $10,000 per day for every day the schedule is not submitted to the DOF. Additionally, a successor agency's administrative cost allowance is reduced by 25% if the successor agency does not submit an oversight board-approved Recognized Obligation Payment Schedule by the 80th day before the date of the next January 2 or June 1 property tax distribution, as applicable, with respect to the Recognized Obligation Payment Schedule for subsequent six-month periods.

Challenges to Dissolution Act

Several successor agencies, cities and other entities have filed judicial actions challenging the legality of various provisions of the Dissolution Act. One such challenge is an action filed on August 1, 2012, by Syncora Guarantee Inc. and Syncora Capital Assurance Inc. (collectively, "**Syncora**") against the State, the State Controller, the State Director of Finance, and the Auditor-Controller of San Bernardino County on his own behalf and as the representative of all other County Auditors in the State (Superior Court of the State of California, County of Sacramento, Case No. 34-2012-80001215). Syncora are monoline financial guaranty insurers domiciled in the State of New York, and as such, provide credit enhancement on bonds issued by state and local governments and do not sell other kinds of insurance such as life, health, or property insurance. Syncora provided bond insurance and other related insurance policies for bonds issued by former California redevelopment agencies.

The complaint alleged that the Dissolution Act, and specifically the "Redistribution Provisions" thereof (i.e., California Health and Safety Code Sections 34172(d), 34174, 34177(d), 34183(a)(4), and 34188) violate the "contract clauses" of the United States and California Constitutions (U.S. Const. art. 1, §10, cl.1; Cal. Const. art. 1, §9) because they unconstitutionally impair the contracts among the former redevelopment agencies, bondholders and Syncora. The complaint also alleged that the Redistribution Provisions violate the "Takings Clauses" of the United States and California Constitutions (U.S. Const. amend. V; Cal Const. art. 1 § 19) because they unconstitutionally take and appropriate bondholders' and Syncora's contractual right to critical security mechanisms without just compensation.

After hearing by the Sacramento County Superior Court on May 3, 2013, the Superior Court ruled that Syncora's constitutional claims based on contractual impairment were premature. The Superior Court also held that Syncora's takings claims, to the extent based on the same arguments, were also premature. Pursuant to a Judgment stipulated to by the parties, the Superior Court on October 3, 2013, entered its order dismissing the action. The Judgment, however, provides that Syncora preserves its rights to reassert its challenges to the Dissolution Act in the future. The Successor Agency does not guarantee that any reassertion of challenges by Syncora or that the final results of any of the judicial actions brought by others challenging the Dissolution Act will not result in an outcome that may have a material adverse effect on the Successor Agency's ability to timely pay debt service on the 2015 Bonds.

Change in Source of Tax Revenues

Because of the varying plan limits discussed above, Tax Revenues will no longer be collected from the Original Area after September 21, 2029. Consequently, there will be a period prior to the final maturity date of the 2015 Bonds during which the Successor Agency will be able to pay debt service on the 2015 Bonds only from property tax revenues allocated to the Successor Agency from the First Amendment Area, the Second Amendment Area and the Midtown Area. Based on the projections of Tax Revenues prepared by the Fiscal Consultant (see "THE PROJECT AREA – Projected Available Net Tax Increment and Estimated Debt Service Coverage"), the Successor Agency expects Tax Revenues from the First Amendment Area, the Second Amendment Area and the Midtown Area after September 21, 2029 will be sufficient to pay debt service on the 2015 Bonds and the 2015 Bonds have been structured to take into account this revenue drop.

Concentration of Property Ownership

Based on fiscal year 2014-15 locally assessed taxable valuations, the following property owners represent significant ownership concentrations:

Property Owner	Percent of Total Value	Percent of Incremental Value	Subarea
Cisco Technology Inc.	16.39%	18.94%	Second Amendment Area
KLA Tencor Corporation	4.78	5.52	Second Amendment Area

Each of these property owners have pending assessed value appeals with respect to their property in the Project Area. The bankruptcy, termination of operations or departure from the Project Area by one of the largest property owners from the Project Area could adversely impact the availability of Tax Revenues to pay debt service on the 2015 Bonds.

Reduction in Taxable Value

Tax increment revenue available to pay principal of and interest on the 2015 Bonds are determined by the amount of incremental taxable value in the Project Area and the current rate or rates at which property in the Project Area is taxed. The reduction of taxable values of property in the Project Area caused by economic factors beyond the Successor Agency's control, such as relocation out of the Project Area by one or more major property owners, sale of property to a non-profit corporation exempt from property taxation, or the complete or partial destruction of such property caused by, among other eventualities, earthquake or other natural disaster, could cause a reduction in the tax increment available to pay debt service on the 2015 Bonds. Such reduction of tax increment available to pay debt service on the 2015 Bonds could have an adverse effect on the Successor Agency's ability to make timely payments of principal of and interest on the 2015 Bonds; this risk could be increased by the significant concentration of property ownership in the Project Area.

The County calculates tax increment to redevelopment project areas by applying a one percent rate to the secured and unsecured incremental taxable values. The County also allocates unitary revenue on the basis of the total unitary revenue in a project area, without reductions for base year revenues. The allocation of unitary revenue is based on revenues received in 1987-88, adjusted by the actual growth or decline in unitary revenues on a countywide basis.

As described in greater detail under the heading "PROPERTY TAXATION IN CALIFORNIA – Article XIIIA of the State Constitution," Article XIIIA provides that the full cash value base of real property used in determining taxable value may be adjusted from year to year to reflect the inflation rate, not to exceed a two percent increase for any given year, or may be reduced to reflect a reduction in the consumer price index, comparable local data or any reduction in the event of declining property value caused by damage, destruction or other factors (as described above). Such measure is computed on a calendar year basis. Any resulting reduction in the full cash value base over the term of the 2015 Bonds could reduce tax increment available to pay debt service on the 2015 Bonds.

In addition to the other limitations on, and required application under the Dissolution Act of Tax Revenues on deposit in the Redevelopment Property Tax Trust Fund, the State electorate or Legislature could adopt a constitutional or legislative property tax reduction with the effect of reducing Tax Revenues allocated to the Redevelopment Property Tax Trust Fund and available to the Successor Agency. Although the federal and State Constitutions include clauses generally prohibiting the California Legislature's impairment of contracts, there are also recognized exceptions to these prohibitions. There is no assurance that the State electorate or Legislature will not at some future time approve additional limitations that could reduce the tax increment available to pay debt service on the 2015 Bonds and adversely affect the source of repayment and security of the 2015 Bonds.

Risks to Real Estate Market

The Successor Agency's ability to make payments on the 2015 Bonds will be dependent upon the economic strength of the Project Area. The general economy of the Project Area will be subject to all of the risks generally associated with urban real estate markets. Real estate prices and development may be adversely affected by changes in general economic conditions, fluctuations in the real estate market and interest rates, unexpected increases in development costs and by other similar factors. Further, real estate development within the Project Area could be adversely affected by limitations of infrastructure or future governmental policies, including governmental policies to restrict or control development. In addition, if there is a significant decline in the general economy of the Project Area, the owners of property within the Project Area may be less able or less willing to make timely payments of property taxes or may petition for reduced assessed valuation causing a delay or interruption in the receipt of Tax Revenues by the Successor Agency from the Project Area. See "THE PROJECT AREA - Projected Available Net Tax Increment and Estimated Debt Service Coverage" for a description of the debt service coverage on the 2015 Bonds.

Reduction in Inflationary Rate

As described in greater detail below, Article XIIIA of the State Constitution provides that the full cash value of real property used in determining taxable value may be adjusted from year to year to reflect the inflationary rate, not to exceed a 2% increase for any given year, or may be reduced to reflect a reduction in the consumer price index or comparable local data. Such measure is computed on a calendar year basis. Because Article XIIIA limits inflationary assessed value adjustments to the lesser of the actual inflationary rate or 2%, there have been years in which the assessed values were adjusted by actual inflationary rates, which were less than 2%. The Successor Agency is unable to predict if any further adjustments to the full cash value base of real property within the Project Area, whether an increase or a reduction, will be realized in the future.

Levy and Collection of Taxes

The Successor Agency has no independent power to levy or collect property taxes. Any reduction in the tax rate or the implementation of any constitutional or legislative property tax decrease could reduce the tax increment available to pay debt service on the 2015 Bonds.

Although delinquencies in the payment of property taxes by the owners of land in the Project Area, and the impact of bankruptcy proceedings on the ability of taxing agencies to collect property taxes, could have an adverse effect on the Successor Agency's ability to make timely payments on the 2015 Bonds, the Successor Agency believes any such adverse impact is unlikely in light of the debt service coverage provided by net tax increment. See "THE PROJECT AREA - Projected Available Net Tax Increment and Estimated Debt Service Coverage" for a description of the debt service coverage on the 2015 Bonds.

Bankruptcy and Foreclosure

The payment of the property taxes from which Tax Revenues are derived and the ability of the County to foreclose the lien of a delinquent unpaid tax may be limited by bankruptcy, insolvency, or other laws generally affecting creditors' rights or by the laws of the State relating to judicial foreclosure. The various legal opinions to be delivered concurrently with the delivery of the 2015 Bonds (including Bond Counsel's approving legal opinion) will be qualified as to the enforceability of the various legal instruments by bankruptcy, insolvency, reorganization, moratorium, or other similar laws affecting creditors' rights, by the application of equitable principles and by the exercise of judicial discretion in appropriate cases.

Although bankruptcy proceedings would not cause the liens to become extinguished, bankruptcy of a property owner could result in a delay in prosecuting superior court foreclosure proceedings. Although such delay would increase the possibility of delinquent tax installments not being paid in full and thereby increase the likelihood of a delay or default in payment of the principal of and interest on the 2015 Bonds, the Successor Agency believes any such adverse impact is unlikely in light of the debt service coverage provided by fiscal year 2013-14 net tax increment. See "THE PROJECT AREA - Projected Available Net Tax Increment and Estimated Debt Service Coverage" for a description of the debt service coverage on the 2015 Bonds.

Estimated Revenues

In estimating that net tax increment will be sufficient to pay debt service on the 2015 Bonds, the Successor Agency and Fiscal Consultant have made certain assumptions with regard to present and future assessed valuation in the Project Area, future tax rates and percentage of taxes collected. The Successor Agency believes these assumptions to be reasonable, but there is no assurance these assumptions will be realized and to the extent that the assessed valuation and the tax rates are less than expected, the net tax increment available to pay debt service on the 2015 Bonds will be less than those projected and such reduced net tax increment may be insufficient to provide for the payment of principal of, premium (if any) and interest on the 2015 Bonds.

Hazardous Substances

An additional environmental condition that may result in the reduction in the assessed value of property would be the discovery of a hazardous substance that would limit the beneficial use of taxable property within the Project Area. In general, the owners and operators of property may be required by law to remedy conditions of the property relating to releases or threatened releases of hazardous substances. The owner or operator may be required to remedy a hazardous substance condition of property whether or not the owner or operator has anything to do with creating or handling the hazardous substance. The effect, therefore, should any of the property within the Project Area be affected by a hazardous substance, could be to reduce the marketability and value of the property by the costs of remedying the condition.

Natural Disasters

The value of the property in the Project Area in the future can be adversely affected by a variety of additional factors, particularly those which may affect infrastructure and other public improvements and private improvements on property and the continued habitability and enjoyment of such private improvements. Such additional factors include, without limitation, geologic conditions such as earthquakes, topographic conditions such as earth movements, landslides and floods and climatic conditions such as droughts. In the event that one or more of such conditions occur, such occurrence could cause damages of varying seriousness to the land and improvements and the value of property in the Project Area could be diminished in the aftermath of such events. A substantial reduction of the value of such properties could affect the ability or willingness of the property owners to pay the property taxes.

Seismic. The City, like most regions in the State of California, is located in an area of seismic activity and therefore, could be subject to potentially destructive earthquakes. The Hayward fault trends northwest through the western portion of the Milpitas foothills and the Calaveras fault trends northwest through the Calaveras Reservoir, approximately 1 1/2 miles northeast of the City. The San Andreas fault trends northwestward through the Santa Cruz Mountains approximately 13 miles southwest of the City. All of these faults are active and have produced damaging earthquakes in the historic past. Other active and potentially active faults are present in the Bay Area and may produce earthquakes that could affect the City.

The occurrence of severe seismic activity in the City could result in substantial damage to property located in the Project Area, and could lead to successful appeals for reduction of assessed values of such property. Such a reduction of assessed valuations could result in a reduction of the Tax Revenues.

Flood. Approximately one-quarter of the City is within areas designated by the Federal Emergency Management Agency ("**FEMA**") as Special Flood Hazard Areas. Special Flood Hazard Areas are areas within the 100-year flood boundary as mapped by FEMA. The Special Flood Hazard Areas within the City are generally located near the Calera, Penitencia, Berryessa, Los Coches and Tularcitos creeks. Severe flooding in the City could result in substantial damage to property located in the Project Area, and could lead to successful appeals for reduction of assessed value of such property. Such reductions could result in reductions of the Tax Revenues.

Changes in the Law

There can be no assurance that the California electorate will not at some future time adopt initiatives or that the California Legislature will not enact legislation that will amend the Dissolution Act, the Redevelopment Law or other laws or the Constitution of the State resulting in a reduction of tax increment available to pay debt service on the 2015 Bonds.

Loss of Tax-Exemption

As discussed under the caption "TAX MATTERS," interest on the 2015 Bonds could become includable in gross income for purposes of federal income taxation retroactive to the date the 2015 Bonds were issued, as a result of future acts or omissions of the Successor Agency in violation of its covenants in the Indenture.

In addition, current and future legislative proposals, if enacted into law, may cause interest on the 2015 Bonds to be subject, directly or indirectly, to federal income taxation by, for example, changing the current exclusion or deduction rules to limit the aggregate amount of interest on state and local government bonds that may be treated as tax exempt by individuals.

Should such an event of taxability occur, the 2015 Bonds are not subject to special redemption and will remain outstanding until maturity or until redeemed under other provisions set forth in the Indenture.

Secondary Market

There can be no guarantee that there will be a secondary market for the 2015 Bonds, or, if a secondary market exists, that the 2015 Bonds can be sold for any particular price. Occasionally, because of general market conditions or because of adverse history or economic prospects connected with a particular issue, secondary marketing practices in connection with a particular issue are suspended or terminated. Additionally, prices of issues for which a market is being made will depend upon the then prevailing circumstances.

TAX MATTERS

In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, subject, however to the qualifications set forth below, under existing law, the interest on the 2015 Bonds is excluded from gross income for federal income tax purposes and such interest is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, provided, however, that, for the purpose of computing the alternative minimum tax imposed on corporations (as defined for federal income tax purposes), such interest is taken into account in determining certain income and earnings.

The opinions set forth in the preceding paragraph are subject to the condition that the Successor Agency comply with all requirements of the Internal Revenue Code of 1986, as amended (the "**Tax Code**") that must be satisfied subsequent to the issuance of the 2015 Bonds. The Successor Agency has covenanted to comply with each such requirement. Failure to comply with certain of such requirements may cause the inclusion of such interest in gross income for federal income tax purposes to be retroactive to the date of issuance of the 2015 Bonds.

If the initial offering price to the public (excluding bond houses and brokers) at which a 2015 Bond is sold is less than the amount payable at maturity thereof, then such difference constitutes "original issue discount" for purposes of federal income taxes and State of California personal income taxes. If the initial offering price to the public (excluding bond houses and brokers) at which a 2015 Bond is sold is greater than the amount payable at maturity thereof, then such difference constitutes "original issue premium" for purposes of federal income taxes and State of California personal income taxes. De minimis original issue discount and original issue premium is disregarded.

Under the Tax Code, original issue discount is treated as interest excluded from federal gross income and exempt from State of California personal income taxes to the extent properly allocable to each owner thereof subject to the limitations described in the first paragraph of this section. The original issue discount accrues over the term to maturity of the 2015 Bond on the basis of a constant interest rate compounded on each interest or principal payment date (with straight-line interpolations between compounding dates). The amount of original issue discount accruing during each period is added to the adjusted basis of such Bonds to determine taxable gain upon disposition (including sale, redemption, or payment on maturity) of such 2015 Bond. The Tax Code contains certain provisions relating to the accrual of original issue discount in the case of purchasers of the 2015 Bonds who purchase the 2015 Bonds after the initial offering of a substantial amount of such maturity. Owners of such 2015 Bonds should consult their own tax advisors with respect to the tax consequences of ownership of 2015 Bonds with original issue discount, including the treatment of purchasers who do not purchase in the original offering, the allowance of a deduction for any loss on a sale or other disposition, and the treatment of accrued original issue discount on such 2015 Bonds under federal individual and corporate alternative minimum taxes.

Under the Tax Code, original issue premium is amortized on an annual basis over the term of the 2015 Bond (said term being the shorter of the 2015 Bond's maturity date or its call date). The amount of original issue premium amortized each year reduces the adjusted basis of the owner of the 2015 Bond for purposes of determining taxable gain or loss upon disposition. The amount of original issue premium on a 2015 Bond is amortized each year over the term to maturity of the 2015 Bond on the basis of a constant interest rate compounded on each interest or principal payment date (with straight-line interpolations between compounding dates).

Amortized Bond premium is not deductible for federal income tax purposes. Owners of premium 2015 Bonds, including purchasers who do not purchase in the original offering, should consult their own tax advisors with respect to State of California personal income tax and federal income tax consequences of owning such Bonds.

In the further opinion of Bond Counsel, interest on the 2015 Bonds is exempt from California personal income taxes.

Owners of the 2015 Bonds should also be aware that the ownership or disposition of, or the accrual or receipt of interest on, the 2015 Bonds may have federal or state tax consequences other than as described above. Bond Counsel expresses no opinion regarding any federal or state tax consequences arising with respect to the 2015 Bonds other than as expressly described above.

CONCLUDING INFORMATION

Underwriting

The 2015 Bonds are being purchased by a syndicate of underwriters lead by Stifel, Nicolaus & Company, Incorporated (“**Stifel**”), and consisting of Stifel, Morgan Stanley and Piper Jaffray & Co. (collectively, the “**Underwriters**”). The Underwriters have agreed to purchase the 2015 Bonds at a price of $_________________ (being the principal amount of the 2015 Bonds less a net original issue discount of $__________________ and less an Underwriters’ discount of $__________________). The Underwriters will purchase all of the 2015 Bonds if any are purchased.The Underwriters may offer and sell Bonds to certain dealers and others at a price lower than the offering price stated on the inside cover page of this Official Statement. The offering price may be changed from time to time by the Underwriters.

Morgan Stanley, parent company of Morgan Stanley & Co. LLC, an Underwriter of the 2015 Bonds, has entered into a retail distribution arrangement with its affiliate Morgan Stanley Smith Barney LLC. As part of the distribution arrangement, Morgan Stanley & Co. LLC may distribute municipal securities to retail investors through the financial advisor network of Morgan Stanley Smith Barney LLC. As part of this arrangement, Morgan Stanley & Co. LLC may compensate Morgan Stanley Smith Barney LLC for its selling efforts with respect to the 2015 Bonds.

Piper Jaffray & Co. and Pershing LLC, a subsidiary of The Bank of New York Mellon Corporation, entered into an agreement (the “Agreement”) which enables Pershing LLC to distribute certain new issue municipal securities underwritten by or allocated to Piper Jaffray & Co., including the 2015 Bonds. Under the Agreement, Piper Jaffray & Co. will share with Pershing LLC a portion of the fee or commission paid to Piper Jaffray & Co.

Legal Opinion

The final approving opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, will be furnished to the purchaser at the time of delivery of the 2015 Bonds.

A copy of the proposed form of Bond Counsel’s final approving opinion with respect to the 2015 Bonds is attached hereto as Appendix B.

Certain legal matters will be passed on by Jones Hall, A Professional Law Corporation, as Disclosure Counsel and Quint & Thimmig LLP, as Underwriters' Counsel.

In addition, certain legal matters will be passed upon for the Successor Agency by the City Attorney of the City.

Compensation paid to Bond Counsel, Disclosure Counsel and Underwriters' Counsel is contingent upon the sale and delivery of the 2015 Bonds.

Financial Advisor

The Successor Agency has retained the Financial Advisor in connection with the authorization, issuance, sale and delivery of the 2015 Bonds. The Financial Advisor is not obligated to undertake, and has not undertaken to make, an independent verification or assume responsibility for the accuracy, completeness or fairness of the information contained in this Official Statement. The Financial Advisor is an independent registered municipal advisory firm and is not engaged in the business of underwriting, trading or distributing municipal or other public securities.

Litigation

There is no action, suit or proceeding known to the Successor Agency to be pending and notice of which has been served upon and received by the Successor Agency, or threatened, restraining or enjoining the execution or delivery of the 2015 Bonds or the Indenture or in any way contesting or affecting the validity of the foregoing or any proceedings of the Successor Agency taken with respect to any of the foregoing or seeking to restrain or enjoin the repayment of the 2015 Bonds or which, in any manner, questions the right of the Successor Agency to use the Tax Revenues for repayment of the 2015 Bonds or affects in any manner the right or ability of the Successor Agency to collect or pledge the Tax Revenues. See, however, "RISK FACTORS- Challenges to Dissolution Act."

Ratings

Standard & Poor's Financial Services LLC, a subsidiary of The McGraw-Hill Companies, Inc. ("**S&P**"), has assigned its rating of "____" to the 2015 Bonds. The rating reflects only the view of S&P as to the credit quality of the 2015 Bonds, and explanation of the significance of the ratings may be obtained from S&P.

The rating issued reflects only the view of S&P, and any explanation of the significance of such rating should be obtained from S&P. There is no assurance that such rating will be retained for any given period of time or that it will not be revised downward or withdrawn entirely by S&P if, in the judgment of S&P, circumstances so warrant. Any such downward revision or withdrawal of any rating obtained may have an adverse effect on the market price of the 2015 Bonds.

Continuing Disclosure

The Successor Agency will covenant for the benefit of owners of the 2015 Bonds to provide certain financial information and operating data relating to the Successor Agency by not later than March 31 after the end of each fiscal year of the Successor Agency (currently June

30th), commencing not later than March 31, 2015 with the report for the 2013-14 fiscal year (the "**Annual Report**"), and to provide notices of the occurrence of certain listed events. This Official Statement constitutes the Annual Report for the 2013-14 fiscal year. The specific nature of the information to be contained in the Annual Report or the notices of listed events is summarized in "APPENDIX D - FORM OF SUCCESSOR AGENCY CONTINUING DISCLOSURE CERTIFICATE," attached to this Official Statement. These covenants have been made in order to assist the Underwriters (as defined below) in complying with Securities Exchange Commission Rule 15c2 12(b)(5) (the "**Rule**").

The City and certain related entities, including the Former Agency, previously entered into certain disclosure undertakings under the Rule in connection with the issuance of long-term obligations. During the past five years, the City and such related entities have, in some instances, failed to comply with their undertakings. The City and Successor Agency have remedied such historical non-compliance.

In particular, certain of the City's audited financial statements and annual reports were filed after their respective annual filing deadlines as follows:

(i) audited financial statements for fiscal years 2008-09, 2009-10, 2010-11, 2011-12 and 2012-13 with respect to the City's Local Improvement District No. 18 Limited Obligation Improvement Bonds, 1996 Series A issued in 1996 were filed 1,452 days, 1,087 days, 722 days, 356 days and 76 days late, respectively;

(ii) audited financial statements for fiscal years 2008-09, 2009-10, 2010-11 and 2011-12 with respect to the City's Local Improvement District No. 18 Limited Obligation Refunding Improvement Bonds, Reassessment and Refunding of 1998 issued in 1998 were filed 1,393 days, 1,028 days, 662 days and 297 days late, respectively;

(iii) audited financial statements for fiscal years 2008-09, 2009-10, 2010-11 and 2011-12 with respect to the City's Local Improvement District No. 20 Limited Obligation Improvement Bonds, 1998 Series A issued in 1998 were filed 1,393 days, 1,028 days, 662 days and 297 days late, respectively;

(iv) audited financial statements for fiscal years 2008-09, 2009-10, 2010-11 and 2011-12 with respect to the City's Local Improvement District No. 18 Limited Obligation Improvement Bonds, 1998 Series A issued in 1998 were filed 1,393 days, 1,028 days, 662 days and 297 days late, respectively;

(v) audited financial statements for fiscal years 2008-09 and 2009-10 with respect to the City's Local Improvement District Nos. 9R and 12R Limited Obligation Refunding Improvement Bonds, Reassessment and Refunding of 1999 were filed 174 days and 147 days late, respectively;

(vi) annual reports for fiscal years 2008-09 and 2009-10 with respect to the City's Local Improvement District Nos. 9R and 12R Limited Obligation Refunding Improvement Bonds, Reassessment and Refunding of 1999 were filed 119 days and 120 days late, respectively; and

(vii) audited financial statements for fiscal year 2009-10 with respect to the Prior Bonds were filed 1,162 days late.

The City and its related entities did not always timely file event notices regarding changes to the underlying ratings and/or insured ratings of certain of its bonds. The City and its related entities have corrected past deficiencies and as of the date hereof, to the best of the City's knowledge, the City and its related entities have filed all required annual reports, semi-annual reports and notices of rating changes for its currently outstanding debt obligations.

The City has retained Willdan Financial Services to provide continuing disclosure services to ensure compliance with its continuing disclosure undertakings in the future. To further ensure such compliance, the City has appointed its Finance Director to coordinate the preparation of annual disclosure reports by Willdan Financial Services and the filing of such reports by the City's Finance Department and anticipates adopting policies and procedures related thereto.

Audited Financial Statements

The City of Milpitas's Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 2014 (the "**City CAFR**") is attached as Appendix E. The City's CAFR includes the Successor Agency's audited financial statements for the fiscal year ended June 30, 2014. The Successor Agency's audited financial statements were audited by Maze & Associates, Accountancy Corporation (the "**Auditor**"). The Auditor has not been asked to consent to the inclusion of the Successor Agency's audited financial statements in this Official Statement and has not reviewed this Official Statement.

As described in "SECURITY FOR THE 2015 BONDS - Limited Obligation," the 2015 Bonds are payable from and secured by a pledge of Tax Revenues and the 2015 Bonds are not a debt of the City. The City's CAFR is attached as Appendix E to this Official Statement only because it includes the Successor Agency's audited financial statements.

Miscellaneous

All of the preceding summaries of the Indenture, the Redevelopment Law, the Dissolution Act, other applicable legislation, the Redevelopment Plan for the Project Area, agreements and other documents are made subject to the provisions of such documents respectively and do not purport to be complete statements of any or all of such provisions. Reference is hereby made to such documents on file with the Successor Agency for further information in connection therewith.

This Official Statement does not constitute a contract with the purchasers of the 2015 Bonds. Any statements made in this Official Statement involving matters of opinion or estimates, whether or not so expressly stated, are set forth as such and not as representations of fact, and no representation is made that any of the estimates will be realized.

The execution and delivery of this Official Statement by its Executive Director has been duly authorized by the Successor Agency.

SUCCESSOR AGENCY TO THE FORMER MILPITAS REDEVELOPMENT AGENCY

By: ________/s/________
Executive Director

APPENDIX A

SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE

APPENDIX B

FORM OF BOND COUNSEL OPINION

APPENDIX C

BOOK-ENTRY ONLY SYSTEM

The information in this Appendix C concerning The Depository Trust Company ("DTC"), New York, New York, and DTC's book-entry system has been obtained from DTC and the Successor Agency takes no responsibility for the completeness or accuracy thereof. The Successor Agency cannot and does not give any assurances that DTC, DTC Participants or Indirect Participants will distribute to the Beneficial Owners (a) payments of interest, principal or premium, if any, with respect to the 2015 Bonds, (b) certificates representing ownership interest in or other confirmation or ownership interest in the 2015 Bonds, or (c) redemption or other notices sent to DTC or Cede & Co., its nominee, as the registered owner of the 2015 Bonds, or that they will so do on a timely basis, or that DTC, DTC Participants or DTC Indirect Participants will act in the manner described in this Appendix. The current "Rules" applicable to DTC are on file with the Securities and Exchange Commission and the current "Procedures" of DTC to be followed in dealing with DTC Participants are on file with DTC.

The Depository Trust Company ("DTC"), New York, NY, will act as securities depository for the 2015 Bonds. The 2015 Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered certificate will be issued for each maturity of the 2015 Bonds, each in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing Successor Agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has a Standard & Poor's rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com. The information set forth on such website is not incorporated herein by reference.

Purchases of Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the 2015 Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the 2015 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Bonds, except in the event that use of the book-entry system for the 2015 Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the 2015 Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the 2015 Bonds, such as redemptions, tenders, defaults, and proposed amendments to the 2014 Bond documents. For example, Beneficial Owners of Bonds may wish to ascertain that the nominee holding the 2015 Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the 2015 Bonds within a maturity are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such maturity to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Successor Agency as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal, premium (if any), and interest payments on the 2015 Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the Successor Agency or the Trustee, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee, or the

Successor Agency, subject to any statutory or regulatory requirements as may be in effect from time to time. Principal, premium (if any), and interest payments with respect to the 2015 Bonds to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Successor Agency or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the 2015 Bonds at any time by giving reasonable notice to the Successor Agency or the Trustee. Under such circumstances, in the event that a successor depository is not obtained, certificates representing the 2015 Bonds are required to be printed and delivered.

The Successor Agency may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, representing the 2015 Bonds will be printed and delivered to DTC in accordance with the provisions of the Indenture.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the Successor Agency believes to be reliable, but the Successor Agency takes no responsibility for the accuracy thereof.

APPENDIX D

FORM OF SUCCESSOR AGENCY CONTINUING DISCLOSURE CERTIFICATE

This CONTINUING DISCLOSURE CERTIFICATE (this "Disclosure Certificate") is executed and delivered by the Successor Agency to the Former Milpitas Redevelopment Agency (the "Successor Agency") in connection with the issuance of $____________ Successor Agency to the Former Milpitas Redevelopment Agency 2015 Tax Allocation Refunding Bonds (Redevelopment Project Area No. 1) (the "Bonds"). The Bonds are being issued pursuant to an Indenture of Trust dated as of March 1, 2015, by and between the Successor Agency and the U.S. Bank National Association, as trustee. The Successor Agency covenants and agrees as follows:

Section 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the Successor Agency for the benefit of the holders and beneficial owners of the Bonds and in order to assist the Participating Underwriter in complying with S.E.C. Rule 15c2-12(b)(5).

Section 2. Definitions. In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Disclosure Certificate, unless otherwise defined, the following capitalized terms shall have the following meanings:

"*Annual Report*" shall mean any Annual Report provided by the Successor Agency pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

"*Dissemination Agent*" shall mean Willdan Financial Services, or any successor Dissemination Agent designated in writing by the Successor Agency and which has filed with the Successor Agency a written acceptance of such designation.

"EMMA System" shall mean the Electronic Municipal Market Access system of the MSRB or such other electronic system designated by the MSRB or the Securities and Exchange Commission for compliance with S.E.C Rule 15c2-12(b).

"*Listed Events*" shall mean any of the events listed in Section 5(a) of this Disclosure Certificate.

"*MSRB*" means the Municipal Securities Rulemaking Board, which has been designated by the Securities and Exchange Commission as the sole repository of disclosure information for purposes of the Rule.

"*Participating Underwriter*" shall mean any of the original underwriters of the Bonds required to comply with the Rule in connection with offering of the Bonds.

"*Rule*" shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

Section 3. Provision of Annual Reports.

(a) The Successor Agency shall, or shall cause the Dissemination Agent to, not later than nine (9) months after the end of the Successor Agency's fiscal year (which date currently would be March 31, based upon the June 30 end of the Successor Agency's fiscal year), commencing with the report for the 2013-14 fiscal year, provide to the MSRB through the EMMA System an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate. **The Official Statement constitutes the Annual Report for the 2013-14 fiscal year.** Not later than fifteen (15) Business Days prior to said date, the Successor Agency shall provide the Annual Report to the Dissemination Agent (if other than the Successor Agency). The Annual Report may be submitted as a single document or as separate documents comprising a package, and may include by reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the Successor Agency may be submitted separately from the balance of the Annual Report, and later than the date required above for the filing of the Annual Report if not available by that date. If the Successor Agency's fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(c).

(b) If the Successor Agency is unable to provide to the MSRB through the EMMA System an Annual Report by the date required in subsection (a), the Successor Agency shall provide to the MSRB, in electronic format as prescribed by the MSRB through the EMMA System, a notice in substantially the form attached as Exhibit A.

(c) The Dissemination Agent shall:

(i) determine each year prior to the Annual Report Date the then-applicable rules and electronic format prescribed by the MSRB for the filing of annual continuing disclosure reports; and

(ii) if the Dissemination Agent is other than the Successor Agency, file a report with the Successor Agency certifying that the Annual Report has been provided pursuant to this Disclosure Certificate, stating the date it was provided to the MSRB through the EMMA System pursuant to this Disclosure Certificate.

Section 4. Content of Annual Reports. The Successor Agency's Annual Report shall contain or incorporate by reference the following:

(a) Audited Financial Statements of the Successor Agency prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board. If such audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available.

(b) Unless otherwise provided in the audited financial statements filed on or prior to the annual filing deadline for the Annual Reports provided for in Section 3 above, financial information and operating data with respect to the Successor Agency for the preceding fiscal year, substantially similar to that provided in the corresponding tables and charts in the Official Statement for the Bonds, as follows:

(i) Principal amount of Bonds outstanding as of June 30 of the most recently-completed fiscal year.

(ii) Balance in the Reserve Account and a statement of the Reserve Requirement as of June 30 of the most recently-completed fiscal year.

(iii) Information for the most recently-completed fiscal year of the type included in Tables 4, 5 and 7 (if and to the extent the information for Table 5 is available from the County of Santa Clara) of the Official Statement.

(iv) Notice if, during the most recently-completed fiscal year, the Project Area reached its cumulative tax increment limit.

(v) A calculation of debt service coverage for the most recently completed fiscal year provided by Tax Revenues with respect to debt service on the Bonds and any outstanding Parity Debt.

Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the Successor Agency or related public entities, which have been submitted to the MSRB through the EMMA System or the Securities and Exchange Commission. If the document included by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The Successor Agency shall clearly identify each such other document so included by reference.

Section 5. Reporting of Significant Events.

(a) The Successor Agency shall give, or cause to be given, notice of the occurrence of any of the following Listed Events with respect to the Bonds:

(1) Principal and interest payment delinquencies.

(2) Non-payment related defaults, if material.

(3) Unscheduled draws on debt service reserves reflecting financial difficulties.

(4) Unscheduled draws on credit enhancements reflecting financial difficulties.

(5) Substitution of credit or liquidity providers, or their failure to perform.

(6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security.

(7) Modifications to rights of security holders, if material.

(8) Bond calls, if material, and tender offers.

(9) Defeasances.

(10) Release, substitution, or sale of property securing repayment of the securities, if material.

(11) Rating changes.

(12) Bankruptcy, insolvency, receivership or similar event of the Successor Agency or other obligated person.

(13) The consummation of a merger, consolidation, or acquisition involving the Successor Agency or an obligated person, or the sale of all or substantially all of the assets of the Successor Agency or an obligated person (other than in the ordinary course of business), the entry into a definitive agreement to undertake such an action, or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.

(14) Appointment of a successor or additional trustee or the change of name of a trustee, if material.

(b) The Successor Agency shall, or shall cause the Dissemination Agent (if not the Successor Agency) to, file a notice of such occurrence with the MSRB through the EMMA System, in a timely manner not in excess of 10 business days after the occurrence of the Listed Event. Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(8) and (9) above need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to holders of affected Bonds under the Indenture.

(c) The Successor Agency acknowledges that the events described in subparagraphs (a)(2), (a)(7), (a)(8) (if the event is a bond call), (a)(10), (a)(13), and (a)(14) of this Section 5 contain the qualifier "if material." The Successor Agency shall cause a notice to be filed as set forth in paragraph (b) above with respect to any such event only to the extent that the Successor Agency determines the event's occurrence is material for purposes of U.S. federal securities law. The Dissemination Agent shall not be responsible for determining whether an event is material.

Section 6. Termination of Reporting Obligation. The Successor Agency's obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds or upon the delivery to the Dissemination Agent of an opinion of nationally recognized bond counsel retained by the Successor Agency to the effect that continuing disclosure is no longer required. If such termination occurs prior to the final maturity of the Bonds, the Successor Agency shall give notice of such termination in the same manner as for a Listed Event under Section 5(c).

Section 7. Dissemination Agent.

(a) The Successor Agency may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the Successor Agency pursuant to this Disclosure Certificate, unless the Successor Agency is the Dissemination Agent, as provided herein. The initial Dissemination Agent shall be Willdan Financial Services. If at any time there is no designated Dissemination Agent appointed by the Successor Agency, or if the Dissemination Agent so appointed is unwilling or unable to perform the duties of Dissemination Agent hereunder, the Successor Agency shall be the Dissemination Agent and undertake or assume its obligations hereunder. The Dissemination Agent may resign by providing thirty days written notice to the Successor Agency and the Trustee.

Any company succeeding to all or substantially all of the Dissemination Agent's corporate trust business shall be the successor to the Dissemination Agent hereunder without the execution or filing of any paper or any further act. The Dissemination Agent may resign its duties hereunder at any time upon written notice to the Successor Agency.

(b) The Dissemination Agent shall be paid compensation by the Successor Agency for its services provided hereunder in accordance with its schedule of fees as agreed to between the Dissemination Agent and the Successor Agency from time to time and for all expenses, legal fees and advances made or incurred by the Dissemination Agent in the performance of its duties hereunder. The Dissemination Agent (unless the Successor Agency is the Dissemination Agent) shall have no duty or obligation to review any information provided to it by the Successor Agency hereunder and shall not be deemed to be acting in any fiduciary capacity for the Successor Agency, holders or beneficial owners or any other party. The Dissemination Agent may rely and shall be protected in acting or refraining from acting upon any direction from the Successor Agency or an opinion of nationally recognized bond counsel retained by the Successor Agency.

Section 8. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the Successor Agency may amend this Disclosure Certificate, and any provision of this Disclosure Certificate may be waived, provided that the following conditions are satisfied (provided no amendment or waiver shall be made that affects the duties or rights of the Dissemination Agent without its written consent):

(a) if the amendment or waiver relates to the provisions of Sections 3(a), 4 or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of an obligated person with respect to the Bonds, or type of business conducted;

(b) the undertakings herein, as proposed to be amended or waived, would, in the opinion of nationally recognized bond counsel retained by the Successor Agency, have complied with the requirements of the Rule at the time of the primary offering of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) the proposed amendment or waiver either (i) is approved by holders of the Bonds in the manner provided in the Indenture for amendments to the Indenture with the consent of holders, or (ii) does not, in the opinion of nationally recognized bond counsel retained by the Successor Agency, materially impair the interests of the holders or beneficial owners of the Bonds.

If the annual financial information or operating data to be provided in the Annual Report is amended pursuant to the provisions hereof, the first annual financial information filed pursuant hereto containing the amended operating data or financial information shall explain, in narrative form, the reasons for the amendment and the impact of the change in the type of operating data or financial information being provided.

If an amendment is made to the undertaking specifying the accounting principles to be followed in preparing financial statements, the annual financial information for the year in which the change is made shall present a comparison between the financial statements or information prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles. The comparison shall include a qualitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles on the presentation of the financial information, in order to provide information to investors to enable them to evaluate the ability of the Successor Agency to meet its obligations. To the extent reasonably feasible, the comparison shall be quantitative. A notice of the change in the accounting principles shall be sent to the MSRB through the EMMA System in the same manner as for a Listed Event under Section 5(c).

Section 9. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the Successor Agency from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the Successor Agency chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the Successor Agency shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 10. Default. In the event of a failure of the Successor Agency to comply with any provision of this Disclosure Certificate, the Participating Underwriter or any holder or beneficial owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Successor Agency to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an Event of Default under the Indenture, and the sole remedy under this Disclosure Certificate in the event of any failure of the Successor Agency to comply with this Disclosure Certificate shall be an action to compel performance.

Section 11. Duties, Immunities and Liabilities of Dissemination Agent. All of the immunities, indemnities, and exceptions from liability in Article VI of the Indenture insofar as they relate to the Trustee shall apply to the Trustee and the Dissemination Agent in this Disclosure Certificate. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and the Successor Agency agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The Dissemination Agent may rely and shall be protected in acting or refraining from acting upon any direction from the Successor Agency or an opinion of nationally recognized bond counsel retained by the Successor Agency. The obligations of the Successor Agency under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds. No person, other than the Successor Agency, shall have any right to commence any action against the Trustee or Dissemination Agent seeking any remedy other than to compel specific performance of this Disclosure Certificate.

Section 12. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the Successor Agency, the Dissemination Agent, the Participating Underwriter and holders and beneficial owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Dated: ______________________

SUCCESSOR AGENCY TO THE FORMER
MILPITAS REDEVELOPMENT AGENCY

By ___________________________

Name _________________________

Title __________________________

AGREED AND ACCEPTED:
WILLDAN FINANCIAL SERVICES,
AS DISSEMINATION AGENT

By: ________________________________

Name: ______________________________

Title: _______________________________

EXHIBIT A

NOTICE TO MUNICIPAL SECURITIES RULEMAKING BOARD OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer:	Successor Agency to the Former Milpitas Redevelopment Agency
Name of Bond Issue:	$____________ Successor Agency to the Former Milpitas Redevelopment Agency 2015 Tax Allocation Refunding Bonds (Redevelopment Project Area No. 1)
Date of Issuance:	_____________, 2015

NOTICE IS HEREBY GIVEN that the Successor Agency to the Milpitas Redevelopment Agency (the "Issuer") has not provided an Annual Report with respect to the above-named Bonds as required by the Indenture of Trust, dated as of March 1, 2015, by and between the Successor Agency and the Trustee, by and between the Successor Agency to the Former Milpitas Redevelopment Agency and U.S. Bank National Association, as trustee. The Issuer anticipates that the Annual Report will be filed by _____________.

Dated: ______________________

SUCCESSOR AGENCY TO THE FORMER MILPITAS REDEVELOPMENT AGENCY

By ___________________________

Name _________________________

Title __________________________

cc: Trustee

APPENDIX E

SUCCESSOR AGENCY FINANCIAL STATEMENTS THROUGH JUNE 30, 2014

APPENDIX F

STATE DEPARTMENT OF FINANCE APPROVAL LETTER

APPENDIX G

GENERAL INFORMATION ABOUT THE CITY OF MILPITAS AND THE COUNTY OF SANTA CLARA

The following information concerning Santa Clara County (the ***"County"****) and the City of Milpitas (the* ***"City"****) is included only for the purpose of supplying general information regarding the Project Area. The Refunding Bonds are not a debt of the County, the City, the State of California (the* ***"State"****) or any of its political subdivisions, and neither the County, the City, the State nor any of its political subdivisions is liable therefor.*

General

The County. Santa Clara County (the "**County**") covers an area of over 1,300 square miles and is located south of the San Francisco Bay in northern California. There are two distinct valleys in the County, which are referred to as North County and South County. South County has more of an agricultural base and is comprised of only two cities, twenty miles apart from each other. As a contrast, North County is densely populated, heavily industrialized and extensively urbanized. This part of the County is comprised of 13 cities, each adjacent to another. Due to its high concentration of high-technology industries, the northwestern portion of North County is commonly referred to as "Silicon Valley." Several small lakes and reservoirs are scattered across the County and the highest peak can be found in San José at Mount Hamilton with an elevation of 4,213 feet. Several major highways serve the County, including Highway 101 providing access to San Francisco and Los Angeles.

The City. The City of Milpitas (the "**City**") was incorporated in January 1954 and is located 45 miles south of San Francisco in the northern part of Santa Clara County. Once a small agricultural town and later a stop-over point for travelers between Oakland and San Jose, Milpitas has grown into one of the world's premier computer and semiconductor producers. Located in the northeastern side of the "Silicon Valley," the City encompasses 13.63 square miles.

Milpitas is a general law city, incorporated in 1954. It operates under a Council-Manager form of government. The City's political and legislative body is the City Council and is empowered by the general laws of the State of California to formulate citywide policy, including a fiscal program, City services and appointment of City Manager and City Attorney. There are four City Council members who are elected at-large for staggered four –year terms, and the Mayor is selected every two years in a separate citywide election.

The City provides a full range of municipal services. These include: police, fire, neighborhood services, public improvements, planning, building and public facility inspection, engineering, water and sewer utilities, redevelopment, and general administrative services.

Population

The following table lists population estimates for the City, the County and the State of California for the last five years, as of January 1 each year.

CITY OF MILPITAS, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA
Population Estimates
Years 2010 through 2014, as of January 1

Year	City of Milpitas	Santa Clara County	State of California
2010	66,672	1,781,427	37,223,900
2011	66,637	1,794,337	37,427,946
2012	66,865	1,813,702	37,668,804
2013	67,845	1,840,895	37,984,138
2014	70,092	1,868,558	37,340,074

Source: California Department of Finance, Demographic Research Unit.

Industry and Employment

The City is part of the San Jose Sunnyvale Santa Clara Metropolitan Statistical Area ("**MSA**"), which is comprised of Santa Clara and San Benito Counties. The unemployment rate in the San Jose-Sunnyvale-Santa Clara MSA was 5.2% in September 2014, down from a revised 5.5% in August 2014, and below the year-ago estimate of 6.6%. This compares with an unadjusted unemployment rate of 6.9% for California and 5.7% for the nation during the same period. The unemployment rate was 6.5% in San Benito County, and 5.2% in Santa Clara County.

SANTA CLARA COUNTY
Civilian Labor Force, Employment and Unemployment
Calendar Years 2009 through 2013
March 2013 benchmark

	2009	2010	2011	2012	2013
Civilian Labor Force (1)	875,700	879,600	891,500	910,400	923,200
Employment	781,000	782,600	804,200	833,700	860,100
Unemployment	94,800	97,000	87,400	76,700	63,200
Unemployment Rate	10.8%	11.0%	9.8%	8.4%	6.8%
Wage and Salary Employment:					
Agriculture	3,500	3,500	3,400	3,300	3,400
Mining and Logging	200	200	200	200	300
Construction	33,400	31,400	30,900	33,900	36,700
Manufacturing	151,300	148,900	152,600	153,200	153,300
Wholesale Trade	35,200	34,500	33,500	34,500	36,200
Retail Trade	77,100	76,800	79,600	81,900	82,700
Transportation, Warehousing, Utilities	11,900	11,700	11,800	12,700	13,600
Information	43,800	46,300	51,200	54,100	58,600
Finance and Insurance	18,100	18,100	19,200	20,200	20,400
Real Estate and Rental and Leasing	13,100	12,700	12,900	12,800	12,800
Professional and Business Services	160,400	160,800	166,600	177,700	190,200
Educational and Health Services	120,200	122,500	124,800	132,700	143,400
Leisure and Hospitality	73,500	73,800	76,300	81,300	86,100
Other Services	24,100	23,900	24,100	24,300	25,000
Federal Government	10,600	10,500	10,000	9,700	9,800
State Government	6,600	6,200	6,200	6,200	6,100
Local Government	76,200	74,700	73,700	72,800	73,200
Total all Industries (2)	859,100	856,600	876,900	911,500	951,600

(1) Industry employment is by place of work; excludes self-employed individuals, unpaid family workers, household domestic workers, and workers on strike.
(2) Totals may not add due to rounding.
Source: State of California Employment Development Department.

Principal Employers

The following table lists the principal employers within the City for the fiscal year 2013-14.

CITY OF MILPITAS
Principal Employers
As of June 30, 2014

Employer Name	No. of Employees	% of City Employment
Cisco Systems, Inc.	3,816	11.43%
KLA-Tencor Corporations	2,402	7.19
SanDisk Corporation	1,875	5.61
Linear Technology Corporation	1,240	3.71
Flextronics International	1,200	3.59
Milpitas Unified School District	841	2.52
FireEye, Inc.	702	2.10
Headway Technologies	699	2.09
Spectra Laboratories	350	1.05
Kaiser Permanente	350	1.05

Source: City of Milpitas Comprehensive Annual Fiscal Report for Fiscal Year Ended June 30, 2014.

The following table lists the largest manufacturing and non-manufacturing employers within the County as of November 2014:

COUNTY OF SANTA CLARA
Major Employers
As of November 2014
(In Alphabetical Order)

Employer Name	Location	Industry
Adobe Systems Inc	San Jose	Publishers-Computer Software (Mfrs)
Advanced Micro Devices Inc	Sunnyvale	Computers-System Designers & Consultants
Apple Inc	Cupertino	Computers-Electronic-Manufactu
Bon Appetit-Cafe Adobe	San Jose	Restaurant Management
California's Great America	Santa Clara	Amusement Places
Christopher Ranch Llc	Gilroy	Garlic (Mfrs)
Fine Pitch	Milpitas	Solar Energy Equipment-Manufacturers
Gca Services	Alviso	Janitor Service
General Motors Advanced Tech	Palo Alto	Automobile-Manufacturers
Hewlett-Packard Co	Palo Alto	Computers-Electronic-Manufactu
Intel Corp	Santa Clara	Semiconductor Devices (Mfrs)
Kaiser Permanente Medical Ctr	San Jose	Hospitals
Kaiser Permanente Medical Grp	San Jose	Hospitals
Lockheed Martin Space Systems	Sunnyvale	Satellite Equipment & Systems-Mfrs
Microsoft Corp	Mountain View	Computer Software-Manufacturers
Nasa	Mountain View	Federal Government-Space Research/Tech
Net App Inc	Sunnyvale	Computer Storage Devices (Mfrs)
Philips Lumileds Lighting Co	San Jose	Lighting Fixtures-Supplies & Parts-Mfrs
San Jose State	San Jose	Schools-Universities & Colleges Academic
Santa Clara Valley Med Ctr	San Jose	Hospitals
Sap Center At San Jose	San Jose	Stadiums Arenas & Athletic Fields
Silicon Valley Sports & Entrtn	San Jose	Entertainment Bureaus
Stanford Univ School Medicine	Stanford	Schools-Medical
Surgecenter of Palo Alto	Palo Alto	Surgical Centers
Va Medical Ctr-Palo Alto	Palo Alto	Hospitals

Source: State of California Employment Development Department, extracted from The America's Labor Market Information System (ALMIS) Employer Database, 2014 2nd edition.

Effective Buying Income

"Effective Buying Income" is defined as personal income less personal tax and nontax payments, a number often referred to as "disposable" or "after-tax" income. Personal income is the aggregate of wages and salaries, other labor-related income (such as employer contributions to private pension funds), proprietor's income, rental income (which includes imputed rental income of owner-occupants of non-farm dwellings), dividends paid by corporations, interest income from all sources, and transfer payments (such as pensions and welfare assistance). Deducted from this total are personal taxes (federal, state and local), nontax payments (fines, fees, penalties, etc.) and personal contributions to social insurance. According to U.S. government definitions, the resultant figure is commonly known as "disposable personal income."

The following table summarizes the total effective buying income for the City, the County, the State of California and the United States for the period 2009 through 2013.

CITY OF MILPITAS, SANTA CLARA COUNTY,
STATE OF CALIFORNIA AND UNITED STATES
EFFECTIVE BUYING INCOME
As of January 1, 2009 through 2013

Year	Area	Total Effective Buying Income (000's Omitted)	Median Household Effective Buying Income
2009	City of Milpitas	$ 1,856,665	$ 79,012
	Santa Clara County	55,561,405	71,077
	California	844,823,319	49,736
	United States	6,571,536,768	43,252
2010	City of Milpitas	1,736,263	74,872
	Santa Clara County	53,692,143	68,047
	California	801,393,028	47,177
	United States	6,365,020,076	41,368
2011	City of Milpitas	1,766,410	74,066
	Santa Clara County	54,491,135	67,801
	California	814,578,458	47,062
	United States	6,438,704,664	41,253
2012	City of Milpitas	1,760,820	73,766
	Santa Clara County	61,464,868	68,852
	California	864,088,828	47,307
	United States	6,737,867,730	41,358
2013	City of Milpitas	1,881,475	76,417
	Santa Clara County	61,802,913	70,595
	California	858,676,636	48,340
	United States	6,982,757,379	43,715

Source: The Nielsen Company (US), Inc.

Commercial Activity

In 2009, the SBE converted the business codes of sales and use tax permit holders to North American Industry Classification System codes. As a result of the coding change, data for 2009 is not comparable to that of prior years. Summaries of historic taxable sales within the City and the County during the past five years in which data is available are shown in the following tables. Annual figures for calendar year 2013 or 2014 are not yet available.

Total taxable sales during the first two quarters of calendar year 2013 in the City were reported to be $824,335,000, a 5.76% decrease over the total taxable sales of $874,740,000 reported during the first two quarters of calendar year 2012.

CITY OF MILPITAS
Taxable Retail Sales
Number of Permits and Valuation of Taxable Transactions
Calendar Years 2008 through 2012 (Dollars in Thousands)

	Retail Stores		Total All Outlets	
	Number of Permits	Taxable Transactions	Number of Permits	Taxable Transactions
2008	987	$983,912	2,026	$1,401,011
2009 (1)	1,130	867,997	1,884	1,270,513
2010 (1)	1,143	1,008,956	1,846	1,410,525
2011 (1)	1,180	1,095,281	1,905	1,515,305
2012 (1)	1,193	1,204,355	1,914	1,763,290

(1) Data for retail stores not comparable to prior years.
Source: California State Board of Equalization, Taxable Sales in California (Sales & Use Tax).

Total taxable sales during the first two quarters of calendar year 2013 in the County were reported to be $17,965,400,000, a 4.61% increase over the total taxable sales of $17,173,998,000 reported during the first two quarters of calendar year 2012.

COUNTY OF SANTA CLARA
Taxable Retail Sales
Number of Permits and Valuation of Taxable Transactions
Calendar Years 2008 through 2012 (Dollars in Thousands)

	Retail Stores		Total All Outlets	
	Number of Permits	Taxable Transactions	Number of Permits	Taxable Transactions
2008	20,603	$19,313,313	47,253	$32,274,306
2009 (1)	26,695	16,385,238	43,396	27,427,709
2010 (1)	27,215	17,695,858	43,583	30,523,322
2011 (1)	27,252	19,419,542	43,390	33,431,217
2012 (1)	28,109	21,116,708	43,980	36,220,445

(1) Data for retail stores not comparable to prior years.
Source: California State Board of Equalization, Taxable Sales in California (Sales & Use Tax).

Construction Activity

Construction activity in the City and the County for the past five years for which data is available is shown in the following tables. Annual figures are not yet available for calendar year 2014.

CITY OF MILPITAS
Building Permit Valuation
For Calendar Years 2009 through 2013
(Dollars in Thousands)

	2009	2010	2011	2012	2013
Permit Valuation					
New Single-family	$1,009.9	$591.5	$2,523.1	$25,511.6	$88,491.4
New Multi-family	11,840.2	55,207.1	40,019.8	20,383.0	140,604.9
Res. Alterations/Additions	9,560.6	3,718.8	4,559.9	3,873.8	3,932.5
Total Residential	22,410.8	59,517.4	47,102.8	49,768.4	233,028.8
New Commercial	0.0	0.0	14,850.0	10,643.8	8,958.0
New Industrial	0.0	0.0	0.0	1,835.9	3,310.0
New Other	677.4	10,555.9	150.0	1,570.0	0.0
Com Alterations/Additions	29,325.0	26,073.1	30,558.3	81,837.6	71,368.6
Total Nonresidential	30,002.4	36,629.1	45,558.3	95,887.3	83,636.7
New Dwelling Units					
Single Family	9	3	7	66	265
Multiple Family	60	413	366	66	577
TOTAL	69	416	373	132	842

Source: Construction Industry Research Board, Building Permit Summary.

SANTA CLARA COUNTY
Building Permit Valuation
For Calendar Years 2009 through 2013
(Dollars in Thousands)

	2009	2010	2011	2012	2013
Permit Valuation					
New Single-family	$245,033.4	$307,367.4	$366,126.4	$678,168.8	$694,884.6
New Multi-family	74,466.1	457,923.9	315,853.0	558,544.1	941,420.4
Res. Alterations/Additions	259,190.4	320,582.9	392,229.1	288,105.1	423,739.6
Total Residential	578,689.8	1,085,874.3	1,074,208.5	1,524,818.0	2,060,044.6
New Commercial	215,433.8	267,010.0	228,074.5	745,468.8	1,217,647.4
New Industrial	0.0	33,862.0	68,701.3	22,481.5	72,222.0
New Other	213,976.4	119,682.9	47,728.5	19,197.3	1,749,161.2
Com Alterations/Additions	758,365.7	735,059.6	1,122,235.2	1,115,633.3	1,293,656.1
Total Nonresidential	1,187,775.9	1,155,614.6	1,466,739.5	1,902,780.9	4,332,686.8
New Dwelling Units					
Single Family	667	826	978	1,432	1,859
Multiple Family	450	3,627	2,234	4,245	6,009
TOTAL	1,117	4,453	3,212	5,677	7,868

Source: Construction Industry Research Board, Building Permit Summary.

APPENDIX H

FISCAL CONSULTANT'S REPORT

SA4

RESOLUTION NO. ______

A JOINT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS, THE BOARD OF THE SUCCESSOR AGENCY TO THE FORMER MILPITAS REDEVELOPMENT AGENCY AND THE BOARD OF THE MILPITAS PUBLIC FINANCING AUTHORITY APPROVING THE ADOPTION OF DISCLOSURE POLICIES AND PROCEDURES

WHEREAS, the Securities and Exchange Commission (the "SEC") recommends that issuers of municipal bonds adopt policies and procedures to govern compliance and implement training with respect to their initial disclosure and continuing disclosure undertakings; and

WHEREAS, in response to the SEC's recommendations and in order to better monitor compliance with its disclosure undertakings, the City of Milpitas, the Successor Agency to the Former Milpitas Redevelopment Agency and the Milpitas Public Financing Authority find it desirable to adopt and maintain disclosure policies and procedures; and

WHEREAS, there has been presented to this meeting a proposed form of disclosure policies and procedures (the "Procedures"), a copy of which is attached hereto as Attachment 1.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City, the Board of the Successor Agency to the Former Milpitas Redevelopment Agency, and the Board of the Milpitas Public Financing Authority as follows:

Section 1. The City Council, the Board of the Successor Agency and the Board of the Authority hereby jointly approve and adopt the Disclosure Policies and Procedures attached hereto as Attachment 1, including Exhibit A thereto, presented to the meeting at which this Resolution is adopted,

Section 2. This Resolution shall take effect from and after the date of its passage and adoption.

PASSED AND ADOPTED this ______ day of _________________, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

____
Mary Lavelle, City Clerk/Successor Agency Secretary/Public Financing Authority Secretary

APPROVED:

____
Jose S. Esteves, Mayor/Successor Agency Chair/Public Financing Authority Chair

APPROVED AS TO FORM:

____
Michael J. Ogaz, City Attorney/Successor Agency Counsel/Public Financing Authority Counsel

ATTACHMENT 1

CITY OF MILPITAS
SUCCESSOR AGENCY TO THE FORMER MILPITAS REDEVELOPMENT AGENCY
MILPITAS PUBLIC FINANCING AUTHORITY

Disclosure Policies and Procedures

Article I
General

These Disclosure Policies and Procedures (the "**Disclosure Procedures**") of the City of Milpitas (the "**City**"), the Successor Agency to the Former Milpitas Redevelopment Agency (the "**Successor Agency**") and the Milpitas Public Financing Authority (the "**Authority**" and together with the City and the Successor Agency, the "**Local Agencies**" and each a "**Local Agency**") are intended to ensure that the each Local Agency is in compliance with all applicable federal and state securities laws.

Article II
Disclosure Coordinator

The chief financial officer of each Local Agency shall be the disclosure coordinator of such Local Agency (each, a "**Disclosure Coordinator**").

Article III
Review and Approval of Official Statements

The Disclosure Coordinator of each Local Agency shall review any Official Statement prepared in connection with any debt issuance by such Local Agency in order to ensure there are no misstatements or omissions of material information in any sections that contain descriptions of information prepared by such Local Agency.

In connection with its review of the Official Statement, the Disclosure Coordinator of each Local Agency shall consult with third parties, including outside professionals assisting such Local Agency, and all members of such Local Agency's staff, to the extent that such Disclosure Coordinator concludes they should be consulted so that the Official Statement will include all "material" information (as defined for purposes of federal securities law).

As part of the review process, the Disclosure Coordinator of each Local Agency shall submit all Official Statements to the legislative body or governing board of such Local Agency (each, a "**Legislative Body**") for approval. The cover letter used by the Disclosure Coordinators to submit the Official Statements shall be in substantially the form of Exhibit A.

The approval of an Official Statement by a Legislative Body shall be docketed as a new business matter and shall not be approved as a consent item. Each Legislative Body shall undertake such review as deemed necessary by such Legislative Body, following consultation with the applicable Disclosure Coordinator, to fulfill the responsibilities of such Legislative Body under applicable federal and state securities laws. In this regard, the Disclosure Coordinator for each Local Agency shall consult with disclosure counsel to the applicable Local Agency to the extent such Disclosure Coordinator considers appropriate.

Article IV
Continuing Disclosure Filings

To the extent that the Local Agencies have entered into continuing disclosure undertakings in connection with their respective debt offerings, the Local Agencies are required each year to file annual reports with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access ("**EMMA**") system in accordance with such undertakings. Such annual reports are required to include certain updated financial and operating information, and the City's audited financial statements.

To the extent that the Local Agencies have entered into continuing disclosure undertakings in connection with their respective debt offerings, the Local Agencies are also required under their continuing disclosure undertakings to file notices of certain events with EMMA.

The Disclosure Coordinator for each Local Agency is responsible for establishing a system (which may involve the retention or one or more consultants) by which:

(i) such Local Agency will make the annual filings required by its continuing disclosure undertakings on a complete and timely basis, and

(ii) such Local Agency will file notices of enumerated events on a timely basis.

Article V
Public Statements Regarding Financial Information

Whenever the Local Agencies make statements or release information relating to their finances to the public that are reasonably expected to reach investors and the trading markets, the Local Agencies are obligated to ensure that such statements and information are complete, true, and accurate in all material respects.

Article VI
Training

Each Disclosure Coordinator shall ensure that the staff members of their respective Local Agencies involved in the initial or continuing disclosure process and the respective Legislative Bodies of the Local Agencies are properly trained to understand and perform their responsibilities.

Each Disclosure Coordinator shall arrange for disclosure training sessions to be conducted by disclosure counsel for the respective Local Agencies. Such training sessions shall include education on these Disclosure Procedures, the respective disclosure obligations of the Local Agencies under applicable federal and State securities laws and the disclosure responsibilities and potential liabilities of staff members of the Local Agencies and members of their Legislative Bodies. Such training sessions may be conducted using a recorded presentation.

EXHIBIT A

Form of Staff Report

To: Members of the [City Council][Board]

From:

Date: __________________

This Staff Report relates to the proposed issuance of ______ (the "Obligations") by the [City][Successor Agency to the Former Milpitas Redevelopment Agency][Milpitas Public Financing Authority]. The [City Council][Board] is asked to approve issuance of the Obligations and all related documents. The near-final versions of these documents are attached.

The attached Preliminary Official Statement has been reviewed and approved for transmittal to the [City Council][Board] by the [City's][Successor Agency's][Authority's] financing team. The distribution of the Preliminary Official Statement by the [City][Successor Agency][Authority] is subject to federal securities laws, including the Securities Act of 1933 and the Securities Exchange Act of 1934. These laws require the Preliminary Official Statement to include all facts that would be material to an investor in the Obligations. Material information is information that there is a substantial likelihood would have actual significance in the deliberations of the reasonable investor when deciding whether to buy or sell the Obligations. If the [City Council][Board] concludes that the Preliminary Official Statement includes all facts that would be material to an investor in the Obligations, it must adopt a resolution that authorizes staff to execute a certificate to the effect that the Preliminary Official Statement has been "deemed final."

The Securities and Exchange Commission (the "SEC"), the agency with regulatory authority over the [City's][Successor Agency's][Authority's] compliance with the federal securities laws, has issued guidance as to the duties of the [City Council][Board] with respect to its approval of the Preliminary Official Statement. In its "Report of Investigation in the Matter of County of Orange, California as it Relates to the Conduct of the Members of the Board of Supervisors" (Release No. 36761 / January 24, 1996) (the "Release"), the SEC indicated that, if a member of the [City Council][Board] has knowledge of any facts or circumstances that an investor would want to know about prior to investing in the Obligations, whether relating to their repayment, tax-exempt status, undisclosed conflicts of interest with interested parties, or otherwise, he or she should endeavor to discover whether such facts are adequately disclosed in the Preliminary Official Statement. In the Release, the SEC indicated that the steps that a member of the [City Council][Board] could take include becoming familiar with the Preliminary Official Statement and questioning staff and consultants about the disclosure of such facts.

Section 1. *Purpose of Financing*.

Section 2. *Documents for Approval*; *Security for the Obligations*.

Section 3. *Risks Relating to Repayment and Tax-Exempt Status of the Obligations.*

Section 4. *Requested Approvals.*

MEETING MINUTES
CITY OF MILPITAS

Minutes of:	**Joint Meeting of Milpitas City Council, Successor Agency and the Public Financing Authority**
Date:	**Tuesday, February 3, 2015**
Time:	**7:00 PM**
Location:	**Council Chambers, Milpitas City Hall, 455 East Calaveras Blvd., Milpitas**

CALL TO ORDER

Mayor Esteves called the meeting to order at 6:31 PM. The City Clerk noted the roll.

PRESENT: Mayor Esteves, Vice Mayor Montano, Councilmembers Barbadillo and Grilli

ABSENT: Councilmember Giordano was absent at roll call, and arrived a few minutes later for Closed Session.

CLOSED SESSION

City Council convened in Closed Session to discuss litigation matters.

City Council then convened in Open Session at 7:11 PM.

ANNOUNCEMENT

None out of Closed Session.

PLEDGE

Boy Scouts Troop No. 92 presented the flags and led the pledge of allegiance.

INVOCATION

Vice Mayor Montano offered a prayer to start the meeting.

MEETING MINUTES

Motion: to approve the minutes of the January 20, 2015 City Council meeting

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 5
NOES: 0

SCHEDULE OF MEETINGS

Motion: to approve Council Calendar/Schedule of Meetings for February 2015

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 5
NOES: 0

PRESENTATION

Mayor Esteves presented certificates to:
1) Performers from the City's December 1, 2014 Tree Lighting Ceremony

2) Health for Humanity Yogathon sponsored by the Hindu Swayamsevak Sangh group. Four men from the group accepted the certificate and showed a video to promote "Sun Salutations" in yoga exercise. They also gave a physical demonstration of the exercises.

PUBLIC FORUM

Tom Valore, Milpitas resident, spoke out against resident Rajeev Madnawat, whose behavior he found reprehensible during the past election season, particularly on the internet. Mr. Valore commented on the Mayor's new campaign finance reform committee, and that he applied but never heard from the Mayor. He felt the Council could not get an objective result from the committee, as it was biased from the start so he objected to the whole purpose of the committee.

Robert Marini, Milpitas resident, referred to a letter from Sunnyhills Neighborhood Association about requesting that all future utility rate increases provide specific information. The city was in violation of a section of the state constitution, related to fees charged for utility rates.

Councilmember Giordano handed a packet of information from the state Fair Political Practices Commission to Mr. Marini, which she explained included several letters ruling that she did not have any conflict of interest in voting on matters related to real estate.

Rob Means, 1421 Yellowstone resident, commented on the overall human family. He talked about climate change, fosssil fuels, temperatures and other related topics.

Robert, a Milpitas resident, said every year was a dumber idea than last year. Get rid of the landfill, he urged. He made comments about the land for the current landfill and sewage treatment plant he believed was just given to the City of San Jose by Milpitas.

City Manager Tom Williams responded to the last speaker that the land was in the City of San Jose, as it always had been, not Milpitas. Mayor Esteves disagreed with the last speaker.

Voltaire Montemayor, Milpitas resident, suggested exercise could be applied city-wide on specific days. Water conservation should be observed, he said.

ANNOUNCEMENTS

City Manager Tom Williams announced that on Saturday, February 14 and Sunday, February 15, Dixon Landing Road would be closed (at railroad) for a short period for the BART building project. Also, he announced two City holidays this month on February 12 and February 16.

Mayor Esteves noted the 50th anniversary of the Civil Rights March and legislation, upon the occasion of Black History Month observed during the month of February. Resident Demetress Morris accepted a plaque from the Mayor and invited all to Sunnyhills Church on Saturday, February 7 at 9:00 AM at the Methodist Church.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Ogaz asked the Mayor and Councilmembers if they had any personal conflicts of interest or reportable campaign contributions. No conflicts or contributions were reported.

APPROVAL OF AGENDA

Motion: to approve the agenda, as submitted

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 5
NOES: 0

CONSENT CALENDAR

Motion: to approve the Consent Calendar items (noted by *asterisk), as amended

Mayor Esteves requested to remove agenda item no. 9 (approve mid-year budget) from consent.

Councilmember Giordano asked to place item no. 10 (receive Financial Status report) onto consent. Vice Mayor Montano asked for a graph or pie chart or bar graph for the next time the financial report was provided by staff.

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 5
NOES: 0

* 5. Appointments

Upon Mayor Esteves' recommendation:
1) City Engineer Steven Machida, staff alternate to Councilmember Barbadillo on the Santa Clara Valley Water District Water Commission, had a term expired in December 2014 so Council re-appointed Mr. Machida in the same capacity.

2) Appointed Councilmember Marsha Grilli as the Milpitas representative and Councilmember Giordano as Alternate to the Santa Clara County's Expressway Plan Policy Advisory Board.
3) Appointed Councilmember Garry Barbadillo as the Alternate to Vice Mayor Montano on the Santa Clara Valley Transportation Authority's Policy Advisory Committee.

* 6. Commission appointments	Economic Development Commission: newly appointed Milpitas Unified School Board member Bob Nunez as school board member on the Economic Development Commission to a term that will expire in April of 2016. Parks, Recreation and Cultural Resources Commission**:** newly appointed Samu Tiumalu to serve as Alternate No. 2 on the PRCRC to a term that will expire in June of 2015.

* 7 Youth Advisory Work Plan Approved the Youth Advisory Commission Work Plan for 2015.

* 8 Investments status	Received the investment report for the quarter ended December 31, 2014.
*10. Financial Status Report	Received the financial status report for the six months recently ended on December 31, 2014.
*11. Resolution – By-Laws	Adopted Resolution No. 8442 approving revisions to the Senior Advisory Commission Bylaws.
*12. Resolution approve MOU	Adopted Resolution No. 8443 approving the Memorandum of Understanding with the Mid-Management and Confidential Unit covering the period of February 4, 2015 through June 30, 2016.
*13. Resolution approve MOU	Adopted Resolution No. 8444 approving the Memorandum of Understanding with the Milpitas Professional and Technical Group covering the period of February 4, 2015 through June 30, 2016.
*14. Resolution approve MOU	Adopted Resolution No. 8445 approving the Memorandum of Understanding with the Milpitas Association (MEA) covering the period of February 4, 2015 through June 30, 2016 unless extended, upon condition that MEA dismiss the Public Employees Relations Board (PERB) charge.
*15. Community Center Audio Visual upgrade	Approved plans and specifications for Project No. 3406, and authorized advertisement for Bid Proposals for Community Center Auditorium Audio Visual Systems upgrade.
*16. Legal Services from Burke, Williams & Sorensen	Approved the First Phase Agreement with the law firm of Burke Williams & Sorensen, LLP for legal services regarding the elimination of odors in the City of Milpitas.

PUBLIC HEARINGS

1. Resolution related to Land Use Conversions	Senior Planner Adam Petersen provided background on why the City Council was requested to repeal a section of a previously adopted resolution resulting in a policy regarding exemption to industrial land conversions to residential land at California Circle, and also specified for a part of the McCarthy Ranch area. He displayed drawings of two approved projects for residential projects along California Circle in an otherwise industrial area that were approved based on the existing exemption. No comments were received about this proposed change, despite extra outreach efforts including to property owners. On January 14, the Milpitas Planning Commission recommended that City Council adopt the resolution. Councilmember Grilli asked questions about the Waterstone residential project. It was not high density, staff explained. Now, a more consistent neighborhood was sought for California Circle ultimately.

Mayor Esteves expressed his intent for this change. He wanted the land in the middle never to change to residential use at California Circle.

Councilmember Barbadillo asked about progress in the Transit Area and the MidTown areas, and questioned the motivation for this exemption in the resolution.

Vice Mayor Montano asked for further details on the map and why the McCarthy Blvd. area was on it and recommended for exemption. Staff responded that this segment was to remain as zoned, if the resolution was adopted.

Mayor Esteves asked staff to explain "compatibility" as mentioned in the explanation for this change.

Next, Mayor Esteves opened the public hearing for comments

Robert Marini, Milpitas resident, commented on exemptions from the rules and lack of consistency. He talked about Councilmembers satisfying developers.

Rob Means, Milpitas resident, said it sounded like the City was making it easier to convert this property from industrial to residential. He did not understand that when trying to build out the TASP area. People would still be driving their vehicles in that area.

Bob Nunez, California Villas resident, saw this as a change that would be helpful. He understood a desire for some conformity in his neighborhood with the new developments coming in. He supported the staff recommended change in the resolution.

Voltaire Montemayor, Milpitas resident, agreed on it and urged a decision.

(1) Motion: to close the public hearing

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 5
NOES: 0

Mayor Esteves said he was serious about drastic changes to job sites, commercial land, being changed to residential land. There was no problem of compatibility, as he did not see that with the two approved California Circle developments. He did not view California Circle as a good site for residential development.

Councilmember Grilli understood the staff recommendation but did not support it. She did not want further conversion and cared about the impact to schools.

Councilmember Barbadillo agreed with consistency. All needed to assess what was going on currently: the resolution exempted the two areas from conversions. He supported the removal of the exemption. It would thus encourage development of the two specific plan areas that were underway.

Vice Mayor Montano felt the BAPS land near California Circle should be exempted. She had a split idea, not to exempt for McCarthy Ranch while leaving in an exemption for California Circle.

Councilmember Giordano supported staff and Planning Commission recommendations, since it made sense to her and was good planning.

Vice Mayor Montano moved to adopt a resolution allowing for an exemption for the BAPS land near California Circle and to remove it for the McCarthy Ranch land. There was no second to her motion.

Councilmember Barbadillo made a motion to adopt the resolution as staff recommended.

(2) Motion: to adopt Resolution No. 8441 repealing Paragraph 7 in the previously adopted Resolution No. 8220

Motion/Second: Councilmember Barbadillo/Councilmember Grilli

City Attorney Ogaz commented further that the City Council could delete the final sentence in the last paragraph in the Resolution if the goal was to not allow any exemption for California Circle. Councilmembers agreed.

Mayor Esteves clarified that no other lots would be exempted if adopted in this manner, and he accepted this change, as did motion maker Councilmember Barbadillo.

Motion carried by a vote of: AYES: 3
NOES: 2 (Giordano, Montano)

2. Zoning Amendment Prohibiting Ground Floor residential in Town Center

Senior Planner Adam Petersen reviewed the city-initiated zoning change text amendment written primarily to prohibit ground floor residential use in the Town Center zone, and to limit live/work units to 10% of a mixed use project, along with other changes. He explained the outreach conducted including a notice mailed to 850 property owners and residents. The Milpitas Planning Commission recommended that the Council approve this Town Center zone text amendment.

Councilmember Giordano stated her view that this was an excellent proposal. It would keep the initial intent of the Town Center so she was glad.

Vice Mayor Montano did not like mixed-use in this development, and the City should keep it for business uses primarily. She remarked on high volume of traffic on Calaveras Blvd.

Mayor Esteves explained the reason this proposed change came forward, to allow limited residential where ground floor commercial required. No 100% residential was allowed.

Councilmember Barbadillo opposed any residential development at all in Town Center, and he was not okay with the idea of mixed use.

Councilmember Giordano proved some history about this site and the overlay district at Town Center.

Vice Mayor Montano agreed with Councilmember Barbadillo. Housing was not part of the equation when Town Center was first built so she urged to change it back to the original conception with no residential there at all, with only commercial uses. Heavy traffic was an issue.

Mayor Esteves asked how staff assessed the economic impact to development that would be only commercial. He felt a need to support economic trends.

Councilmember Barbadillo asked how large in size was the entire Town Center area? Staff did not know by square feet but it was roughly two miles square.

Mayor Esteves opened the public hearing for comments.

Steve Sidell, resident, had lived in this area of Town Center on Sinclair and hoped new residents would be respected when moving into the Town Center area. He felt the recommendation was well thought out by Planning staff and the Planning Commission. He agreed walking across E. Calaveras Blvd was dangerous out there. He supported the recommendation and enjoyed living in this city.

Heidi Wolf-Reed, resident, said that if you want vibrant commercial you need residents to support that. Around the bay, people could see dead downtowns where residences were denied. There was a need for good mixed-use buildings to save from blight.

Robert Marini, resident, felt the city was overcrowded now, so just keep Town Center with no residential built there. He also suggested building a hotel at the former Mervyn's store site.

Voltaire Montemayor, resident, said the Council could consider no more residential at all in Town Center, and it could keep mixed use.

(1) Motion: to close the public hearing

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 5
NOES: 0

Mayor Esteves stated he possibly wanted to change his mind, after asking many questions about where residential or commercial development was currently located. He wanted to save job sites and tax-generating sites. The focus on housing in Milpitas was in the Transit Area now.

(2) Motion: to waive the first reading beyond the title of Ordinance No. 38.820

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 5
NOES: 0

(3) Motion: to introduce Ordinance No. 38.820 (to disallow any ground-floor residential development in the mixed-use Town Center Zoning area)

Motion/Second: Councilmember Giordano/Councilmember Grilli

Councilmember Grilli was happy with this change and would like to see limiting purely residential while mixed use was a good concept. The City should encourage a vibrant community there.

Councilmember Barbadillo commented on live/work units, with only two approved and not yet built; this concept was not yet tested. The same thing was true about mixed use, with no solid example of how this worked in Milpitas.

Mayor Esteves asked about the height limit of buildings in Town Center. Staff responded that the City Council could limit height of a specific proposed building.

Vice Mayor Montano agreed with Councilmember Barbadillo that it was a good idea to keep the Town Center area all commercial, with no residential development at all.

Motion carried by a vote of: AYES: 2 (Grilli, Giordano)
NOES: 3

Councilmember Barbadillo then made a new motion to direct staff to come back with a proposed ordinance eliminating all residential development in the Town Center zone, and be presented at next Council meeting. Vice Mayor Montano seconded.

City staff noted the need to re-notice this action, so staff could bring it back on March 3.

Councilmember Giordano responded that she would vote no on the motion, as she thought what was on agenda tonight was good planning.

(4) Motion: to direct staff to return to City Council on March 3 with a new ordinance and necessary actions to eliminate all residential development in the Town Center zone

Motion/Second: Councilmember Barbadillo/Vice Mayor Montano

Motion carried by a vote of: AYES: 3
NOES: 2 (Grilli, Giordano)

City Council then took a break at 9:50 PM and then reconvened at 10:02 PM.

3. Development Agreement with SCS/Citation, et al.

Planning Director Steve McHarris presented the development agreement proposed for the Citation projects in the Transit Area Specific Plan: Amalfi I & II, The Edge. Fees were requested to be deferred for impact fees. Staff provided history on fees in the TASP. Three projects by Citation would be affected in the development agreement for newly constructed apartments in the Transit Area with commercial uses mixed in.

Mayor Esteves asked questions about the value City would receive from constructing the units up front. He questioned the need for the fee reduction.

Vice Mayor Montano asked if the developer would pay the TASP impact fees and Mr. McHarris replied yes.

Councilmember Grilli asked about the performance schedule, as mentioned by staff.

Vice Mayor Montano felt no one would live in those units if the park did not get built. A community benefit included the new park getting built by the developer (as opposed to solely paying park-in-lieu fees).

Mr. McHarris identified benefits and findings for the ordinance recommending adoption of the Development Agreement with Citation.

Councilmember Barbadillo tried to summarize the issue at hand, which was a special exemption for one developer. He objected to changing facts when the fees had been determined by a nexus study, successfully.

City Manager Williams responded about the density of development in the Transit Area, the adopted fee, and that maybe it would be adjusted again, due to the dynamics of the fluid market.

Mark Tiernan, representing the developer, was at the podium for developer suggesting it would be acceptable to continue or delay the hearing.

Mayor Esteves then asked to continue this matter to the next meeting.

First, Mayor Esteves opened the public hearing for comments. It was pointed out that those who spoke at this public hearing on this date would not be permitted to speak again at the next public hearing date.

Rob Means, 1421 Yellowstone resident, spoke about the $3.8 million the City seemed willing to allow the developer, and he asked, in exchange for what? Did the citizens get fair value for that dollar figure? The developer was going well beyond what other developers in the city had done, with other benefits identified.

Tom Valore, Cardiff Place resident, agreed with what Mr. Means expressed. He asked the Council how it would expect anyone to play a game with floating or changing fees. A developer needed to know what the fees were once established.

Motion: to continue the public hearing on the Development Agreement to the next City Council meeting date of February 17, 2015

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 5
NOES: 0

UNFINISHED BUSINESS

4. Odor Report — This item was not heard.

NEW BUSINESS

9. Mid-Year budget adjustment — Motion: to approve the identified five Fiscal Year 2014-15 mid-year budget appropriations as itemized:

1) Increase the budget appropriation to the General Fund and Transit Area Impact Fee Fund by $6 million to pay for the final installment payments to Mission West Properties related to the purchase of the McCandless property.
2) Increase the budget appropriation for various Transit Area infrastructure projects by $7,838,901.
3) Increase the budget appropriation for the 2014 Road Rehabilitation Project (CIP 4270) by $115,920 to include the rehabilitation work needed at Aspen Village on Main St. Transfer $23,100 from Gas Tax Fund to fund the 2015 Street Resurfacing Project (CIP 4275).
4) Increase the budget appropriation for the Engineering Department by $13,750 to cover expenses associated with the contract with NBS Government Finance Group for the required annual administration of the City's Lighting Landscape Maintenance Districts.
5) Increase the budget appropriation for the Fire Department by $1,500 for food purchased for residents sheltered at the Sport Center during the December 11, 2014 storm.

Motion/Second: Mayor Esteves/Vice Mayor Montano

Motion carried by a vote of: AYES: 5
NOES: 0

The City Council portion of the joint meeting was then adjourned at 11:22 PM.

JOINT MEETING — **CITY COUNCIL, SUCCESSOR AGENCY & PUBLIC FINANCE AUTHORITY**

SA1 Call to Order — The Joint Meeting was called to order at 11:22 PM with all members present.

SA2 Approve Agenda — Motion: to approve the agenda of the joint meeting

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 5
NOES: 0

SA3. Joint Resolution Adopting Policies and Procedures — Finance Director Emma Karlen explained the need for policy and procedures to be approved.

Jones Hall legal counsel Chris Lynch presented information to the City Council and explained why the training this evening was needed per federal securities law. He gave background on regulations and provided training to the Council, designed primarily to prohibit fraud by public agencies including municipalities. There were many SEC rules to follow, including the adoption of written policies and procedures. Important material facts about the city must be included in bond disclosure documents - for example, if a large employer leaving the city was known or if pension fund obligations were larger than described.

Mayor Esteves requested a copy of the powerpoint presentation given by Mr. Lynch.

Vice Mayor Montano asked whether the city was audited. Mr. Lynch agreed the City had an annual audit, however the policies and procedures approved at this meeting were specific to bond issuance regulations.

Motion: to adopt a joint resolution No. 8446 / SA 7 / PFA 16 of the City Council of the City of Milpitas, the Board of the Successor Agency to the former Milpitas Redevelopment Agency and the Board of the Milpitas Public Financing Authority approving the adoption of Disclosure Policies and Procedures

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 5
NOES: 0

SA4. Resolution of Successor Agency

Finance Director Emma Karlen reviewed the explanation for action by the Agency board to permit the refunding bonds to be issued along with the required Preliminary Official Statement. She reviewed the terms of bonds, and other details considered for investment purposes. These were rated AA- which was fairly high for the city, following dissolution of the Redevelopment Agency.

Motion: to adopt Resolution No. SA 8 of the Board of the Successor Agency confirming the issuance of tax allocation refunding bonds pursuant to an indenture of trust, approving preliminary and final official statements and providing other matters relating thereof, including approving a depository agreement.

Motion/Second: Agency Vice Chair Montano/Board member Grilli

Motion carried by a vote of: AYES: 5
NOES: 0

ADJOURNMENT

Mayor Esteves adjourned the joint meeting at 11:37 PM.

The foregoing minutes were approved by the Milpitas City Council on February 17, 2015.

Mary Lavelle
Milpitas City Clerk