



JOINT MEETING OF THE MILPITAS CITY COUNCIL AND THE MILPITAS HOUSING AUTHORITY

AGENDA
TUESDAY, JUNE 1, 2021
MILPITAS, CA
7:00 PM (PUBLIC BUSINESS)

For assistance in the following languages, you may call:

Đối với Việt Nam, gọi 408-586-3122

Para sa Tagalog, tumawag sa 408-586-3051

Para español, llame 408-586-3232

City Council meeting is held via teleconference /Zoom webinar only (no physical meeting space).
You may watch the Council meeting without providing public comment by accessing it via links here.

Meeting shall be livestreamed - Go to:

Facebook: <https://www.facebook.com/CityofMilpitas/>

YouTube: <https://www.ci.milpitas.ca.gov/youtube>

Web Streaming: <https://www.ci.milpitas.ca.gov/webstreaming>

PUBLIC COMMENT INSTRUCTIONS

Oral public comments may be provided live during the City Council meeting by first registering for the zoom meeting in advance by providing email address (not disclosed) and a name. To minimize technical difficulties, please make sure that you have the latest version of Zoom Meetings. Here is the link to register for this meeting only:

https://ci-milpitas-ca-gov.zoom.us/webinar/register/WN_v09JM3bLReikcv-xO-vJkA

A link will be sent to you to join the City Council meeting in order to give your comments. All registered meeting attendees who wish to speak must click on the “raise hand” icon when the Mayor calls for public comments. If participating by calling in on your phone, dial *9 to use the “raise hand” feature, and when you are called upon, hit *6 to unmute your phone. Your phone number will be displayed in the live meeting. The Mayor or staff will call the speakers to begin.

All comments provided shall be limited to three minutes or less as determined by the Mayor. All members of the public will be limited to one comment per agenda item, and one comment for non-agenda items. online written comment form previously used is no longer available for public comment.

MILPITAS CITY COUNCIL CODE OF CONDUCT

- Be respectful and courteous (words, tone, and body language).
- Model civility.
- Avoid surprises.
- Praise publicly and criticize privately.
- Focus on the issue, not the person.
- Refrain from using electronic devices while on the Council dais.
- Disclose conflicts of interest and affiliations related to agenda items.
- Separate governing from campaigning.
- The Council speaks with one voice after making policy on issues.
- Respect the line between policy and administration.
- Council will hold one another accountable to comply with this Code of Conduct.

CALL MEETING TO ORDER by Mayor and ROLL CALL by City Clerk (7:00 PM)

PLEDGE OF ALLEGIANCE

INVOCATION (assigned to Mayor Tran)

PRESENTATIONS

- LGBTQ+ Pride Month (Proclamation)
- Philippine Independence Day (Proclamation)

PUBLIC FORUM

Those interested are invited to address City Council on any subject not on tonight's agenda, orally via zoom webinar (instructions on page 1). Speakers may provide their name and city of residence for the Clerk's record, and comments may be limited to three minutes or less. As an item not listed on the agenda, no response is required from City staff or the Council and no action can be taken. The City Council may instruct the City Manager to place the item on a future meeting agenda.

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS (7:20 PM)

Members of the City Council or City Manager may make brief announcements at this time. Members of the City Council may also suggest future agenda items at this time. For future agenda items, the City Council shall not debate the topic or engage in discussion but shall simply state a "yes" or "no" as to whether to direct the City Manager to place the item on a future meeting agenda. If a majority of the City Council agrees to place an item on a future meeting agenda, the City Manager shall place the item on a subsequent agenda for City Council discussion.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

READING OF THE CITY COUNCIL CODE OF CONDUCT

APPROVAL OF AGENDA

CONSENT CALENDAR (7:30 PM)

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 City Councilmember, 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.

C1. Receive City Council Calendar of Meetings for June 2021 (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)

C2. Approve City Council meeting minutes of the May 18, 2021, Regular City Council Meeting (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)

Recommendation: Approve meeting minutes of the May 18, 2021, Regular City Council Meeting.

C3. Adopt a Resolution to do a flag raising to commemorate Philippine Independence Day at Cesar Chavez Plaza (Contacts: Mayor Tran, 408-586-3029; and Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)

Recommendation: Adopt a Resolution to do a flag raising to commemorate Philippine Independence Day at Cesar Chavez Plaza.

C4. Approve a Budget Amendment to Establish and Fund the Pedestrian Trail Replacement Project Connecting Sinnott, Browne and Murphy Parks (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)

Recommendation: Approve Budget Amendment to Establish and Reallocate \$71,080 unused funds from the Creighton Park Project (CIP 5109) to the Pedestrian Trail Replacement Project (CIP 3492) Connecting Sinnott, Browne and Murphy Parks.

- C5. Approve and Authorize the City Manager to Execute a Master Funding Agreement with the Santa Clara Valley Transportation Authority (VTA) for the 2016 Measure B Bike and Pedestrian Education and Encouragement Program; Establish the Fiscal Year 2021-22 Project Bike and Pedestrian Public Outreach Project (CIP No. 4306); and Approve a FY 2021-22 budget appropriation of \$45,000 for Project No. 4306 funded from Measure B Bike and Pedestrian Education and Encouragement Funding (Staff Contacts: Steve Chan, Transportation and Traffic Manager, 408-586-3324; and Steve Erickson, Engineering Director/City Engineer, 408-586-3301)**

Recommendation: Approve and Authorize the City Manager to Execute a Master Funding Agreement with the Santa Clara Valley Transportation Authority (VTA) for the 2016 Measure B Bike and Pedestrian Education and Encouragement Program; Establish the Fiscal Year 2021-22 Project Bike and Pedestrian Public Outreach Project (CIP No. 4306); and Approve a FY 2021-22 budget appropriation of \$45,000 for Project No. 4306 funded from Measure B Bike and Pedestrian Education and Encouragement Funding.

- C6. Accept Commissioner Resignation (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)**

Recommendation: Accept the resignations of Commissioner Rajani Nair from the Science, Technology and Innovation Commission and Commissioner Benjamin Tang from the Art Commission; and confirm the noticing of the unscheduled vacancies.

- C7. Approve and Authorize the City Manager to Execute Amendment No. 5 to the Cost-Sharing Agreement Among West Valley Sanitation District, Cupertino Sanitary District, County Sanitation District No. 2-3 of Santa Clara County, Burbank Sanitary District, and the City of Milpitas (Staff Contact: Christopher Diaz, City Attorney, 408-586-3040)**

Recommendation: Approve and authorize the City Manager to execute Amendment No. 5 to the Cost Sharing Agreement among West Valley Sanitation District, Cupertino Sanitary District, County Sanitation District No. 2-3 of Santa Clara County, Burbank Sanitary District, and the City of Milpitas.

PUBLIC HEARINGS (7:45 PM)

- 8. Open the Public Hearing and Adopt Resolutions to Approve the Fiscal Year 2021-22 Operating Budget for the City of Milpitas and the Milpitas Housing Authority, Approve the Fiscal Year 2021-22 Gann Appropriations Limit, Authorize Various Financial Actions, Fiscal Policies and Budget Guidelines, Amend the Classification Plan for Alignment with the FY 2021-22 Budget, the Minimum Wage Increase, and Salary Schedules Consistent with Previous Council Action (Staff Contact: Lauren Lai, Finance Director/Risk Manager, 408-586-3111)**

Recommendations: Open the public hearing and move to close the hearing following any speakers. Adopt the following Resolutions: (1) Joint Resolution of the City Council and Milpitas Housing Authority to approve the Fiscal Year 2021-22 Operating Budget the City of Milpitas and the Milpitas Housing Authority, approve the Appropriations Limit, Fiscal Policies and Budget Guidelines and authorizing various financial actions by the City Manager, including Approving and Authorizing the Execution of Various Contracts and Payments over \$100,000. (2) Amending Resolution No. 1626, the Classification Plan, to authorize additional positions and amend budgeted allocated positions. (3) Amending Resolution No. 1626, the Classification Plan, to adjust the hourly rate ranges for classifications due to a minimum wage increase pursuant to Ordinance No. 292. (4) Amending Resolution No. 1626, the Classification Plan, to adjust the Salary Schedules for all IAFF, Mid-CON, PROTECH, MEA, Miscellaneous Unrepresented and Fire Unrepresented Classifications.

- 9. Conduct a Public Hearing and Introduce Ordinance No. 227.8 Amending Chapter 215 (Regulation of Smoking in Certain Places), Title V (Public Health, Safety and Welfare), of the Milpitas Municipal Code Relating to Prohibiting Smoking in Multi-Unit Housing and Certain Outdoor Areas and Making Findings of CEQA Exemption (Staff Contact: Ned Thomas, Planning Director, 408-586-3273)**

Recommendation: (1) Conduct a public hearing and move to close the hearing following comments; (2) City Attorney shall read aloud title of Ordinance No. 227.8; (3) Move to waive the first reading beyond the title and introduce Ordinance No. 227.8 amending Chapter 215, Title V of the Milpitas Municipal Code and making findings of CEQA exemption.

COMMUNITY SERVICES AND SUSTAINABLE INFRASTRUCTURE (9:45 PM)

- 10. Receive Update on the Beautify Milpitas Program (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)**

Recommendation: Receive update on the Beautify Milpitas and provide any additional direction to staff.

PUBLIC SAFETY (10:00 PM)

- 11. Receive Presentation of Police Department's Response to Mental Health Related Calls (Staff Contact: Jared Hernandez, Acting Chief of Police, 408-586-2402)**

Recommendation: Receive Presentation of Police Department's Response to Mental Health Related Calls.

REPORTS OF MAYOR & COUNCILMEMBERS - from assigned Commissions, Committees and Agencies (10:15 PM)

- 12. Recommendations from Mayor Tran for Appointments for City Commissions (Contact: Mayor Tran, 408- 586-3029)**

Recommendation: Approve Mayor Tran's recommendations for the following City commissions: Arts Commission; Community Advisory Commission; Economic Development and Trade Commission; Energy and Environmental Sustainability Commission; Library and Education Advisory Commission; Parks, Recreation, and Cultural Resources Commission; Public Safety and Emergency Preparedness Commission; Science, Technology, and Innovation Commission; Veterans Commission; and Youth Advisory Commission; and approve the final appointments.

- 13. Receive and Direct Staff on the List of Agenda Items Requested by City Councilmembers (Contact: Mayor and City Councilmembers, 408-586-3000)**

Recommendation: Review the list of items that have been requested by City Councilmembers on a form, at a Council meeting, or through the City Manager. Direct items to a City Council Subcommittee, to be placed onto a specific meeting date, or specify alternate direction to staff. No substantive discussion about any specific item shall occur and the City Council shall hold all debate about the item until it is scheduled as a full agenda item.

NEXT AGENDA PREVIEW (10:25 PM)

- 14. Receive Preview List of Anticipated Items for the Next Regular City Council Meeting Scheduled on June 15, 2021 (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)**

Recommendation: Receive list of anticipated agenda items for the June 15, 2021 regular City Council meeting.

ADJOURNMENT (10:30 PM)

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

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

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection ~~at the City Clerk's office at Milpitas City Hall, 3rd floor 455 E. Calaveras Blvd., Milpitas and~~ on City website. City Council agendas and related materials can be viewed online: www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp (select meeting date)

APPLY TO SERVE ON A CITY 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 408-586-3001 for more information.

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, please call the City Clerk at 408-586-3001 or send an e-mail to CityClerk@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda.

May 2021						
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Milpitas City Council Calendar

June 2021

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		7:00 PM -City Council 1	2:00 PM -Santa Clara VTA Monthly Briefing - Northeast Group (CM) 5:30 PM -Veterans Commission (RT) 7:00 PM -Community Advisory Commission (EC) 2	12:00 PM -Santa Clara Library JPA (EC) 2:00 PM -City Council Housing Subcommittee (EC/AP) 5:30 PM -Milpitas Chamber of Commerce Board (EC) 5:30 PM -Santa Clara VTA Board of Directors (CM) 3	4	5
6	5:30 PM -Park Marker (PRCR) Subcommittee 7:00 PM -Parks, Recreation & Cultural Resources Commission (CM) 7	4:00 PM -Milpitas HOPE Suicide Prevention Task Force 5:30 PM -Special City Council 8	5:00 PM -Special Youth Advisory Commission (EC) 7:00 PM -Silicon Valley Clean Energy Board of Directors (EC) 7:00 PM -Planning Commission 9	4:00 PM -Treatment Plant Advisory Committee (CM) 4:00 PM -Santa Clara VTA Policy Advisory Committee (AP) 5:00 PM -Homelessness Task Force 7:00 PM -Youth Advisory Commission (EC) 7:00 PM -Cities Assoc of SCC (CM) 10	3:00 PM -City Council Transportation Subcommittee (RT/CM) *4:30 PM -City Council Finance Subcommittee (RT/CM) 11	12
13	14	7:00 PM -Closed Session 7:00 PM -City Council 15	6:00 PM -Energy and Environmental Sustainability Commission (EC) 16	5:30 PM -Measure F Oversight Committee 6:00 PM -Short-term Rental Workshop 17	18	19
20	7:00 PM -Science, Technology, and Innovation Commission (RT) 21	10:00 AM -Special City Council 1:30 PM -Senior Advisory Commission (AP) 6:00 PM -Short-term Rental Workshop 22	5:30 PM -Cities Assoc. of SCC - Recycling and Waste Reduction Commission (AP) 7:00 PM -Planning Commission 23	4:00 PM - City/MUSD Collaborative Subcommittee (RT/CM) 6:00 PM - Main Street Community Conversations – History and Culture 24	25	26
27	28	29	12:00 PM -Santa Clara Valley Water District - Water Commission (CM) 30			

**Finance Subcommittee will meet only as needed*

CITY OF MILPITAS MEETING MINUTES

Minutes of: Meeting of the Milpitas City Council
Date: Tuesday, May 18, 2021
Time: 6:00 PM Closed Session
7:00 PM Open Session
Location: Meeting held via teleconference/zoom webinar online
Milpitas, CA

CALL TO ORDER

Mayor Tran called the regular meeting to order at 6:00 PM. City Clerk Wood called the roll. The meeting took place via teleconference/zoom webinar.

PRESENT: Mayor Tran, Vice Mayor Montano, Councilmembers Chua, Dominguez, and Phan

ABSENT: None

CLOSED SESSION

(a) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Government Code Section 54956.9(d)(1)

City as Plaintiff

County Sanitation District 2-3, West Valley Sanitation District, Burbank Sanitary District, Cupertino Sanitary District, and City of Milpitas v. City of San Jose, City of Santa Clara

(b) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9(d)(2)

Cost Dispute with Tributary Agencies (Burbank Sanitary District, Cupertino Sanitary District, West Valley Sanitation District, County Sanitation District 2-3) Regarding Legal Expenses

City Council reconvened to the public portion of the meeting at 7:00 PM.

CLOSED SESSION ANNOUNCEMENT

City Attorney Diaz announced that the City Council made a decision in Closed Session but there was no reportable action.

PLEDGE

Mayor Tran led all in the Pledge of Allegiance.

INVOCATION

Councilmember Chua introduced Pastor Mike Villanueva from Captive Church and asked him to lead the Invocation.

PRESENTATION

Mayor Tran proclaimed the week of July 14 – 21 2021, as Public Works Week, proclaimed May 24, 2021, as Eritrea Independence Day, and proclaimed May 31, 2021, as Memorial Day.

PUBLIC FORUM

The following spoke during Public Forum:

1. Urvishkumar Mehta
2. Tom Valore
3. Voltaire Montemayor

ANNOUNCEMENTS & FUTURE AGENDA ITEMS

City Manager McHarris announced that Milpitas will have a County hosted Milpitas youth COVID vaccination site for residents ages 12 through 17 years old, at the Milpitas Sports Center on Thursday, May 27 from 1:00 to 7:30 p.m. The City is also working with the Milpitas Unified School District on targeted outreach to families.

Mayor Tran spoke about the upcoming Milpitas beautification event on Saturday and stated that it is full, but people can sign up for the waitlist.

Councilmember Chua requested a presentation from the City Manager and executive staff on an initial plan for the City's action items on how they will open up City Hall. She would like this information before the American Rescue Plan Act (ARPA) discussion in, so that they can determine if there is any funding needed to get City Hall COVID free compliant. She also made the following announcements:

1. On May 28 the Youth Advisory Commission is giving away finals care packages which include goodies and helpful hints on how to survive finals week. She thanked the commission for all their work on this event.
2. Milpitas Connected is the official newsletter for the City, it provides information and events happening in the City.
3. Presented a short video on the Milpitas Park and Creek Clean-up event.

Councilmember Dominguez announced that Mental Health Awareness month is in May. She stated that there are different activities the City and County are hosting online, and invited all residents to log on to help break the stigma around mental health. She spoke about the stress people have experienced during COVID and encouraged anyone experiencing anxiety, depression, or feeling overwhelmed to call 1-855-278-4204. She made a request to create a collaborative video with the City Council to send a message to help break the stigma against asking for help and would like it posted and shared.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Diaz asked the Mayor and City Councilmembers if they had any personal conflicts of interest. By roll call, there were no conflicts of interest. City Attorney Diaz asked the Mayor and City Councilmembers if they had any reportable campaign contributions. By roll call, Councilmember Chua replied that she received campaign contributions as stated at the previous meeting. City Attorney Diaz clarified for the record that the contribution was from someone affiliated with item seven on the agenda. Mayor Tran replied that he received campaign contributions as stated at the previous meeting related to item seven on the agenda. No other Councilmembers had reportable campaign contributions.

CODE OF CONDUCT

City Attorney Diaz read aloud the City Council Code of Conduct.

APPROVAL OF AGENDA

Motion: to approve the May 18, 2021, meeting agenda.

Motion/Second: Mayor Tran / Vice Mayor Dominguez

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

CONSENT CALENDAR

The following items were added to the Consent Calendar:

1. **Agenda Item No. 18: Approve and Authorize the City Manager to Execute a Five-Year Professional Services Agreement with up to two additional two-year options to extend the service with PFM Asset Management LLC to Provide Section 115 Pension Trust Management Services and Establish a Section 115 Pension Trust**
2. **Agenda Item No. 19: Receive and Direct Staff on List of Agenda Items Requested by City Councilmembers**
3. **Agenda Item No. 20: Receive Preview List of Anticipated Items for the Next Regular City Council Meeting Scheduled on June 1, 2021**

The following items were removed from the Consent Calendar:

1. **Agenda Item No. C7: Adopt a Resolution upholding the Appeal of the Planning Commission's Denial and approving a Site Development Permit and Conditional Use Permit Amendment to Demolish an Existing Manual Coin-operated Car Wash and Develop a New, Fully Automatic 3,189-square foot Car Wash with an Additional 2,301-square foot Canopy Area and associated site improvements with an increased front setback of 37 feet-7 inches on a .46 Acre Site Located at 554 S. Main Street Pursuant to CEQA Guidelines 15303 and 15183**

City Attorney Diaz stated that for item C2 on the minutes, staff is asking for authority upon approval, to make a minor correction changing the day listed from Tuesday to Friday.

Motion: to approve the modified Consent Calendar, including Items No. C1-C6, C8-13; Agenda Item No. 18, 19, and 20; with a minor correction to item C2 as stated by the City Attorney.

Motion/Second: Mayor Tran / Vice Mayor Montano

Motion carried by a vote of:

AYES: 5

NOES: 0

- | | |
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| C1. Council Calendar | Received the City Council calendar of upcoming meetings for May and June 2021. |
| C2. Meeting Minutes | Approved meeting minutes of the May 4, 2021, Regular City Council Meeting, May 7, 2021, Special City Council Meeting, and May 11, 2021, Special City Council Meeting; with authority to make a minor correction. |
| C3. Resolution – Approving the Annual Engineer's Report for LLMD No. 95-1 | Adopted Resolution No. 9064 approving the Annual Engineer's Report; adopted Resolution No. 9065 declaring its intention to levy and collect assessments; and provide notice of the public hearing to be held on June 15, 2021, for LLMD 95-1 McCarthy Ranch. |
| C4. Resolution – Approving the Annual Engineer's Report for LLMD No. 98-1 | Adopted Resolution No. 9066 approving the Annual Engineer's Report; adopt Resolution No. 9067 declaring its intention to levy and collect assessments; and provide notice of the public hearing to be held on June 15, 2021, for LLMD 98-1 Sinclair Horizon. |
| C5. Resolution - Approving Acceptance of Public Improvements located at 1210 California Circle, Tract 10359 | Adopted Resolution No. 9068 approving acceptance of public improvements for the California Circle Residential Project located at 1210 California Circle, Tract 10359, Public Improvement Plan 2-1219; and approving a reduction in the faithful performance bond to \$131,000.00, which shall be subject and in effect for the duration of a one-year warranty period; and granting authorization to the City Engineer to release the performance bond after the one-year warranty period, without further City Council action provided all required warranty work is completed to the satisfaction of the City Engineer. |
| C6. Resolution - Accepting the 2021 Santa Clara County Multi-Jurisdictional Program for Public Information Program | Adopted Resolution No. 9069 accepting the 2021 Santa Clara County Multi-Jurisdictional Program for the Public Information Program; a program under the Community Rating System of the Federal Emergency Management Agency's National Flood Information Program. |
| 7. Resolution - Upholding the Appeal of the Planning Commission's Denial Located at 554 S. Main St. | This item was pulled off of consent. |

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| C8. Accept Four Donations
Totaling \$8,000 | Accepted four donations totaling \$8,000 from Gomez Consulting, Morley Bros., Overton Moore Properties, and the Pulte Group for funding temporary housing for unhoused persons and approved an appropriation of \$8,000 to the FY 2021-22 Recreation and Community Services Department Operating Budget. |
| C9. Approve the Proposed
Legislative Advocacy
Policy and Legislative
Guiding Principles | Approved the proposed Legislative Advocacy Policy and Legislative Guiding Principles. |
| C10. Approve and Authorize a
Memorandum of
Understanding (MOU) by
and Between the City of
Milpitas and the Milpitas
Unified School | Approved and authorized the City Manager, or his designee, to execute a Memorandum of Understanding (MOU) by and between the City of Milpitas and the Milpitas Unified School District regarding the MUSD Alliance Partners for Future-Ready Learners Program. |
| C11. Mayor's Recommendation
of Vice Mayor Carmen
Montano to Serve on the
BAWSCA/RFA | Approved Mayor's recommendation of Vice-Mayor Carmen Montano to serve on the Board of Bay Area Water Supply and Conservation Agency and its Regional Financing Authority for a four-year term from July 1, 2021, through June 30, 2025. |
| C12. Side Letter to Amend the
MOU between the City and
(MPOA) and between the
City and LIUNA/UPEC
Local 792, representing
(Mid-Con) and (ProTech) | Approved and authorized the City Manager to enter into a Side Letter to amend the Memorandum of Understanding between the City and the Milpitas Police Officers Association (MPOA) and between the City and LIUNA/UPEC Local 792, the Mid-Management-Confidential Unit (Mid-Con), and the Professional and Technical Unit (Pro-Tech) relating to the vacation cash-out provisions amending the Vacation Cash Out MOU provisions. |
| C13. Accept Youth Advisory
Commissioner Resignation | Accepted resignation of Commissioner Andrea Liu from the Youth Advisory Commission and confirm the noticing of the unscheduled vacancy. |

PUBLIC HEARINGS

- | | |
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| 14. Resolution - Approving
Vehicle Miles Traveled
Policy to Implement
Senate Bill 743 | <p>Planning Director Thomas introduced the item. Principal Planner Lee presented the report for the Vehicle Miles Traveled Policy to Implement Senate Bill 743. Consultant Karen Mack provided additional information.</p> <p>Mayor Tran opened the public hearing.</p> <p>The following spoke during Public Comment:</p> <ol style="list-style-type: none"> 1. Urvishkumar Mehta 2. Voltaire Montemayor <p>Mayor Tran closed the public hearing.</p> <p>Council asked clarifying questions.</p> <p><u>Motion:</u> to adopt Resolution No. 9070 for a new citywide policy to establish Vehicle Miles Traveled (VMT) as the standard of measurement for analysis of potential environmental impacts from vehicle traffic under the California Environmental Quality Act (CEQA).</p> <p>Motion/Second: Mayor Tran / Councilmember Phan</p> <p>Motion carried by a vote of:</p> |
|--|---|
- AYES: 5
NOES: 0

COMMUNITY DEVELOPMENT

15. Receive Monthly Report for Unhoused Services

Building Safety and Housing Director Goei gave a presentation for the monthly report of unhoused services. Santa Clara County Office of Supportive Housing Department Director, Kathryn Kaminski and Acting Police Chief Hernandez provided additional information.

The City Council received the March 2021 report for unhoused services and asked clarifying questions.

Council requested that staff bring back information on the following:

1. The number of people assessed that qualify for Project Homekey
2. Police data on individuals that qualify for 5150 W&I
3. The number of Police calls for service related to a mental health crisis and how many of those calls resulted in enrollment into psychiatric services provided by Valley Medical
4. The number of people that are part of the realignment in the probation system as part of AB109
5. Clarification on local jurisdiction parameters with regards to if there are any policies or laws in place at the Federal, State, or County levels
6. Continue receiving the monthly reports

The following spoke during Public Comment:

1. Urvishkumar Mehta
2. Voltaire Montemayor

No motion was made for this item.

COMMUNITY SERVICES & SUSTAINABLE INFRASTRUCTURE

16. Receive a Presentation on the Draft Milpitas Water Master Plan

Public Works Director Ndah introduced the item and City consultant Elizabeth Drayer gave a presentation on the Draft Milpitas Water Master Plan.

The City Council received the presentation and made a request for staff to bring back information on the cost and the need for water infrastructures and the wells on the map showing the red and black areas.

The following spoke during Public Comment:

1. Urvishkumar Mehta
2. Voltaire Montemayor

No motion was made for this item.

17. Receive a Presentation on the Draft Milpitas Sewer Master Plan

Public Works Director Ndah introduced the item and City consultant Curtis Lam gave a presentation on the Draft Milpitas Sewer Master Plan.

The City Council received the presentation and provided brief comments.

The following spoke during Public Comment:

1. Urvishkumar Mehta

No motion was made for this item.

LEADERSHIP AND SUPPORT SERVICES

C18. Approve and Authorize a Five-Year Professional Services Agreement with PFM Asset Management LLC to Provide Section 115 Pension Trust Management Services

Approved and authorized the City Manager to execute a Five-Year Professional Services Agreement with PFM Asset Management LLC to provide Section 115 Pension Trust Management Services; authorized the City Manager to execute up to two (2) additional two-year options to extend services without further City Council Action; authorize the City Manager to execute any Trust related documents after approval as to form by the City Attorney; and adopted Resolution No. 9071 for the Post-Employment Benefits Trust Agreement between PFM Assets Management LLC ("PFM") as Trust Administrator and Wells Fargo Bank, N.A. ("Wells Fargo") as directed Trustee; approve the Investment Earnings Goal for the Trust; and designate the City Trust Administrators.

This item was moved onto the Consent Calendar and approved as follows.

Motion/Second: Mayor Tran / Vice Mayor Montano

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

C19. List of Agenda Items Requested by City Councilmembers

Reviewed the list of items that have been requested by City Councilmembers at a Council meeting, or through the City Manager.

This item was moved onto the Consent Calendar and approved as follows.

Motion/Second: Mayor Tran / Vice Mayor Montano

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

C20. Preview Agenda Items

Received a list of anticipated agenda items for the June 1, 2021, regular City Council meeting.

This item was moved onto the Consent Calendar and approved as follows.

Motion/Second: Mayor Tran / Vice Mayor Montano

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

**ITEMS PULL OFF OF
CONSENT CALENDAR**

7. Resolution – Upholding the Appeal of the Planning Commission's Denial Located at 554 S. Main St

The following spoke during Public Comment:

1. Tom Valore
2. John Agg

City Attorney Diaz provided legal advice regarding this item. He stated that the City Council closed the public hearing at the last meeting, and it is important that the Council not take in any new information that changes their opinion or their vote. If any Councilmember is inclined to want to change their vote, then staff would need to reschedule a public hearing so that the appellant can be there to respond to any new information. Any public comment that was heard can be considered to direct any changes to the resolution, but that is the limitation for this meeting, so that there is no violation of the appellants' due process rights.

Councilmember Dominguez commented on the recommendations from staff and the Planning Commission, stated her concerns with the project, and said that she requested this item be pulled so that her vote will be noted for the record.

Councilmember Phan commented on his concerns with the project and stated his dissent.

City Attorney Diaz stated that there is a revised resolution which was distributed to Council and posted on the website prior to the meeting. The revision adds one condition which is listed as number 79 dealing with Police Department conditions particular to security videos. The motion for Council would be to adopt the revised resolution.

Motion: to adopt the revised **Resolution No. 9071** upholding the Appeal of the Planning Commission's Denial and approving Site Development Permit SD18-0010 and Conditional Use Permit Amendment UA18-0020 to demolish an existing manual coin-operated car wash and develop a new, fully automatic 3,189-square foot car wash with an additional 2,301-square foot canopy area and associated site improvements with an increased front setback of 37 feet-7 inches.

Motion/Second: Councilmember Chua / Vice Mayor Montano

Motion carried by a vote of:

AYES: 3
NOES: 1 (Phan)
ABSTAIN: 1 (Dominguez)

ADJOURNMENT

Mayor Tran adjourned the meeting at 10:30 PM.

Draft meeting minutes submitted by City Clerk, Wendy Wood



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution to do a flag raising to commemorate Philippine Independence Day at Cesar Chavez Plaza
Category:	Leadership and Support Services
Meeting Date:	6/1/2021
Staff Contact:	Mayor Tran, 408-586-3029, Renee Lorentzen, 408-586-3409
Recommendation:	Adopt a Resolution to do a flag raising to commemorate Philippine Independence Day at Cesar Chavez Plaza

Background:

Pursuant to Milpitas Municipal Code Section I-600-2.30(3), the City Council may, by resolution, direct City staff to display Commemorative Flags as an expression of the City's official sentiments by any of the following means: (i) display in lieu of the MIA/POW flag on one of the four City Hall Display Flag Poles located at the rear of City Hall adjacent to the pond, (ii) display in lieu of the flag of the State of California on one of the three flag poles located at Cesar Chavez Plaza, or (iii) display through ground level ceremonies at any of the following locations at the Civic Center complex or the City of Milpitas Community Center:

- (1) City Hall Rotunda
- (2) Area adjacent to pond at City Hall
- (3) Cesar Chavez Plaza
- (4) City Council Chambers

Mayor Tran is requesting that City Council adopt a Resolution directing staff to fly the Philippines Flag, in commemoration of Philippine Independence Day on Saturday, June 12, 2021. In accordance with the Municipal Code, the Commemorative Flags shall be displayed for a period of time that is reasonable or customary for the subject that is to be commemorated, but no longer than 30 continuous days.

Fiscal Impact:

None.

California Environmental Quality Act:

By the definition provided in the California Environmental Quality Act (CEQA) Guidelines Section 15378, this action does not qualify as a "project" for the purpose of CEQA.

Recommendation:

Adopt a Resolution to do a flag raising to commemorate Philippine Independence Day at Cesar Chavez Plaza.

Attachments:

Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS DIRECTING
STAFF TO FLY A FLAG TO COMMEMORATE PHILIPPINE INDEPENDENCE DAY
AT CÈSAR CHAVEZ PLAZA ON
JUNE 12, 2021**

WHEREAS, on August 1, 2017, the City Council (the “City Council”) of the City of Milpitas Adopted Ordinance No. 260.2 relating to the display of flags on City-owned property; and

WHEREAS, pursuant to Milpitas Municipal Code Section I-600-2.30(3), the City Council may, by resolution, direct City staff to display Commemorative Flags as an expression of the City’s official sentiments by any of the following means: (i) display in lieu of the MIA/POW flag on one of the four City Hall Display Flag Poles located at the rear of City Hall adjacent to the pond, (ii) display in lieu of the flag of the State of California on one of the three flag poles located at Cesar Chavez Plaza, or (iii) display through ground level ceremonies at any of the following locations at the Civic Center complex or the City of Milpitas Community Center:

- (1) City Hall Rotunda
- (2) Area adjacent to pond at City Hall
- (3) Cesar Chavez Plaza
- (4) City Council Chambers; and

WHEREAS, the City of Milpitas intends to fly a flag to commemorate Philippine Independence Day on June 12, 2021 in the Cèsar Chavez Plaza.

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. Pursuant to Milpitas Municipal Code Section I-600-2.30(3), the City Council hereby directs staff to fly a flag to commemorate Philippine Independence Day Commemorative in lieu of the flag of the State of California at Cèsar Chavez Plaza on June 12, 2021 after which staff shall resume flying the flag of the State of California unless the City Council directs otherwise by further resolution.

PASSED AND ADOPTED this _____ day of _____ 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Wendy Wood, City Clerk

Rich Tran, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve a Budget Amendment to Establish and Fund the Pedestrian Trail Replacement Project Connecting Sinnott, Browne and Murphy Parks
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	5/18/2021
Staff Contact:	Renee Lorentzen, Recreation and Community Services Director, 408-586-3409
Recommendation:	Approve Budget Amendment to Establish and Reallocate \$71,080 unused funds from the Creighton Park Project (CIP 5109) to the Pedestrian Trail Replacement Project (CIP 3492) Connecting Sinnott, Browne and Murphy Parks

Background:

The City of Milpitas is committed to providing an interconnected system of park and recreational facilities and services for its residents. Part of the existing system of park and trail access is a pedestrian trail at the south east side of Milpitas that allows residents to walk from Sinnott Park, to Bob Browne Park and Tennis Courts, and up to Murphy Park. The trail also serves as a main source of pedestrian access for several resident neighborhoods to the aforementioned parks as well as Rancho Middle School and Sinnott Elementary School. This City trail is located on Milpitas Unified School District (MUSD) property at the Rancho Middle School site but was installed and is maintained by the City of Milpitas. The initial installation date of the City trail is unknown and is not captured in any accessible City or District records. The existing path, regularly used by the community, is in fair condition and repairs are needed.

The 2018 MUSD Bond Measure included the renovation of athletic fields including the Rancho Middle School property. The scope of work and project area for the bond renovation project at Rancho requires that the existing trail access path be removed due to proximal construction, however the path can be reconstructed and replaced at the end of the project. The Rancho bond project construction will begin in May 2021 and is estimated to be completed in August 2021.

Analysis:

City and MUSD staff have met on the project scope for the Rancho bond project. The MUSD has proposed that they oversee and manage the replacement of the City trail as part of their larger bond project and the City reimburse the MUSD for the work due to its current condition. MUSD bid the Rancho bond project with add alternate work option to include the City trail replacement which was priced at \$59,080. City staff estimates that the cost to replace the trail as a separate project run by the City at the completion of the Rancho bond project would be more costly to the City than having the MUSD incorporate into their bond project.

Staff has identified available funding for a City trail replacement project in CIP 5109 Creighton Park Renovation. The Creighton Park renovation project was completed in December 2020 and has approximately \$400,000 available for reallocation to other capital improvement projects. Staff recommends a budget amendment to establish the Capital Improvement Project Pedestrian Trail Replacement (Sinnott, Browne and Murphy Parks) for the replacement of the City trail at Rancho Middle School to ensure trail connectivity between the Sinnott, Browne and Murphy parks.

If the City Council approves staff's recommendation, staff will work with MUSD to develop an agreement which the City Manager will execute under his authority. Further, the updated Joint Use Agreement with the MUSD

scheduled for Council consideration on June 15, 2021, will reflect that the rehabilitation of pedestrian trail was paid by the City.

Policy Alternatives:

Alternative 1: Do not approve a Budget Amendment to establish and fund the Capital Improvement Project titled Pedestrian Trail Replacement (Sinnott, Browne and Murphy Parks)

Pros: Existing CIP fund balances would be available for other capital improvement projects.

Cons: Not replacing the City trail would result in an interruption to the connectivity of the City's parks system and create access issue for residents to park amenities and local school sites.

Reason not recommended: The original trail was constructed with City funds. Due to its current condition, the trail is in need of rehabilitation.

Fiscal Impact:

The Creighton Park Renovation Project (CIP 5109) was completed in December 2020, funded by General Government CIP Fund and Park Fund and has an unused balance of approximately \$400,000. Staff recommends to establish the Capital Improvement Project 3492 titled Pedestrian Trail Replacement and reallocate \$59,080 plus a standard project contingency of 20% in the amount of \$12,000 for a total of \$71,080 from CIP 5109 to the new CIP Project.

California Environmental Quality Act:

The proposed action to approve a budget amendment relates to the Pedestrian Trail Replacement. As this is an existing pedestrian trail that is being replaced, it is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline 15301 as the operation, repair, and maintenance of an existing public trail involving negligible or no expansion of existing or former use. CEQA Guideline 15301 specifically includes pedestrian trails as the type of project that fits within the exemption pursuant to CEQA Guideline 15301(c).

Recommendation:

Approve Budget Amendment to Establish and Reallocate \$71,080 unused funds from the Creighton Park Project (CIP 5109) to the Pedestrian Trail Replacement Project (CIP 3492) Connecting Sinnott, Browne and Murphy Parks

Attachments:

1. City Trail and Rancho Bond Project Area Map
2. CIP Page to Fund Project 3492
3. CIP Page to Defund Project 5109
4. BCF Form

LEGEND

- LIMIT OF WORK
- (N) ACCESSIBLE ROUTE
- (E) ACCESSIBLE ROUTE
DSA #01-113006
- 5'-0" Ø TURN-AROUND
- 1.5% PROPOSED OR (E) SLOPE
- FS 73.10 PROPOSED ELEVATION
- (E)FS 71.60 (E) ELEVATION
- ⇒ (E) FIRE ACCESS ROUTE
- (N) ACCESSIBLE ENTRANCE SIGN
- b BOYS RESTROOM
- g GIRLS RESTROOM
- m MEN'S RESTROOM
- w WOMEN'S RESTROOM

ACCESSIBILITY COMPLIANCE

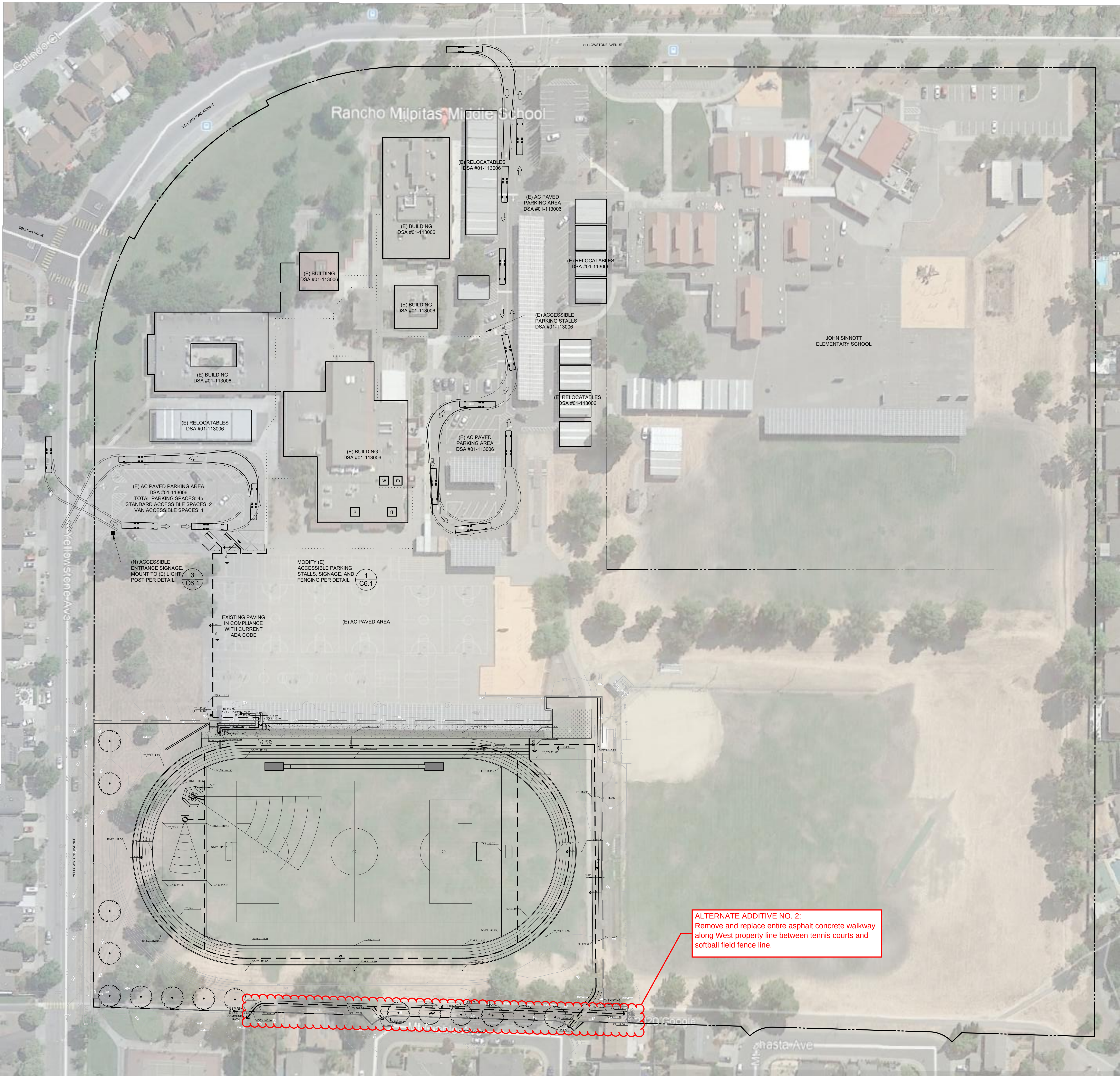
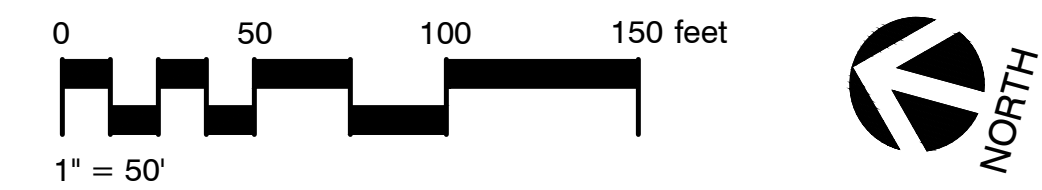
THE POT IDENTIFIED IN THESE CONSTRUCTION DOCUMENTS MEETS THE REQUIREMENTS OF THE CURRENT APPLICABLE CALIFORNIA BUILDING CODE (CBC) ACCESSIBILITY PROVISIONS FOR PATH OF TRAVEL REQUIREMENTS FOR ALTERATIONS, ADDITIONS AND STRUCTURAL REPAIRS AS PART OF THE DESIGN OF THIS PROJECT. THE POT WAS EXAMINED AND ANY ELEMENTS, COMPONENTS OR PORTIONS OF THE POT THAT WERE DETERMINED TO BE NON-COMPLIANT WITH THE CBC HAVE BEEN IDENTIFIED AND THE CORRECTIVE WORK NECESSARY TO BRING THEM INTO COMPLIANCE HAS BEEN INCLUDED WITHIN THE SCOPE OF THIS PROJECT'S WORK THROUGH DETAILS, DRAWINGS AND SPECIFICATIONS INCORPORATED INTO THESE CONSTRUCTION DOCUMENTS. ANY NONCOMPLIANT ELEMENTS, COMPONENTS OR PORTIONS OF THE POT THAT WILL NOT BE CORRECTED BY THIS PROJECT BASED ON VALUATION THRESHOLD LIMITATIONS OR A FINDING OF UNREASONABLE HARSHNESS ARE INDICATED IN THESE CONSTRUCTION DOCUMENTS.

DURING CONSTRUCTION, IF POT ITEMS WITHIN THE SCOPE OF THE PROJECT REPRESENTED AS CBC COMPLIANT ARE FOUND TO BE NONCOMPLIANT BEYOND REASONABLE CONSTRUCTION TOLERANCES, THE ITEMS SHALL BE BROUGHT INTO COMPLIANCE WITH THE CBC AS A PART OF THIS PROJECT BY MEANS OF A CONSTRUCTION CHANGE DOCUMENT.

PATH OF TRAVEL, TECHNICAL REQUIREMENTS FOR ACCESSIBLE ROUTE

"ACCESSIBLE PATH OF TRAVEL AS INDICATED ON PLAN IS A BARRIER-FREE ACCESS ROUTE WITHOUT ABRUPT LEVEL CHANGES EXCEEDING 1/2" IF BEVELED AT 1:2 MAXIMUM SLOPE OR VERTICAL LEVEL CHANGES NOT EXCEEDING 1/2" MAXIMUM AND AT LEAST 48" IN WIDTH. SURFACE IS STABLE, FIRM AND SLIP-RESISTANT. CROSS-SLOPE SHALL NOT BE STEEPER THAN 1:48 AND SLOPE IN THE DIRECTION OF TRAVEL SHALL NOT BE STEEPER THAN 1:20. ACCESSIBLE PATH OF TRAVEL SHALL BE MAINTAINED FREE OF OVERHANGING OBSTRUCTIONS TO 80" MINIMUM AND FREE OF OBJECTS PROTRUDING MORE THAN 4" FROM THE WALL, ABOVE 27" AND LESS THAN 80" ABOVE THE FLOOR. ARCHITECT SHALL VERIFY THAT THERE ARE NO BARRIERS IN THE PATH OF TRAVEL."

NOTE:
FOR ACCESSIBLE RESTROOMS, DRINKING FOUNTAINS, PARKING SPACES, AND DIRECTIONAL SIGNAGE, SEE DSA #01-113006.



ALTERNATE ADDITIVE NO. 2:
Remove and replace entire asphalt concrete walkway along West property line between tennis courts and softball field fence line.

PROJECT TEAM

CLIENT

MILPITAS UNIFIED SCHOOL DISTRICT
1331 E. CALAVERAS BLVD.
MILPITAS, CA 95035

LANDSCAPE ARCHITECT

BASE LANDSCAPE ARCHITECTURE
2427 17TH STREET
SAN FRANCISCO, CA 94110

CIVIL ENGINEER

HOHBACH-LEWIN
260 SHERIDAN AVENUE, SUITE 150
PALO ALTO, CA 94306

IRRIGATION DESIGN

RMA IRRIGATION
2760 CAMINO DIABLO
WALNUT CREEK, CA 94597

PROJECT NAME & ADDRESS

RANCHO MILPITAS
MIDDLE SCHOOL
TRACK IMPROVEMENTS
1915 YELLOWSTONE AVE,
MILPITAS, CA 95035

REVISION

#	Date	Description
1	01-12-2021	CCD-B-01 LANE REMOVAL
2	04-02-21	ADDENDUM NO. 1

STAMP



PHASE

BID SET

SHEET TITLE

SITE PLAN

Scale: 1" = 50'-0"
Date: 03/22/2021
Drawn by: NM, TY
Checked by: SV
Project No.: 2004

G100

City of Milpitas
2020-25 CAPITAL IMPROVEMENT PROGRAM

Category	Project	Estimate Level
Park Improvement	3492 Pedestrian Trail Replacement	1

CONTACT: Renee Lorentzen [3409]
PRIORITY: Community Wellness and Open Space

DESCRIPTION

This project provides for the reimbursement to Milpitas Unified School District (MUSD) for the replacement of the asphalt pathway on Rancho Middle School property which is own and maintained by the City. The pathway has reached the end of the services life and is recommended for replacement. The MUSD will manage the replacement as part of Rancho Middle School bond project. The pathway is part of the City existing trail system that allows residents to travel from Sinnott Park, to Bob Browne Park and Tennis Courts, and up to Murphy Park. The regularly used trail serves as a main source of pedestrian access for several resident neighborhoods to the aforementioned parks as well as Rancho Middle School and Sinnott Elementary School.

NOTES:

Uncommitted Balance as of 4/30/2021: \$0

ESTIMATED COST	Prior Year	2020-21	2021-22	2022-23	2023-24	2024-25	Total
Improvements	0	71,080	0	0	0	0	71,080
Totals	0	71,080	0	0	0	0	71,000

FINANCING	Prior Year	2020-21	2021-22	2022-23	2023-24	2024-25	Total
General Government CIP Fund	0	71,080	0	0	0	0	71,080
Totals	0	71,080	0	0	0	0	71,080

FINANCE NOTES

City of Milpitas
2020-25 CAPITAL IMPROVEMENT PROGRAM

Justification Notes

(No Data)

Project Notes

(No Data)

City of Milpitas
2020-25 CAPITAL IMPROVEMENT PROGRAM

Category	Project	Estimate Level
Park Improvement	5109 Creighton Park Renovation	3

CONTACT: Steve Erickson [3301]

PRIORITY: Community Wellness and Open Space

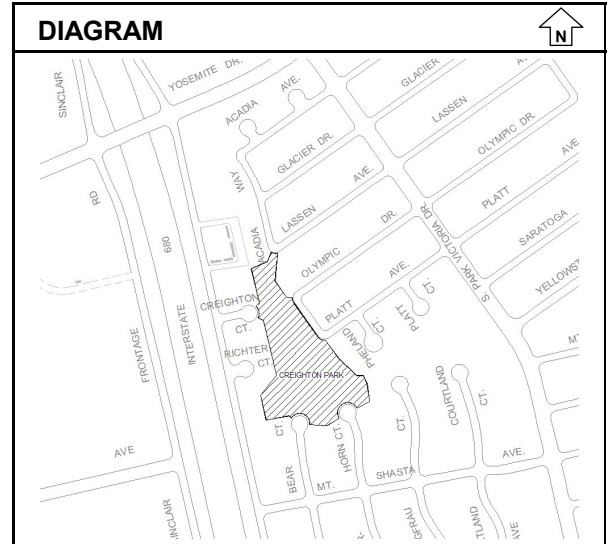
\$5,000

DESCRIPTION

This project provides for the design and construction of improvements at Creighton Park located on Olympic Drive. The 5-acres neighborhood park was constructed in 1968 and many park elements are outdated. Improvements include new picnic and playground area, ADA access and path improvements, renovations of lighting, irrigation, and landscaping, and installation of dog play area and restroom.

NOTES:

Construction was completed in fall 2020.



Uncommitted Balance as of 4/30/2021:

\$147,081

ESTIMATED COST	Prior Year	2020-21	2021-22	2022-23	2023-24	2024-25	Total
Design	200,000	0	0	0	0	0	200,000
Administration	150,000	0	0	0	0	0	150,000
Inspection	50,000	0	0	0	0	0	50,000
Improvements	2,900,000	(71,080)	0	0	0	0	2,828,920
Totals	3,300,000	(71,080)	0	0	0	0	3,228,920

FINANCING	Prior Year	2020-21	2021-22	2022-23	2023-24	2024-25	Total
Park Fund	2,900,000	0	0	0	0	0	2,900,000
General Government CIP Fund	400,000	(71,080)	0	0	0	0	328,920
Totals	3,300,000	(71,080)	0	0	0	0	3,228,920

FINANCE NOTES

City of Milpitas
2020-25 CAPITAL IMPROVEMENT PROGRAM

Justification Notes

(No Data)

Project Notes

(No Data)

City of Milpitas, California

BUDGET CHANGE FORM

Type of Change	From*		To*	
	Account	Amount	Account	Amount
Check one:	321-951510974800	\$71,080	321-9515109153952	\$71,080
☐ Budget Appropriation	330-3840	\$71,080	330-2909	\$71,080
	330-2909	\$71,080	330-3999	\$71,080
X Budget Transfer	331-9513492153899	\$71,080	331-951349274800	\$71,080

Approve Budget Amendment to Establish and Reallocate \$71,080 unused funds from the Creighton Park Project (CIP 5109) to the Pedestrian Trail Replacement Project (CIP 3492) Connecting Sinnott, Browne and Murphy Parks

Background:

The City of Milpitas is committed to providing an interconnected system of park and recreational facilities and services for its residents. Part of the existing system of park and trail access is a pedestrian trail at the south east side of Milpitas that allows residents to walk from Sinnott Park, to Bob Browne Park and Tennis Courts, and up to Murphy Park. The trail also serves as a main source of pedestrian access for several resident neighborhoods to the aforementioned parks as well as Rancho Middle School and Sinnott Elementary School. This City trail is located on Milpitas Unified School District (MUSD) property at the Rancho Middle School site but was installed and is maintained by the City of Milpitas. The initial installation date of the City trail is unknown and is not captured in any accessible City or District records. The existing path, regularly used by the community, is in fair condition and repairs are needed.

The 2018 MUSD Bond Measure included the renovation of athletic fields including the Rancho Middle School property. The scope of work and project area for the bond renovation project at Rancho requires that the existing trail access path be removed due to proximal construction, however the path can be reconstructed and replaced at the end of the project. The Rancho bond project construction will begin in May 2021 and is estimated to be completed in August 2021.

Analysis:

City and MUSD staff have met on the project scope for the Rancho bond project. The MUSD has proposed that they oversee and manage the replacement of the City trail as part of their larger bond project and the City reimburse the MUSD for the work due to its current condition. MUSD bid the Rancho bond project with add alternate work option to include the City trail replacement which was priced at \$59,080. City staff estimates that the cost to replace the trail as a separate project run by the City at the completion of the Rancho bond project would be more costly to the City than having the MUSD incorporate into their bond project.

Staff has identified available funding for a City trail replacement project in CIP 5109 Creighton Park Renovation. The Creighton Park renovation project was completed in December 2020 and has approximately \$400,000 available for reallocation to other capital improvement projects. Staff recommends a budget amendment to establish the Capital Improvement Project Pedestrian Trail Replacement (Sinnott, Browne and Murphy Parks) for the replacement of the City trail at Rancho Middle School to ensure trail connectivity between the Sinnott, Browne and Murphy parks.

If the City Council approves staff's recommendation, staff will work with MUSD to develop an agreement which the City Manager will execute under his authority. Further, the updated Joint Use Agreement with the MUSD scheduled for Council consideration on June 15, 2021, will reflect that the rehabilitation of pedestrian trail was paid by the City.

Policy Alternatives:

Alternative 1: Do not approve a Budget Amendment to establish and fund the Capital Improvement Project titled Pedestrian Trail Replacement (Sinnott, Browne and Murphy Parks)

Pros: Existing CIP fund balances would be available for other capital improvement projects.
 Cons: Not replacing the City trail would result in an interruption to the connectivity of the City's parks system and create access issue for residents to park amenities and local school sites.
 Reason not recommended: The original trail was constructed with City funds. Due to its current condition, the trail is in need of rehabilitation.

Fiscal Impact:

The Creighton Park Renovation Project (CIP 5109) was completed in December 2020, funded by General Government CIP Fund and Park Fund and has an unused balance of approximately \$400,000. Staff recommends to establish the Capital Improvement Project 3492 titled Pedestrian Trail Replacement and reallocate \$59,080 plus a standard project contingency of 20% in the amount of \$12,000 for a total of \$71,080 from CIP 5109 to the new CIP Project.

California Environmental Quality Act:

The proposed action to approve a budget amendment relates to the Pedestrian Trail Replacement. As this is an existing pedestrian trail that is being replaced, it is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline 15301 as the operation, repair, and maintenance of an existing public trail involving negligible or no expansion of existing or former use. CEQA Guideline 15301 specifically includes pedestrian trails as the type of project that fits within the exemption pursuant to CEQA Guideline 15301(c).

Recommendation:

Approve Budget Amendment to Establish and Reallocate \$71,080 unused funds from the Creighton Park Project (CIP 5109) to the Pedestrian Trail Replacement Project (CIP 3492) Connecting Sinnott, Browne and Murphy Parks

☐ **Check if City Council Approval required.**

Meeting Date: June 1, 2021

Requested by:	Department Head: Renee Lorentzen	Date: June 1, 2021
Reviewed by:	Finance Director: Lauren Lai	Date: June 1, 2021
Date approved by City Council, if required:		Confirmed by:

FI/24786/V

LarForm 30-222 (Rev. 1/92)



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve and Authorize the City Manager to Execute a Master Funding Agreement with the Santa Clara Valley Transportation Authority (VTA) for the 2016 Measure B Bike and Pedestrian Education and Encouragement Program; Establish the Fiscal Year 2021-22 Project Bike and Pedestrian Public Outreach Project (CIP No. 4306); and Approve a FY 2021-22 budget appropriation of \$45,000 for Project No. 4306 funded from Measure B Bike and Pedestrian Education and Encouragement Funding
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	6/1/2021
Staff Contact:	Steve Chan, 408-586-3324, Steve Erickson, 408-586-3301
<u>Recommendation:</u>	Approve and Authorize the City Manager to Execute a Master Funding Agreement with the Santa Clara Valley Transportation Authority (VTA) for the 2016 Measure B Bike and Pedestrian Education and Encouragement Program; Establish the Fiscal Year 2021-22 Project Bike and Pedestrian Public Outreach Project (CIP No. 4306); and Approve a FY 2021-22 budget appropriation of \$45,000 for Project No. 4306 funded from Measure B Bike and Pedestrian Education and Encouragement Funding

Background:

In November 2016, Santa Clara County voters approved the 2016 Measure B ballot measure, a 30-year half-cent countywide sales tax to enhance transit, highways, expressways and active transportation programs for bicycles and pedestrians. Over the next 30 years, 2016 Measure B is anticipated to generate \$6.3 billion.

The Valley Transportation Authority (VTA) established the 2016 Measure B Program and adopted Program category guidelines. The “Bike and Pedestrian” program category includes a population-based formula for distribution of funding to eligible cities to encourage the use of bicycles and walking for transportation rather than motorized vehicles.

The City of Milpitas is eligible for approximately \$45,000 per year to conduct Bike and Pedestrian Education & Encouragement activities. The funds can only be used for bicycle and pedestrian education and promotional activities and cannot be used for construction projects or other purposes. In order to receive this funding, the City is required to enter into a Master Funding Agreement with VTA to ensure funds are spent on allowable activities.

Analysis:

The City of Milpitas is expected to receive approximately \$45,000 in annual funding from the 2016 Measure B Bike and Pedestrian Education and Encouragement Program. Staff recommends the City Council approve the Master Agreement with VTA to receive this funding which will be used to promote, educate, and encourage cycling and walking in support of the General Plan circulation policy goals and the soon to be completed Trail, Bike, and Pedestrian Master Plan.

Staff recommends the creation and funding of a new Capital Improvement Program (CIP) Project, Project No. 4306 Bike and Pedestrian Public Outreach to allow staff to complete the activities required by the Measure B funding. The approval of a budget appropriation to appropriate the \$45,000 in annual Measure B Bike and Pedestrian Education and Encouragement Program Funds into the new CIP project is recommended.

Policy Alternatives:

Alternative 1: Not approve and not authorize the City Manager to execute a Master Funding Agreement with VTA to receive the annual Measure B Bike and Pedestrian Education and Encouragement Program Funding.

Pros: None.

Cons: If the City does not enter into the Master Funding Agreement, the City would not be eligible to receive needed Measure B funding.

Reason not Recommended: The newly adopted General Plan requires the promotion and encouragement of alternative modes of transportation such as the use of bicycles and walking to support the City's circulation policy goals. The receipt and use of the Measure B funding to promote these transportation activities supports the General Plan policies and goals.

Fiscal Impact:

The approval of the Master Funding Agreement with the VTA is required to receive approximately \$45,000 in annual Measure B Local Bike and Pedestrian Education and Encouragement Program funding. The creation of new CIP Project 4306 and the approval of a budget appropriation to appropriate the \$45,000 in annual Measure B Bike and Pedestrian Education and Encouragement Program Funds into the new CIP project is recommended.

California Environmental Quality Act:

Not applicable.

Recommendation:

1. Approve and Authorize the City Manager to Execute a Master Funding Agreement with the Santa Clara Valley Transportation Authority (VTA) for the 2016 Measure B Bike and Pedestrian Education and Encouragement Program;
2. Establish the Fiscal Year 2021-22 Project Bike and Pedestrian Public Outreach Project (CIP No. 4306); and
3. Approve a FY 2021-22 budget appropriation of \$45,000 for Project No. 4306 funded from Measure B Bike and Pedestrian Education and Encouragement Funding.

Attachments:

Attachment 1: VTA Master Funding Agreement

Attachment 2: New Project No. 4306 Bike and Pedestrian Public Outreach

Attachment 3: Budget Appropriation Form

**FUNDING AGREEMENT
BETWEEN
THE CITY OF MILPITAS
AND
SANTA CLARA VALLEY TRANSPORTATION AUTHORITY
FOR
2016 MEASURE B BICYCLE & PEDESTRIAN EDUCATION AND ENCOURAGEMENT PROGRAM**

THIS AGREEMENT ("AGREEMENT") is between the CITY OF MILPITAS, referred to herein as "RECIPIENT", and the SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, referred to herein as "VTA". Hereinafter, RECIPIENT and VTA may be individually referred to as "PARTY" or collectively referred to as "PARTIES".

I. RECITALS

1. Whereas, on June 24, 2016, the VTA Board of Directors adopted a resolution to place a ballot measure before the voters of Santa Clara County in November 2016 to authorize a one-half of one percent retail transaction and use tax ("2016 MEASURE B") for 30 years for nine transportation-related program categories; and
2. Whereas, on November 8, 2016, the voters of Santa Clara County enacted 2016 MEASURE B for 30 years to pay for the nine transportation-related program categories; and
3. Whereas, on October 5, 2017, the VTA Board of Directors established the 2016 Measure B Program ("PROGRAM") and adopted the 2016 Measure B Program Category Guidelines; and
4. Whereas, the PROGRAM includes a Bicycle & Pedestrian program category ("BIKE/PED CATEGORY") to fund bicycle and pedestrian projects and educational programs; and
5. Whereas, the BIKE/PED CATEGORY consists of three sub-categories, including the education & encouragement program ("BIKE/PED E&E PROGRAM");
6. Whereas, the duration of 2016 MEASURE B will be 30 years from the initial year of collection, beginning April 1, 2017, and continuing through March 31, 2047; and
7. Whereas, VTA and RECIPIENT desire to specify herein the terms and conditions under which the BIKE/PED E&E PROGRAM funds will be administered to RECIPIENT by VTA as directed by the VTA Board of Directors.

NOW, THEREFORE, the PARTIES agree as follows:

II. AGREEMENT

1. BIKE/PED E&E PROGRAM CATEGORY

The BIKE/PED E&E PROGRAM covers activities and the development and distribution of materials that are designed and intended to satisfy the following goals within the RECIPIENT'S jurisdiction: (i) promote, educate, and/or encourage safe walking or bicycling for residents or visitors of every age and ability; (ii) communicate to residents and visitors the benefits of walking and bicycling; and (iii) communicate to school children, residents, and visitors the rights and responsibilities of pedestrians, bicyclists, and motorists.

2. TERM OF AGREEMENT

The term of this AGREEMENT will commence on July 1, 2021, and continue until (i) June 30, 2023, or (ii) until all BIKE/PED E&E PROGRAM funds allocated to RECIPIENT through June 30, 2023, under this AGREEMENT have been expended entirely, whichever occurs later.

At VTA's sole option, VTA may extend the term of this AGREEMENT for one 2-year period as follows:

Option Period 1: July 1, 2023, through June 30, 2025, or until all BIKE/PED E&E PROGRAM funds allocated to RECIPIENT through June 30, 2025, under this AGREEMENT have been expended entirely, whichever occurs later.

VTA may exercise these options by providing written notice to RECIPIENT at least 30 days prior to the expiration of the then-current term.

3. ELIGIBLE USE OF FUNDS

RECIPIENT must use RECIPIENT's allocated BIKE/PED E&E PROGRAM funds for only the following activities/projects (each, an "E&E PROJECT"); provided, however, that RECIPIENT must obtain VTA's prior written approval for such E&E PROJECT (VTA approval must be given by the person identified below in Section 8(d), or his/her designee):

- a. Organization and implementation of K-12 Safe Routes to Schools programs and activities.
- b. Organization and implementation of Vision Zero programs. "Vision Zero" is defined by the Vision Zero Network Campaign as the "Strategy to eliminate all traffic fatalities and severe injuries, while increasing safe, healthy, equitable mobility for all", which definition is adopted herein for purposes of this AGREEMENT.
- c. Organization and implementation of open streets events. "Open streets events" are defined by the Open Streets Project (an advocacy project and collaboration between 8 80 Cities and Street Plans) as "Programs that temporarily open streets to people by closing them to cars", which definition is adopted herein for purposes of this AGREEMENT.
- d. Creation and implementation of marketing to encourage mode shift towards active transportation.
- e. Development and distribution of maps that promote places to walk or bike.
- f. Education of walking and bicycling skills to adults and children.

- g. Working with law enforcement officials to ensure common understanding and consistent application among law enforcement officials of traffic laws related to biking and walking.
- h. Organization and implementation of broad or targeted safety campaigns to promote safe driving, walking, and bicycling behavior.*
- i. Creation and distribution of marketing materials to encourage safe walking, biking, and driving.*
- j. Purchase and distribution of bicycle helmets, lights, reflective vests, or other bicycle/pedestrian safety equipment to be used in education/encouragement activities.
- k. Purchase and distribution of incentives for education/encouragement activities.
- l. Organization and implementation of crosswalk stings or other activities that educate roadway users on traffic laws. Crosswalk stings are activities conducted by law enforcement to educate the public about crosswalk right of way laws that may or may not include citations.
- m. Organization and implementation of special community events focused on achieving the BIKE/PED E&E PROGRAM goals described in Section 1. BIKE/PED E&E PROGRAM CATEGORY, such as community rides or walks.
- n. Energizer stations and other Bike to Work Day activities.
- o. Implementation of valet bicycle parking.
- p. Community-based bicycle/pedestrian surveys of facilities and surrounding areas to learn, observe, and identify bicycle and pedestrian hot spots.
- q. Any other program or activity approved by VTA in writing.

*Any safety campaign or public service announcement targeted to motorists must focus on safe, responsible, and respectful motorist interactions with pedestrians and bicyclists.

RECIPIENT is permitted to use the BIKE/PED E&E PROGRAM funds allocated hereunder for direct costs and staff time costs incurred by RECIPIENT to support E&E PROJECTS. RECIPIENT is permitted to use the BIKE/PED E&E PROGRAM funds allocated hereunder for the costs incurred for evaluation of the E&E PROJECTS (as required under Section 4. EVALUATION REQUIREMENTS).

Notwithstanding any other provision of this AGREEMENT, RECIPIENT is not permitted to use BIKE/PED E&E PROGRAM funds allocated hereunder for capital improvements.

E&E PROJECTS may be targeted and limited to specific demographics (e.g. school children, seniors, people with disabilities, etc.), to the extent not prohibited by applicable law.

Only BIKE/PED E&E PROGRAM costs incurred by RECIPIENT on or after July 1, 2021, will be eligible for reimbursement.

4. EVALUATION REQUIREMENTS

RECIPIENT must identify (i) the project reach and scale of each E&E PROJECT and (ii) one or more metric(s) that will be measured to evaluate whether the goal is achieved. The frequency and schedule of each E&E PROJECT evaluation must also be identified by RECIPIENT and approved by VTA.

Examples of acceptable metrics are set forth in Attachment A.

5. MAXIMUM FUNDING ALLOCATIONS

- a. RECIPIENT's maximum funding allocation for each fiscal year, starting July 1, 2017, will be based upon the VTA Board of Directors Adopted Biennial Budget for the BIKE/PED E&E PROGRAM and the annual fund distribution formula described below.
- b. The BIKE/PED E&E PROGRAM annual fund distribution formula is calculated every two fiscal years (in line with VTA's budget cycle; a fiscal year begins July 1 and ends June 30) and is based on the following:
 - i. First, at the same time that VTA plans and finalizes its budget for the two upcoming fiscal years, the VTA Board of Directors determines the allocation of 2016 MEASURE B funds for the two upcoming fiscal years.
 - ii. Second, the VTA Board of Directors determines the amount of 2016 MEASURE B funds to be allocated amongst the PROGRAM categories and subcategories, including the BIKE/PED E&E PROGRAM category.
 - iii. Third, each city's percentage share ("CITY PERCENTAGE SHARE") and the County of Santa Clara's percentage share ("SCC PERCENTAGE SHARE") of the total population of Santa Clara County, California (including unincorporated areas) (according to the then most current California Department of Finance's annual population estimates (Report E-1, or any successor report)) ("TOTAL SCC POP") is calculated by dividing the city's or County of Santa Clara's (as applicable) total population by the total population of all of Santa Clara County and multiplying the result by 100.
 - iv. Fourth, an allocation is made to VTA and the County of Santa Clara for countywide (with respect to Santa Clara County) BIKE/PED E&E PROGRAM activities ("COUNTYWIDE ACTIVITIES").
 - v. Fifth, the 2016 MEASURE B funds remaining for the BIKE/PED E&E PROGRAM category allocation are calculated by deducting the amount allocated for COUNTYWIDE ACTIVITIES in (iv) immediately above from the total BIKE/PED E&E PROGRAM category allocation ("REMAINING FUNDS").
 - vi. Sixth, each CITY PERCENTAGE SHARE is multiplied by the REMAINING FUNDS to determine the dollar amount that would be allocated to each city based on their CITY PERCENTAGE SHARE; however, no allocation is yet made at this step. Cities that would receive less than \$10,000 as a result of the calculation described in this section (vi) will be identified ("LOW POP CITIES").
 - vii. Seventh, each city is allocated \$10,000 ("10K ALLOCATIONS"). LOW POP CITIES will not be allocated any additional funds beyond the 10K ALLOCATIONS made to each city as described in this section (vii).

- viii. Eighth, the modified REMAINING FUNDS are calculated by subtracting the cumulative total of all 10K ALLOCATIONS from the REMAINING FUNDS (“MOD REMAINING FUNDS”).
 - ix. Ninth, a modified Santa Clara County population is calculated by deducting the cumulative populations attributed to the County of Santa Clara (unincorporated areas of Santa Clara County) and all LOW POP CITIES from the TOTAL SCC POP (“MODIFIED POPULATION”).
 - x. Tenth, a modified population percentage share (“MOD CITY PERCENTAGE SHARE”) is calculated for all cities that are not LOW POP CITIES (“NON-LOW POP CITIES”) by dividing the NON-LOW POP CITY’s total population by the MODIFIED POPULATION and multiplying the result by 100.
 - xi. Eleventh, each NON-LOW POP CITY’s MOD CITY PERCENTAGE SHARE is multiplied by the MOD REMAINING FUNDS to calculate the NON-LOW POP CITY’s additional allocation of 2016 MEASURE B funds for the BIKE/PED E&E PROGRAM category. This allocation will be made in addition to the 10K ALLOCATION described above.
- c. RECIPIENT’s allocations are subject to change based on variations in annual population and actual 2016 MEASURE B receipts for prior fiscal years.
 - d. BIKE/PED E&E PROGRAM allocations may remain unspent for a maximum of three fiscal years, provided that (i) RECIPIENT provides VTA with a satisfactory explanation for why the allocation is not being spent and (ii) VTA provides RECIPIENT with written approval for such explanation. At the end of the fourth fiscal year, allocations that were unspent for all four fiscal years will be returned by VTA to the pool of 2016 MEASURE B funds allocated to the BIKE/PED E&E PROGRAM category for redistribution in the next allocation cycle pursuant to the formula above.
 - e. All funds will be available to RECIPIENT on a reimbursement basis only.

6. VTA’s OBLIGATIONS

VTA will:

- a. Annually update the BIKE/PED E&E PROGRAM formula to reflect the most current populations based on the California Department of Finance’s annual population estimates (Report E-1, or any successor report). VTA shall use the updated BIKE/PED E&E PROGRAM allocation formula in the allocations beginning July 1 immediately following each VTA budget cycle.
- b. Annually report to the public the amount of BIKE/PED E&E PROGRAM revenues allocated and distributed to RECIPIENT.
- c. Annually report to the public a summary of E&E PROJECT evaluation metrics submitted by RECIPIENT, as required in Section 4. EVALUATION REQUIREMENTS.

- d. Conduct an assessment regarding the effectiveness of the BIKE/PED E&E PROGRAM using approved metrics and data provided by RECIPIENT (pursuant to Section 4. EVALUATION REQUIREMENTS) related to RECIPIENT's E&E PROJECT(s).
- e. Biennially, or however frequently as VTA determines is appropriate based upon the number of ongoing E&E PROJECTs, report to the public the effectiveness of the BIKE/PED E&E PROGRAM based on the assessment described immediately above in Section 6(d).
- f. Remit the amount due to the RECIPIENT under an invoice within thirty (30) calendar days of receipt of a complete and proper, fully documented invoice complying with the requirements set forth herein.

7. RECIPIENT's OBLIGATIONS

RECIPIENT will:

- a. Ensure that all 2016 MEASURE B funds are expended on only allowable BIKE/PED E&E PROGRAM expenditures as described above in Section 3. ELIGIBLE USE OF FUNDS.
- b. Annually complete and submit to VTA, by October 1st of each year, RECIPIENT's proposed work program for the BIKE/PED E&E PROGRAM, in which RECIPIENT will set forth proposed E&E PROJECTs, and develop all such E&E PROJECTs that are approved by VTA as eligible. RECIPIENT's proposed metrics and frequency of E&E PROJECT evaluation must be included with the proposed work program (see Section 4. EVALUATION REQUIREMENTS); VTA must provide approval of these proposed metrics and the frequency of evaluation.
- c. Annually submit to VTA, by October 1st of each year, a summary of the prior fiscal year's completed E&E PROJECTs.
- d. Submit to VTA, on a frequency as approved by VTA, the evaluation of the completed E&E PROJECT pursuant to Section 4. EVALUATION REQUIREMENTS.
- e. If applicable, annually submit to VTA, by October 1st of each year, an explanation of why no BIKE/PED E&E PROGRAM funds are planned for expenditure during the upcoming fiscal year.
- f. Annually complete and submit to VTA, by October 1st of each year, any accompanying reporting requirements for the BIKE/PED E&E PROGRAM.
- g. Submit to VTA all records including contractors' invoices, miscellaneous invoices, and force account charges as substantiation for invoices submitted to VTA for reimbursement hereunder.
- h. Maintain financial records, books, documents, papers, accounting records, and other evidence pertaining to costs related to this AGREEMENT for five (5) years. RECIPIENT shall make such records available to VTA upon VTA's written request for review and audit purposes. Financial audits will be performed at VTA's sole discretion.

- i. Submit invoices to VTA, no more frequently than monthly, for reimbursement of eligible E&E PROJECT costs (see Section 3. ELIGIBLE USE OF FUNDS). RECIPIENT must submit invoices within one year of the date RECIPIENT incurs the cost submitted on the invoice for reimbursement (unless otherwise approved by VTA in writing).

8. GENERAL TERMS AND CONDITIONS

- a. **Indemnity.** Neither VTA nor any officer or employee thereof will be responsible for any damage or liability arising out of or relating to RECIPIENT's acts or omissions under or in connection with any work, authority, or jurisdiction associated with this AGREEMENT. RECIPIENT shall fully defend, indemnify, and save harmless VTA from any liability imposed for injury (as defined by California Government Code §810.8) arising out of or relating to RECIPIENT's acts or omissions under or in connection with any work, authority, or jurisdiction delegated to RECIPIENT under this AGREEMENT. This provision will survive the termination or expiration of this AGREEMENT.
- b. **Amendment.** No alteration or variation of the terms of this AGREEMENT will be valid unless made in writing and signed by both of the PARTIES hereto, and no oral understanding or agreement not incorporated herein will be binding on any of the PARTIES hereto.
- c. **Entire Agreement.** This AGREEMENT contains the entire understanding between VTA and RECIPIENT relating to the subject matter hereof. This AGREEMENT supersedes any and all other agreements which may have existed between the PARTIES, whether oral or written, relating to the subject matter hereof. This AGREEMENT is binding upon each PARTY, their legal representatives, and successors for the duration of the AGREEMENT.
- d. **Notices.** Any notice which may be required under this AGREEMENT must be in writing, will be effective when received, and must be given by personal service or certified mail to the individuals at the addresses set forth below, or to such other address which may be specified in writing by the PARTIES hereto.

VTA:
Marcella Rensi
Deputy Director, Grants & Allocations
Santa Clara Valley Transportation Authority
3331 N First Street
San Jose, CA 95134
Email: marcella.rensi@vta.org

RECIPIENT:
Charmaine Zamora
Public Information Officer
City of Milpitas
455 E. Calaveras Boulevard
Milpitas, CA 95035
Email: czamora@ci.milpitas.ca.gov

Written notification to the other PARTY must be provided, in advance, for changes in the name or address of the individuals identified above.

The individual identified above for RECIPIENT is RECIPIENT's BIKE/PED E&E PROGRAM liaison ("LIAISON"). The LIAISON will be (i) the liaison to VTA pertaining to implementation of this AGREEMENT and (ii) the contact for information about the BIKE/PED E&E PROGRAM and E&E PROJECTS.

- e. **Representation of Authority.** Each PARTY to this AGREEMENT represents and warrants that each person whose signature appears hereon has been duly authorized and has the full authority to execute this AGREEMENT on behalf of the entity that is a party to this AGREEMENT.
- f. **No Waiver.** The failure of either PARTY to insist upon the strict performance of any of the terms, covenants and conditions of this AGREEMENT will not be deemed a waiver of any right or remedy that either PARTY may have, and will not be deemed a waiver of either PARTY's right to require strict performance of all of the terms, covenants, and conditions hereunder.
- g. **Dispute Resolution.** If a question or allegation arises regarding (i) interpretation of this AGREEMENT or its performance, or (ii) the alleged failure of a PARTY to perform, the PARTY raising the question or making the allegation shall give written notice thereof to the other PARTY. The PARTIES shall promptly meet in an effort to resolve the issues raised. If the PARTIES fail to resolve the issues raised, alternative forms of dispute resolution, including mediation, may be pursued by mutual agreement. It is the intent of the PARTIES to the greatest extent possible to avoid litigation as a method of dispute resolution.
- h. **Severability.** If any of the provisions of this AGREEMENT (or portions or applications thereof) are held to be unenforceable or invalid by any court of competent jurisdiction, VTA and RECIPIENT shall negotiate an equitable adjustment in the provisions this AGREEMENT with a view toward effecting the purpose of this AGREEMENT, and the validity and enforceability of the remaining provisions or portions or applications thereof will not be affected thereby.
- i. **Governing Law.** The laws of the State of California will govern this AGREEMENT, as well as any claim that might arise between RECIPIENT and VTA, without regard to conflict of law provisions.
- j. **Venue.** Any lawsuit or legal action arising from this AGREEMENT must be commenced and prosecuted in the courts of Santa Clara County, California. RECIPIENT agrees to submit to the personal jurisdiction of the courts located in Santa Clara County, California for the purpose of litigating all such claims.

Signatures of PARTIES on following page.

IN WITNESS WHEREOF, VTA and RECIPIENT have executed this AGREEMENT as of the last date set forth below.

***Santa Clara Valley
Transportation Authority***

CITY OF MILPITAS

Evelynn Tran
General Counsel and Interim GM/CEO

Steven G. McHarris
City Manager

Date

Date

Approved as to Form

Approved as to Form

J. Carlos Orellana
Deputy General Counsel

Christopher Diaz
City Attorney

ATTACHMENT A

Example Evaluation Requirement Metrics

- Project reach
 - Hypothetical Example: Online media safety campaign had 10,000 unique views, resulting in 2,000 people taking the “I will drive, walk, and bike safely and responsibly” pledge.
- Mode shift
 - Hypothetical Example: At the end of the school year, 200 bicycles were counted in the bike cage, an increase of 20% over the number of bicycles counted at the beginning of the year.
- Behavior change
 - Hypothetical Example: Individualized marketing packets were provided to 1,200 households. 200 households requested additional information. Before and after surveys showed that 5% of households that requested additional information switched to biking, walking, or taking transit more.
- Safety improvements
 - Hypothetical Example: After the crosswalk sting, motorists were observed yielding to pedestrians 8 out of 10 times, an increase of 10% over the yielding rate before the crosswalk sting. However, these rates decreased over time, suggesting that continued events or infrastructure changes are needed to permanently improve driver behavior.
- Community Engagement
 - Hypothetical Example: At the end of five Train the Trainer events, of the 25 trainees, ten agree to lead Safe Routes to School activities at their schools.

City of Milpitas
2022-26 CAPITAL IMPROVEMENT PROGRAM

Category	Project	Estimate Level
Street Improvement	4306 Bike and Pedestrian Outreach	1

CONTACT: Charmaine Angelo

PRIORITY: Transportation and Transit

DESCRIPTION

Project will provide public outreach activities to promote, educate, and encourage cycling and walking in support the General Plan circulation policy goals and Trail, Bike, and Pedestrian Master Plan.

NOTES:

Uncommitted Balance as of 5/31/2020: \$0

ESTIMATED COST	Prior Year	2021-22	2022-23	2023-24	2024-25	2025-26	Total
Administration	0	45,000	0	0	0	0	45,000
Totals	0	45,000	0	0	0	0	45,000

FINANCING	Prior Year	2021-22	2022-23	2023-24	2024-25	2025-26	Total
Measure B	0	45,000	0	0	0	0	45,000
Totals	0	45,000	0	0	0	0	45,000

FINANCE NOTES

City of Milpitas, California

BUDGET CHANGE FORM

Type of Change	From*		To*	
	Account	Amount	Account	Amount
Check one: ☒ Budget Appropriation ☐ Budget Transfer	311-9514306153865	\$45,000	311-951430624800	\$45,000

Approve and Authorize the City Manager to Execute a Master Funding Agreement with the Santa Clara Valley Transportation Authority (VTA) for the 2016 Measure B Bike and Pedestrian Education and Encouragement Program; Approve New Fiscal Year 2021-22 Capital Improvement Program Project No. 4306 Bike and Pedestrian Public Outreach; and Approve a budget appropriation of \$45,000 in Measure B Bike and Pedestrian Education and Encouragement Funding into Project No. 4306

Background:

In November 2016, Santa Clara County voters approved the 2016 Measure B ballot measure, a 30-year half-cent countywide sales tax to enhance transit, highways, expressways and active transportation programs for bicycles and pedestrians. Over the next 30 years, 2016 Measure B is anticipated to generate \$6.3 billion.

The Valley Transportation Authority (VTA) established the 2016 Measure B Program and adopted Program category guidelines. The “Bike and Pedestrian” program category includes a population-based formula for distribution of funding to eligible cities to encourage the use of bicycles and walking for transportation rather than motorized vehicles.

The City of Milpitas is eligible for approximately \$45,000 per year to conduct Bike and Pedestrian Education & Encouragement activities. The funds can only be used for bicycle and pedestrian education and promotional activities and cannot be used for construction projects or other purposes. In order to receive this funding, the City is required to enter into a Master Funding Agreement with VTA to ensure funds are spent on allowable activities.

Analysis:

The City of Milpitas is expected to receive approximately \$45,000 in annual funding from the 2016 Measure B Bike and Pedestrian Education and Encouragement Program. Staff recommends the City Council approved the Master Agreement with VTA to receive this funding which will be used to promote, educate, and encourage cycling and walking in support the General Plan circulation policy goals and the soon to be completed Trail, Bike, and Pedestrian Master Plan.

Staff recommends the creation and funding of a new Capital Improvement Program (CIP) Project, Project No. 4306 Bike and Pedestrian Public Outreach to allow staff to complete the activities required by the Measure B funding. The approval of a budget appropriation to appropriate the \$45,000 in annual Measure B Bike and Pedestrian Education and Encouragement Program Funds into the new CIP project is recommended.

Policy Alternative:

Alternative 1: Not approve and not authorize the City Manager to execute a Master Funding Agreement with VTA to receive the annual Measure B Bike and Pedestrian Education and Encouragement Program Funding.

Pros: None.

Cons: If the City does not enter into the Master Funding Agreement, the City would not be eligible to receive needed Measure B funding.

Reason not Recommended: The newly adopted General Plan requires the promotion and encouragement of alternative modes of transportation such as the use of bicycles and walking to support the City's circulation policy goals. The receipt and use of the Measure B funding to promote these transportation activities supports the General Plan policies and goals.

Fiscal Impact:

The approval of the Master Funding Agreement with the VTA is required to receive approximately \$45,000 in annual Measure B Local Bike and Pedestrian Education and Encouragement Program funding. The creation of new CIP Project 4306 and the approval of a budget appropriation to appropriate the \$45,000 in annual Measure B Bike and Pedestrian Education and Encouragement Program Funds into the new CIP project is recommended.

California Environmental Quality Act:

Not applicable.

Recommendations:

1. Approve and Authorize the City Manager to Execute a Master Funding Agreement with the Santa Clara Valley Transportation Authority (VTA) for the 2016 Measure B Bike and Pedestrian Education and Encouragement Program;
2. Approve New Fiscal Year 2021-22 Capital Improvement Program Project No. 4306 Bike and Pedestrian Public Outreach; and
3. Approve a budget appropriation of \$45,000 in Measure B Bike and Pedestrian Education and Encouragement Funding into Project No. 4306.

Attachments:

Attachment 1: VTA Master Funding Agreement

Attachment 2: New Project No. 4306 Bike and Pedestrian Public Outreach

Attachment 3: Budget Change Form

☐ Check if City Council Approval required.

Meeting Date: June 01, 2021

Requested by:	Department Head: Steve Erickson	Date: June 01, 2021
Reviewed by:	Finance Director: Lauren Lai	Date: June 01, 2021
Date approved by City Council, if required:		Confirmed by:



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Accept Commissioner Resignation
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	6/1/2021
Staff Contact:	Wendy Wood, City Clerk, 408-586-3001
Recommendation:	Accept the resignations of Commissioner Rajani Nair from the Science, Technology and Innovation Commission and Commissioner Benjamin Tang from the Art Commission; and confirm the noticing of the unscheduled vacancies.

Background:

In accordance with the City of Milpitas Commission By-Laws, any member or alternate member of a Commission who is no longer available to serve, must submit a resignation in writing by sending a written communication to the Mayor and the City Clerk, per adopted City Council Resolution No. 7702. The written resignation must then be accepted and confirmed by City Council via action on the consent calendar at a regularly scheduled City Council meeting. Rajani Nair submitted a letter of resignation from Science, Technology and Innovation Commission on May 15, 2021, stating her last day on the Commission will be May 17, 2021. Benjamin Tang submitted a letter of resignation from the Art Commission on May 28, 2021.

Analysis:

By state law, a Notice of an Unscheduled Vacancy must be posted by the City Clerk to advertise the vacant Commission seat. Final appointment to the board, commission, or committee for the Unscheduled Vacancy shall not be made by the legislative body for at least ten working days after the posting of the notice in the Clerk's office. The notice of the Unscheduled Vacancy for the Science, Technology and Innovation Commission was posted on May 24, 2021, and the notice of the Unscheduled Vacancy for the Art Commission was posted on May 28, 2021, in accordance with California Government Code 54974 (a).

Fiscal Impact:

There is no fiscal impact associated with this item.

Recommendation:

Accept the resignations of Commissioner Rajani Nair from the Science, Technology and Innovation Commission and Commissioner Benjamin Tang from the Art Commission; and confirm the noticing of the unscheduled vacancies.

Attachments:

1. Email from Commissioner Rajani Nair
2. Email from Commissioner Benjamin Tang

Wendy Wood

Subject: FW: Commissioner Resignation for Science, Technology and Innovation Commission

Dear Mayor Tran,

It is my deepest regret to inform you that I will be stepping down as Commissioner on the Science, Technology and Innovation Commission. My last day to participate on the Commission will be on Monday, May 17, 2021. It was a great honor to be an active participant on this very important commission but also to make history for being the first woman of color since the committee was founded in 1994. Unfortunately, we will be moving out of Milpitas but we will be close by to stay connected with our friends and enjoy our favorite places within the City of Milpitas that we have cherished and relied upon for the past 15 years.

Digital access is an important cause to help minimize the digital divide and to promote better outcomes for our marginalized communities. It was an honor to participate in a great cause. Also, I am very fortunate to work closely with my colleague, Commission Kevin Le, on developing a criteria to establish community wifi with a digital inclusion perspective for the City of Milpitas community. During my time, both Commissioner Le and I were able to foster collaboration within City departments and outside partners such as Milpitas Unified School District and Milpitas Chamber of Commerce to share their perspective of areas of need for students and business community within City of Milpitas. Being a new commissioner, I was fortunate to be mentored by City staff, Mike Luu and Daniel Nam.

I have been able to leverage my years of experience in working on planning and building community wifi projects for City of San Jose in partnership with East Side Union High School District. I have shared San Jose's lessons learned with City staff so that they can benefit in creating greater impact while ensuring this service will remain sustainable. I have expressed to City staff to continue to be a resource even though I will not be able to participate on the Commission.

Thank you again for the opportunity to serve as your Commissioner.

Sincerely,
Rajani Nair

Wendy Wood

Subject: FW: Arts Commission Resignation

Sent: Friday, May 28, 2021 12:16 PM
To: Rich Tran <rtran@ci.milpitas.ca.gov>
Cc: City Clerk <CityClerk@ci.milpitas.ca.gov>
Subject: Arts Commission Resignation

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links.

Hello Mayor Tran,

I would like to resign as a member of the Arts Commission.

Sincerest regards,

Benjamin Tang



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve and Authorize the City Manager to Execute Amendment No. 5 to the Cost-Sharing Agreement Among West Valley Sanitation District, Cupertino Sanitary District, County Sanitation District No. 2-3 of Santa Clara County, Burbank Sanitary District, and the City of Milpitas
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	6/1/2021-
Staff Contacts:	Christopher J. Diaz, City Attorney (408) 586-3040
Recommendation:	Approve and authorize the City Manager to execute Amendment No. 5 to the Cost Sharing Agreement among West Valley Sanitation District, Cupertino Sanitary District, County Sanitation District No. 2-3 of Santa Clara County, Burbank Sanitary District, and the City of Milpitas

Background:

In 2015, the various agencies that treat their wastewater at the San Jose Santa Clara Regional Wastewater Facility (RWF) began discussions regarding their existing contractual arrangement with San Jose and Santa Clara as co-owners of the RWF. In particular, the agencies, including the City of Milpitas, West Valley Sanitation District, Cupertino Sanitary District, County Sanitation District No. 2-3 of Santa Clara County, and Burbank Sanitary District, worked together to discuss concerns regarding increased costs associated with continuing to treat their wastewater at the RWF and the need for amendments to the Master Agreements that control the relationship each agency has with San Jose and Santa Clara as owners of the RWF. The costs associated with the RWF ultimately impact the City's managing and operating of the sewer enterprise.

Shortly after beginning these discussions, on August 25, 2015, the agencies formed a Common Interest Group pursuant to a Common Interest, Privilege, and Confidentiality Agreement ("Common Interest Agreement"), in order to exchange privileged and confidential information among themselves to advance their common interests in negotiating amendments to their respective Master Agreements for wastewater treatment with the cities of San José and Santa Clara.

In March of 2016, the Common Interest Group also entered into a Cost-Sharing Agreement to share costs when authorized by each party. Both the Common Interest Agreement and Cost Sharing Agreement have been amended over the years.

In 2018, the Common Interest Group filed a lawsuit against the cities of San Jose and Santa Clara regarding the above issues after exhausting all efforts to resolve the dispute. In particular, the Common Interest Group participated in a year-and-a-half administrative claims process, four all-day mediation sessions spanning a six-month period before a retired judge, the filing of two substantial administrative complaints, and two hearings before the Treatment Plant Advisory Committee ("TPAC") in order to encourage the cities of San Jose and Santa Clara to resolve the dispute. Despite that effort, the most critical issues and concerns of the Common Interest Group remain unresolved and the Master Agreements have not been amended to date.

After the filing of the lawsuit, the City of Milpitas opted to be represented by the City Attorney's office in the litigation, while the remaining Common Interest Group members opted to be represented by an outside private law firm. At the time, the remaining Common Interest Group members took the position that the City of Milpitas was also responsible for the costs associated with the outside private law firm, while Milpitas disagree

Representation by the City Attorney's office was important at the time, as the City of Milpitas attempted to work with San Jose and Santa Clara to resolve the dispute. Despite its best efforts, the City of Milpitas on one side, and the other cities of San Jose and Santa Clara on the other side, were unable to resolve their dispute.

Analysis:

In an effort to continue with the litigation against San Jose and Santa Clara and in order to resolve the dispute with the remaining Common Interest Group members regarding the outstanding legal expenses, the City of Milpitas has opted to rejoin the Common Interest Group with one legal team representing all Common Interest Group members. Currently, the Common Interest Group is represented by the law firms of Hunton Andrews Kurth, LLP and Hogan Lovells LLP. In order to re-join the Common Interest Group and resolve the dispute with the remaining Common Interest Group members, the City of Milpitas will be agreeing to pay \$350,000 of past legal expenses. In addition, the City of Milpitas will agree to pay all legal costs moving forward at 40% of all legal costs incurred by the Common Interest Group beginning June 1, 2021. The 40% share represents Milpitas capacity to use the RWF in comparison to the other Common Interest Group members. The on-going legal services will be provided by Hunton Andrews Kurth, LLP and Hogan Lovells LLP.

POLICY ALTERNATIVES:

Alternative 1: Do not approve or authorize the City Manager to execute Amendment No. 5 to the Cost-Sharing Agreement

Pros: Will maintain status quo.

Cons: Will not allow the City of Milpitas to rejoin the Common Interest Group with one legal team representing all Common Interest Group members and it will not resolve the dispute with the Common Interest Group regarding past legal expenses.

Reason for not Recommending: The City will not be able to resolve the dispute with the Common Interest Group even if the City does not agree with their legal position.

Fiscal Impact:

The cost for past legal expenses associated with legal services provided to the Common Interest Group is recommended to be paid with current year savings generated in the Sewer Operating Fund. Further, the City would be agreeing to pay for 40% of all legal costs incurred by the Common Interest Group for expenses associated with the litigation moving forward. Any such legal expenses would require an appropriation action approved by the Council using reserves anticipated for future capital investments. As discussed at the May 18, 2021 City Council meeting as part of the draft sewer master plan, the anticipated expenditures for infrastructure improvements and rehabilitation of the City's sewer collection system for the next 20 years are estimated at \$54 million. This amount does not include capital contributions to the RWF. Per the most recent capital contributions for the next 10 years as approved by TPAC on May 17, 2021 for the City of Milpitas is \$68 million. The additional legal costs may lead to increased costs to the rate payers. A 1% increase in sewer rate generates approximately \$207,000 in additional revenue to the Sewer Operating Fund and translates to an increase of \$1.18 bi-monthly charge for an average single family residential household.

California Environmental Quality Act:

Not applicable

Recommendation:

Approve and authorize the City Manager to execute Amendment No. 5 to the Cost Sharing Agreement among West Valley Sanitation District, Cupertino Sanitary District, County Sanitation District No. 2-3 of Santa Clara County, Burbank Sanitary District, and the City of Milpitas

Attachment:

Amendment No. 5 to the Cost-Sharing Agreement
Cost-Sharing Agreement

**AMENDMENT NO. 5 TO COST SHARING AGREEMENT AMONG
WEST VALLEY SANITATION DISTRICT, CUPERTINO SANITARY
DISTRICT, COUNTY SANITATION DISTRICT NO. 2-3 OF SANTA
CLARA COUNTY, BURBANK SANITARY DISTRICT, AND THE
CITY OF MILPITAS**

This Amendment No. 5 is entered into by and between the West Valley Sanitation District, Cupertino Sanitary District, County Sanitation District No. 2-3 of Santa Clara County, Burbank Sanitary District (collectively “**Sanitation Districts**”), and the City of Milpitas (each individually a “**Party**” and collectively the “**Parties**” or “**Common Interest Group**”) (“**Amendment No. 5**”).

RECITALS

A. On August 25, 2015, the Parties formed a Common Interest Group pursuant to a Common Interest, Privilege, and Confidentiality Agreement (“**Common Interest Agreement**”), in order to exchange privileged and confidential information among themselves to advance their common interests in negotiating amendments to their respective Master Agreements for Wastewater Treatment with the Cities of San José and Santa Clara;

B. The Common Interest Agreement allows for experts and consultants to be jointly hired by the Common Interest Group in furtherance of the purpose of developing a common negotiation strategy and negotiating amendments to the Master Agreements;

C. The Common Interest Group participated in a year-and-a-half administrative claims process, four all-day mediation sessions spanning a six-month period before a retired judge, the filing of two substantial administrative complaints, and two hearings before the Treatment Plant Advisory Committee (“**TPAC**”). Despite that effort, the most critical issues and concerns of the Common Interest Group remain unresolved and, thus, the Master Agreements have not been amended;

D. The lack of a satisfactory resolution results in ongoing substantially adverse and unquantifiable fiscal impacts on the Common Interest Group. Consequently, after having exhausted all other available means of negotiating acceptable amendments to the Master Agreements, the Common Interest Group authorized initiation of litigation against the Cities of San José and Santa Clara to pursue claims for breach of the Master Agreements;

E. Based upon the change in circumstances, the Parties amended the Common Interest Agreement on October 13, 2017 (“**Amendment No. 1 to the Common Interest Agreement**”) to more accurately reflect the current purpose and needs of the Common Interest Group to pursue litigation in order to enforce its rights in relation to the Master Agreements;

F. In March 2016, the Parties entered into a Cost Sharing Agreement (“**Agreement**”) to share costs of consultants and experts involved with advancing their common interests as articulated in the Common Interest Agreement;

G. The Agreement established a maximum dollar amount that no single Party would be required to pay toward the shared expenses and designated Milpitas' share to be forty percent (40%) of the total shared expenses in Exhibit A of the Agreement;

H. In or about January 2017, the Parties executed Amendment No. 1 to the Agreement ("**Amendment No. 1**") in order to increase the maximum dollar amount limit for the shared expenses based on the percentages set forth in Exhibit A of the Agreement and to identify the specific applicable limits for each Party;

I. In or about February 2017, the Parties executed Amendment No. 2 to the Agreement ("**Amendment No. 2**") in order to further increase the maximum dollar amount limit for the shared expenses based on the percentages set forth in Exhibit A of the Agreement and to identify the specific applicable limits for each Party;

J. In or about October 2017, the Parties executed Amendment No. 3 ("**Amendment No. 3**") to the Agreement based on the estimated cost of the litigation provided by Hunton Andrews Kurth, LLP ("**Law Firm**") in order to further increase the maximum dollar amount limit for the litigation expenses to a collective total amount of \$3,390,850 and again identify the specific applicable limits for each Party based on the percentages set forth in Exhibit A of the Agreement of which the City of Milpitas committed to provide \$1,399,000;

K. Pursuant to Section 4 of the Agreement, Cupertino Sanitary District is designated as the Administrative Agency under the Agreement and, as such, is responsible for entering into consulting or expert services contracts on behalf of each of the participants in the Cost Sharing Agreement as well as paying invoices of those consultants or expert advisors, and invoicing each Party to the Agreement for its respective share of costs;

L. On March 23, 2018, the Parties filed suit against the City of San José and the City of Santa Clara in *County Sanitation District, et al. v. The City of San José, et al.*, Santa Clara Superior Court Case No. 18 CV 325480 ("**the Litigation**");

M. Pursuant to the Agreement and Amendment No. 3, Milpitas initially remitted payment for its share of Litigation service costs provided by the Law Firm invoiced to it by Cupertino Sanitary District. However, on August 10, 2018, Milpitas, by letter, informed Cupertino Sanitary District that it would not pay the entire amount of the July 12, 2018 invoice;

N. The Parties have been engaged in negotiations to settle the dispute regarding Milpitas' obligation to share in the cost of Law Firm's services. In particular, Sanitation Districts maintain that Milpitas is obligated to provide approximately \$1,169,216.29 as its share of costs of Law Firm's services through May 31, 2021 pursuant to the Agreement and Milpitas disputes this claim ("**Dispute**"). Due to the length of time the Dispute remained unresolved, the cost of Law Firm's services exceeded the maximum collective share of the Sanitation Districts' cost obligations as designated in the Agreement and amended by Amendment No. 3;

O. Therefore, on December 17, 2020 the Sanitation Districts executed Amendment No. 4 to the Agreement ("**Amendment No. 4**") in order to maintain Milpitas' maximum dollar as designated in Amendment No. 3 and increase the Sanitation District's maximum dollar amounts

to collectively contribute and finance Milpitas' excluded forty percent (40%) share of costs while the Parties resolved the Dispute; and,

P. The Parties desire by this Amendment No. 5 to fully and finally resolve their Dispute.

TERMS AND CONDITIONS

NOW THEREFORE, in consideration of the promises made and recited herein and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties do hereby agree to enter into this Amendment No. 5, which modifies and amends the Agreement as follows:

1. **Recitals.** The foregoing recitals are true and correct and hereby incorporated herein.
2. **Defined Terms.** All capitalized terms not defined herein shall have the meanings ascribed to them in the Agreement.
3. **Effective Date.** The Effective Date of this Amendment No. 5 shall be the date by which all Parties have executed it which shall be no later than September 30, 2021 ("**Effective Date**").
4. **Section 3.A is amended to read as follows:**

Each Party shall pay its allocated share of costs identified in Section 1.A within thirty (30) days of receipt of an invoice from the Administrative Agency pursuant to Section 3.D (hereinafter referred to as a "Payment Deadline"), based upon the percentages specified in Exhibit A.

5. **Subsection 4.A is amended to read as follows:**

The Administrative Agency shall not contract with a consultant, expert or legal counsel on behalf of the Common Interest Group until the Parties mutually agree to in writing regarding the hiring of the consultant, expert or legal counsel. Notwithstanding the proceeding, the Parties have mutually agreed to the hiring of Hunton Andrews Kurth, LLP including Tom Boer at Hogan Lovells LLP to represent the Common Interest Group and no further written agreement is required from the Parties with respect to such representation. After the Administrative Agency or another Party enters into a contract on behalf of the Common Interest Group that is subject to cost-sharing, no particular work shall be performed until each Party reviews and approves the scope of services to be performed and the estimated costs associated with such services, which for purposes of this Agreement shall be defined as a "Scope of Services." The following individuals, on behalf of each respective Party, are authorized to review and approve any Scope of Services:

For West Valley Sanitation District:

Jon Newby, District Manager and Engineer

West Valley Sanitation District

100 E. Sunnyoaks Avenue Campbell, CA 95008 jnewby@westvalleysan.org

For Cupertino Sanitary District

Richard Tanaka, District Consultant
Cupertino Sanitary District
20863 Stevens Creek Boulevard, Suite 100
Cupertino, CA 95014 rktmtco@gmail.com

For County Sanitation District No. 2-3

Barry Ng, Deputy Director
County of Santa Clara Roads and Airport Department
County Sanitation District No. 2-3
20863 Stevens Creek Boulevard, Suite 100
Cupertino, CA 95014 barry.ng@rda.sccgov.org

For Burbank Sanitary District

Procopio Scalfani, President of Board of Directors
Burbank Sanitary District
20863 Stevens Creek Boulevard, Suite 100
Cupertino, CA 95014 pscalfani@burbanksanitary.org

For City of Milpitas

City of Milpitas
Steven G. McHarris, City Manager
1265 N. Milpitas Boulevard
Milpitas, CA 95035 CityManagerOffice@ci.milpitas.ca.gov

6. Subsection 4.C. is amended to read as follows:

At no time during the term of this Agreement shall a Party's costs contemplated hereunder exceed its pro-rata share of costs as set forth in Exhibit A.

- 7. Effect of Amendment No. 5.** Except as expressly modified by Amendment No. 5, all terms and conditions in the Agreement, Amendment No. 1, Amendment No. 2, Amendment No. 3 and Amendment No. 4 shall remain in full force and effect and the Parties hereby ratify and affirm all their respective rights and obligations under the Agreement and Amendment Nos. 1 through 4. In the event of any conflict between the Amendment No. 5 and the Agreement or Amendment Nos. 1 through 4, the provisions of this Amendment No. 5 shall govern.
- 8. Milpitas Payment of Portion of its Past Due Pro-Rata Share of Law Firm Services (\$1,169,216.29) to Settle Dispute.** Within thirty (30) calendar days of the Effective Date of this Amendment No. 5, Milpitas shall provide the Administrative Agency with a payment of \$350,000.00 which shall be used by the Administrative Agency to pay for Law Firm services.
- 9. Milpitas Payment of Pro-Rata Share of Law Firm Services Incurred After June 1, 2021.** Milpitas shall pay its pro-rata share of Law Firm service costs as designated in the

Agreement and pursuant to this Amendment No. 5 beginning on June 1, 2021 and incurred in the Litigation thereafter except that, if the Effective Date is later than June 1, 2021, the Administrative Agency shall not invoice Milpitas for such costs until the Effective Date.

10. **General Release.** In consideration of the payments, promises, and obligations called for herein, the Sanitation Districts release and forever discharge Milpitas from any and all past, present, and/or future claims, demands, sanctions, actions and/or causes of action, now known or unknown, including, but not limited to, all injuries and damages arising out of, or in any way connected with the Dispute, including without limitation any claims and/or causes of action which were, or could have been asserted. The Parties acknowledge and agree that this Amendment No. 5 includes a general release and the Parties, except as provided herein, expressly assume the risk that any and all claims for damages arising out of the Dispute, that they may have as of the Effective Date but which the Parties do not know or expect to exist, whether through ignorance, oversight, error, negligence, or otherwise, and which, if known, would materially affect the Parties' decision to enter into this Amendment No. 5 are forever waived.

11. **Waiver of Civil Code Section 1542.** The Parties understand that it is possible that an unknown injury, damage, diminution or loss, action suit, lien theory of recovery, lawsuit, claim or cause of action may exist which if known by the Parties would have materially affected their decision to release and discharge each other as set forth herein. The Parties expressly acknowledge that they took that possibility into account in determining the consideration accepted for entering into this Amendment No. 5 and they expressly waive California Civil Code section 1542 as to the Dispute. The Parties expressly agree that this waiver shall not apply to any future amendment to the Agreement, unless specifically provided for therein.

California Civil Code section 1542 provides:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor".

12. **Counterparts.** Execution of this Amendment No. 5 may be accomplished by execution of separate counterparts by each signatory. The separate executed counterparts, taken together, shall constitute a single agreement.

SIGNATURES ON FOLLOWING PAGE

WITNESS THE EXECUTION HEREOF, the Parties hereto have executed this Amendment No. 5 on the day and year first hereinabove written.

WEST VALLEY SANITATION DISTRICT

APPROVED AS TO FORM:

Jon Newby, District Manager and Engineer

Laura McKinney, District Counsel

Dated:_____, 2021

CUPERTINO SANITARY DISTRICT

APPROVED AS TO FORM:

Taghi S. Saadati
President of the Board of Directors

Marc Hynes, District Counsel

Dated:_____, 2021

COUNTY SANITATION DISTRICT 2-3

APPROVED AS TO FORM:

James R. Williams, County Counsel

Gregory Charles, District Counsel

Dated:_____, 2021

BURBANK SANITARY DISTRICT

APPROVED AS TO FORM:

Procopio Sclafani
President of the Board of Directors

Valerie J. Armento, District Counsel

Dated:_____, 2021

CITY OF MILPITAS

APPROVED AS TO FORM:

Steven G. McHarris, City Manager

Christopher Diaz, City Attorney

Dated:_____, 2021

**COST SHARING AGREEMENT AMONG WEST VALLEY SANITATION
DISTRICT, CUPERTINO SANITARY DISTRICT, COUNTY SANITATION
DISTRICT NO. 2-3, BURBANK SANITARY DISTRICT, AND
THE CITY OF MILPITAS**

This Cost Sharing Agreement ("Agreement") is entered into by and between the West Valley Sanitation District, Cupertino Sanitary District, County Sanitation District No. 2-3, Burbank Sanitary District, and the City of Milpitas (each individually a "Party" and collectively the "Parties" or "Common Interest Group") effective the ____ day of February, 2016 ("Effective Date").

RECITALS

A. On August 25, 2015, the Parties formed a Common Interest Group pursuant to a Common Interest, Privilege, and Confidentiality Agreement ("Common Interest Agreement"), in order to exchange privileged and confidential information among themselves to advance their common interests in negotiating amendments to their respective Master Agreements for Wastewater Treatment with the Cities of San José and Santa Clara.

B. Section 3(E) of the Common Interest Agreement contemplates that the Parties may jointly hire one or more consultants or experts to represent the Common Interest Group, and where such consultant or expert is covered by the common interest doctrine or joint defense privilege that applies to the Common Interest Group thereunder.

C. The Parties now desire to hire one or more consultants or experts to provide services on behalf of the Common Interest Group.

D. The Parties further desire to share the costs associated with (i) hiring the consultants or experts; (ii) attorneys' fees associated with any legal services provided on behalf of the entire Common Interest Group by legal counsel retained for the purposes of common interest efforts contemplated in this Agreement, in the amounts specified herein; and (iii) the costs of any mediation.

E. The Parties' adherence to the Common Interest Agreement shall be considered consideration for this Agreement.

TERMS AND CONDITIONS

NOW THEREFORE, the Parties agree as follows:

1. **COST SHARING IN COMMON INTEREST EFFORTS**

A. The Parties hereby agree and acknowledge that the following cost categories shall be shared pursuant to the percentages specified in Exhibit A:

i. The hiring of any consultants or experts on behalf of the Common Interest Group, including but not limited to their costs of performing such consulting or expert services on behalf of the Common Interest Group.

ii. Legal services performed by legal counsel retained by the Administrative Agency on behalf of the Common Interest Group and that are intended to benefit the Common Interest Group as a whole and not an individual Party. The costs of such legal services must be reasonable and must be documented using timekeeping software or other reliable methods of documentation.

a. For the purposes of this Agreement, legal services shall specifically exclude time spent by the Parties' respective legal counsel reviewing attorney work product prepared by legal counsel retained by the Administrative Agency on behalf of the Common Interest Group.

iii. The costs of hiring any mediator, arbitrator, or other third-party neutral.

iv. The costs of hiring a third party financial agent, if necessary, as provided in Section 2(B).

B. Nothing herein shall prevent any Party from incurring consultant, expert, or legal costs and fees on its own behalf to support its independent efforts, and to ensure that the Party is adequately defended in any administrative or legal proceeding.

2. ADMINISTRATIVE AGENCY

A. The Parties hereby designate West Valley Sanitation District ("WVSD") as the initial Administrative Agency responsible for entering into contracts with consultants, experts, and legal services on behalf of the Common Interest Group, the payment of any related invoices, as well as overseeing and distributing the reimbursement of costs as provided in Section 3 below. In the event another Party seeks to enter into contracts with consultants, experts, and/or legal services on behalf of the Common Interest Group, such Party shall notify the Common Interest Group of its intention, and the Common Interest Group shall mutually agree in writing to such arrangement.

B. The term of WVSD as Administrative Agency shall end on December 31, 2016, unless WVSD provides written notice of its intent to continue as the Administrative Agency on January 1, 2017. Within ninety (90) calendar days prior to December 31, 2016, WVSD shall provide all Parties with written notice of either its intent to continue as the Administrative Agency, or its intent to resign as the Administrative Agency. Should WVSD resign its position, then another Party may volunteer to act as the Administrative Agency by providing all Parties with written notice prior to the date of resignation. If a Party volunteers to become the Administrative Agency, then the term shall be for a minimum of one (1) year from the date such duties are assumed. Before the term expires, the same procedures shall be followed for providing written notice of an intent to continue as the Administrative Agency or to resign. If no Party volunteers within thirty (30) calendar days after receiving the written

notice of resignation, then the Parties shall hire a third party financial agent to act as the Administrative Agency.

C. In the event another Party becomes the Administrative Agency, all existing contracts with the prior Administrative Agency shall be assigned to the new Administrative Agency. However, in the event a third party financial agent becomes the Administrative Agency, then the Parties shall promptly meet and confer to determine how existing and new contracts shall be managed.

D. The Administrative Agency shall keep sufficient records that would allow appropriate review by an outside auditor at any time, at the request of any Party.

E. The Administrative Agency shall be entitled to a ten percent (10%) administrative fee for carrying out its obligations pursuant to this Agreement. The fee shall be calculated by multiplying the total cost of services subject to cost sharing by one hundred ten percent (110%) and shall be allocated to the parties in accordance with the cost allocation percentages in Exhibit A.

3. PAYMENT PROCEDURE

A. The Parties shall pay their allocated share of costs identified in Section 1(A) twice per year, by June 30 and December 31 of each year (hereinafter referred to as a "Payment Deadline"), based upon the percentages specified in Exhibit A.

B. Sixty (60) calendar days before any Payment Deadline, each Party that has incurred costs identified in Section 1(A) shall provide the Administrative Agency with an itemized statement of costs incurred, attaching all related invoices and other relevant supporting documentation (hereinafter "Statement").

C. Upon receipt of all Statements, the Administrative Agency shall then have thirty (30) calendar days to review and compile all Statements received for that period.

D. Thirty (30) calendar days before any Payment Deadline, the Administrative Agency shall provide the Parties with an invoice of the allocated amounts owed by each Party. The invoice shall attach the Statements received from each Party and indicate the total amount of costs incurred and shared among the Parties for that period, including the administrative fee of ten percent (10%). On each invoice, the Administrative Agency shall indicate the address where payments shall be sent and to whom payments shall be made payable.

E. Unless payment of an invoice under this Agreement is disputed by a Party from which payment is requested, the Parties agree to pay any invoice that is duly presented pursuant to the terms of this Agreement by the Payment Deadline. All payments shall be by check, warrant, or electronic transfer.

4. AUTHORIZATION OF SERVICES

A. The Administrative Agency shall not contract with a consultant or expert on behalf of the Common Interest Group until the Parties mutually agree in writing regarding the hiring of the consultant or expert. After the Administrative Agency or another Party enters into a contract on behalf of the Common Interest Group that is subject to cost-sharing, no particular work shall be performed until each Party reviews and approves the scope of services to be performed and the estimated costs associated with such services, which for purposes of this Agreement shall be defined as a "Scope of Services." The following individuals, on behalf of each respective Party, are authorized to review and approve any Scope of Services:

For West Valley Sanitation District:

Jon Newby, District Manager and Engineer
West Valley Sanitation District
100 E. Sunnyside Avenue
Campbell, CA 95008
jnewby@westvalleysan.org

For Cupertino Sanitary District

Richard Tanaka, District Manager
Cupertino Sanitary District
20863 Stevens Creek Boulevard, Suite 100
Cupertino, CA 95014
rtanaka@markthomas.com

For County Sanitation District No. 2-3

Richard Tanaka, District Manager
County Sanitation District No. 2-3
20863 Stevens Creek Boulevard, Suite 100
Cupertino, CA 95014
rtanaka@markthomas.com

For Burbank Sanitary District

Richard Tanaka, District Manager
Burbank Sanitary District
20863 Stevens Creek Boulevard, Suite 100
Cupertino, CA 95014
rtanaka@markthomas.com

For City of Milpitas

Nina Hawk, Public Works Director
Public Works Department
City of Milpitas

1265 N. Milpitas Boulevard
Milpitas, CA 95035
nhawk@ci.milpitas.ca.gov

B. Each Party shall approve the Scope of Services by email confirmation or by signing the Scope of Services.

C. At no time during the term of this Agreement shall a Party's total allocated share of costs contemplated under this Agreement exceed one hundred thousand dollars (\$100,000).

5. DISPUTE RESOLUTION

If the Administrative Agency disputes a Statement or if a Party disputes any expense provided in an invoice, the disputing party shall notify the other Party, in writing, within (30) calendar days of receiving the disputed statement or invoice. The Parties shall resolve their disputes informally to the maximum extent possible. The disputing Parties shall negotiate all matters in good faith, with the intention of resolving issues between them in a mutually satisfactory manner. If the disputing Parties cannot informally resolve the dispute, they shall first attempt to resolve such dispute through non-binding mediation for a period not to exceed ninety (90) calendar days. If the Parties cannot mutually agree upon a mediator, then the presiding judge of the Santa Clara County Superior Court shall designate a mediator. Should mediation be unsuccessful, the dispute may be referred to private arbitration upon mutual written approval of the disputing Parties. If the disputing Parties do not mutually agree in writing to arbitration, a disputing party may commence an adversarial proceeding before any court of competent jurisdiction in the County of Santa Clara.

6. DEFAULT AND REMEDIES

If a Party fails to make a non-disputed payment by a Payment Deadline, the Administrative Agency shall provide the Party with written notice of non-payment (the "Non-Payment Notice"). Should a Party fail to remedy such non-payment within ten (10) business days of the receipt of a Non-Payment Notice, that Party shall be in default of this Agreement. In the event of default, such amounts due and owed shall bear interest at four percent (4%) per annum. Payment of such interest shall not excuse the non-payment of the underlying obligation, and such interest shall be owing in addition to all other rights and remedies provided to the Administrative Agency under this Agreement, at law and/or in equity, with respect to such non-payment.

7. TERM

This Agreement shall remain in full force and effect until such time as the Common Interest Agreement is terminated.

8. NOTICES

All notices hereunder must be in writing and must be served on the each of the Parties at the mail addresses or e-mail addresses of the individuals executing this Agreement, with copies to their counsel. Contact information may be changed by written notice to the other Parties to the Agreement. Any notice shall be deemed delivered five (5) business days after such mailing date if by U.S. mail, or the next business day if by e-mail. The mailing address, email address, and telephone number of each Party are as follows:

For West Valley Sanitation District:

Jon Newby, District Manager and Engineer
West Valley Sanitation District
100 E. Sunnyside Avenue
Campbell, CA 95008
jnewby@westvalleysan.org

With a copy to:

Sarah Quiter, District Counsel
Meyers Nave
555 12th Street, Suite 1500
Oakland, CA 94607
squiter@meyersnave.com

For Cupertino Sanitary District

Richard Tanaka, District Manager
Cupertino Sanitary District
20863 Stevens Creek Boulevard, Suite 100
Cupertino, CA 95014
rtanaka@markthomas.com

With a copy to:

Marc Hynes, District Counsel
Atkinson-Parasyn LLP
5050 El Camino Real, Suite 205
Los Altos, CA 94022
hynes.marc@gmail.com

For County Sanitation District No. 2-3

Richard Tanaka, District Manager
County Sanitation District No. 2-3
20863 Stevens Creek Boulevard, Suite 100

Cupertino, CA 95014
rtanaka@markthomas.com

With a copy to:

Michael L. Rossi, Lead Deputy County Counsel
Office of the County Counsel, County of Santa Clara
70 W. Hedding Street, E. Wing, 9th Floor
San José, CA 95110

For Burbank Sanitary District

Richard Tanaka, District Manager
Burbank Sanitary District
20863 Stevens Creek Boulevard, Suite 100
Cupertino, CA 95014
rtanaka@markthomas.com

With a copy to:

Jennifer Faught, District Counsel
Meyers Nave
555 12th Street, Suite 1500
Oakland, CA 94607
jfaught@meyersnave.com

For City of Milpitas

Nina Hawk, Public Works Director
Public Works Department
City of Milpitas
1265 N. Milpitas Boulevard
Milpitas, CA 95035
nhawk@ci.milpitas.ca.gov

With a copy to:

Christopher Diaz, City Attorney
Office of the City Attorney
455 East Calaveras Boulevard
Milpitas, CA 95035
christopher.diaz@bbklaw.com

9. SEVERABILITY

If any provision of this Agreement is found invalid or unenforceable, the balance of this Agreement will remain in full force and effect.

10. AMENDMENTS

This Agreement may not be amended except in a writing signed by all of the Parties.

11. JOINTLY DRAFTED

The Parties agree that this Agreement was jointly drafted by each Party, and no inference or rule of construction shall be applied based on the assumption that any individual Party drafted any provision in this Agreement.

12. CHOICE OF LAW

This Agreement shall be interpreted, governed by, and construed under the laws of the State of California. Any dispute regarding this Agreement shall be adjudicated in a court of competent jurisdiction in the County of Santa Clara.

13. COUNTERPARTS AND SIGNATURES

This Agreement may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts together shall constitute one and the same document. Signatures may be transmitted electronically.

14. AUTHORITY

The undersigned individuals represent that they are authorized to execute this Agreement on behalf of their respective Party.

WHEREFORE, the Parties, acting by their respective District Managers and City Manager, have hereto executed and entered into this Agreement as of the date indicated.

[signatures appear on following page]

WEST VALLEY SANITATION DISTRICT

Jon Newby
Jon Newby, District Manager and Engineer
Dated: 2/11/, 2016

Approved as to Form:

Sarah Quiter, District Counsel

CUPERTINO SANITARY DISTRICT

Richard Tanaka, District Manager
Dated: _____, 2016

Approved as to Form:

Marc Hynes, District Counsel

COUNTY SANITATION DISTRICT 2-3

Richard Tanaka, District Manager
Dated: _____, 2016

Approved as to Form:

Michael L. Rossi, Lead Deputy
County Counsel

BURBANK SANITARY DISTRICT

Richard Tanaka, District Manager
Dated: _____, 2106

Approved as to Form:

Jennifer Faught, District Counsel

CITY OF MILPITAS

Thomas Williams
Thomas Williams, City Manager
Dated: 3/7/16, 2016

Approved as to Form:

Christopher Diaz, City Attorney

EXHIBIT A

Agency	FY 2015-16 RWF Capital Cost*	Cost Allocation
West Valley S.D.	\$ 8,196,400	34%
Cupertino	\$ 5,417,000	22%
Milpitas	\$ 9,526,900	40%
C.S.D. No. 2-3	\$ 672,800	3%
Burbank	\$ 297,300	1%
TOTAL	\$ 24,110,400	100%

* Source of data: Table 3 San Jose /Santa Clara Water Pollution Control Plant Allocation of Capital Costs
Fiscal Year 2015-16

Expenses Incurred by Common Interest Group

Paid by WVSD

	Payment Date	AP Packet #	Vendor #	Vendor Name	Account #	Invoice Date	Description of Invoice	Invoice #	Total Invoice Amount	Allocation				
										WVSD 34%	City of Milpitas 40%	Cupertino Sanitation 22%	Burbank 1%	Sanitation District 2 & 3 3%
1	2/12/16	02636	51741	Singer Associates, Inc.	0-45120-05	1/31/16	Tributary Common Int. Group	130056	\$29,604.44	\$10,065.51	\$11,841.78	\$6,512.98	\$296.04	\$888.13
2	2/26/16	02645	M1257	Meyers Nave	0-45120-05	2/11/16	Coord. Of Common Int. Work Proj	2016010151	\$3,377.50	\$1,148.35	\$1,351.00	\$743.05	\$33.78	\$101.33
3														
4														
5														
6														
7														
8														
9														
10														
11														
12														
13														
14														
15														
Sub-total									\$32,981.94	\$11,213.86	\$13,192.78	\$7,256.03	\$329.82	\$989.46

Paid by Other Agencies

	Payment Date	Paid By	Vendor Name	Invoice Date	Description of Invoice	Invoice #	Total Invoice Amount	Allocation				
								WVSD 34%	City of Milpitas 40%	Cupertino Sanitation 22%	Burbank 1%	Sanitation District 2 & 3 3%
1								\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2								\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
3												
4												
5												
Sub-total								\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

Grand Total \$32,981.94 \$11,213.86 \$13,192.78 \$7,256.03 \$329.82 \$989.46

Administrative Fee (10%) \$2,176.81 \$1,319.28 \$725.60 \$32.98 \$98.95

Total Billable \$35,158.76 \$12,533.86 \$14,512.06 \$7,981.63 \$362.80 \$1,088.41

Credits - Paid by Agencies -\$32,981.94 -\$32,981.94

Total Invoice \$2,176.82 \$21,768.08 \$14,512.06 \$7,981.63 \$362.80 \$1,088.41



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Open the Public Hearing and Adopt Resolutions to Approve the Fiscal Year 2021-22 Operating Budget for the City of Milpitas and the Milpitas Housing Authority, Approve the Fiscal Year 2021-22 Gann Appropriations Limit, Authorize Various Financial Actions, Fiscal Policies and Budget Guidelines, Amend the Classification Plan for Alignment with the FY 2021-22 Budget, the Minimum Wage Increase, and Salary Schedules Consistent with Previous Council Action
Category:	PUBLIC HEARING Leadership and Support Services
Meeting Date:	6/1/2021
Staff Contact:	Lauren Lai, Director of Finance, 408-586-3111
Recommendations:	1) Open the public hearing and move to close the hearing following any speakers. 2) Adopt the following Resolutions: a. Joint Resolution of the City Council and Milpitas Housing Authority to approve the Fiscal Year 2021-22 Operating Budget the City of Milpitas and the Milpitas Housing Authority, approve the Appropriations Limit, Fiscal Policies and Budget Guidelines and authorizing various financial actions by the City Manager, including Approving and Authorizing the Execution of Various Contracts and Payments over \$100,000. b. Amending Resolution No. 1626, the Classification Plan, to authorize additional positions and amend budgeted allocated positions. c. Amending Resolution No. 1626, the Classification Plan, to adjust the hourly rate ranges for classifications due to a minimum wage increase pursuant to Ordinance No. 292. d. Amending Resolution No. 1626, the Classification Plan, to adjust the Salary Schedules for all IAFF, Mid-CON, PROTECH, MEA, Miscellaneous Unrepresented and Fire Unrepresented Classifications.

Background:

This agenda report is supplemental to the FY2021-22 Proposed Operating Budget ([Proposed Budget](#)) and City Manager transmittal letter. It also incorporates the City Council May 11 budget study session ([Agenda Report](#)) and previous Council actions that impact the FY2021-22 budget and provides updates to the fiscal policies and budget guidelines. The American Rescue Plan Act (ARPA) will be discussed as a separate agenda item on June 8, with additional deliberation in August and Fall 2021. Any required budget amendments resulting from these discussions will be brought forward for Council consideration at that time.

On May 11, staff presented the Proposed Budget and the General Fund 10-Year forecast, the final tally of the Open Townhall survey, and the recommended changes to the fiscal policies and budget guidelines. Staff also presented the Council referrals for Main Street revitalization and small business assistance.

A public hearing notice was published related to the adoption of the FY 2021-22 budget and the Gann Appropriations Limit.

Analysis:

This staff reports transmits the [FY 2021-22 Proposed Budget](#), documents Council requested changes to the Proposed Budget, responds to Council referrals from the May 11 FY 2021-22 Operating Budget Study Session and the May 19 Council Meeting, and various resolutions related to budget adoption.

May 11, 2021 FY 2021-22 Proposed Budget Study Session and Other Council Actions that Impact the Proposed Budget

During the May 11 session, Council discussed and approved the Main Street revitalization, budget actions for which are incorporated into the Proposed FY2021-22 General Fund budget, increasing sponsorship and appropriations by \$50,000 respectively and increasing the Public Art Fund and Capital Improvement Project Fund 331 by \$12,500, respectively. Council directed Staff to consider small business assistance via ARPA funding. Also, Council had questions about the Chief Fire Enforcement Officer position. In response to these questions, staff issued an information memorandum on May 21, 2021 (see attached) providing additional information and clarification to information provided at the May 11, 2021 Budget Study Session.

On May 18, Council adopted the resolution of intent to levy the landscaping and lighting maintenance assessment district no. 95-1 (LLMD 95-1 McCarthy Ranch) and the Proposed Budget is updated accordingly.

On May 7, Council conducted a public hearing to discuss allocation amounts for FY21-22 Community Development Block Grant (CDBG) funding and to approve an amendment to the FY20-21 Annual Action Plan. Since the City received FY21-22 formula allocation of \$673,059 and CDBG-CV tranche 3 funding of \$582,236, the FY2021-22 Proposed Budget was adjusted to match the total of \$1,255,295.

Water and Sewer Fund Balances

The Proposed Budget for the Water Fund and Sewer Fund included unassigned fund balances. Subsequent to May 11, Staff segregated these estimated unassigned FY 2021-22 ending fund balances into the various designated fund balances in accordance with Council approved fiscal reserve policies, such as Capital Reserves for Emergencies, Rate Stabilization Reserve, CalPERS Reserve and Infrastructure Repair.

Budget Guidelines

In order to streamline acceptance of donations for this purpose as well as for other programs, as part of the FY 2021-22 Proposed Budget, staff included an amendment to the City's budget guidelines authorizing the City Manager to adjust appropriations for receipt of donations up to \$100,000 under certain conditions. If this budget guideline amendment is approved by the City Council as part of the adoption of the Fiscal Year 2021-22 budget, future acceptance of donations for this program would be handled administratively. However, that revision as summarized on May 11 did not include updating the year-end close and carry-over process, which would further enhance efficiency. The current budget guidelines allow staff to carry forward appropriations from one fiscal year to the next fiscal year related to grant revenues received. Staff seeks Council approval to also apply this concept to donations, thereby updating the budget guidelines section #8 as follows:

“Unspent appropriations that are authorized and funded by grant revenues or donations from the prior fiscal year will automatically be carried over to the current year's budgets. Unspent City funded grant appropriations from prior fiscal year will automatically be carried over to the current year's budgets.”

FY 2021-22 Citywide Budget Summary (All Funds)

The table below includes the Council requested amendments to the FY 2021-22 Proposed Budget which include the one-time funding for Main Street Revitalization activities and adjustment for CDBG funding. The FY 2021-22 Proposed Budget continues to fund the same service level with very minor changes. The FY 2021-22 citywide budget of \$195.2 million has decreased by \$25.1 million, or 11.4 percent, in comparison to the Fiscal

Year 2020-21 Adopted Budget of \$220.3 million. Citywide, funded full-time equivalent (FTE) benefited positions are decreasing by 23.75 positions from 439.25 positions to 415.5 positions, or 5.4 percent.

As shown in Table 1 below, the FY 2021-22 Proposed Budget is balanced with \$195.2 million in revenues (including Transfers In) and \$195.2 million in expenditures (including Transfers Out). The FY 2021-22 revenue across all funds of \$195.2 million is a net decrease of \$25.1 million, or 11.4%, compared to the FY 2020-21 adopted revenue of \$220.3 million. This is primarily due to lower revenues in the General Fund related to the Pandemic.

The FY 2021-22 expenditures across all funds of \$195.2 million is a net decrease of \$25.1 million, or 11.4%, compared to FY 2020-21 adopted expenditures of \$220.3 million. The reductions are primarily in personnel costs and capital improvement contributions due to decreased funding for community improvement projects and bond funded projects, in the amount of \$17 million. As part of the Council approved FY 2020-21 Mid-Year actions, 13.75 positions were defunded. In addition, this proposed budget includes recommendations to defund 8.0 positions, eliminate 3.0 positions and add one position. Detailed descriptions of the Proposed Budget position changes by City Service Area (CSA) are provided in the Proposed Budget. This budget mostly maintains the Council approved service level.

Table 1 – FY 2021-22 Citywide Budget Summary (All Funds)

Citywide Revenues and other Financing Sources

	FY 2020-21 Adopted Budget	FY 2021-22 Proposed Budget	% Change from Prior Year Adopted
General Fund	\$117.1	\$110.8	(5.3)%
Housing Authority	0.7	1.0	42.9%
Other Funds	15.7	16.4	4.5%
Water Fund	40.4	31.5	(22)%
Sewer Fund	26.8	21.8	(18.7)%
Net Operating Funds Total	200.7	172.9	(13.9)%
Capital Projects Funds	19.6	13.7	(30.1)%
Total	\$220.3	\$195.2	(11.4)%

Citywide Expenditures

	FY 2020-21 Adopted Budget	FY 2021-22 Proposed Budget	% Change from Prior Year Adopted
Personnel Services	\$105.6	\$99.5	(5.7) %
Supplies & Contractual Services	57.5	55.8	(3.0)%
Capital Outlay	2.0	1.0	(50.0)%
Operating Transfers Out	11.9	12.1	0.8%
Subtotal	177.0	166.6	(5.9)%
Capital Improvements	39.7	22.3	(43.8)%
Debt Service	3.6	4.5	25.0 %
Total	\$220.3	\$195.2	(11.4)%

FY 2021-22 General Fund Budget

The Proposed Fiscal Year 2021-22 General Fund budget of \$110.8 million is balanced without the use of reserves or ARPA funding. The Fiscal Year 2021-22 General Fund revenues are estimated at \$110.8 million, a decrease of \$6.2 million, or 5.3 percent in comparison to the Fiscal Year 2021-22 General Fund revenue estimate of \$117 million. The decrease in revenue is primarily due to reductions in estimates from Transient Occupancy Tax (\$5.7 million), Sales Tax (\$2.7 million), and charges for services (\$3.6 million) such as fees related to recreation activities offset by Measure F Sales Tax (\$6.3 million) and Property Tax (\$4.4 million).

The Fiscal Year 2021-22 General Fund expenditures of \$110.8 million are \$6.3 million, or 5.4% lower, in comparison to the Fiscal Year 2020-21 General Fund expenditures of \$117 million primarily due to a decrease in salaries and benefits (\$6.1 million) and services and supplies (\$1.0 million). The decrease in salary and benefits is due to four employee groups (IAFF, MPOA, MidCon and Unrep) foregoing 2021 scheduled wage increases (\$2.4 million), the defunding or elimination of 23.75 positions (\$4.6 million) and retiree medical benefits savings (\$2.5 million) offset with increased salary and related benefits for two employee groups that have not agreed to wage concessions (MEA and Protech) of 3 percent effective July 1, 2021 (\$0.4 million) and increased health care costs (\$0.4 million).

Table 2 – Five-Year General Fund Forecast

	FY20-21 Adopted Budget	FY 21-22 Proposed Budget	FY 22-23 Forecast	FY 23-24 Forecast	FY 24-25 Forecast	FY 25-26 Forecast
Revenues	117.05	\$110.80	\$116.45	\$121.57	\$126.54	\$130.68
Expenditures	117.05	(110.80)	(116.12)	(120.17)	(125.11)	(129.23)
Annual Surplus/ (Deficit)	\$0	\$0	\$0.33	\$1.40	\$1.43	\$1.45

COVID Vaccination Improvements and Restrictions Eased

Santa Clara County officials announced the release of a new public health order and transition to Yellow Tier status effective May 19, 2021. Dr. Sarah Cody briefed the press on a reduced case rate 1/3 of the rate one month ago and a positivity rate of 0.5%. In combination with 75% first dose vaccinations and close to 60% fully vaccinated has qualified for a tier transition.

The Public Health Officer rescinded the October 6 public health order and issued a new order that was effective May 19. The rescinding order now eliminates the social distance guidelines and plan requirements, removes remote work mandate, and refers to Cal Osha standards and California Department of Public Health (CDPH) current standards. This will allow more mobility and businesses to resume.

Budget and Other Resolutions

The FY 2021-22 Budget and related recommendations are approved by various resolutions as discussed below.

Budget Adoption Joint Resolution

With the adoption of the attached Joint Resolution of the City Council and Milpitas Housing Authority, the City Council approves the Fiscal Year 2021-22 Operating Budget for the City of Milpitas and the Milpitas Housing Authority as amended in this staff report per previous Council direction. Further, through the joint resolution, the Council also approves the Gann Appropriations Limit, fiscal policies and authorizes various financial actions, including the authority to award certain contracts with amounts above \$100,000, the City Manager may take during FY 2021-22. The staff report for the May 11, 2021 budget study session (see attached) details the fiscal policy and budget guideline and City Manager authority recommendations.

An attachment to the joint budget resolution identifies a list of contracts with an estimated not-to-exceed amount above the City Manager's contract approval authority of \$100,000 as well as annual payments in excess of \$100,000 for insurance and utilities. Funding for these contracts has been incorporated into the proposed budget and/or the approved five year CIP. As part of the adoption of this budget, staff is seeking authority to award these contracts and make certain payments. The list includes annual routine contracts (e.g.: annual Operations and Maintenance for digital radio system with the Silicon Valley Regional Interoperability Authority), contracts with specific funding items related to this budget (e.g.: Valley Water wholesale water purchase), and contracts related to capital improvement projects.

The Gann Appropriations Limit – Article XIII B of the California State Constitution, more commonly referred to as the Gann Initiative or Gann Appropriations Limit, was approved by California voters in November 1979 and placed limits on the amount of proceeds of taxes that state and local governmental agencies can receive and spend each year. If an agency receives more revenue than the Appropriations Limit, the excess revenue must be returned to the taxpayers through a tax reduction or refund within the next two years. Alternatively, the agency can increase its Appropriations Limit through voters' approval.

Based on the attached analysis, using the population and per capita personal income change factors provided by the State of California, the City's Appropriations Limit for FY2021-22 has been computed to be \$119,175,291. Appropriations subject to the limitation in FY2021-22 budget total \$82,333,227 that is \$36,842,064 less than the computed limit. The City has not exceeded its annual Appropriations Limit in any single fiscal year since this requirement was approved by the voters in 1979.

Personnel Related Resolutions

Based on the FY 2021-22 Proposed Budget as amended in this staff report based on Council direction, staff is bringing forward several personnel related resolutions to amend the classification plan for all employees as it relates to authorized positions, changes to hourly rate ranges for certain classifications due to an increase in the City's minimum wage, and salary schedule amendments based on previous Council direction consistent with MOUs for the various bargaining groups.

Authorized positions – This resolution aligns the number of positions on the Authorized Position List and amends specific budgeted allocated positions consistent with the FY 2021-22 Proposed Budget as amended in this staff report by adding one (1) additional budgeted FTE, deleting / eliminating 3 budgeted FTEs, defunding 21.75 budgeted FTEs, reallocating 2 budgeted FTEs, transferring ½ (0.5) budgeted FTE, and amending titles for 4 budgeted FTEs to reflect the position responsibilities.

Minimum Wage Adjustments – This resolution adjusts the hourly rate ranges upwards of 7 classifications with the bottom of the hourly range set at the new minimum wage of \$15.65 per hour. Consistent with the City Council approved ordinance, the minimum wage is scheduled to increase by \$0.25 from \$15.40 to \$15.65 by July 4, 2021 based on the February 2021 annual CPI increase for the San Francisco, Oakland, San Jose Metropolitan Statistical Area.

Salary Schedules for Council Approved Wage Increases – This resolution is required per the California Code of Regulations § 570.5. Per State law, the City is required to bring all pay schedules before the governing board for review and approval. The updated salary schedules reflect a contractual 3% wage increase effective July 4, 2021 for employees represented by the Municipal Employee Association (MEA) and Professional and Technical Group (PROTECH). International Association of Firefighters (IAFF), Mid-Management and Confidential Unit (MidCON) negotiated with the City to forego the 2021 scheduled salary increase. The City Council approved the elimination of the July 4 scheduled wage increase for Unrepresented Miscellaneous group, the Unrepresented Fire group, and Unrepresented Management Employees in December 2020.

Fiscal Impact:

The FY 2021-22 Budget for City of Milpitas and the Milpitas Housing Authority, upon adoption, for all funds including debt service, will be \$195,169,140.

Recommendations:

- 1) Open the public hearing and move to close the hearing following any speakers.
- 2) Adopt the following Resolutions:
 - a. Joint Resolution of the City Council and Milpitas Housing Authority to approve the Fiscal Year 2021-22 Operating Budget the City of Milpitas and the Milpitas Housing Authority, approve the Appropriations Limit, Fiscal Policies and Budget Guidelines and authorizing various financial actions

by the City Manager, including Approving and Authorizing the Execution of Various Contracts and Payments over \$100,000.

- b. Amending Resolution No. 1626, the Classification Plan, to authorize additional positions and amend budgeted allocated positions.
- c. Amending Resolution No. 1626, the Classification Plan, to adjust the hourly rate ranges for classifications due to a minimum wage increase pursuant to Ordinance No. 292.
- d. Amending Resolution No. 1626, the Classification Plan, to adjust the Salary Schedules for all IAFF, Mid-CON, PROTECH, MEA, Miscellaneous Unrepresented and Fire Unrepresented Classifications.

Attachments:

1. City of Milpitas Resolutions:

- a. Joint Resolution to approve the Fiscal Year 2021-22 Operating Budget for the City of Milpitas and the Milpitas Housing Authority, approve the Appropriations Limit, and authorize various financial actions by the City Manager, including Approval of Contracts and Payments over \$100,000.
 - b. Amend the Classification Plan to adjust the number of positions on the Authorized Position List, amend specific budgeted, allocated positions and establish classification title changes.
 - c. Amend the Classification Plan to amend the hourly rate and ranges for classifications due to a minimum wage increase pursuant to the minimum wage ordinance.
 - d. Amend the Classification Plan to adjust the Salary Schedules for all IAFF, Mid-Management Confidential, PROTECH, Miscellaneous Unrepresented and Fire Unrepresented Classifications.
2. Location of the [Fiscal 2021-22 Proposed Budget](#) and May 11, 2021 [Staff Report](#)
3. May 21, 2021 Information Memorandum "Additional Information – Proposed Fire Prevention Reorganization and Elimination of the Chief Fire Enforcement Officer Position"

RESOLUTION NO. ____

A JOINT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AND THE MILPITAS HOUSING AUTHORITY OF THE CITY OF MILPITAS APPROVING THE FY 2021-22 OPERATING BUDGET FOR THE CITY OF MILPITAS AND THE MILPITAS HOUSING AUTHORITY, THE APPROPRIATIONS LIMIT FOR FISCAL YEAR 2021-22, FISCAL POLICIES, AND BUDGET GUIDELINES, AND AUTHORIZING VARIOUS FINANCIAL ACTIONS BY THE CITY MANAGER, INCLUDING APPROVING AND AUTHORIZING THE EXECUTION OF VARIOUS CONTRACTS AND PAYMENTS OVER \$100,000

WHEREAS, the City Manager has submitted a FY 2021-22 Proposed Budget and Financial Plan; and

WHEREAS, on June 1, 2021, a public hearing on the Proposed Budget and Financial Plan was opened where all interested persons were heard; and

WHEREAS, the City Council and Milpitas Housing Authority Commission (“Authority”) reviewed the City Manager’s FY 2021-22 Proposed Budget and Financial Plan; and

WHEREAS, the first year, or FY 2021-22, of the CIP is a part of the 2021-22 Proposed Budget and Financial Plan; and

WHEREAS, Article XIII B, Section 1, of the Constitution of the State of California requires that total annual appropriations subject to limitation of the City of Milpitas shall not exceed the appropriations limit of the City for the prior year adjusted for changes in the cost of living and population except as otherwise provided, also referred to as the Gann Appropriations Limit; and

WHEREAS, this Article became effective July 1, 1980, as amended, which requires the City to establish its appropriations limit by resolution each year at a regularly scheduled meeting or a noticed special meeting, commencing after the beginning of each fiscal year; and

WHEREAS, the appropriations base for 1978-79 had been determined and since adjusted by the changes in population, cost of living, and transfers of financial responsibility, establishing an appropriations limit for fiscal year 2021-22 of \$119,175,291; and

WHEREAS, the calculations for the appropriations limit are included as part of the budget document materials being considered and approved by the City Council as part of this Resolution; and

WHEREAS, documentation used in determining the appropriations limit has been made available to the public for a period of not less than fifteen (15) days prior to City Council consideration of this Resolution consistent with Government Code Section 7910; and

WHEREAS, the budget document contains fiscal policies that the City Council has reviewed and approved and which are updated from time to time, as follows: General Financial Goals, Operating Budget Policies, Revenue and Expenditure Policies, Utility Rates and Fees, Capital Budget Policies, Debt Policies, Reserve Policies, Investment Policies, and Accounting/Auditing and Financial Reporting Policies; and

WHEREAS, the budget document contains budget guidelines that the City Council has reviewed and approved and which are updated from time to time, as follows: Basis of Budgeting; Budget Calendar requirements; form and content of the City Manager's Proposed Budget; adoption of the Budget by June 30th; the City Manager’s budget authority; requirement that budget amendments be approved by the City Council; budget transfers and modification procedures; automatic adjustments and re-appropriations; budget monitoring and reporting; and reserve requirements for all funds.

NOW, THEREFORE, the City Council of the City of Milpitas and the Milpitas Housing Authority Commission hereby find, determine, and resolve as follows:

1. The City Council and Authority have considered the full record before them, 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 them. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The annual Budget and Financial Plan, as attached in the City Council meeting packet, inclusive of capital improvement appropriations, for the City of Milpitas for fiscal year 2021-22 is hereby affirmed and adopted totaling \$195,169,140 for all appropriated funds.
3. The amounts shown as “Appropriations” and estimated fund balances are hereby approved for the various purposes designated in the 2021-2022 Adopted Budget.
4. The budgets for all departments for the period July 1, 2021 through June 30, 2022, inclusive, contained in this 2021-22 Adopted Budget, are approved as the operating budget for those departments for fiscal 2021-22.
5. The appropriations limit for fiscal year 2021-2022 shall be \$119,175,291 as shown in **Exhibit 1**.
6. Pursuant to Government Code Section 7910, no judicial action or proceeding to attack, review, set aside, void, or annul the action of the City Council in establishing the appropriations limit for fiscal year 2021-2022 shall be brought unless such action or proceeding shall have been commenced within forty-five (45) days of the date of adoption of this Resolution.
7. Any unused non-salary and benefits-related appropriations at the end of fiscal 2020-2021 may be re-appropriated for continued use in fiscal year 2021-22 subject to the approval of the City Manager. Furthermore, any outstanding contract and/or purchase order obligations (or encumbrances) remaining at the end of FY 2020-2021 are subject to carry-over into FY 2021-22.
8. Subject to any grant restrictions, unspent appropriations that are authorized and funded by grant revenues from prior fiscal year will automatically be carried over to current year’s budgets. Unspent City funded grant appropriations from prior fiscal year will automatically be carried over to the current year’s budgets.
9. As part of year-end closing of the budget, previously appropriated capital project funds will be automatically carried forward to the next fiscal year for the same capital project until the project is closed out.
10. No office, department, or agency shall expend any amount or incur any liability or enter into any contract, which by its terms involves expenditures of money for any purpose in excess of the amounts appropriated for the particular departments, and funds set forth herein.
11. The City Manager may authorize, when in his or her judgment such action is consistent with the purposes and intent of the 2021-2022 Adopted Budget as approved, budget revisions subject to the following conditions:

Prior Council Approval Not Required. Prior approval of the City Council is not required under the following circumstances:

- i. When revisions involve transfers from the Unanticipated Expenditure Reserve less than or equal to the aggregate amount adopted within the budget in any one fiscal year (\$1,100,000 in FY 2021-22), provided that the Council is notified in writing of the revision, giving the reason, the amount of the revision and the year-to-date total amount of revisions as part of the quarterly financial reports.

- ii. When revisions involve transfers from the appropriated leave cash-out account less than or equal to the aggregate amount adopted within the budget in any one fiscal year (\$700,000 in FY 2021-22) to the various departments for cash-outs when employees leave City service.
- iii. When revisions involve transfers, or reallocations, within any one fund among the various departments or projects, provided that the amount of transfer in any single instance does not exceed \$100,000.
- iv. When revisions involve reasonable deviation from the budgeted personnel allocation schedule, provided that at no time the number of permanent funded positions authorized by the City Council is exceeded.
- v. When revisions involve hiring full-time employees in overstrength positions for no more than one year as long as appropriations are not exceeded to ensure adequate staffing levels for sworn positions, facilitate training of new employees by the outgoing incumbent or respond to urgent staffing needs.
- vi. When revisions involve adding/deleting positions or moving positions between departments to respond to organizational needs, as long as the number of permanent funded positions and the approved personnel cost appropriations remain the same.
- vii. When revisions involve allocating, redistributing and/or appropriating monies between department and non-department divisions so as to reflect budgetary savings in one or more departments.
- viii. For Police goods and services to be purchased from Asset Seizure funds, the City Manager or his/her designee, has the authority to purchase such goods or services if the expenditures of such goods and services do not exceed the amount designated from Asset Seizure funds as approved by the City Council during the Budget hearing.
- ix. To use judgment to modify citywide administrative financial policies and procedures from time to time that are consistent with municipal government best practices unless those policies would otherwise be in conflict with the budget provisions incorporated in this Resolution or the City's Municipal Code.
- x. **Exhibit 2** lists contracts and payments that are specifically identified in the budget document and materials enclosed herein. None of these contracts require a formal, public bidding process. The list of contracts and payments is hereby approved and the City Manager is authorized to execute and enter into these contracts and make these payments during fiscal year 2021-22 up to the amounts listed by contract or payment in **Exhibit 2**.

12. Prior Council Approval Required. Prior approval of the City Council is required for revisions to the 2021-2022 Final Budget as adopted if any of the following are involved:

- i. An increase in overall appropriation level within any one Fund.
- ii. The transfers or reallocation of appropriations greater than \$100,000 between different Funds, except not for reallocations between subfunds within one Fund.
- iii. Changes providing for increases or decreases in funded permanent personnel counts in the adopted Budget.
- iv. Contract change orders which would cause the aggregate contract amount to exceed \$100,000 and/or exceed prior approved appropriation levels for the subject contract.

- v. Transfers from Unanticipated Expenditure Reserve, which would cause the aggregate amount of \$1,100,000 during fiscal year 2021-22, to be exceeded.
- vi. Result in changes not consistent with the purpose and intent of the Budget as adopted.
- vii. Require an appropriation action from any unassigned fund balances or reserves.

13. Information establishing the current budget situation and steps to be taken to present balanced City Budgets have been presented during the public hearing on this meeting June 1, 2021, and in prior budget presentations.

14. The approval of the 2021-22 Adopted Budget, including the authority to enter into any contract, make payments, or undertake other actions, does not commit the City to any action that may have significant effect on the environment. This is because the actions are financial or administrative and do not directly impact the environment or the environmental impacts of any action would be speculative to analyze at this time. As a result, there is no potential impact on the environment from this action per Section 15061(b) (3) of the California Environmental Quality Act ("CEQA") Guidelines and this action does not constitute a project under CEQA per CEQA Guidelines Section 15378(b)(4). Although the budget does authorize certain types of contracts to be entered into, none are anticipated to have any environmental impact at the time of entering into the contract, and if ultimately leading to a project that could impact the environment, the impacts of that action will be analyzed once the project is designed and the analysis is no longer speculative.

PASSED AND ADOPTED this _____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Wendy Wood, City Clerk

Rich Tran, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

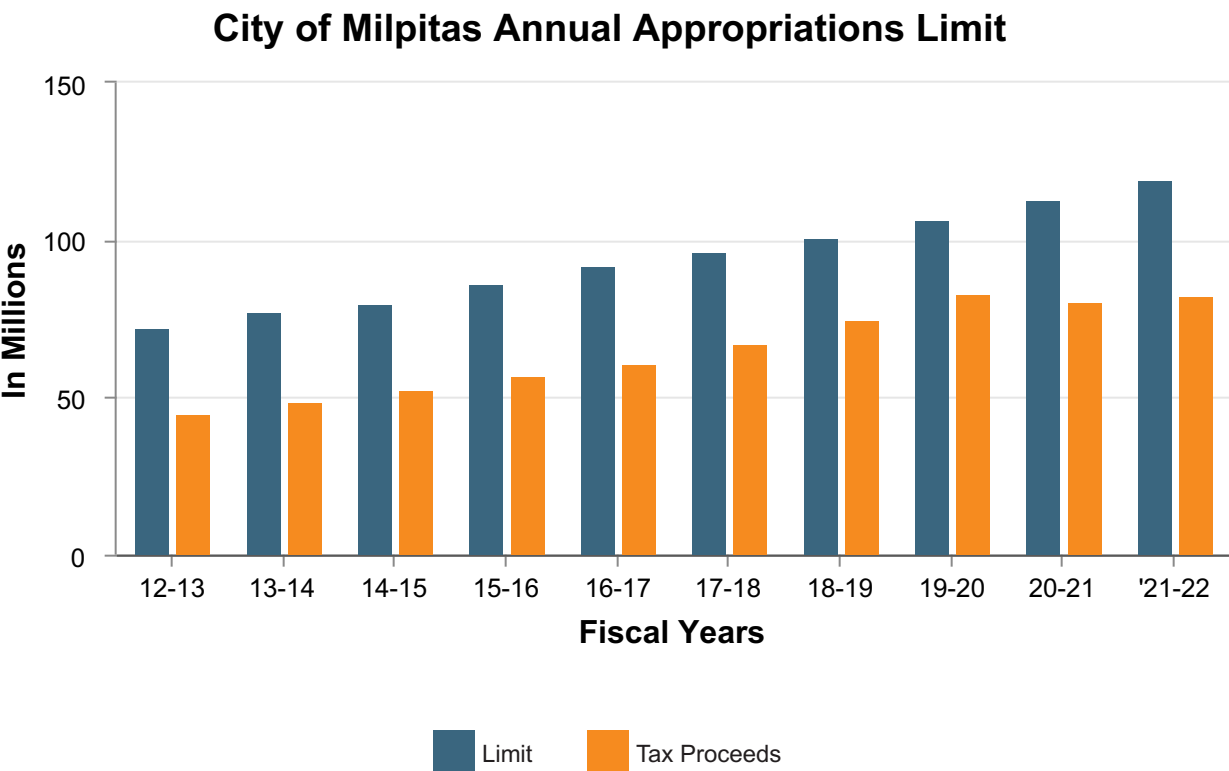
Exhibit 1

Gann Appropriations Limit Analysis

Article XIII B of the California State Constitution, more commonly referred to as the Gann Initiative or Gann Appropriations Limit, was approved by California voters in November 1979 and placed limits on the amount of proceeds of taxes that state and local governmental agencies can receive and spend each year. If an agency receives more revenue than the Appropriations Limit, the excess revenue must be returned to the taxpayers through a tax reduction or refund within the next two years. Alternatively, the agency can increase its Appropriations Limit through voters’ approval.

Each year’s limit is based on the amount of tax proceeds that were authorized to be spent in Fiscal Year 1978-79 in each agency, modified for changes in inflation and population in each subsequent year. The City Council must adopt, by resolution, an Appropriations Limit for the following year. Using the population and per capita personal income change factors provided by the State of California, the City’s Appropriations Limit for FY2021-22 has been computed to be \$119,175,291. Appropriations subject to the limitation in FY2021-22 budget total \$82,333,227 that is \$36,842,064 less than the computed limit.

The following chart shows the annual Appropriations Limit and the tax proceeds received since Fiscal Year 2012-13. The amounts for Tax Proceeds have been restated to exclude Franchise Fees, which were inadvertently included in the past, which is inconsistent with the law. The City has not exceeded its annual Appropriations Limit in any single fiscal year. The City has been under 80% of the limitation and should not be impacted by the Appropriations Limit.



* In prior years, Franchise Fees were inadvertently included in the calculation of the tax proceeds, which is inconsistent with the law. This chart has been corrected to show only tax proceeds subject to the limit.

Approval of FY 2021-2022 Budgeted Contracts/Payments
over \$100,000

1. FY 2021-22 Operating Budget

Department Name	Contractor Name (if known) or Type of Contract	Description of Contract/Payment	Estimated Amount	Fund
Building Safety and Housing	Municipal Plan Check Services	Building Safety Services	\$180,000	General Fund
Building Safety and Housing	To be Determined	Building Safety Services	\$200,000	General Fund
Building Safety and Housing	To be Determined	Professional Services for Housing Element	\$300,000	Affordable Housing Fund
Finance	PLAN JPA	Liability/Cyber Insurance	\$1,618,330	General Fund Water Fund Sewer Fund Housing Authority Fund Equipment Fund
Finance	PLAN JPA	Attorney Fees for Claims/Lawsuits	\$150,000	General Fund
Finance	PG&E	Utility - Electric	\$2,717,000	General Fund Sewer Fund Water Fund
Finance	Integrus	Utility - Gas	\$225,000	General Fund Sewer Fund Water Fund
Human Resource	Sedgwick	Third Party Administrator for Worker's Compensation	\$132,600	General Fund
Human Resource	Brown & Brown	Excess Insurance	\$258,500	General Fund
Information Technology	CentralSquare Visicad	Maintenance for Public Safety Computer Aided Dispatch	\$125,000	General Fund
Planning	Raimi & Associates	Objective design standards for residential mixed-use development.	\$145,000	SB2 Planning Grant
Police	Silicon Valley Regional Interoperability Authority	Silicon Valley Regional Communications Systems (SVRCS) - Annual Operations and	\$117,585	General Fund

Department Name	Contractor Name (if known) or Type of Contract	Description of Contract/Payment	Estimated Amount	Fund
		Maintenance for digital radio system		
Police	County of Santa Clara	Crime Lab Major Case Evidence Examination	\$209,170	General Fund
Public Works	City of Sunnyvale	Santa Clara Valley Urban Runoff Pollution Prevention Program	\$127,483	General Fund
Public Works	Valley Oil Co.	FY 2021-2022 Diesel & Unleaded Fuel	\$411,950	Equipment Replacement Fund
Public Works	City of San Jose	FY 2021-2022 Recycled Water Purchase	\$1,542,465	Water Fund
Public Works	Valley Water	FY 2021-2022 Wholesale Water Purchase	\$6,048,777	Water Fund
Public Works	City of San Jose	FY 2021-2022 WPCP - O&M	\$6,882,265	Sewer Fund
Public Works	SFPUC	FY 2021-2022 Wholesale Water Purchase	\$11,845,800	Water Fund
Recreation & Community Services	Bateman Community Living LLC	Senior Meals	\$145,000	General Fund

2. FY 2021-22 Capital Improvement Program (CIP) Budget

CIP Category	CIP Project No. & Name	Description of Contract	Est. Amount	Fund
Sewer Improvement	CP6118 SJ/SC Regional Waste Water Facility	FY 2021-2022 WPCP CIP	\$8,129,542	Wastewater Revenue Bonds, Sewer Fund, Sewer Infrastructure Fund, Sewer Treatment Fund

Community Improvement	CIP 3418 - Std. Details, Guidelines & Specs Update	Design/professional services contract for Update Engineering Std. Details and Specs	\$350,000	Permit Automation Fund
Community Improvement	CIP 3436 - City Building ADA Compliance Review	Design/professional services contract for provide ADA compliance review of City Buildings.	\$150,000	General Gov. CIP Fund
Park Improvement	CIP 2023 - Plan Trade Zone/Montague Park-Central	This will be a design/professional services contract to provide design and construction of a new 5-acre park within the TASP area.	\$500,000	TASP Impact Fees
Street Improvement	CIP 4297 - Citywide Traffic Modeling and CIP 4293 Citywide Traffic Safety Assessment	Design/professional services contract for a citywide traffic safety assessment to analyze and identify locations of traffic safety concerns and provide a safety mitigation plan, and a citywide traffic operation model of the current and 10-year horizon to assess motor vehicle traffic level-of-service at key roadway corridors and intersections to identified roadway improvements to improve level-of-service.	\$800,000	Gas Tax
Street Improvement	CIP 4298 - Street Resurfacing Project 2021-22, CIP 2021 - Costa Street Planline Study, and CIP 2022-Feasibility of POCs at VTA Light Rail Platforms	Design/professional services contract for street resurfacing design, a feasibility study to determine the possibility of constructing pedestrian overcrossings (POC) at Valley Transportation Authority (VTA) two Light Rail Platforms on Great Mall Parkway, and a feasibility study to evaluate right-of-way, adjacent property access, emergency vehicle access, pedestrian circulation, and streetscape opportunities for Costa Street in TASP.	\$450,000	Measure B, SB1, Gas Tax, Vehicle Registration Fee, and TASP fee
Street Improvement	CIP 2016 S. Milpitas Blvd. Vehicle Bridge at Penitencia	Design/professional services contract for the street connection between the vehicle bridge, Sango Ct. and Tarob Ct.	\$450,000	TASP Impact Fees
Street Improvement	CIP 2018 Montague Ped.	Design/professional services contract for bid support and	\$750,000	TASP Impact Fees

Community Improvement	CIP 3418 - Std. Details, Guidelines & Specs Update	Design/professional services contract for Update Engineering Std. Details and Specs	\$350,000	Permit Automation Fund
	Overcrossing at Penitencia	construction administration of the pedestrian overcrossing.		
Street Improvement	CIP 3402 McCarthy Blvd. LLMD 95-1 and CIP 3411 Sinclair LLMD 98-1	Design/professional services contract for the renovation of the lighting and irrigation system of the LLMDs.	\$200,000	LLMD
Street Improvement	CIP 4290 Annual Bridge Rehabilitation	Design/professional services contract for the insoection of the vehicular box culverts and pedestrian bridges.	\$250,000	Gas Tax
Water Improvements	CIP 7076 - Well Upgrade Project	Design/professional services contract to assess if the existing Curtis Park Well is a viable municipal potable water supply.	\$500,000	Water Capital Surcharge
Sewer Improvement	CIP 6131 - Sanitary Sewer Cathodic Protection Improvements	This will be a professional services contract to provide additional design service for sewer force main assessment from Milpitas Sewer Lift Station to San Jose/Santa Clara Regional Waste Water Facility.	\$600,000	Sewer Infrastructure Fund, Sewer Fund
Community Improvement	CP 3437 - Milpitas Gateway - Main Street Specific Plan Update	Milpitas Gateway (Main Street Midtown) Specific Plan update.	\$800,000	Community Planning Fees, General Government CIP Fund
Community Improvement	CP 2006 - Milpitas Metro Specific Plan Update (TASP)	Milpitas Metro (Transit Area) Specific Plan update.	\$996,250	TASP Impact Fees

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING RESOLUTION NO. 1626, THE CLASSIFICATION PLAN, TO AUTHORIZE ADDITIONAL POSITIONS, AND AMEND BUDGETED ALLOCATED POSITIONS

WHEREAS, the City of Milpitas has a Classification Plan adopted as Resolution No. 1626 on December 17, 1968, which has been amended from time to time, and which is in accordance with the Personnel Rules and Regulations of the City of Milpitas (Resolution No. 792 as amended); and

WHEREAS, amendments to the Classification Plan are necessary to account for changes within the organization, transfer of duties, new job responsibilities, and adjustments to salary ranges; and

WHEREAS, the annual budget process necessitates changes in position authorizations that result in modifications to the Classification Plan.

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. Resolution No. 1626, as amended, is hereby further amended effective July 4, 2021, as set forth below. If any of the below-mentioned groups or classifications receive a cost of living adjustment separate from the adoption of the 2021-22 budget, that same percentage amount and effective date will be applied accordingly pursuant to the applicable bargaining unit agreement(s) for the below-listed classification salary ranges by further Resolution.

A. AUTHORIZE THE FOLLOWING POSITIONS:

Add One (1) FTE Maintenance Worker III – 40 hour – Public Works Department

B. AMEND THE FOLLOWING BUDGETED ALLOCATED POSITIONS:

Delete One (1) FTE Administrative Assistant – City Attorney’s Office
Delete One (1) FTE Chief Fire Enforcement Officer – Fire Department
Delete One (1) FTE Planning Manager – Planning Department
Defund One (1) FTE Office Specialist – City Manager’s Office
Defund One (1) FTE Building Inspector – Building Safety & Housing Department
Defund One (1) FTE Building Plan Checker - Building Safety & Housing Department
Defund One (1) FTE Associate Civil Engineer – Engineering Department
Defund One (1) FTE Financial Analyst – Finance Department
Defund Four (4) FTE Fire Fighters – Fire Department until June 30, 2022.
Defund One (1) FTE Entry Level Fire Inspector – Fire Department
Defund One (1) FTE Human Resources Technician – Human Resources Department until December 31, 2021.
Defund One (1) FTE Information Systems Analyst – Information Technology Department until June 30, 2022.
Defund Two (2) FTE Police Officers – Police Department until June 30, 2022.
Defund One (1) FTE Equipment Maintenance Worker II – Public Works Department
Defund One (1) FTE Equipment Maintenance Worker III – Public Works Department
Defund One (1) FTE Recreation Supervisor – Recreation & Community Services Department
Defund One (1) FTE Recreation Services Assistant IV - Recreation & Community Services Department
Defund One (1) FTE Public Services Assistant - Recreation & Community Services Department
Defund One (0.75) FTE Office Assistant II - Recreation & Community Services Department

Defund One (1) FTE Special Events Coordinator - Recreation & Community Services Department
Defund One (1) FTE Recreation Services Assistant III - Recreation & Community Services Department
Reallocate One (1) FTE Assistant Planner to One (1) FTE Associate Planner
Reallocate One (1) FTE Assistant Planner to One (1) FTE Junior Planner
Transfer One half time (0.5) FTE Office Assistant II from the City Clerk's Office to the City Manager's Office

C. RETITLE THE FOLLOWING BUDGETED ALLOCATED POSITIONS:

Retitle Assistant Civil Engineer to Assistant Engineer
Retitle Assistant Junior Civil Engineer to Junior Engineer
Retitle Housing Authority Administrator to Housing & Neighborhood Services Administrator
Retitle Housing & Neighborhood Services Manager to Housing Manager

PASSED AND ADOPTED this _____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Wendy Wood, City Clerk

Rich Tran, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING
RESOLUTION NO. 1626, THE CLASSIFICATION PLAN, TO ADJUST HOURLY RATE
RANGES FOR CLASSIFICATIONS DUE TO A MINIMUM WAGE INCREASE PURSUANT TO
ORDINANCE NO. 292**

WHEREAS, the City of Milpitas has a Classification Plan adopted as Resolution No. 1626 on December 17, 1968, which has been amended from time to time, and which is in accordance with the Personnel Rules and Regulations of the City of Milpitas (Resolution No. 792 as amended); and

WHEREAS, salary increases granted to temporary classifications pursuant to changes in Resolution No. 6598, the Resolution providing compensation for unrepresented part-time temporary employees, have been incorporated into Resolution No. 1626, the Classification Plan; and

WHEREAS, amendments to the Classification Plan are necessary to account for changes within the organization, transfer of duties, new job responsibilities, and adjustments to salary ranges; and

WHEREAS, the City of Milpitas local minimum wage ordinance, Ordinance No. 292, established the minimum wage hourly rate effective July 1, 2020 as \$15.40 per hour; and

WHEREAS, the City of Milpitas last updated its minimum wage ordinance effective July 1, 2020; and

WHEREAS, the City must again update its hourly rate for certain classifications currently below the \$15.65 hourly rate to be effective July 1, 2021 in conformance with Ordinance No. 292.

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 table below contains hourly wage adjustments for classifications that are currently below the minimum wage of \$15.65 per hour.
3. Resolution No. 1626, as amended, is hereby further amended to adjust the hourly rate ranges for the below listed classifications effective July 1, 2021, as follows:

<u>Classification:</u>	<u>From:</u>	<u>To:</u>
Adult Crossing Guard	\$15.40 to \$18.46	\$15.65 to \$18.46
Lifeguard	\$15.40 to \$21.56	\$15.65 to \$21.56
Recreation Administrative Assistant	\$15.40 to \$21.56	\$15.65 to \$21.56
Recreation Attendant	\$15.40 to \$21.56	\$15.65 to \$21.56
Recreation Leader	\$15.40 to \$21.56	\$15.65 to \$21.56
Staff Assistant	\$15.40 to \$24.64	\$15.65 to \$24.64
Student Intern	\$15.40 to \$24.64	\$15.65 to \$24.64

4. These adjusted hourly rate ranges will be included in the All Job Classifications/Salary Table attached to the July 4, 2021 Resolution of the City Council of the City of Milpitas amending Resolution No. 1626, the Classification Plan, to Adjust the Salary Schedules for all IAFF, MidCon, ProTech, Miscellaneous Unrepresented, Fire Unrepresented Classifications and Police Unrepresented Classifications.

PASSED AND ADOPTED this _____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Wendy Wood, City Clerk

Rich Tran, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING
RESOLUTION NO. 1626, THE CLASSIFICATION PLAN, TO ADJUST THE SALARY
SCHEDULES FOR ALL IAFF, MIDCON, PROTECH, MEA, MISCELLANEOUS
UNREPRESENTED AND FIRE UNREPRESENTED CLASSIFICATIONS**

WHEREAS, the City of Milpitas has a Classification Plan adopted as Resolution No. 1626 on December 17, 1968, which has been amended from time to time, and which is in accordance with the Personnel Rules and Regulations of the City of Milpitas (Resolution No. 792 as amended); and

WHEREAS, amendments to the Classification Plan are necessary to account for changes within the organization, transfer of duties, new job responsibilities, and adjustments to salary ranges.

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. Resolution No. 1626, as amended, is hereby further amended effective July 4, 2021, as follows:

The City Council hereby adopts the salary schedule attached hereto as **Exhibit A** ("All Job Classifications/Salary Table Effective July 4, 2021"), which includes updated salary ranges for the following classifications:

1. All classifications represented by the International Association of Firefighters (IAFF), Mid-Management and Confidential Unit (MidCon), Municipal Employees Association Group (MEA), and the Professional and Technical Group (ProTech), in accordance with the following Memorandums of Understanding (MOUs):
 - Milpitas Police Officers Association dated January 1, 2017 – December 31, 2021, extended by side letter through December 31, 2023.
 - International Association of Firefighters MOU dated July 1, 2018– June 30, 2022, extended by side letter through June 30, 2024
 - Mid-Management and Confidential Unit MOU dated July 1, 2019– June 30, 2023, extended by side letter through June 30, 2025
 - Professional and Technical Group MOU dated July 1, 2019– June 30, 2023
 - Municipal Employees Association Group MOU dated July 1, 2020 – June 30, 2023
2. All classifications included in the Unrepresented Miscellaneous group and the Unrepresented Fire group, in accordance with the following document:
 - Unrepresented Management Employees Salary and Benefit Package dated July 1, 2020

PASSED AND ADOPTED this _____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Wendy Wood, City Clerk

Rich Tran, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

Salary Schedule

				Step A			Step B		
Classification	Union Code	Occ Code	Pay Grade	Hourly	BiWeekly	Annual	Hourly	BiWeekly	Annual
Accountant	50	2101	500	46.5	3,720.3	96,727.75	48.83	3,906.29	101,563.42
Accounting Technician I	50	6104	513	30.29	2,422.85	62,994.06	31.8	2,544.02	66,144.46
Accounting Technician II	50	6105	514	33.31	2,665.13	69,293.25	34.98	2,798.42	72,758.85
Administrative Analyst I	80	2102	801	40.39	3,231.27	84,013.02	0	0	0
Administrative Analyst II	80	2103	802	44.61	3,568.56	92,782.56	0	0	0
Administrative Assistant	80	6111	828	38.53	3,082.72	80,150.72	40.46	3,236.85	84,158.1
Adult Crossing Guard	70	8401	725	15.65	1,252	32,552	0	0	0
Adult Crossing Guard Superviso	70	8402	720	17.71	1,416.8	36,836.8	0	0	0
Assistant Chief of Police	60	1405	649	99.42	7,953.39	206,788.14	0	0	0
Assistant City Engineer	60	1205	639	71.03	5,682.77	147,752.02	0	0	0
Assistant City Manager	60	1104	666	94.63	7,570.49	196,832.74	0	0	0
Assistant Civil Engineer	50	2201	502	50.39	4,030.88	104,802.99	52.91	4,232.42	110,043.04
Assistant Finance Director	60	1109	669	68.1	5,448.11	141,650.86	0	0	0
Assistant Fire Marshal	60	2501	632	78.14	6,251.4	162,536.4	0	0	0
Assistant Planner	50	2801	503	48.31	3,865.09	100,492.22	50.73	4,058.44	105,519.36
Assistant Pool Manager	70	5609	709	17.45	1,396	36,296	0	0	0
Assistant Water Operator	20	7212	221	41.44	3,107.83	80,803.56	43.51	3,263.23	84,843.86
Assistant Water Operator - 40	20	8611	226	41.43	3,314.74	86,183.13	43.51	3,480.81	90,501.14
Associate Civil Engineer	50	2202	504	57.94	4,635.49	120,522.85	60.84	4,867.3	126,549.69
Associate Planner	50	2802	505	55.55	4,444.15	115,547.93	58.34	4,666.95	121,340.72
Budget Manager	80	1115	839	58.88	4,710.2	122,465.2	0	0	0
Building & Housing Director	60	1802	658	82.3	6,584.13	171,187.38	0	0	0
Building Inspection Manager	80	3809	848	61.34	4,906.93	127,580.18	0	0	0
Building Inspector Apprentice	70	8610	770	28	2,240	58,240	0	0	0
Building Official	60	1804	676	72.39	5,791.5	150,579	0	0	0
Building Permit Technician	50	5801	508	36.89	2,951.5	76,738.89	38.74	3,099.4	80,584.5
Building/NP Inspector	50	3801	507	48.9	3,912.05	101,713.39	51.35	4,107.69	106,799.98
Buyer	80	2106	803	40.02	3,201.98	83,251.48	0	0	0
CIP Manager	60	2211	642	62.54	5,003.05	130,079.3	0	0	0
Case Manager	50	5612	544	33.06	2,644.56	68,758.45	0	0	0
Chief Fire Enforcement Officer	60	1505	656	68.25	5,459.8	141,954.8	0	0	0
Chief of Police	60	1402	650	104.39	8,350.82	217,121.32	0	0	0
City Clerk	60	1101	605	62.58	5,006.35	130,165.1	0	0	0
City Council	60	1107	699	20.87	417.4	10,852.4	0	0	0
City Manager	60	1102	697	160.75	12,860.28	334,367.28	0	0	0
Code Enforcement Officer	50	5804	515	42.76	3,420.58	88,935.04	44.9	3,591.66	93,383.2
Comm Svc Engmt & Incl Admin	60	1121	659	64.58	5,166	134,316	0	0	0
Communications Dispatch Superv	40	6409	456	53.74	4,299.33	111,782.58	56.43	4,514.29	117,371.54

Step C			Step D			Step E		
Hourly	BiWeekly	Annual	Hourly	BiWeekly	Annual	Hourly	BiWeekly	Annual
51.26	4,100.82	106,621.36	53.84	4,306.82	111,977.36	56.52	4,521.38	117,555.9
33.39	2,671.22	69,451.79	35.06	2,804.78	72,924.35	36.81	2,945.02	76,570.45
36.73	2,938.34	76,396.91	38.57	3,085.29	80,217.62	40.49	3,239.48	84,226.58
0	0	0	0	0	0	53.17	4,253.76	110,597.76
0	0	0	0	0	0	58.71	4,697.05	122,123.3
42.48	3,398.72	88,366.72	44.61	3,568.63	92,784.38	46.84	3,747.05	97,423.3
0	0	0	0	0	0	18.46	1,476.8	38,396.8
0	0	0	0	0	0	21.21	1,696.8	44,116.8
0	0	0	0	0	0	139.18	11,134.75	289,503.5
0	0	0	0	0	0	99.45	7,955.88	206,852.88
0	0	0	0	0	0	132.48	10,598.7	275,566.2
55.55	4,444.03	115,544.72	58.33	4,666.26	121,322.77	61.24	4,899.6	127,389.51
0	0	0	0	0	0	95.34	7,627.54	198,316.04
0	0	0	0	0	0	109.4	8,751.98	227,551.48
53.26	4,260.63	110,776.27	55.92	4,473.61	116,313.84	58.72	4,697.39	122,132.06
0	0	0	0	0	0	24.44	1,955.2	50,835.2
45.69	3,426.39	89,086.08	47.97	3,597.69	93,539.86	50.37	3,777.6	98,217.52
45.68	3,654.51	95,017.31	47.97	3,837.77	99,782.01	50.37	4,029.62	104,770.06
63.88	5,110.67	132,877.54	67.08	5,366.2	139,521.12	70.43	5,634.53	146,497.85
61.26	4,900.54	127,414.15	64.31	5,144.93	133,768.24	67.53	5,402.08	140,454.14
0	0	0	0	0	0	77.5	6,200	161,200
0	0	0	0	0	0	115.22	9,217.78	239,662.28
0	0	0	0	0	0	74.56	5,964.45	155,075.7
0	0	0	0	0	0	35	2,800	72,800
0	0	0	0	0	0	101.35	8,108.1	210,810.6
40.69	3,254.89	84,627.21	42.71	3,417.03	88,842.65	44.85	3,587.7	93,280.1
53.91	4,313.03	112,138.84	56.61	4,528.71	117,746.57	59.44	4,755.12	123,633.08
0	0	0	0	0	0	52.69	4,214.8	109,584.8
0	0	0	0	0	0	87.56	7,004.82	182,125.32
0	0	0	0	0	0	41.25	3,300.36	85,809.28
0	0	0	0	0	0	95.55	7,643.72	198,736.72
0	0	0	0	0	0	146.14	11,691.17	303,970.42
0	0	0	0	0	0	87.62	7,009.69	182,251.94
0	0	0	0	0	0	20.87	417.4	10,852.4
0	0	0	0	0	0	160.75	12,860.28	334,367.28
47.15	3,772.01	98,072.38	49.51	3,960.6	102,975.53	51.98	4,158.49	108,120.77
0	0	0	0	0	0	90.41	7,232.4	188,042.4
59.25	4,740.02	123,240.52	62.21	4,977.02	129,402.52	65.32	5,225.88	135,872.88

Salary Schedule*

Classification	Union Code	Occ Code	Pay Grade	Step A			Step B		
				Hourly	BiWeekly	Annual	Hourly	BiWeekly	Annual
Communications Dispatcher	40	6408	455	46.53	3,722.52	96,785.52	48.86	3,908.62	101,624.12
Community Service Officer	50	5807	551	40.91	3,272.74	85,091.31	42.95	3,436.38	89,345.85
Crime Analyst	80	2105	809	48.35	3,868.13	100,571.38	0	0	0
Customer Services Supervisor	80	2127	847	46.89	3,750.82	97,521.32	0	0	0
Deputy City Clerk	80	6102	835	46.04	3,683.3	95,765.8	0	0	0
Deputy City Manager	60	1119	672	92.74	7,419.08	192,896.08	0	0	0
Deputy Fire Chief	60	1504	633	98.47	7,877.33	204,810.58	0	0	0
Deputy Public Works Director	60	1207	654	73	5,840.1	151,842.6	0	0	0
Dir of Recr & Community Svcs	60	1208	655	80.6	6,447.78	167,642.28	0	0	0
Economic Development Coord	80	8623	852	50.81	4,064.56	105,678.56	0	0	0
Economic Development Director	60	1206	653	75.71	6,056.41	157,466.66	0	0	0
Economic Development Spec	80	8606	850	48.38	3,870.68	100,637.68	0	0	0
Electrical/Building Inspector	50	3802	511	51.35	4,107.68	106,799.71	53.91	4,313.03	112,138.84
Emergency Services Coordinator	80	2502	836	53.46	4,276.47	111,188.22	0	0	0
Employee Relations Officer	60	1209	677	62.73	5,018.17	130,472.42	0	0	0
Engineering Aide	50	3201	512	40.07	3,205.58	83,344.98	42.07	3,365.86	87,512.49
Engineering Director/City Eng	60	1201	606	82.3	6,584.13	171,187.38	0	0	0
Engineering Permit Technician	50	2210	540	36.07	2,885.58	75,024.97	37.87	3,029.87	78,776.58
Entry Firefighter - 40	10	4512	115	48.54	3,883.39	100,968.14	50.48	4,038.73	105,006.98
Entry Firefighter - 56	10	4510	112	34.67	3,883.39	100,968.14	36.06	4,038.73	105,006.98
Entry Firefighter/Paramedic-40	10	4513	116	54.37	4,349.39	113,084.14	56.54	4,523.39	117,608.14
Entry Firefighter/Paramedic-56	10	4511	113	38.83	4,349.39	113,084.14	40.39	4,523.39	117,608.14
Entry Level Fire Inspector	10	3508	114	42.32	3,385.74	88,029.24	44.44	3,555.03	92,430.78
Envir & Regulatory Comply Spec	80	8624	851	51.64	4,131.05	107,407.3	0	0	0
Environmental Inspector	50	2213	553	51.35	4,107.68	106,799.71	53.91	4,313.06	112,139.64
Equip Maint Worker I - 40	20	8612	227	37.91	3,032.42	78,843	39.78	3,182.51	82,745.38
Equip Maint Worker II - 40	20	8613	228	41.68	3,334.45	86,695.7	43.77	3,501.33	91,034.59
Equip Maint Worker III - 40	20	8614	229	46.96	3,756.73	97,674.96	49.31	3,945.03	102,570.88
Equipment Maint. Worker I	20	7202	200	37.67	2,825.29	73,457.54	39.55	2,966.56	77,130.68
Equipment Maint. Worker II	20	7203	201	41.44	3,107.83	80,803.56	43.51	3,263.23	84,843.86
Equipment Maint. Worker III	20	7204	202	46.69	3,501.69	91,043.97	49.02	3,676.71	95,594.42
Executive Assistant	80	6117	812	42.38	3,390.5	88,153	44.5	3,560.05	92,561.3
FF/Paramedic Trainee - 40	10	4504	107	52.28	4,182.11	108,734.86	52.28	4,182.11	108,734.86
FF/Paramedic Trainee - 56	10	4514	155	37.34	4,182.11	108,734.86	37.34	4,182.11	108,734.86
Finance Director	60	1103	627	82.66	6,612.72	171,930.72	0	0	0
Finance Manager	60	1116	647	58.34	4,666.96	121,340.96	0	0	0
Financial Analyst I	80	2125	844	37.71	3,017.11	78,444.86	0	0	0
Financial Analyst II	80	2126	845	41.65	3,332.14	86,635.64	0	0	0
Fire Battalion Chief	10	2508	153	52.44	5,873.58	152,713.08	0	0	0
Fire Battalion Chief - 40	10	2509	154	73.42	5,873.58	152,713.08	0	0	0

Step C			Step D			Step E		
Hourly	BiWeekly	Annual	Hourly	BiWeekly	Annual	Hourly	BiWeekly	Annual
51.3	4,104.04	106,705.04	53.87	4,309.21	112,039.46	56.56	4,524.68	117,641.68
45.1	3,608.2	93,813.29	47.36	3,788.6	98,503.54	49.73	3,978.06	103,429.45
0	0	0	0	0	0	63.65	5,091.65	132,382.9
0	0	0	0	0	0	61.71	4,936.91	128,359.66
0	0	0	0	0	0	55.96	4,477.07	116,403.82
0	0	0	0	0	0	129.78	10,382.4	269,942.4
0	0	0	0	0	0	137.85	11,028.26	286,734.76
0	0	0	0	0	0	102.2	8,176.15	212,579.9
0	0	0	0	0	0	113.06	9,044.49	235,156.74
0	0	0	0	0	0	63	5,040	131,040
0	0	0	0	0	0	105.99	8,478.95	220,452.7
0	0	0	0	0	0	58.4	4,672.29	121,479.54
56.61	4,528.7	117,746.3	59.44	4,755.12	123,633.08	62.41	4,992.88	129,814.98
0	0	0	0	0	0	70.36	5,628.41	146,338.66
0	0	0	0	0	0	87.82	7,025.42	182,660.92
44.18	3,534.15	91,887.8	46.39	3,710.83	96,481.65	48.7	3,896.38	101,305.79
0	0	0	0	0	0	115.22	9,217.78	239,662.28
39.77	3,181.35	82,715.12	41.75	3,340.38	86,849.95	43.84	3,507.42	91,192.86
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
46.66	3,732.79	97,052.54	48.99	3,919.43	101,905.18	50.97	4,077.95	106,026.7
0	0	0	0	0	0	67.97	5,437.65	141,378.9
56.61	4,528.72	117,746.84	59.44	4,755.15	123,633.89	62.41	4,992.88	129,814.98
41.77	3,341.92	86,889.85	43.87	3,509.7	91,252.31	46.06	3,684.95	95,808.66
45.96	3,676.56	95,590.67	48.26	3,861.13	100,389.38	50.68	4,054.1	105,406.62
51.78	4,142.67	107,709.43	54.37	4,349.62	113,090.07	57.1	4,567.75	118,761.53
41.53	3,114.92	80,987.81	43.61	3,270.66	85,037.21	45.79	3,434.18	89,288.8
45.69	3,426.39	89,086.08	47.97	3,597.69	93,539.86	50.37	3,777.6	98,217.52
51.47	3,860.57	100,374.92	54.05	4,053.6	105,393.49	56.75	4,256.3	110,663.8
46.73	3,738.05	97,189.3	49.06	3,924.94	102,048.44	51.52	4,121.2	107,151.2
52.28	4,182.11	108,734.86	52.28	4,182.11	108,734.86	52.28	4,182.11	108,734.86
37.34	4,182.11	108,734.86	37.34	4,182.11	108,734.86	37.34	4,182.11	108,734.86
0	0	0	0	0	0	115.71	9,257.07	240,683.82
0	0	0	0	0	0	81.67	6,533.78	169,878.28
0	0	0	0	0	0	49.64	3,971.4	103,256.4
0	0	0	0	0	0	54.83	4,386.11	114,038.86
0	0	0	0	0	0	73.42	8,223.01	213,798.26
0	0	0	0	0	0	102.79	8,223.01	213,798.26

Salary Schedule

				Step A			Step B		
Classification	Union Code	Occ Code	Pay Grade	Hourly	BiWeekly	Annual	Hourly	BiWeekly	Annual
Fire Captain	10	2504	100	45.9	5,140.39	133,650.14	48.13	5,390.99	140,165.74
Fire Captain - 40	10	2507	108	64.25	5,140.39	133,650.14	67.39	5,390.99	140,165.74
Fire Chief	60	1502	630	108.56	8,684.85	225,806.1	0	0	0
Fire Engineer	10	4501	102	40.47	4,532.8	117,852.8	42.44	4,753.02	123,578.52
Fire Engineer/Paramedic	10	4505	151	45.19	5,061.24	131,592.24	47.39	5,307.92	138,005.92
Fire Prevention Inspector	10	3501	106	64.88	5,190.53	134,953.78	68.05	5,443.63	141,534.38
Fire Protection Engineer	10	3507	110	64.88	5,190.53	134,953.78	68.05	5,443.63	141,534.38
Firefighter	10	4502	103	37.82	4,236.39	110,146.14	39.66	4,441.71	115,484.46
Firefighter Trainee - 40	10	4509	109	46.68	3,734.04	97,085.04	46.68	3,734.04	97,085.04
Firefighter/Paramedic	10	4503	104	42.23	4,729.28	122,961.28	44.28	4,959.2	128,939.2
Fitness Instructor	70	5620	713	35	2,800	72,800	0	0	0
Fleet Maint Worker I -40	20	8615	230	36.18	2,894.79	75,264.65	38	3,039.87	79,036.62
Fleet Maint Worker II - 40	20	8616	231	39.8	3,183.99	82,783.68	41.79	3,343.37	86,927.61
Fleet Maint Worker III -40	20	8617	232	45.78	3,662.15	95,216.02	48.07	3,845.42	99,980.99
Fleet Maintenance Worker I	20	7207	213	36.18	2,713.87	70,560.75	37.99	2,849.54	74,087.94
Fleet Maintenance Worker II	20	7208	214	39.8	2,985.28	77,617.28	41.79	3,134.5	81,496.9
Fleet Maintenance Worker III	20	7209	215	45.77	3,433.03	89,258.81	48.06	3,604.67	93,721.43
GIS Technician	50	2212	552	50.39	4,030.88	104,802.99	52.91	4,232.42	110,043.04
Hazardous Materials Inspector	10	3502	105	64.88	5,190.53	134,953.78	68.05	5,443.63	141,534.38
Housing & Neigh Svcs Manager**	80	2812	849	51.79	4,142.91	107,715.66	0	0	0
Housing Authority Admin*	60	1120	673	60.9	4,872.01	126,672.26	0	0	0
Human Resources Analyst I	80	2124	843	40.39	3,231.27	84,013.02	0	0	0
Human Resources Analyst II	80	2123	842	44.61	3,568.56	92,782.56	0	0	0
Human Resources Assistant	80	2108	846	28.77	2,301.78	59,846.28	30.21	2,416.79	62,836.54
Human Resources Director	60	1105	613	82.19	6,575.51	170,963.26	0	0	0
Human Resources Technician	80	2107	816	34.9	2,791.77	72,586.02	36.65	2,931.97	76,231.22
I T Director	60	2113	624	81.11	6,489.01	168,714.26	0	0	0
I T Manager	80	2116	819	60.81	4,864.52	126,477.52	0	0	0
I T Technician	50	3101	542	40.09	3,207.13	83,385.42	42.09	3,367.47	87,554.26
Information Services Analyst	80	2118	831	51.15	4,092.12	106,395.12	0	0	0
Junior Civil Engineer	50	2203	519	45.81	3,664.42	95,274.94	48.1	3,847.65	100,038.83
Junior Planner	50	2804	520	41.47	3,317.74	86,261.33	43.55	3,483.64	90,574.51
Lifeguard	70	5610	710	15.65	1,252	32,552	0	0	0
Maint Worker III - 40	20	8619	234	38.98	3,118.13	81,071.36	40.93	3,274.27	85,130.94
Maintenance Custodian I	20	8101	203	27.76	2,082.27	54,138.98	29.15	2,186.39	56,846.17
Maintenance Custodian I - 40	20	8107	222	27.76	2,221.11	57,748.93	29.15	2,332.14	60,635.54
Maintenance Custodian II	20	8102	204	30.54	2,290.54	59,554.17	32.07	2,405.05	62,531.3
Maintenance Custodian II - 40	20	8108	223	30.54	2,443.25	63,524.57	32.07	2,565.36	66,699.34
Maintenance Custodian III	20	8103	205	35.12	2,634.08	68,486.1	36.88	2,765.77	71,909.92
Maintenance Custodian III - 40	20	8618	233	35.12	2,809.86	73,056.38	36.88	2,950.15	76,703.81

*Housing Administrator will be changed to Housing & Neighborhood Services Administrator

**Housing & Neighborhood Services Manager will be changed to Housing Manager

Step C			Step D			Step E		
Hourly	BiWeekly	Annual	Hourly	BiWeekly	Annual	Hourly	BiWeekly	Annual
50.48	5,654.12	147,007.12	52.95	5,930.37	154,189.62	55.54	6,220.47	161,732.22
70.68	5,654.12	147,007.12	74.13	5,930.37	154,189.62	77.76	6,220.47	161,732.22
0	0	0	0	0	0	151.99	12,158.82	316,129.32
44.5	4,984.22	129,589.72	46.67	5,226.98	135,901.48	48.95	5,481.88	142,528.88
49.7	5,566.86	144,738.36	52.13	5,838.72	151,806.72	54.68	6,124.23	159,229.98
71.37	5,709.37	148,443.62	74.85	5,988.39	155,698.14	78.52	6,281.37	163,315.62
71.37	5,709.37	148,443.62	74.85	5,988.39	155,698.14	78.52	6,281.37	163,315.62
41.58	4,657.36	121,091.36	43.61	4,883.81	126,979.06	45.73	5,121.48	133,158.48
46.68	3,734.04	97,085.04	46.68	3,734.04	97,085.04	46.68	3,734.04	97,085.04
46.44	5,200.75	135,219.5	48.7	5,454.3	141,811.8	51.08	5,720.6	148,735.6
0	0	0	0	0	0	75	6,000	156,000
39.9	3,191.62	82,982.11	41.89	3,351.01	87,126.32	43.99	3,519	91,493.87
43.88	3,510.39	91,270.26	46.08	3,686.02	95,836.51	48.38	3,870.23	100,625.85
50.47	4,037.25	104,968.49	52.98	4,238.61	110,203.98	55.64	4,451.46	115,738.07
39.89	2,992.05	77,793.22	41.89	3,141.59	81,681.41	43.98	3,298.69	85,765.9
43.88	3,291.26	85,572.81	46.08	3,455.83	89,851.45	48.38	3,628.55	94,342.19
50.46	3,784.87	98,406.59	52.99	3,974.11	103,326.88	55.64	4,172.88	108,494.89
55.55	4,444.06	115,545.52	58.33	4,666.24	121,322.24	61.25	4,899.62	127,390.05
71.37	5,709.37	148,443.62	74.85	5,988.39	155,698.14	78.52	6,281.37	163,315.62
0	0	0	0	0	0	68.17	5,453.54	141,792.04
0	0	0	0	0	0	85.26	6,820.77	177,340.02
0	0	0	0	0	0	53.17	4,253.76	110,597.76
0	0	0	0	0	0	58.71	4,697.05	122,123.3
31.72	2,537.63	65,978.38	33.31	2,664.52	69,277.52	34.97	2,797.74	72,741.24
0	0	0	0	0	0	115.07	9,205.74	239,349.24
38.47	3,077.91	80,025.66	40.41	3,232.41	84,042.66	42.42	3,393.61	88,233.86
0	0	0	0	0	0	113.56	9,084.6	236,199.6
0	0	0	0	0	0	80.04	6,403.49	166,490.74
44.2	3,535.8	91,930.92	46.41	3,712.59	96,527.44	48.73	3,898.24	101,354.27
0	0	0	0	0	0	67.33	5,386.43	140,047.18
50.5	4,040.03	105,040.8	53.03	4,242.03	110,292.89	55.68	4,454.14	115,807.7
45.72	3,657.81	95,103.01	48.01	3,840.75	99,859.41	50.41	4,032.74	104,851.2
0	0	0	0	0	0	21.56	1,724.8	44,844.8
42.97	3,437.88	89,384.95	45.12	3,609.92	93,858.01	47.38	3,790.38	98,549.86
30.61	2,295.73	59,688.87	32.14	2,410.51	62,673.23	33.75	2,531.04	65,807.03
30.61	2,448.76	63,667.84	32.14	2,571.21	66,851.45	33.75	2,699.75	70,193.59
33.67	2,525.32	65,658.4	35.35	2,651.51	68,939.22	37.12	2,784.13	72,387.41
33.67	2,693.66	70,035.06	35.35	2,828.29	73,535.47	37.12	2,969.77	77,213.97
38.72	2,904.06	75,505.67	40.66	3,049.27	79,281.12	42.69	3,201.78	83,246.17
38.73	3,098.09	80,550.22	40.66	3,252.7	84,570.17	42.69	3,414.95	88,788.82

Salary Schedule

				Step A			Step B		
Classification	Union Code	Occ Code	Pay Grade	Hourly	BiWeekly	Annual	Hourly	BiWeekly	Annual
Maintenance Worker I	20	8202	206	30.54	2,290.54	59,554.17	32.07	2,405.05	62,531.3
Maintenance Worker I-40	20	8203	207	30.82	2,465.52	64,103.55	32.35	2,588	67,287.96
Maintenance Worker II	20	8204	208	33.59	2,519.57	65,508.7	35.27	2,645.53	68,783.89
Maintenance Worker II-40	20	8205	209	33.89	2,711.42	70,497.01	35.59	2,846.99	74,021.79
Maintenance Worker III	20	8206	210	38.63	2,897.47	75,334.28	40.56	3,042.35	79,101.16
Maintenance Worker/Seasonal	70	8207	760	19.88	1,590.4	41,350.4	0	0	0
Management Analyst	80	2128	854	53.55	4,284	111,384	0	0	0
Marketing Coordinator	50	5614	548	38.93	3,114.27	80,970.94	40.87	3,269.98	85,019.54
Mayor	60	1118	696	26.09	521.88	13,568.88	0	0	0
Office Assistant I	50	6108	516	26.34	2,106.9	54,779.29	27.65	2,212.23	57,518.08
Office Assistant II	50	6109	517	28.97	2,317.49	60,254.73	30.42	2,433.32	63,266.41
Office Specialist	50	6110	518	33.31	2,665.1	69,292.71	34.98	2,798.39	72,758.05
Patrol Officer	40	4401	404	49.75	3,980	103,480	52.24	4,178.99	108,653.74
Patrol Officer Trainee	40	4402	458	48.68	3,894.53	101,257.78	51.11	4,089.18	106,318.68
Payroll Specialist	50	5102	546	35.58	2,846.39	74,006.26	37.36	2,988.71	77,706.45
Plan Check Engineer	50	3807	521	59.3	4,743.73	123,336.9	62.26	4,980.42	129,490.94
Plan Checker	50	3803	522	50.56	4,045.05	105,171.22	53.09	4,247.25	110,428.4
Plan Review Manager	60	1210	678	63.9	5,112.39	132,922.14	0	0	0
Planning Commissioners	70	1108	698	1	20	520	0	0	0
Planning Director	60	1803	607	82.3	6,584.13	171,187.38	0	0	0
Planning Manager	60	2803	602	62.73	5,018.17	130,472.42	0	0	0
Police Assistant	40	6401	450	47.27	3,781.86	98,328.36	49.64	3,970.92	103,243.92
Police Captain	60	1401	651	94.68	7,574.39	196,934.14	0	0	0
Police Clerk I	40	6402	451	33.89	2,710.8	70,480.8	35.58	2,846.35	74,005.1
Police Clerk II	40	6403	452	37.27	2,981.81	77,527.06	39.14	3,130.99	81,405.74
Police Clerk Supervisor	40	6404	454	43.05	3,444.07	89,545.82	45.2	3,616.3	94,023.8
Police Evidence Technician	40	8607	459	39.53	3,162.29	82,219.54	41.5	3,320.38	86,329.88
Police Lieutenant	40	2402	400	76.31	6,104.74	158,723.24	80.12	6,409.98	166,659.48
Police Officer	40	4403	403	54.4	4,352.17	113,156.42	57.12	4,569.84	118,815.84
Police Officer Trainee	40	4404	457	53.23	4,258.69	110,725.94	55.9	4,471.68	116,263.68
Police Sergeant	40	4405	401	65.72	5,257.54	136,696.04	69.01	5,520.43	143,531.18
Police Support Services Mgr	60	1404	657	60.83	4,866.75	126,535.5	0	0	0
Pool Manager	70	5608	708	18.74	1,499.2	38,979.2	0	0	0
Principal Civil Engineer	80	2204	822	63.9	5,112.39	132,922.14	0	0	0
Principal Planner	80	2811	823	65.89	5,271	137,046	0	0	0
Program Coordinator	50	5606	523	36.3	2,904.32	75,512.37	0	0	0
Public Information Officer	60	1122	674	60.38	4,830	125,580	0	0	0
Public Services Assistant I	50	6601	524	30.29	2,422.85	62,994.06	31.8	2,544.02	66,144.46
Public Services Assistant II	50	6602	525	33.31	2,665.13	69,293.25	34.98	2,798.42	72,758.85
Public Works Director	60	1204	635	84.63	6,770.19	176,024.94	0	0	0

Step C			Step D			Step E		
Hourly	BiWeekly	Annual	Hourly	BiWeekly	Annual	Hourly	BiWeekly	Annual
33.67	2,525.32	65,658.4	35.35	2,651.57	68,940.83	37.12	2,784.13	72,387.41
33.97	2,717.97	70,667.33	35.67	2,853.53	74,191.85	37.46	2,996.59	77,911.32
37.04	2,777.79	72,222.45	38.89	2,916.7	75,834.27	40.83	3,062.54	79,626.05
37.38	2,990.05	77,741.27	39.23	3,138.7	81,606.16	41.2	3,295.77	85,690.11
42.59	3,194.48	83,056.56	44.72	3,354.2	87,209.07	46.96	3,521.93	91,570.19
0	0	0	0	0	0	24.85	1,988	51,688
0	0	0	0	0	0	74.99	5,998.91	155,971.66
42.92	3,433.47	89,270.33	45.06	3,605.15	93,734.02	47.32	3,785.41	98,420.78
0	0	0	0	0	0	26.09	521.88	13,568.88
29.04	2,322.86	60,394.26	30.49	2,438.96	63,412.9	32.01	2,560.92	66,583.92
31.94	2,555.06	66,431.54	33.54	2,682.81	69,753.06	35.21	2,816.87	73,238.75
36.73	2,938.34	76,396.91	38.57	3,085.29	80,217.62	40.49	3,239.48	84,226.58
54.85	4,387.92	114,085.92	57.59	4,607.33	119,790.58	60.47	4,837.66	125,779.16
53.67	4,293.69	111,635.94	56.35	4,508.34	117,216.84	59.17	4,733.72	123,076.72
39.23	3,138.14	81,591.7	41.19	3,295.06	85,671.63	43.25	3,459.76	89,953.75
65.37	5,229.78	135,974.38	68.64	5,490.84	142,761.77	72.11	5,768.99	149,993.71
55.75	4,459.98	115,959.54	58.53	4,682.32	121,740.27	61.46	4,917.1	127,844.51
0	0	0	0	0	0	83.11	6,649.14	172,877.64
0	0	0	0	0	0	1	20	520
0	0	0	0	0	0	115.22	9,217.78	239,662.28
0	0	0	0	0	0	87.82	7,025.42	182,660.92
52.12	4,169.45	108,405.7	54.72	4,377.95	113,826.7	57.46	4,596.86	119,518.36
0	0	0	0	0	0	132.55	10,604.1	275,706.6
37.36	2,988.65	77,704.9	39.23	3,138.1	81,590.6	41.19	3,294.94	85,668.44
41.09	3,287.52	85,475.52	43.15	3,451.92	89,749.92	45.31	3,624.44	94,235.44
47.46	3,797.07	98,723.82	49.84	3,986.95	103,660.7	52.33	4,186.28	108,843.28
43.58	3,486.42	90,646.92	45.76	3,660.76	95,179.76	48.05	3,843.79	99,938.54
84.13	6,730.51	174,993.26	88.34	7,067.05	183,743.3	92.75	7,420.38	192,929.88
59.98	4,798.31	124,756.06	62.98	5,038.19	130,992.94	66.13	5,290.16	137,544.16
58.69	4,695.3	122,077.8	61.63	4,930.03	128,180.78	64.71	5,176.53	134,589.78
72.46	5,796.44	150,707.44	76.08	6,086.34	158,244.84	79.88	6,390.65	166,156.9
0	0	0	0	0	0	85.17	6,813.76	177,157.76
0	0	0	0	0	0	26.23	2,098.4	54,558.4
0	0	0	0	0	0	83.11	6,649.14	172,877.64
0	0	0	0	0	0	79.8	6,384	165,984
0	0	0	0	0	0	47.79	3,822.95	99,396.65
0	0	0	0	0	0	84.53	6,762.01	175,812.26
33.39	2,671.24	69,452.32	35.06	2,804.8	72,924.89	36.81	2,945.02	76,570.45
36.73	2,938.33	76,396.65	38.57	3,085.3	80,217.88	40.49	3,239.48	84,226.58
0	0	0	0	0	0	118.48	9,478.28	246,435.28

Salary Schedule

				Step A			Step B		
Classification	Union Code	Occ Code	Pay Grade	Hourly	BiWeekly	Annual	Hourly	BiWeekly	Annual
Public Works Inspector	50	3202	526	48.9	3,912.05	101,713.39	51.35	4,107.69	106,799.98
Public Works Manager	60	1117	648	56.33	4,506.05	117,157.30	0	0.00	0.00
Purchasing Agent	80	1106	826	52.76	4,220.55	109,734.30	0	0.00	0.00
Recreation Administrative Asst	70	5619	712	15.65	1,252.00	32,552.00	0	0.00	0.00
Recreation Attendant	70	5618	711	15.65	1,252.00	32,552.00	0	0.00	0.00
Recreation Instructors	70	5607	707	18.82	1,505.60	39,145.60	0	0.00	0.00
Recreation Leader	70	5617	706	15.65	1,252.00	32,552.00	0	0.00	0.00
Recreation Services Supervisor	80	2601	827	50.4	4,031.71	104,824.46	0	0.00	0.00
Recreation Svcs Assistant I	50	8601	527	17.12	1,369.50	35,606.96	17.97	1,437.96	37,387.02
Recreation Svcs Assistant II	50	8602	528	20.33	1,626.04	42,277.05	21.34	1,707.51	44,395.35
Recreation Svcs Assistant III	50	8603	529	23.36	1,869.10	48,596.59	24.53	1,962.50	51,025.01
Recreation Svcs Assistant IV	50	8604	530	27.41	2,192.95	57,016.76	28.78	2,302.58	59,866.96
Senior Accountant	80	2110	829	46.89	3,750.82	97,521.32	0	0.00	0.00
Senior Accounting Technician	50	6106	539	36.65	2,931.64	76,222.58	38.48	3,078.25	80,034.44
Senior Administrative Analyst	80	2112	834	51.79	4,142.91	107,715.66	0	0.00	0.00
Senior Building Inspector	50	3804	531	56.48	4,518.39	117,478.24	59.3	4,744.37	123,353.50
Senior Executive Assistant	80	6123	855	44.61	3,568.56	92,782.56	0	0.00	0.00
Senior HR Analyst	80	2122	841	48.35	3,868.16	100,572.16	0	0.00	0.00
Senior Plan Check Engineer	50	3806	534	65.23	5,218.09	135,670.43	68.49	5,479.15	142,457.82
Senior Planner	80	2805	830	60.4	4,832.13	125,635.38	0	0.00	0.00
Senior Public Works Inspector	50	3203	535	56.48	4,518.42	117,479.04	59.3	4,744.37	123,353.50
Senior Public Works Lead	20	8609	225	51.67	4,133.60	107,473.50	54.25	4,340.28	112,847.17
Special Project Associate	70	5105	750	20	1,600.00	41,600.00	0	0.00	0.00
Special Project Associate	70	8605	750	20	1,600.00	41,600.00	0	0.00	0.00
Sr Code Enforcement Officer	50	5806	545	50.18	4,014.21	104,369.43	52.68	4,214.14	109,567.69
Sr. Information Analyst/Dev	80	2119	853	53.84	4,307.52	111,995.52	0	0.00	0.00
Sr. Public Services Assistant	50	5615	549	37.16	2,972.78	77,292.17	39.02	3,121.42	81,156.79
Sr. Special Projects Associate	70	5106	749	50	4,000.00	104,000.00	0	0.00	0.00
Staff Assistant	70	5104	745	15.65	1,252.00	32,552.00	0	0.00	0.00
Student Intern	70	5103	740	15.65	1,252.00	32,552.00	0	0.00	0.00
Transporation & Traffic Mgr	60	1202	675	60.38	4,830.00	125,580.00	0	0.00	0.00
Video Media Specialist	80	2121	840	41.65	3,332.14	86,635.64	0	0.00	0.00
Water Meter Reader I	20	8104	216	30.54	2,290.46	59,552.03	32.07	2,405.05	62,531.30
Water Meter Reader I -40	20	8620	235	30.54	2,443.34	63,526.71	32.07	2,565.51	66,703.36
Water Meter Reader II	20	8105	217	33.59	2,519.57	65,508.70	35.27	2,645.51	68,783.36
Water Meter Reader II -40	20	8621	236	33.6	2,687.67	69,879.46	35.28	2,822.26	73,378.81
Water Systems Operator	20	7211	219	46.69	3,501.68	91,043.70	49.02	3,676.39	95,586.12
Water Systems Operator	20	7211	219	43.77	3,501.68	91,043.70	45.95	3,676.39	95,586.12
Water Systems Operator - 40	20	8622	237	46.68	3,734.69	97,101.87	49.02	3,921.76	101,965.65

Step C			Step D			Step E		
Hourly	BiWeekly	Annual	Hourly	BiWeekly	Annual	Hourly	BiWeekly	Annual
53.91	4,313.03	112,138.84	56.61	4,528.71	117,746.57	59.44	4,755.12	123,633.08
0	0	0	0	0	0	78.86	6,308.46	164,019.96
0	0	0	0	0	0	68.04	5,443.33	141,526.58
0	0	0	0	0	0	21.56	1,724.8	44,844.8
0	0	0	0	0	0	21.56	1,724.8	44,844.8
0	0	0	0	0	0	37.64	3,011.2	78,291.2
0	0	0	0	0	0	21.56	1,724.8	44,844.8
0	0	0	0	0	0	66.33	5,306.26	137,962.76
18.87	1,509.9	39,257.34	19.82	1,585.36	41,219.24	20.81	1,664.67	43,281.3
22.41	1,792.84	46,613.8	23.53	1,882.53	48,945.81	24.71	1,976.61	51,391.89
25.76	2,060.64	53,576.6	27.05	2,163.66	56,255.14	28.4	2,271.88	59,068.91
30.22	2,417.71	62,860.43	31.73	2,538.61	66,003.86	33.32	2,665.52	69,303.43
0	0	0	0	0	0	61.71	4,936.91	128,359.66
40.4	3,232.16	84,036.18	42.42	3,393.8	88,238.76	44.54	3,563.45	92,649.69
0	0	0	0	0	0	68.17	5,453.54	141,792.04
62.27	4,981.55	129,520.4	65.38	5,230.6	135,995.54	68.65	5,492.15	142,795.78
0	0	0	0	0	0	58.71	4,697.05	122,123.3
0	0	0	0	0	0	63.65	5,091.65	132,382.9
71.91	5,752.85	149,574.07	75.5	6,040.2	157,045.15	79.28	6,342.15	164,895.98
0	0	0	0	0	0	73.42	5,873.65	152,714.9
62.27	4,981.56	129,520.67	65.38	5,230.6	135,995.54	68.65	5,492.15	142,795.78
56.97	4,557.3	118,489.72	59.81	4,785.15	124,413.99	62.81	5,024.54	130,637.93
0	0	0	0	0	0	50	4,000	104,000
0	0	0	0	0	0	50	4,000	104,000
55.32	4,425.42	115,060.81	58.09	4,647.01	120,822.25	60.99	4,878.88	126,850.97
0	0	0	0	0	0	70.88	5,670.01	147,420.26
40.97	3,277.49	85,214.76	43.02	3,441.36	89,475.46	45.17	3,613.43	93,949.06
0	0	0	0	0	0	125	10,000	260,000
0	0	0	0	0	0	24.64	1,971.2	51,251.2
0	0	0	0	0	0	24.64	1,971.2	51,251.2
0	0	0	0	0	0	84.53	6,762.01	175,812.26
0	0	0	0	0	0	54.83	4,386.11	114,038.86
33.67	2,525.31	65,658.13	35.35	2,651.51	68,939.22	37.12	2,784.12	72,387.14
33.67	2,693.41	70,028.63	35.35	2,827.98	73,527.44	37.13	2,970.2	77,225.22
37.04	2,777.78	72,222.18	38.89	2,916.68	75,833.73	40.83	3,062.54	79,626.05
37.03	2,962.56	77,026.51	38.89	3,111.45	80,897.83	40.84	3,267.03	84,942.68
51.47	3,860.56	100,374.65	54.05	4,053.6	105,393.49	56.75	4,256.3	110,663.8
48.26	3,860.56	100,374.65	50.67	4,053.6	105,393.49	53.2	4,256.3	110,663.8
51.48	4,118.38	107,077.96	54.04	4,323.57	112,412.8	56.75	4,540.23	118,045.97

PUBLIC HEARING

City of Milpitas – Proposed Operating Budget

ATTACHMENT 2

Access to the May 11, 2021 Milpitas City Council Budget Study Session and Budget document are on the City's website at these locations:

Agenda Report May 11, 2021: Receive Presentation on the FY 2021-22 Proposed City of Milpitas Operating Budget and Provide Feedback

<https://mccmeetingspublic.blob.core.usgovcloudapi.net/milpitas-meet-afe0ceed81d34e20ac9e4519ac0c86a9/ITEM-Attachment-002-4d10b775abb241abb44afb6f93137a05.pdf>

Proposed FY2021-22 Operating Budget:

<https://www.ci.milpitas.ca.gov/pdfs/Finance/Budget/FY21-22ProposedBudget.pdf>

MEMORANDUM

Milpitas Fire Department



DATE: May 21, 2021

TO: Mayor and Councilmembers

THROUGH: Steve McHarris, City Manager *Steve McHarris*

FROM: Rick Frawley, Acting Fire Chief

SUBJECT: **Additional Information – Proposed Fire Prevention Reorganization and Elimination of the Chief Fire Enforcement Officer Position**

This memorandum provides additional information and clarification to information provided at the May 11, 2021 Budget Study Session regarding the proposed Fire Prevention Division (Division) reorganization and the elimination of the Chief Fire Enforcement Officer position (Position) as recommended in the FY 2021-22 Proposed Budget. With the elimination of the position a standard service delivery model is proposed, at a lower cost and without impact to the service level.

FY 2021-22 Proposed Budget Development

As part of the development of the FY 2021-22 Proposed Budget, the Fire Department (Department) was asked, like all other departments, to reduce its expenditures by about 4.6% or \$1.3 million. Additionally, pursuant to the Council approved Fiscal Policies, Fiscal Policy Statement #14, which states in part that "User fees will be reviewed annually for potential adjustments to recover the full cost of services," the Finance Department asked the Planning and Fire Departments to review expenditures related to development services activities to improve cost recovery levels. Given the economic impact caused by the Pandemic, staff did not intend to bring forward a recommendation to increase fees in order to cover the majority of budgeted expenditures related to development services activities in the Planning Department or the Fire Prevention Division.

With the recommended elimination of the Position, the cost recovery level for FY 2021-22 is improved from 66% to 75% without impact to service delivery to our residents and businesses. Typically, development services related activities are at a minimum of 75% cost recovery up to full cost recovery. Further, in comparison to FY 2016-17, when the Position was added to the Division mid-year, the dedicated position count for the Division was 8 FTEs and in this Proposed Budget it is 13 FTEs which includes an Assistant Fire Marshall position. The Assistant Fire Marshall position was added as part of the approval of the FY 2018-19 Adopted Budget.

Chief Fire Enforcement Officer position

The Chief Fire Enforcement Officer position, which was intended to be substantially cost recovery, was approved by a former City Council in January 2017. However, the only revenue which is directly associated with the position are fines related to non-compliance of the Fire Code. Fines generated by the Position peaked in FY 2017-18 with approximately \$35,000 and tapered off to \$6,000 in FY 2019-20 with no fines collected for the current year as of April 30, 2021. This Position also completes permit and inspection activities, which generate revenue; however, these activities are also completed by Fire Prevention Inspection positions at a lower cost.

The Position, which is unique for comparable Fire Prevention functions in other agencies as it requires a peace officer certification, performs several duties including fire cause/determination, arson, environmental, and hazmat investigations. During the last two calendar years, the Position investigated an average of 35 cases annually. Since the creation of the Position in 2017, the Position only had to investigate one criminal case related to an arson investigation. Given the low number of criminal arson investigations, it is more efficient to work with the Milpitas Police Department (MPD) taking advantage of MPD's deep experience in investigating criminal cases. This collaboration between the two public safety departments is the standard model for criminal arson investigations in the State.

The majority of the Position's duties such as fire code/statutory compliance and enforcement and fire-life safety/technical inspections are shared with Fire Prevention Inspector positions. Currently, the Fire Prevention Division has four such positions, of which three are filled and the fourth is scheduled for recruitment. For FY 2021-22, the top salary including benefits for a Fire Prevention Inspector position amounts to \$292,389 versus \$348,212 for the Chief Fire Enforcement Officer position. Therefore, shifting the inspection work to the Fire Prevention Inspector positions is more cost-effective.

During the Pandemic the focus for the position shifted from Fire Code inspections and compliance activity (392 cases in 2019) to enforcement of the Santa Clara County public health orders (SCCPHO) combined with Fire Code inspections and compliance activity (210 cases in 2020). It is important to note that the City of Milpitas was the only City in the County to enforce SCCPHOs. All other cities relied on the County for the enforcement. Further, due to the Pandemic fewer businesses were open, thus requiring fewer inspections. With the lifting of restrictions, the enforcement of SCCPHO is expected to be minimal and will be shifted to the County.

Additionally, the incumbent in the Position assisted the Milpitas Police Department and the Santa Clara County Sheriff Department during the SCU Lightning Fire Complex with hazard notification of residents in the hillside area of Milpitas and neighboring unincorporated areas. Typically, these notifications are handled by law enforcement agencies.

Status of Reorganization

The Fire Department will finalize the Fire Prevention reorganization by mid-June. The reorganization builds on previous standard operating procedures that were in place prior to the creation of the Position four years ago and will be updated as necessary. Within the Public Safety City Service Area structure, the Fire and Police Departments are collaborating to restructure service delivery for criminal arson and other cases. The training of Fire Prevention inspection staff for fire investigation duties has been ongoing with initial levels of training to be completed by May 29th. During the transitional period of this reorganization, depending on the development services activity level, overtime may be incurred, which is fully cost-recovery.

Conclusion

The proposed reorganization of the Fire Prevention Division, which includes the elimination of the Chief Fire Enforcement Officer position, will significantly improve the cost recovery level of the Division consistent with established policy. The reorganization provides for combining resources and expertise from the Fire and Police Departments, as needed, versus relying on a unique position and shifts nearly all duties to lower cost positions in the Division. With this reorganization, the standard service delivery model will be implemented at a lower cost and without impact to the service level.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Conduct a Public Hearing and Introduce Ordinance No. 227.8 Amending Chapter 215 (Regulation of Smoking in Certain Places), Title V (Public Health, Safety and Welfare), of the Milpitas Municipal Code Relating to Prohibiting Smoking in Multi-Unit Housing and Certain Outdoor Areas and Making Findings of CEQA Exemption
Category:	Public Hearings-Community Development
Meeting Date:	6/1/2021
Staff Contact:	Ned Thomas, Director of Planning, 408-586-3273
<u>Recommendation:</u>	1) Conduct a public hearing and move to close the hearing following comments. 2) City Attorney shall read aloud title of Ordinance No. 227.8. 3) Move to waive the first reading beyond the title and introduce Ordinance No. 227.8 amending Chapter 215, Title V of the Milpitas Municipal Code and making findings of CEQA exemption.

Background:

The Santa Clara County Healthy Cities Program seeks to address tobacco-related health concerns by promoting policies and practices to provide tobacco-free and smoke-free communities. As part of this funding, the City of Milpitas received a grant for in-kind consultant services from Santa Clara County's Public Health Department (PHD) to implement tobacco prevention policies that have been shown to reduce exposure to secondhand smoke.

The health risks of tobacco use and exposure to secondhand smoke are well documented. More than 40,000 Californians die each year from smoking-related disease, making tobacco use the number one cause of preventable death. In Santa Clara County, one in eight deaths annually is attributed to smoking-related illness or diseases, such as cancer, heart disease, and respiratory diseases. The COVID-19 pandemic has highlighted the risks of smoking. Smoking doubles the risk of developing respiratory infections and doubles the risk of getting sicker from COVID-19. In addition, COVID-19 is causing more individuals to stay at home and to wait in lines for longer periods of time, making secondhand smoke policies more important.

The U.S. Surgeon General has concluded that there is no safe level of exposure to secondhand smoke and the California Air Resources Board has classified secondhand smoke as a toxic air contaminant. Secondhand smoke is responsible for more than 4,000 heart disease-related and lung cancer deaths each year in California. According to the Centers for Disease Control, the only way to fully protect nonsmokers is to eliminate smoking in homes, worksites, and public places.

On March 3, 2020, the City Council authorized the City Manager to conduct public outreach, develop policy options to prohibit smoking and exposure to secondhand smoke (including vaping and smoking of tobacco and cannabis products) in multi-unit housing, and prepare an implementation plan for future consideration and adoption. The City already prohibits smoking and vaping in parks, trails, and outdoor dining areas, so staff selected a range of additional policies to address primary sources of secondhand smoke exposure in individual units and common areas of multi-unit housing. The range of policy options includes smoke-free strategies for entryways and service areas of nonresidential developments and at public events to protect Milpitas' most vulnerable populations.

Public Engagement

From July 2020 to March 2021, the City conducted outreach to solicit input from residents, businesses, and property owners/managers on the proposed policy options to reduce exposure to secondhand smoke. The outreach involved an online public survey, a website and online public forum, and targeted outreach to businesses through an email blast and a presentation to the Milpitas Chamber of Commerce. As detailed below, results of the outreach show that a large majority of the public supports these proposals.

Online Public Survey

An online community survey was open from July 15th to August 31st, 2020 in order to gather feedback from the community about the proposed policies. The survey was advertised through the City website, social media, and postcard notices, which were mailed directly to all multi-unit properties in the City and distributed at the Senior Center and summer camps hosted by the Recreation and Community Services Department.

The survey received 125 responses, with 33 percent of participants indicating that they live in multi-unit housing in Milpitas. For a full summary of responses please see staff's info memo to City Council on November 25, 2020 (Attachment A). Below are the responses to questions related to the proposed policies:

Locations	Support
Within 25 feet of entrances, exits, and windows to buildings where smoking is prohibited	97%
Within 25 feet of service areas (e.g., transit stops or ATMs)	96%
Outdoor public events (e.g., farmers' markets and concerns)	93%
Outdoor common areas of multi-family housing (e.g., walkways, courtyards, pool areas, etc.)	89%
Within 25 feet of doors and windows of multifamily housing	89%
Inside all multifamily units (including private balconies and patios)	83%

As seen in the table above, the vast majority of respondents were in favor of the proposed policies. The number of respondents who opposed or who were unsure about the policies was minor.

Participants were given the opportunity to submit open-ended comments at the end of the survey, and they expressed general support for smoke-free policies in Milpitas and other concerns regarding secondhand smoke. Attachment A provides the specific responses.

Website & Online Public Forum

In addition to the comments received in the survey, staff received seven written comments through the project website and Online Public Forum, which was held open for an entire month to provide ample opportunity to learn about the project and provide written comments. All but one of the comments expressed support for smoke-free policies in Milpitas and cited the following concerns about secondhand smoke exposure:

- General health hazard;
- Reduced access to fresh air and good air quality;
- Harmful impacts to nonsmokers, particularly young children;
- Absence of existing restrictions on smoking in public areas;
- Ongoing complaints within communities about secondhand smoke with no recourse; and
- Potential for widespread exposure in multifamily properties.

Outreach to Businesses

City staff introduced the proposed smoke-free policy options to the Milpitas Chamber of Commerce and solicited feedback regarding implementation at its Board meeting on February 4th, 2021. Citing the benefit of

providing consistency and clarify for businesses regarding smoking requirements through established citywide policy, the Chamber of Commerce Board expressed support for the proposed smoke-free policies.

City staff also distributed a Constant Contact message with a link to the City's website, an informational flyer, and contact information to Milpitas' business community. Staff has not received any comments from businesses in Milpitas.

Analysis:

After accounting for research on best practices to reduce exposure to secondhand smoke and public input, staff prepared a draft ordinance (Attachment B) to amend Title V of the Milpitas Municipal Code (Public Health, Safety and Welfare) to include the following components for Council's consideration:

1. **Require smoke-free multi-unit housing** (defined as two or more attached residences, which could include apartments, condominiums, townhomes, duplexes, triplexes, etc.), including:
 - a. Outdoor common areas;
 - b. A 25-foot buffer zone around doors and windows of multi-unit housing; and
 - c. Inside units in multi-unit housing.
2. **Require smoke-free entryways** around the entrances of all locations where smoking is prohibited, including businesses, offices, grocery stores, restaurants, bars, places of worship, etc.
3. **Require public events**, such as farmer's markets and street fairs, to be smoke-free
4. **Require service areas**, such as ATMs, ticket lines, bus stops or shelters, to be smoke-free

These measures are likely to have the greatest impact on reducing exposure to secondhand smoke and were the focus of the City's outreach. Each option is discussed in more detail below.

Not only does prohibiting smoking in such locations decrease exposure to harmful secondhand smoke, it also decreases fire risk and reduces the amount of cigarette butt litter. Other jurisdictions in Santa Clara County have adopted similar provisions and a comparison table can be found in Attachment C. For the purposes of the draft ordinance, "smoking" includes the use of cigarettes, cigars, cigarillos, hookah, pipes, electronic smoking devices, and marijuana.

Smoke-free Multi-Unit Housing

In order to protect residents of multi-unit housing from the negative effects of drifting secondhand smoke, the draft ordinance would prohibit smoking (a) in multi-unit common areas, such as walkways, courtyards, and pool areas; (b) in outdoor areas within 25 feet from the doors and windows of multi-unit housing units; and (c) in individual units, including patios and balconies, of multi-unit housing.

The draft ordinance defines multi-unit housing as two or more attached residences (i.e., a shared wall or ceiling/floor), including apartments, condominiums, townhomes, duplexes, triplexes, and fourplexes.

Based on data from the Santa Clara County Public Health Department (PHD), 33% of Santa Clara County households live in multi-unit housing. In Milpitas, approximately 20% of households live in multi-unit housing. In a survey conducted by the City of Milpitas, 45.16% of respondents reported that they had been exposed to either tobacco smoke, marijuana smoke, or both in the past 30 days. Of those respondents, 21.78% of respondents reported that they noticed secondhand smoke drifting into their home often or always and 41.13% reported that they sometimes noticed secondhand smoke drifting into their home. Several studies on drifting secondhand smoke in multi-unit housing have confirmed that secondhand smoke can and does transfer between units, creeping under doorways and through wall cracks. Because people spend a considerable amount of time at home, smoke-free policies in residential settings can significantly protect residents from second-hand smoke.

Increasingly, landlords are choosing to adopt smoking restrictions in properties they own or manage for a number of reasons, including: (1) to reduce cleaning costs from a unit with a smoker; (2) to lower the fire risk

and related insurance costs; and (3) in response to tenant demand. The California Apartment Association's sample lease form contains a provision indicating that smoking is prohibited everywhere on the property, unless the owner has adopted a different policy.

Smoke-free Common Areas

Under California law, indoor common areas of multi-family housing are required to be smoke-free if any employees enter the premises. However, there is no law prohibiting smoking in outdoor common areas, such as walkways, courtyards, playgrounds, and pool areas. In Santa Clara County, seven cities and Santa Clara County have adopted laws to require smoke-free outdoor common areas in multi-family housing. More information about where other jurisdictions in Santa Clara County prohibit smoking can be found in Attachment C and is summarized below.

Smoke-free Buffer Zones

Many people are exposed to secondhand smoke from neighbors who smoke outside their unit near the doorway or on a patio or balcony. This policy option would prohibit smoking in outdoor areas within 25 feet from any area of multi-family housing that is required to be smoke-free. The draft ordinance offers an option for landlords to create a designated outdoor smoking area so long as it meets certain requirements.

Smoke-free Individual Units

As described above, secondhand smoke can seep between units. A policy prohibiting smoking inside individual units, including private balconies and common areas, is the only way to fully protect residents. In Santa Clara County, five cities and the County prohibit smoking in multi-unit housing units.

Smoke-free Entryways

State law prohibits smoking within 20 feet of entrances, exits, or operable windows of government buildings. The draft ordinance requires a 25-foot smoke-free buffer zone around any buildings in which smoking is prohibited, such as offices, restaurants, retail shops, places of worship, supermarkets, etc. The buffer zone is designed to protect employees from smoke drifting into the business, as well as members of the public who are entering or exiting buildings or passing by on the sidewalk. In Santa Clara County, 10 cities and the County have adopted laws prohibiting smoking within a radius of all buildings in which smoking is prohibited indoors.

Smoke-free Public Events

Many local governments in California have taken steps to protect their residents from secondhand smoke in outdoor areas where people congregate, such as events open to the public. The draft ordinance would prohibit smoking at outdoor public events in Milpitas, such as farmer's markets, parades, or music events. In Santa Clara County, nine cities have restrictions on smoking at public events.

Smoke-free Service Areas

A restriction on smoking in service areas seeks to protect individuals from the dangers of secondhand smoke in areas where people wait to receive a service or make a transaction, such as ATMs, information kiosks, public transit stops, mobile vendor lines, cab lines, entrance lines, and ticket lines. In Santa Clara County, nine cities and the County prohibit smoking in service areas.

Milpitas already prohibits smoking in outdoor dining areas and recreational areas (Municipal Code section V-215-1.20).

Implementation and Enforcement

To aid in implementation of smoke-free multi-unit housing requirements, the following elements are incorporated into the draft ordinance:

1. **A phase-in period:** The smoke-free housing requirements would become operative approximately six months after ordinance adoption to allow time to notify residents and property owners/managers of the new requirements.
2. **Lease requirements:** The Ordinance requires landlords to incorporate the smoke-free requirements into a tenant's lease. This means that a violation involving a person smoking inside

their unit could be enforced by the landlord as a lease violation and/or by the City. New tenants who move in after the ordinance's effective date would sign the updated lease agreement including the smoking restrictions. Existing tenants would have their leases updated on a rolling basis as the leases are renewed. Condominium complexes could enforce the smoking restrictions as a violation of their restrictions.

3. **Signage:** The Ordinance requires "No Smoking" signs to be posted where smoking is prohibited. Santa Clara County will provide "No Smoking" signs to multi-unit housing properties and to local businesses, which will aid in implementation of the ordinance.

Following the education period about the new Ordinance, enforcement will be complaint-driven. In general, communities that have adopted smoke-free multi-family housing laws have not been overwhelmed by complaints and most have found education and warnings about the new law to be sufficient. As a last resort, the City can cite an individual for smoking in violation of the law. The ordinance also provides for private rights of enforcement by civil action. However, as a practice, education will be the first step to encourage compliance.

Next Steps

Following adoption of the non-smoking policy for multi-family residential buildings, City staff will work with the County consultant to develop an implementation plan and informational materials to help residents and the owners/managers of multi-family properties understand and implement the new policy. Outreach materials will include new content on the City's website, smoke-free signage, fact sheets, and a landlord toolkit designed to build support and increase public awareness of the new requirements. City staff from Planning and Recreation and Community Services will also initiate Phase 2 of the City's efforts by developing a licensing program for tobacco retailers and conducting additional community outreach to educate youth, teens, and parents about the health hazards of smoking and vaping. Staff will also coordinate with the County consultant to develop regulations aimed at restricting the sale of flavored tobacco products to teens and discouraging the overall use of all tobacco products whether by smoking, vaping, or other devices.

Policy Alternatives:

Alternative: Do not adopt Ordinance No. 227.8.

Pros: None.

Cons: Without the Ordinance, the City will not have regulations to assist residents who continue to be exposed to secondhand smoke in their homes as well as in public locations throughout the City. This exposure will lead to additional, preventable tobacco-related disease.

Reason not recommended: The Ordinance would help protect the health of residents of multi-unit housing who are exposed to secondhand smoke drifting into their units. The Ordinance would also protect residents, employees, and visitors from exposure to secondhand smoke in public areas of the City such as outside building entryways, in service areas, and at public events. In addition, the Ordinance would improve the City of Milpitas' performance on the Santa Clara County Healthy Cities Dashboard and the American Lung Association's (ALA) State of Tobacco Control report card (Attachment D). Currently, Milpitas has an overall grade of "D" on the ALA report card and a grade of grade of "F" in the category of smoke-free housing.

Fiscal Impact:

The cost and resources to develop locally-specific community engagement strategies and policies and the draft Ordinance are covered by the County's Healthy Cities Program grant, including the provision of a County consultant who is working with City staff to prepare documents, research, and materials. Additional staff time may be required to enforce provisions of the Ordinance.

Environmental Review:

The Ordinance is not a project under the requirements of the California Environmental Quality Act (CEQA) and the CEQA Guidelines because it has no potential for resulting in either a direct or reasonably foreseeable indirect change in the environment. If the Ordinance is found to be a project under CEQA, the action being considered is exempt from environmental review pursuant to CEQA Guidelines Section 15061(b)(3) in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The Ordinance, which would prohibit smoking in multi-unit housing and certain outdoor areas, would have no or only a de minimis impact on the environment.

Recommendations:

- 1) Conduct a public hearing and move to close the hearing following comments.
- 2) City Attorney shall read aloud title of Ordinance No. 227.8.
- 3) Move to waive the first reading beyond the title and introduce Ordinance No. 227.8 amending Chapter 215, Title V of the Milpitas Municipal Code and making findings of CEQA exemption.

Attachments:

- A. Draft Ordinance Relating to Prohibiting Smoking in Multi-Unit Housing and Certain Outdoor Areas
- B. City Council Info Memo dated November 25, 2020
- C. Tobacco Free Communities Policies in Santa Clara County
- D. American Lung Association Report Card

PLEASE NOTE:

This copy of Ordinance No. 227.8 is a “redlined” version for your convenience. Text additions are designated by an underline and text deletions are designated with a strikethrough.

REGULAR

NUMBER: 227.8

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING CHAPTER 215 OF TITLE V OF THE MILPITAS MUNICIPAL CODE RELATING TO PROHIBITING SMOKING IN MULTI-UNIT HOUSING AND CERTAIN OUTDOOR AREAS

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:

Wendy Wood, City Clerk

Rich Tran, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

RECITALS AND FINDINGS:

WHEREAS, the City of Milpitas (the “City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, the U.S. Surgeon General has concluded that there is no risk-free level of exposure to secondhand smoke and the California Air Resources Board identified secondhand smoke as a toxic air contaminant for which there is no safe level of exposure; and

WHEREAS, secondhand smoke is responsible for an estimated 34,000 heart disease–related and 7,300 lung cancer–related deaths among adult nonsmokers each year; and

WHEREAS, in children, secondhand smoke causes ear infections, more frequent and severe asthma attacks, respiratory infections, and increases the risk of Sudden Infant Death Syndrome (SIDS); and

WHEREAS, exposure to electronic smoking device aerosol has immediate impacts on the human respiratory and cardiovascular system and poses a risk to human health; and

WHEREAS, secondhand cannabis smoke has been identified as a health hazard; the California Environmental Protection Agency includes cannabis smoking on the Proposition 65 list of chemicals known to the state to cause cancer; and

WHEREAS, studies have shown that exposure to secondhand smoke outdoors can reach levels attained indoors depending on the amount of wind and number and proximity of smokers; and

WHEREAS, research demonstrates that secondhand smoke in multi-unit housing can and does transfer between units, creeping under doorways and through wall cracks; and

WHEREAS, according to the County of Santa Clara, close to one-third (29%) of adults who live in multi-unit housing in the County reported smelling tobacco smoke drifting into their home in the previous week. The rate of secondhand smoke exposure was higher among those with less than a high school diploma (38%) and adults with household incomes less than \$15,000 (36%); and

WHEREAS, harmful residues from tobacco smoke can be absorbed by and cling to virtually all indoor surfaces long after smoking has stopped and then be emitted back into the air, making this “thirdhand smoke” a potential health hazard; and

WHEREAS, California cities and counties have the legal authority to adopt local laws that prohibit all tobacco use indoors and outdoors in areas not already covered by state law; and

WHEREAS, state law allows local governments to adopt ordinances that permit residential rental agreements to prohibit smoking tobacco products within rental units; and

WHEREAS, state law prohibits smoking within 25 feet of playgrounds as well as within 20 feet of government buildings and expressly authorizes local communities to enact additional restrictions; and

WHEREAS, the City of Milpitas currently prohibits smoking in recreational areas; outdoor dining areas; and within 25 feet of government buildings; and

WHEREAS, to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of smoking around non-tobacco users, especially children, to protect the public from exposure to secondhand smoke where they live, work, and play, and to protect the public from nonconsensual exposure to secondhand smoke in and around their homes, the City desires to amend and add new sections to Chapter 215 of Title V of the Milpitas Municipal Code relating to smoking within multi-unit housing, public places, service areas, and outdoor dining areas.

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. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE V, CHAPTER 215

Chapter 215 (Regulation of Smoking in Certain Places) of Title V of the Milpitas Municipal Code is hereby amended to read as follows:

Chapter 215 - REGULATION OF SMOKING IN CERTAIN PLACES

V-215-1.10 Purpose

The City Council of the City of Milpitas recognizes the right and need of those who wish to breathe fresh air ~~while working, engaging in play or athletic activity, or while dining.~~ In order to serve the public health, safety and general welfare, the purpose of this Chapter is to prohibit smoking in the areas defined herein with some exceptions. The City Council hereby adopts and incorporates as if set out at length herein, California Labor Code Section 6404.5, and California Health and Safety Code Sections 104495 and 114371; and California Government Code Sections 7596-7598, as now written and as amended from time to time. A copy of ~~California Labor Code Section 6404.5 and California Health and Safety Code Section 104495~~ these laws shall be available for inspection during regular business hours in the office of the City Clerk.

V-215-1.15 Definitions

~~This Chapter is hereby enacted to include the following definitions:~~ The following words and phrases, whenever used in this Chapter, shall be construed as defined in this Section:

- (a) "Common area" shall mean every enclosed area or unenclosed area of a multi-unit residence that residents of more than one unit are entitled to enter or use, including, but not limited to, halls, pathways, lobbies, courtyards, elevators, stairs, community rooms, playgrounds, gym facilities, swimming pools, parking garages, parking lots, grassy or landscaped areas, restrooms, laundry rooms, cooking areas, and eating areas.
- (~~a~~b) "Electronic smoking device" shall mean an electronic and/or battery-operated device, the use of which may resemble smoking which can be used to deliver any aerosolized or vaporized substance to the person inhaling from the device ~~an inhaled dose of nicotine or other substances.~~ "Electronic smoking device" includes but is not limited to any such electronic smoking devices, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, vape pen, or any other product name or descriptor.
- (c) "Enclosed area" shall mean all space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent.
- (d) "Landlord" shall mean any person or agent of a person who owns, manages, or is otherwise legally responsible for a unit in a multi-unit residence that is leased to a residential tenant. For purposes of this Chapter, a tenant who sublets a unit (e.g., a sublessor) is not a landlord.
- (e) "Multi-unit residence" shall mean property containing two or more attached units, including, but not limited to, apartment buildings, condominiums, duplexes and triplexes, senior and assisted living facilities, and long-term health care facilities. Multi-unit residences do not include the following:
 - 1. a hotel or motel that meets the requirements of California Civil Code Section 1940(b)(2);
 - 2. a mobile home park;
 - 3. a campground;

4. a marina or port;

5. a single-family home, except if used as a health care facility subject to licensing requirements; and

6. a single-family home with a with a detached or attached ~~in-law~~ accessory dwelling unit or second unit permitted pursuant to California Government Code Sections 65852.1, 65852.150, 65852.2, or an ordinance of the City adopted pursuant to those sections, except if the single-family home or ~~in-law~~ accessory dwelling unit/second unit is used as a health care facility subject to licensing requirements.

(f) "Nonsmoking area" shall mean any area in which smoking is prohibited by

1. this Chapter or other law;

2. binding agreement relating to the ownership, occupancy, or use of real property; or

3. a person with legal control over the area.

(~~h~~g) "Outdoor dining area" shall mean any privately owned or publicly owned area, street, or sidewalk, which is available or customarily used by the general public and which is designed, established, or regularly used for consuming food or drink.

(h) "Person" shall mean any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity, including government agencies.

(i) "Place of employment" shall mean any area under the legal or de facto control of an employer that an employee or the general public may have cause to enter in the normal course of the operations, regardless of the hours of operations.

(j) "Public place" shall mean any place, publicly or privately owned, which is open to the general public regardless of any fee or age requirement.

~~(c) "Public facility" shall mean any building owned or leased by the City of Milpitas, including city vehicles.~~

(~~d~~k) "Reasonable distance" shall mean a distance of 25 feet in any direction from an area in which smoking is prohibited.

(~~e~~l) "Recreational area" shall mean any outdoor area, including streets and sidewalks adjacent to recreational areas, owned or operated by the City of Milpitas and open to the general public for recreational purposes, regardless of any fee or age requirement. The term "recreational area" includes, but is not limited to parks, picnic areas, playgrounds, sports fields, walking paths, gardens, hiking trails, bike paths, horseback riding trails, swimming pools, skateboard parks, and bleacher areas, spectator seating areas, concession stands, parking lots or other areas designated or primarily used for parking vehicles of persons accessing a recreational area.

(m) "Service area" shall mean any publicly or privately owned area, including streets and sidewalks, that is designed to be used or is regularly used by one or more persons to receive a service, wait to receive a service, or to make a transaction, whether or not such service or transaction includes the exchange of money. The term "service area" includes, but is not limited to, areas including or adjacent to information kiosks, automatic teller machines (ATMs), ticket lines, bus stops or shelters, mobile vendor lines, or cab stands.

(~~f~~n) "Smoke" shall mean the gases, particles, or vapors released into the air as a result of combustion, electrical ignition, or vaporization, when the apparent or usual purpose of the combustion, electrical ignition, or vaporization is human inhalation of the byproducts. The term "smoke" includes, but is not limited to tobacco smoke, electronic smoking device vapors, and marijuana smoke.

(g~~o~~) "Smoking" shall mean: ~~engaging in an act that generates smoke, including but not limited to igniting, lighting or possession of a lighted pipe, cigar, hookah water pipe, cigarette of any kind, an operating electronic smoking device or lighted smoke inhalation device of any kind that generates smoke of any kind.~~

1. inhaling, exhaling, or burning, any tobacco, nicotine, cannabis, or plant product, whether natural or synthetic, including a pipe, cigar, cigarillo, hookah water pipe, or cigarette of any kind;

2. carrying any lighted, heated, or activated tobacco, nicotine, marijuana, or plant product, whether natural or synthetic, intended for inhalation; or

3. using an “electronic smoking device.”

(p) “Unenclosed Area” shall mean any area that is not an enclosed area.

(q) “Unit” shall mean a personal dwelling space, even where lacking cooking facilities or private plumbing facilities, and includes any associated exclusive-use enclosed area or unenclosed area, such as, for example, a private balcony, porch, deck, or patio. “Unit” includes, without limitation, an apartment; a condominium; a townhouse; a room in a senior facility; a room in a long-term health care facility, assisted living facility, community care facility, or hospital; a room in a hotel or motel; a dormitory room; a room in a single-room occupancy facility; a room in a homeless shelter; a mobile home; a camper vehicle or tent; a single-family home; and an accessory dwelling unit or second unit.

V-215-1.20 Smoking Prohibited

(a) Smoking is prohibited in the enclosed areas of the following places within the City:

1. Places of employment; and

2. Public places

(b) Smoking is prohibited in the unenclosed areas of the following places within the City:

~~1. Within a reasonable distance of entrances, exits, open windows, and ventilation intake systems of any public facility;~~

~~2. In~~ Recreational areas;

~~3. In~~ Outdoor dining areas;

3. Service areas; and

4. Public places, when being used for a public event, including a farmer’s market, parade, craft fair, or any event which may be open to or attended by the general public, provided that smoking is permitted on streets and sidewalks being used in a traditional capacity as pedestrian or vehicular thoroughfares, unless otherwise prohibited by this Chapter or other law.

~~(b)(c)~~ Reasonable Distance Required for Smoking.

1. Smoking is prohibited within a reasonable distance of entrances, exits, open windows, and ventilation intake systems into an enclosed area in which smoking is prohibited under Section V-215-1.20, except while actively passing on the way to another destination and provided smoke does not enter any area in which smoking is prohibited.;

~~2.~~ Smoking in all unenclosed areas is prohibited within a reasonable distance from any unenclosed areas in which smoking is prohibited under Section V-215-1.20, except while actively passing on the way to another destination and provided smoke does not enter any area in which smoking is prohibited.

~~3.~~ The smoking prohibitions in Section V-215-1.20, shall not apply to unenclosed areas on private residential properties that are not multi-unit residences.

(d) Nothing in this Chapter shall be construed to prohibit smoking in any area in which such smoking is already prohibited by State or federal law unless the applicable State or federal law does not preempt additional local regulation.

(e) No person shall dispose of used smoking waste within the boundaries of an area in which smoking is prohibited by this Chapter.

V-215-1.25 Smoking—Optional Areas

Notwithstanding any other provisions of this Chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this Chapter:

- (a) On-stage smoking as part of a stage production, or similar exhibition in a public facility.
- (b) Any public area where smoking is permitted or is not otherwise prohibited by this Chapter.
- (c) A private residence that is not a multi-unit residence. ~~Private property except where such property meets the definition of outdoor dining area.~~

V-215-1.30 Smoking in Multi-Unit Housing

- (a) Beginning January 1, 2022, no person shall smoke inside any new or existing unit of a multi-unit residence, in any enclosed or unenclosed common area of a multi-unit residence, or within a reasonable distance of any operable doorway, window, opening, or vent of a multi-unit residence.
- (b) Smoking is prohibited in multi-unit residences as provided in subsection (a) of this Section, except that a person with legal control over a common area, or authorized representative, may designate a portion of the common area as a designated smoking area; provided, that at all times the designated smoking area complies with subsection (c) of this Section.
- (c) Designated smoking areas in multi-unit residences. A designated smoking area shall:
 - 1. Be an unenclosed area;
 - 2. Be a reasonable distance from unenclosed areas primarily used by children and unenclosed areas with improvements that facilitate physical activity including, for example, playgrounds, tennis courts, swimming pools, and school campuses;
 - 3. Be a reasonable distance in any direction from any operable doorway, window, opening or other vent into an enclosed area that is located at the multi-unit residence and is a nonsmoking area;
 - 4. Have a clearly marked perimeter;
 - 5. Have receptacles designed for and primarily used for disposal of tobacco waste and that are maintained free of tobacco-related litter including, but not limited to, cigarette butts; and
 - 6. Be identified by conspicuous signs.
- (d) Smoking and the use of electronic smoking devices is prohibited in adjacent unenclosed property within a reasonable distance in any direction of any doorway, window, opening, or other vent into an enclosed area of a multi-unit residence.
- (e) Common Areas Free from Smoking Waste. Persons with legal control over common areas in multi-unit residences, and their authorized representatives, shall ensure that all common areas except those meeting the requirements of subsection (c) of this Section remain free of smoking and tobacco waste, and ash trays, ash cans, or other receptacles designed for or primarily used for disposal of smoking and tobacco waste.
- (f) Signage. "No Smoking" signs shall be posted as required by Section V-215-1.35 of this Chapter, but are not required inside any unit of a multi-unit residence. Signs shall be maintained by the person or persons with legal control over the common areas or the authorized representative of such person.
- (g) Lease Terms. Every lease or other rental agreement for the occupancy of a new or existing unit in a multi-unit residence entered into, renewed, or continued month-to-month after January 1, 2022 shall include the following:
 - 1. A clause providing that it is a material breach of the agreement to smoke or allow smoking:
 - i. in the unit, including exclusive-use areas such as balconies, porches, or patios; and
 - ii. in any common area of the multi-unit residence other than a designated smoking area.
 - 2. A description of and/or image depicting the location(s) of any designated smoking area(s) on the property, if any.
 - 3. A clause expressly conveying third-party beneficiary status to all occupants of the multi-unit residence as to the smoking provisions of the lease or other rental agreement. Such a clause shall provide that any tenant

of the multi-unit residence may sue another tenant/owner to enforce the smoking provisions of the agreement but that no tenant shall have the right to evict another tenant for a breach of the smoking provisions of the agreement.

(h) Whether or not a landlord complies with subsection (g) of this Section, the clauses required by that subsection shall be implied and incorporated by law into every agreement to which subsection (g) of this Section applies and shall become effective as of the earliest possible date on which the landlord could have made the insertions pursuant to subsection (g) of this Section.

(i) This Chapter shall not create additional liability for a landlord to any person for a tenant's breach of any smoking provision in a lease or other rental agreement for the occupancy of a unit in a multi-unit residence if the landlord has fully complied with the provisions of this Chapter, except as otherwise allowed by applicable State law.

(j) Failure to enforce any smoking provision required by this Chapter shall not affect the right to enforce such provision in the future, nor shall a waiver of any breach constitute a waiver of any subsequent breach or a waiver of the provision itself.

V-215-1.30~~5~~ Posting of Signs

"Smoking" or "No Smoking" signs, whichever are appropriate, with letters of not less than one inch in height, or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently, and conspicuously posted in or outside of every building or other place where smoking is controlled by this Chapter, by the owner, operator, manager, or other person having control of such building or other place. When a sign is posed on the exterior of a building to indicate "No Smoking," it shall include the distance limitations contained in this Chapter. Signs are not required inside any unit of a multi-unit residence. Notwithstanding this provision, the presence or absence of signs shall not be a defense to a charge of smoking in violation of any provision of this Chapter.

V-215-1.40 Inspection

The City Manager, or his or her designee(s), shall have the authority to enforce the provisions of this Chapter. Such enforcement shall include the right to enter places of employment or any playground or sports facility, as defined in California Labor Code Section 6404.5, and California Health and Safety Code, Section 104495; at any time a City owned and/or operated facility is open to the public, or during regular business hours for the purpose of making reasonable inspections to observe and enforce compliance with this Chapter.

V-215-1.50~~45~~ Penalty

(a) In addition to any other remedy available at law, the City may enforce any violation of this Chapter pursuant to Section I-1-4.09 of the Milpitas Municipal Code or by administrative citation pursuant to Title I, Chapter 21 of the Milpitas Municipal Code. Any persons violating Section V-215-1.20 or Section V-215-1.30 any provision of this Chapter shall be guilty of an infraction and, upon conviction, shall be punished in accordance with the penalties set forth in Section I-1-4.09-1 of the Milpitas Municipal Code, punishable by a fine of \$250.00 for each violation of this Section.

(b) Each instance of smoking in violation of this Chapter shall constitute a separate violation. For violations other than smoking, each day of a continuing violation of this Chapter shall constitute a separate violation.

(c) Any violation of this Chapter is hereby declared to be a public nuisance.

(d) In addition to other remedies provided by this Chapter or otherwise available at law or in equity, any violation of this Chapter may be remedied by a civil action brought by the eCity aAttorney, including, without limitation, administrative or judicial nuisance abatement proceedings, civil code enforcement proceedings, and suits for injunctive relief.

(e) Any person may bring a civil action to enforce this Chapter to prevent future violations and may sue to recover actual or statutory damages, including court costs, and attorney fees.

(f) Owners, operators, property managers, and officers of homeowners' associations for residential properties, whether rental or owner-occupied, are required to post signs in accordance with Section V-215-1.35 and pro

notice to residents or tenants of the requirements of this Chapter. Owners, operators, and property managers of rental property must include the requirements of Section V-215-1.30 in the lease or other rental agreement. If the owners, operators, property managers, and officers of rental property and homeowners' associations for residential properties have satisfied these requirements, they shall not be responsible for violations of the requirements of this Chapter by tenants or residents, or guests of tenants or residents.

(a)(g) An owner, operator, or manager ("owner") of a commercial establishment shall not be responsible for violations of this Chapter within an area under the owner's control, by a patron or other member of the public ("patron"); provided, that the owner:

1. Has posted signs in accordance with this Chapter; and
2. Has verbally asked the patron not to smoke.

This limitation shall not limit the liability of an employer for the actions of employees in places of employment, or any other violation of this Chapter by the employer.

V-215-1.150 Nonretaliation

No person or employer shall discharge, refuse to hire on, or in any manner retaliate against any employee or applicant for employment because such employee or applicant makes a complaint regarding violation of this Chapter or exercises any rights granted to him or her under this Chapter. No person or landlord shall terminate a tenancy, or modify the terms of a tenancy, or in any manner retaliate against any tenant because such tenant makes a complaint regarding violation of this Chapter or exercises any rights granted to him or her under this Chapter.

SECTION 3. CEQA

The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

SECTION 4. 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 5. 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. However, Section V-215-1.30 shall not become operative until January 1, 2022. 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.

MEMORANDUM

Planning Department



DATE: November 25, 2020

TO: Mayor and Council

THROUGH: Steve McHarris, City Manager *Steve McHarris*

FROM: Ned Thomas, Planning Director

SUBJECT: Smoke-Free Policies for Multi-Unit Housing Units and Common Areas

Background

In November 2018, the City of Milpitas was selected to receive funding to implement comprehensive smoke-free policies for all multi-unit housing through a recommended strategy in Santa Clara County's Healthy Cities Program. This program promotes policies and practices to increase access to tobacco-free and smoke-free communities; recreation, physical activity, and safe walking and biking opportunities; and healthy food and beverage environments.

On March 3, 2020, the City Council received a report from City staff on reducing exposure to secondhand smoke in multi-unit housing and authorized the City Manager to conduct public outreach, develop policy options to prohibit smoking and exposure to secondhand smoke (including vaping and smoking of tobacco and cannabis products) in multi-unit housing, and prepare an implementation plan for future consideration and adoption.

Expansion of Smoke-Free Policies

City staff initially selected a limited range of policies to address the primary sources of secondhand smoke exposure in individual units and common areas of multi-unit housing. Although the City already prohibits smoking and vaping in parks, trails, and outdoor dining areas, policies are needed to reduce exposure in other public areas with potential for significant exposure. Twelve of the sixteen jurisdictions in Santa Clara County have already prohibited smoking in entryways and service areas of nonresidential developments and at public events. See Santa Clara County Jurisdictions Comparison Table (Attachment 1).

Expanding the areas where smoking is prohibited will reduce secondhand smoke exposure for the most vulnerable populations throughout the City. As such, staff expanded the range of policy options to include smoke-free strategies for entryways and service areas of nonresidential developments and at public events.

Public Engagement

Given the adverse impacts of secondhand smoke exposure and the importance of smoke-free policies to protect Milpitas' most vulnerable populations, community engagement is an important component of this effort. In light of the current pandemic, staff has emphasized connecting with the public through virtual avenues to better understand the community's support for smoke-free policies. A summary of the community outreach efforts and outcomes is provided below.

Online Public Survey

Staff developed an online survey to gather information and feedback from the community for smoke-free strategies in multi-unit housing and other areas within the City and shared a link to the survey on

the City webpage and through social media. The survey was also distributed through postcard notices, which were mailed directly to all multi-unit properties in the City and distributed at the Senior Center and summer camps hosted by the Recreation and Community Services Department. The survey remained open from July 15th to August 31st.

Staff received 125 responses to the survey. Overall, survey participants expressed overwhelming support for smoke-free policies in Milpitas, which supports the results of Santa Clara County's 2013-2014 Behavioral Risk Factor Survey and 2011-2012 Public Opinion Poll. Approximately 96 percent of Santa Clara County apartment residents believe that smokers should not be allowed to smoke wherever they want, and 84 percent said that they would support a no smoking policy at their multi-unit housing complex. Below is a summary of Milpitas' survey results. Attachment 2 (Survey Data Summary) is a detailed report with additional data for each survey question.

Survey Participants

- 84% are Milpitas residents while 16% own or manage a business or multifamily building in Milpitas.
- 95% do not smoke tobacco or cannabis products of any kind.

Secondhand Smoke Exposure

- 64% have noticed secondhand smoke drifting into their home in the past 30 days.
- 55% believe that secondhand smoke drifts into their unit from outside (through windows, doors, vents, etc.).

Smoke-Free Policies

Participants were asked whether they would support prohibiting smoking in the following locations:

Locations	Support
Outdoor dining areas	96%
Within 25 feet of entrances, exits, and windows to buildings where smoking is prohibited	97%
Within 25 feet of service areas (e.g., transit stops or ATMs)	96%
Public parks	87%
Outdoor public events (e.g., farmers' markets and concerns)	93%
Outdoor common areas of multi-family housing (e.g., walkways, courtyards, pool areas, etc.)	89%
Within 25 feet of doors and windows of multifamily housing	89%
Inside all multifamily units (including private balconies and patios)	83%

Furthermore, 42% believe that there are other areas in the City where smoking should be prohibited.

Retail Sales

The City survey also included questions to gauge the community's support for tobacco retail regulations. This feedback will be used by the Recreation and Community Services Department in a separate grant-funded effort to develop policies to regulate tobacco retail businesses. Currently, retail stores can sell tobacco products as an accessory use and smoke shops are allowed in certain commercial zoning districts with a conditional use permit without any required buffers from sensitive

land uses. Furthermore, the City does not provide local tobacco retail regulations to supplement State law or require tobacco retailers to obtain a license prior to operating. As such, participants were asked whether they would support the following tobacco retail regulations.

Regulations	Support
Prohibit the sale of flavored tobacco products (e.g., menthol cigarettes, little cigars, and e-cigarettes in flavors such as fruit, candy, and liquor)	84%
Prevent stores near schools from selling tobacco products (e.g., no new retailers within 1,000 feet of schools)	91%
Limit where stores that sell tobacco can be located within a community (e.g., no new retailers within 500 feet of existing retailers)	83%
Prohibit pharmacies from selling tobacco products	79%
Require store owners to purchase a local license to sell tobacco (license fees would cover enforcement of tobacco laws)	86%

Additional information and studies related to tobacco retail sales will be presented to Council at a later date as part of the Recreation and Community Services Department's separate project.

Open-Ended Responses

Participants were given the opportunity to submit open-ended comments at the end of the survey, and they expressed general support for smoke-free policies in Milpitas and other concerns regarding secondhand smoke. Attachment 2 (Survey Data Summary) provides the specific responses.

Website and Online Public Forum

Staff created a [website](#) for this effort with the policy details, background resources, frequently asked questions (FAQs), and a section for the community to submit comments or questions to staff. Additionally, the project was posted on the [Online Public Forum](#), which is an outreach tool the Planning Department has been using during shelter-in-place to gather public input on significant projects. The Online Public Forum was held open for an entire month to provide the public ample opportunity to learn about the project and provide written comments. Both the project website and Online Public Forum were shared through social media to increase the project's public exposure.

Staff received seven written comments through the project website and Online Public Forum. All but one of the comments expressed support for smoke-free policies in Milpitas and cited the following concerns about secondhand smoke exposure:

- General health hazard;
- Reduced access to fresh air and good air quality;
- Harmful impacts to nonsmokers, particularly young children;
- Absence of existing restrictions on smoking in public areas;
- Ongoing complaints within communities about secondhand smoke with no recourse; and
- Potential for widespread exposure in multifamily properties.

One comment expressed opposition to smoke-free policies in that it would prohibit residents from smoking in their own properties. However, others expressed support to expand smoke-free policies to include single-family residences and potentially implement a citywide ban on smoking. Attachment 3 (Written Public Comments) provides the written comments received from the public.

Next Steps

Staff will consider the results of the community outreach and develop a set of draft policy options for consideration and direction from the Council in early 2021. Following the Council study session and another round of community outreach, staff will then incorporate the feedback received to develop a final set of policy options and an implementation plan for adoption by the Council in Spring 2021.

Attachments:

- A. [Santa Clara County Jurisdictions Comparison Table](#)
- B. [Survey Data Summary](#)
- C. [Written Public Comments](#)

ATTACHMENT A

1/2020: Tobacco-Free Communities - Policies Across Santa Clara County Jurisdictions

Jurisdiction	Reducing Exposure to Secondhand Smoke							Reducing Youth Access & Exposure to Tobacco Products				
	Parks & Trails	Outdoor Dining Areas	Entryways	Service Areas	Public Events	Multi-Unit Housing	Common Areas of Multi-Unit Housing	Tobacco Retail Permit	Reduce Density of Tobacco Outlets	Limit Sales Near Schools	Flavored Tobacco Restrictions	Limit Sales in Pharmacies
County of Santa Clara	2010	2010	2010	2010		2010	2010	2010	2010	2010	2010	2010
Campbell	2011	2011	2011	2011	2011			2012				
Cupertino	2011	2014	2014					2019	2019	2019	2019	2019
Gilroy								2014		2014		
Los Altos	2011	2018	2018	2018	2018							
Los Altos Hills		n/a*		n/a*	n/a*	n/a*	n/a*	n/a*	n/a*	n/a*	n/a*	n/a*
Los Gatos	2013	pre-2010	2016	2016	2016	2016	2016	2017	2017	2017	2017	2017
Milpitas	2012	2017										
Monte Sereno	n/a*	n/a*	n/a*	n/a*	n/a*			n/a*	n/a*	n/a*	n/a*	n/a*
Morgan Hill	2012	2012	2012	2012	2012			2014	2019	2019	2019	2019
Mountain View		2012	2012		2012							
Palo Alto	2013	2014	2014	2014	2014	2016	2016	2017	2017	2017	2017	2017
San Jose	pre-2010	2012		2012			2012	2011				
Santa Clara	2019	2019	2019	2019	2019	2019	2019					
Saratoga	pre-2010	2016	2016	2016	2016		2016	2015	2016	2016	2018**	2018
Sunnyvale	2012	2016	2016	2016	2016	2016	2016					

* Not included in denominator of % of county population covered by policy because don't have the specific venues/areas covered by policy (Ex. Monte Sereno & Los Altos Hills do not have any tobacco retailers)

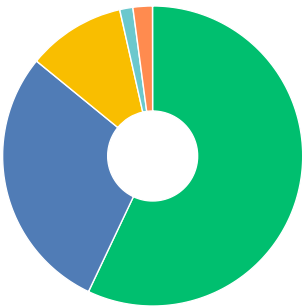
** Includes an exemption for menthol-cigarettes

Rev. 1/20

Showing: 125 of 125 responses

PAGE 1

1. Tell us about yourself. (Check all that apply.)



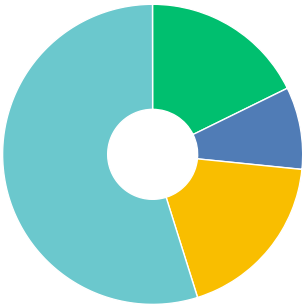
Answered: 124 Skipped: 1

I live in Milpitas in a single-family house.	65.32%	81
I live in Milpitas in an apartment, duplex, condominium or townhouse.	33.06%	41
I work in Milpitas.	12.1%	15
I own or operate a business in Milpitas.	1.61%	2
I own or manage a building with two or more residential units in Milpitas.	2.42%	3

2. What is your zip code?

Responses 124

3. In the past 30 days, have you been exposed to secondhand smoke at your home? (Secondhand smoke is smoke that comes from someone else using a tobacco or marijuana product.)



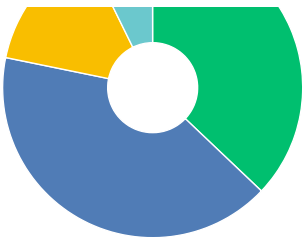
Answered: 124 Skipped: 1

Yes, I have been exposed to tobacco smoke.	17.74%	22
Yes, I have been exposed to marijuana smoke.	8.87%	11
Yes, I have been exposed to both tobacco and marijuana smoke.	18.55%	23
No, I have not been exposed to secondhand smoke.	54.84%	68

4. In the past 30 days, how often have you noticed secondhand smoke (either tobacco or marijuana smoke) drifting into your home?



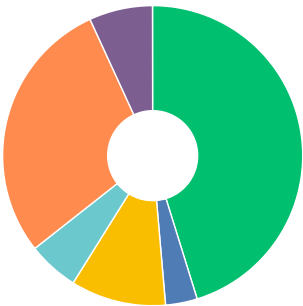
Analyze



Answered: 124 Skipped: 1

Never	37.1%	46
Sometimes	41.13%	51
Often	14.52%	18
Almost always	7.26%	9

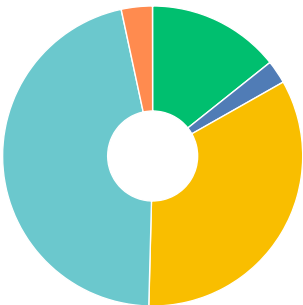
5. Where do you think that secondhand smoke drifted into your unit from? (Check all that apply.)



Answered: 120 Skipped: 5

Outside, through the windows, door, vents, etc.	55%	66
Another unit, through the wall, ceiling floor or ventilation system	4.17%	5
I don't know where it comes from.	12.5%	15
Other	6.67%	8
Not applicable - no secondhand smoke in my residence	35%	42
Other (please specify)		10

6. Does your housing complex have a policy to prohibit smoking inside your apartment, condominium, or townhouse?



Answered: 119 Skipped: 6

←

Analyze

No	33.61%	40
Don't know	46.22%	55
Prefer not to answer	3.36%	4

7. Do you think smoking should be prohibited in the following locations? (Check all that apply.)



Answered: 121 Skipped: 4

Outdoor dining areas where food and beverages are served, such as restaurant and bar patios	95.87%	116
Within 25 feet of entrances, exits, and windows to buildings where smoking is prohibited. This would apply to businesses, offices, grocery stores, restaurants, bars, places of worship, etc.	96.69%	117
Within 25 of "service areas", such as transit stops or ATMs	95.87%	116
Public parks	86.78%	105
Outdoor public events like farmers' markets and concerts	92.56%	112
Outdoor common areas of multi-family housing, such as walkways, courtyards, pool areas, etc. Multi-family housing means housing with two or more attached residences and includes apartments, duplexes, condominiums, and townhouses	89.26%	108
Within 25 feet from doors and windows of multi-family housing	89.26%	108
Inside all units within multi-family housing, including private balconies and patios	83.47%	101

8. Are there any other areas in the City where you think smoking should be prohibited?

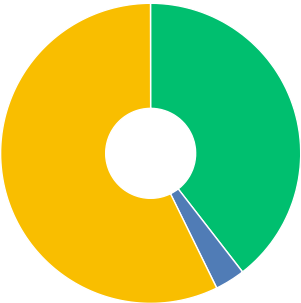


Answered: 123 Skipped: 2

Yes	42.28%	52
No	15.45%	



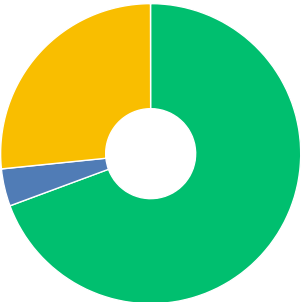
9. Do you think it is easy or difficult for youth under the age of 21 to buy flavored tobacco products in Milpitas? Flavored tobacco products include menthol cigarettes, little cigars, and electronic cigarettes in flavors such as fruit, candy, and liquor.



Answered: 124 Skipped: 1

Easy	39.52%	49
Difficult	3.23%	4
Not sure	57.26%	71

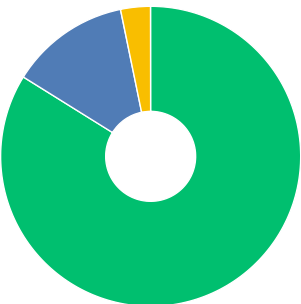
10. Do you think flavored tobacco products are more appealing to youth than unflavored tobacco products?



Answered: 124 Skipped: 1

Yes	69.35%	86
No	4.03%	5
Not sure	26.61%	33

11. Would you support or oppose a law prohibiting the sale of flavored tobacco products in Milpitas? Flavored tobacco products include menthol cigarettes, little cigars, and electronic cigarettes in flavors such as fruit, candy, and liquor.

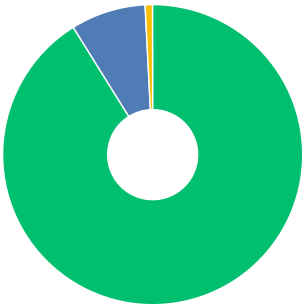


Answered: 124 Skipped: 1

Support	83.87%	104
Oppose	12.9%	16



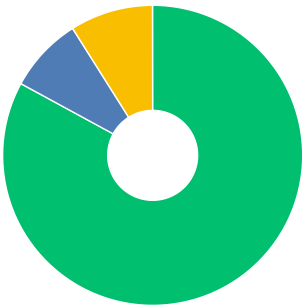
12. Would you support or oppose a law to prevent stores near schools from selling tobacco products, such as no new tobacco retailers within 1,000 feet of schools?



Answered: 124 Skipped: 1

Support	91.13%	113
Oppose	8.06%	10
Not sure	0.81%	1

13. Would you support or oppose a law that limits where stores that sell tobacco can be located within a community, such as no new tobacco retailers within 500 feet from existing tobacco retailers?

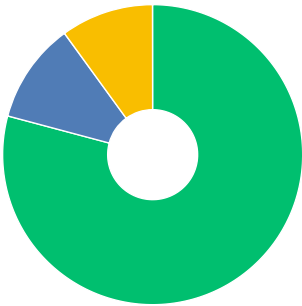


Answered: 123 Skipped: 2

Support	82.93%	102
Oppose	8.13%	10
Not sure	8.94%	11

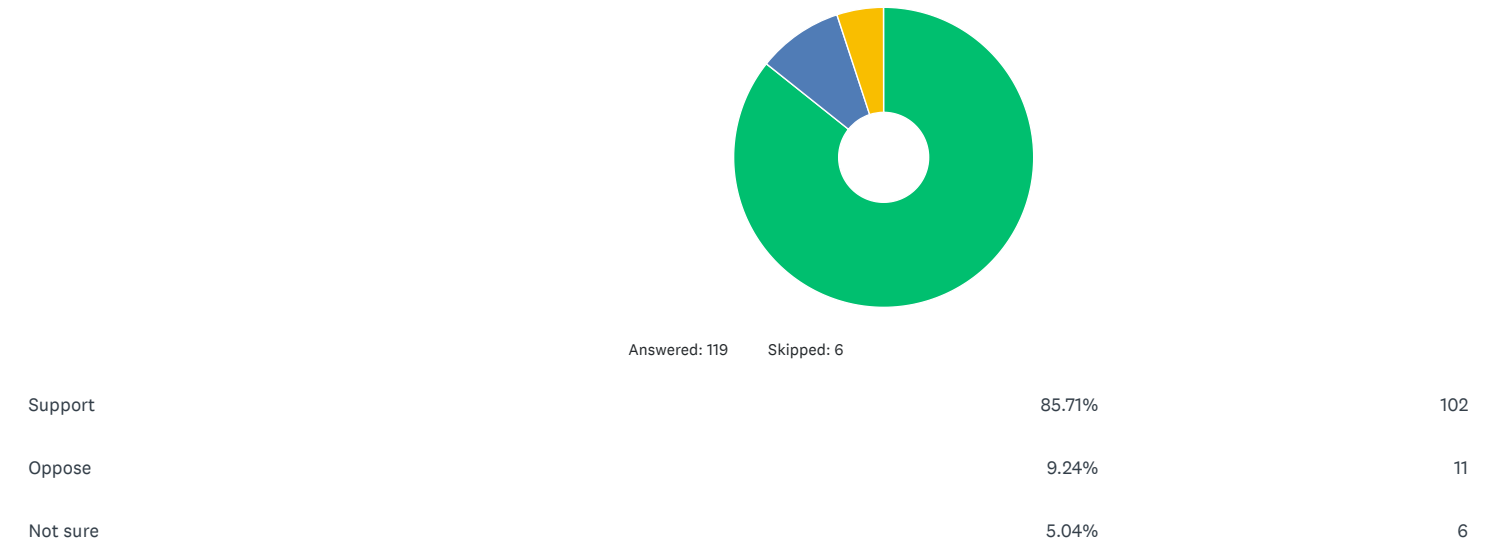
PAGE 2

14. Would you support or oppose a law that bans pharmacies from selling tobacco products?

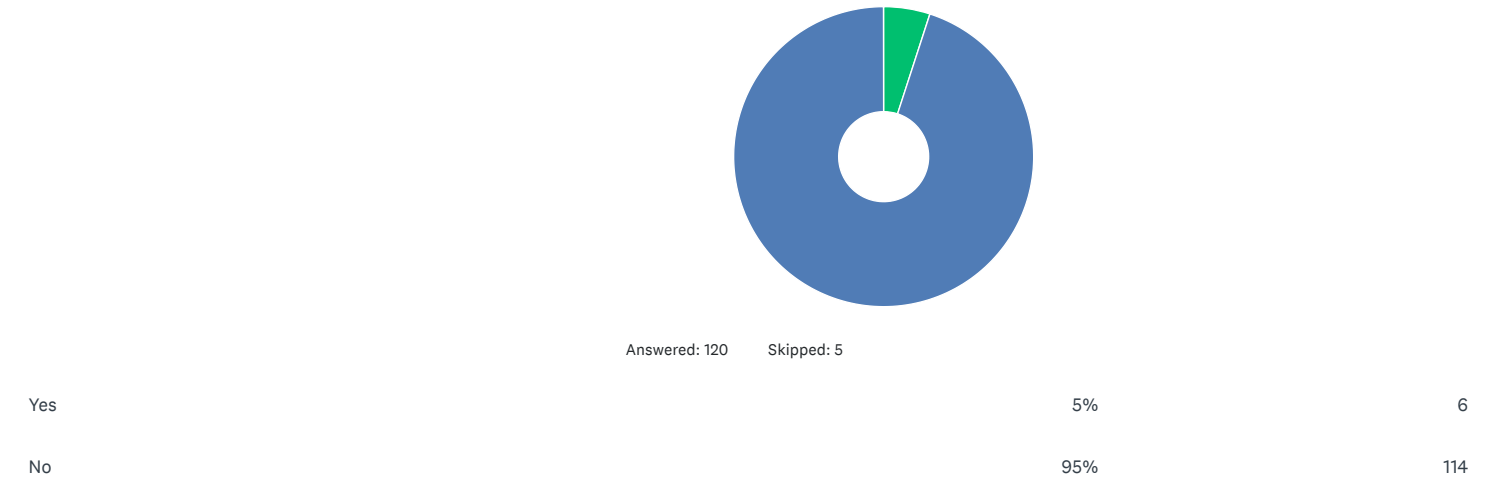


Answered: 120 Skipped: 5

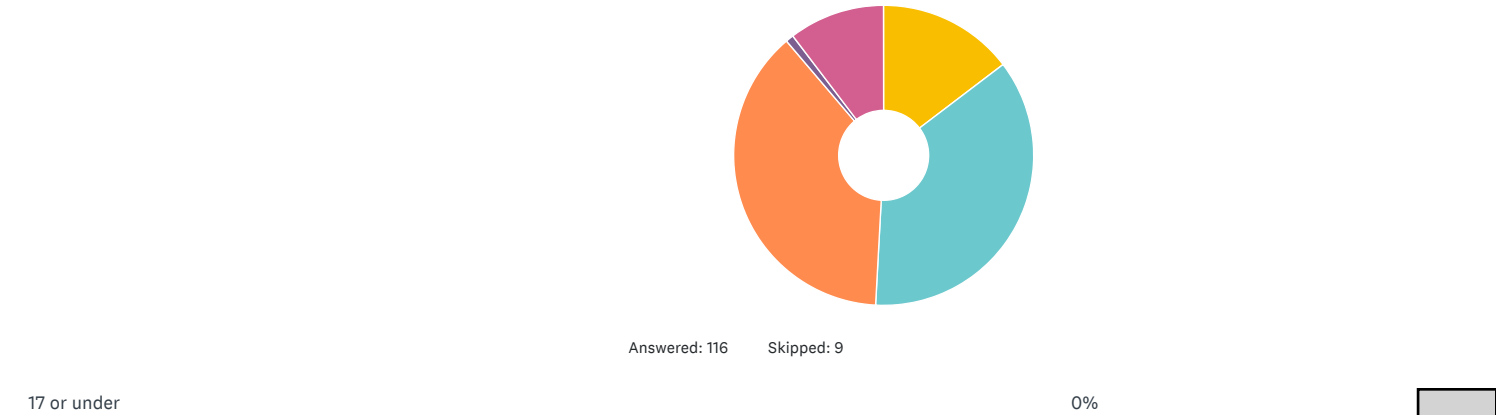
15. Would you support or oppose a law requiring store owners to purchase a local license to sell tobacco? The license fees would cover the cost of checking whether stores follow tobacco laws.



16. Do you smoke cigarettes, e-cigarettes, cigars, or other tobacco or cannabis products?



17. What is your age?

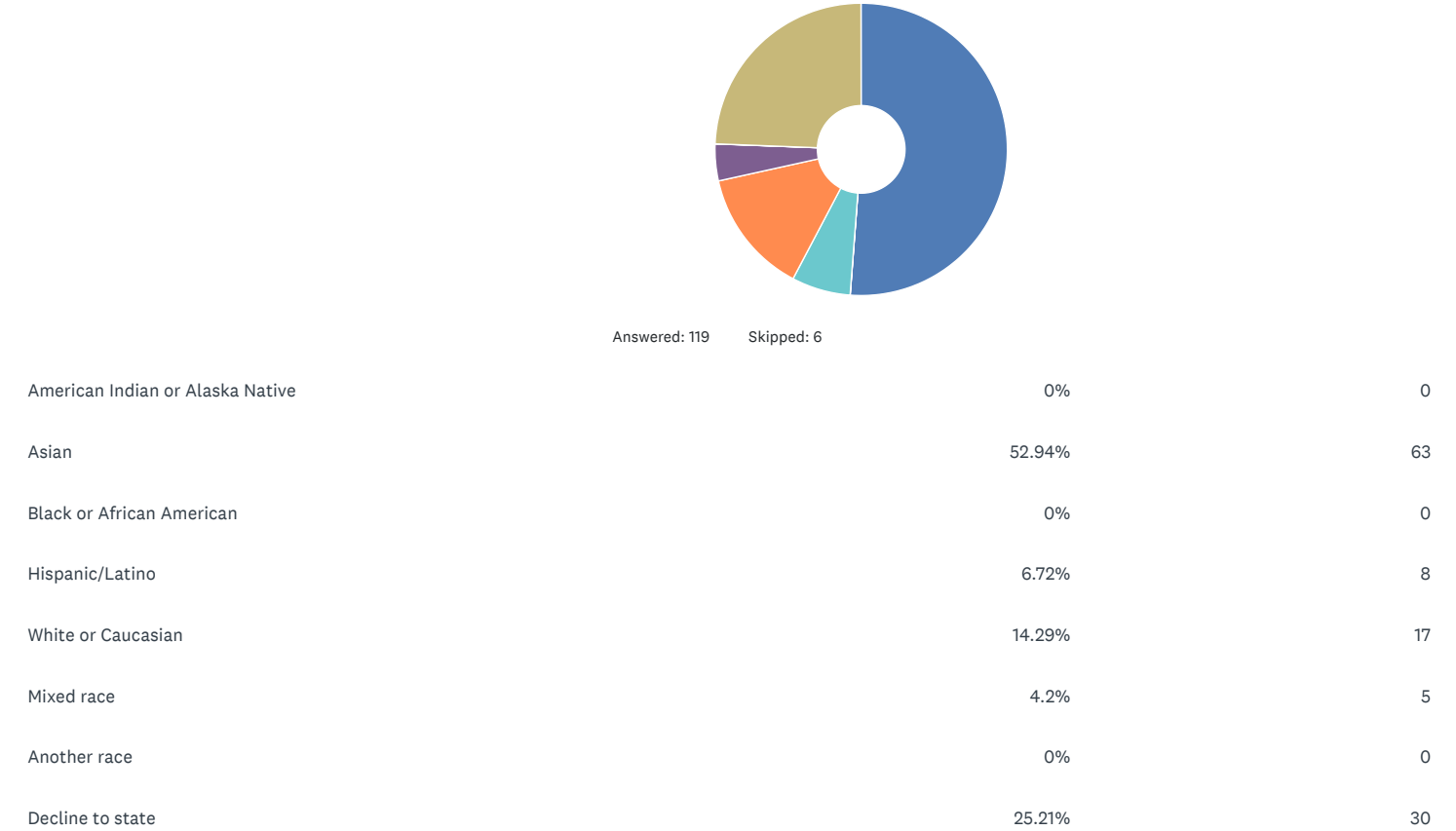


←

Analyze

20-34	14.00%	11
35-44	36.21%	42
45-54	37.93%	44
55-64	0.86%	1
65+	10.34%	12

18. What category best describes your race/ethnicity? (Check all that apply.)



19. Do you have any additional comments?

Responses	30
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Responses

Ban smoking in parking lots within 25 ft of customers cars.

18 days ago

In the public park, is it possible to put sign "No Smoking" specially in the parking area near residential area? We smell the tobacco smoke at lunch and dinner time. Thank you

a month ago

No

a month ago

Teachers, superintendent, school workers, and parents should not smoke of any kind as an example to young generations. They should not support those business for own finance as it tells the young generations that it's ok to smoke.

a month ago

Really troubled with neighbor smoking in their balcony in multi unit community. The smoke comes to our kitchen dining area when we eat food. There are many kids playing around while the person smokes

a month ago

Support policy to make Milpitas a city free from secondhand smoke of tobacco and cannabis products!

a month ago

I smoke CBD products for my ptsd that has no smell or harm on people around me. At least 5 times a day I am hit with the cigarette smoke smell from my neighbor. Sometimes he will be smoking in our walk way and I'll wait for him to move to get out of my car.

a month ago

I don't think people should be able to walk any residential area smoking. For example, if my neighbor (nonsmoker) has a party and their friend wants to smoke, that friend goes outside to smoke often times walking around in front of other houses with kids playing outside. They should not be able to do this, if they want to smoke they can sit in their car with the windows up and enjoy it all for themselves.

a month ago

This the dumbest survey ever, you can live in a single family home and still answer questions about living multi unit complex.



Responses

we should allow Cannabis sales, and make both Cannabis and tobacco be sold ONLY in those stores [like ABC stores in other regions]

a month ago

No weeds smoking that if the odor smelled by others !

a month ago

We don't want any kind of smoke products appear in Milpitas. Neither in store nor on street.

a month ago

Ban the sales of marijuana and flavored tobacco in Milpitas to keep a healthy Milpitas.

a month ago

I oppose any tobacco/marijuana cannabis businesses running in our city. We don't need dirty money to run our Milpitas city. A city with good name will generate good businesses and good home buyers. Bad name attract bad businesses and bad residents. Please stop this endless pushing for cannabis in our Milpitas city. Our job is to protect the city. Don't you agree?

a month ago

I support NO Smoking policy in Milpitas

a month ago

How to protect the residents in single family house from the second hand smoking from neighbors?

a month ago

I request to keep our city clean and free from secondhand smoke (either from tobacco or marijuana products) as Milpitas already badly suffered from the odor of the Landfill !

a month ago

question 17 does not have an answer for anyone between the age of 55-64, the age group I am in.

a month ago



Responses

two or three times a week. This makes me very distressed.
a month ago

No drug in Milpitas!

a month ago

No

a month ago

no

a month ago

Many neighbors smoke in their back yard.

a month ago

Smoking is bad for your health. it increases lung cancer risks...

a month ago

Focus on running the city, the City of Milpitas should not be regulating what type of tobacco adults smoke.

a month ago

Smoking in Schools is already prohibited although no to little enforcement. Bathrooms are a popular area for students to vape and smoke yet Administration is not handling the issue effectively.

a month ago

Ban and enforcement of tobacco use anywhere on a school premises, including parking lots and adjoining 25-ft perimeter.

a month ago

Neighboring multi family units near our street of single family homes and neighbors that smoke outside their homes especially at night are concerning, when during summer months we keep our windows open.



Responses

If restrictions go into place, it will be hard to enforce.

a month ago

With kids under 18 in neighbours should be ban marijuana smoking in surrounding area.

a month ago

Jay Lee

ATTACHMENT C

From: Planning Department
Sent: Monday, November 2, 2020 8:01 AM
To: Jay Lee
Subject: FW: [BULK] Comment for no-smoking policy

Importance: Low

From: [REDACTED]
Sent: Saturday, October 31, 2020 10:04 PM
To: Planning Department <planningdepartment@ci.milpitas.ca.gov>
Cc: [REDACTED]
Subject: [BULK] Comment for no-smoking policy
Importance: Low

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links.

Hello,

We are residents of the SoMont condo community in Milpitas, at the corner of Montague Expy and E. Capitol Ave, and we wish to express our wholehearted support of the City of Milpitas' no-smoking policy in multi-unit buildings, especially residences like condominiums and apartments.

Smoking is widely known to have health consequences for smokers themselves, but what is less acknowledged is the effect it has on unwitting second and third hand smokers, who, for no fault of their own, have to suffer from poor air quality and respiratory issues caused by smoking. Currently, there is no such rule in place in our city, which makes smokers resistant to accommodating their neighbors' health concerns.

In our own community, we have cases of smoking residents not being considerate to the needs of others affected by the smoke. As parents of young children, this concerns us greatly, and we worry for their health and well-being.

Please go ahead and finalize this policy at the earliest, and do share with us how the city plans to handle violations. Our right to clean air should not have to depend on the whims and poor choices of a few.

We are reachable at this email address for any further discussion, and our address is shared below.
Thank you and best wishes,

[REDACTED]

[REDACTED]

Jay Lee

From: Planning Department
Sent: Monday, November 2, 2020 8:01 AM
To: Jay Lee
Subject: FW: [BULK] Comment for No-Smoking Policy

Importance: Low

Good morning Jay –

This one is for you.

Cheers,
Liz

From: Neha Bhayana [REDACTED]
Sent: Saturday, October 31, 2020 9:34 PM
To: Planning Department <planningdepartment@ci.milpitas.ca.gov>
Subject: [BULK] Comment for No-Smoking Policy
Importance: Low

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links.

Please implement **no smoking policy for multi unit residences.**

People in such living conditions should not be allowed to smoke near building, in their patios or other common areas as this is a HUGE HEALTH HAZARD for non-smokers. Consider the following example - someone on level 2 smokes on their patio, directly impacting neighbors sideways and on level 3. It's hard to breathe as the smoke usually travels up and based on the wind can move in any direction.

Thanks,
Neha
Resident in city of Milpitas

Jay Lee

From: Planning Department
Sent: Monday, November 2, 2020 8:02 AM
To: Jay Lee
Subject: FW: [BULK] No-smoking policies comment

Importance: Low

-----Original Message-----

From: Refiny Redzuan [REDACTED]
Sent: Saturday, October 31, 2020 11:05 PM
To: Planning Department <planningdepartment@ci.milpitas.ca.gov>
Subject: [BULK] No-smoking policies comment
Importance: Low

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links.

Hello,

We are a family with a young child living in the Somont community located at the corner of Montague Expressway and E Capitol Ave.

We strongly support the City of Milpitas on no-smoking policy in multi-unit buildings. Our community members have experienced the second hand smoker effects in our neighborhood even though they are in their own private patio. The smoking from neighbors has caused unpleasant consequences in our community due to the effect that there is no law to enforce no-smoking rule.

Apartments in other cities have enforced the rule of no smoking in their compound including in the units and we would like this rule to be mandated across other multi-unit buildings in Milpitas as well.

Please help us to stay healthy and have access to the fresh air without worrying about secondhand smoker effect.

Thank you!

Refiny Redzuan

Jay Lee

From: Planning Department
Sent: Friday, October 2, 2020 8:27 AM
To: Jay Lee
Subject: FW: Comment for No-Smoking Policy

From: Perminder Tumber [REDACTED]
Sent: Thursday, October 1, 2020 2:05 PM
To: Planning Department <planningdepartment@ci.milpitas.ca.gov>
Subject: Comment for No-Smoking Policy

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links.

Hello,
I am all for No-smoking policy for all multi-unit housing. I would go further and ask Milpitas to consider a city wide no-smoking policy. It is imperative the city of Milpitas consider the public good and ban smoking wherever possible within the city limits.

Regards,
Perminder Tumber

Sent from [Mail](#) for Windows 10

Jay Lee

From: Planning Department
Sent: Monday, November 2, 2020 8:01 AM
To: Jay Lee
Subject: FW: Comment for No-Smoking Policy

-----Original Message-----

From: Chang Nelson [REDACTED]
Sent: Saturday, October 31, 2020 9:55 PM
To: Planning Department <planningdepartment@ci.milpitas.ca.gov>
Subject: Comment for No-Smoking Policy

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links.

My vote is no. It would be unfair if I cannot even smoke at my own property.

Sent from my iPhone

Jay Lee

From: Planning Department
Sent: Tuesday, September 29, 2020 1:11 PM
To: Jay Lee
Subject: FW: No Smoking Policy

-----Original Message-----

From: Truong Nguyen [REDACTED]
Sent: Tuesday, September 29, 2020 12:56 PM
To: Planning Department <planningdepartment@ci.milpitas.ca.gov>
Subject: No Smoking Policy

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links.

I would like no smoking policy.

Sent from my iPhone

Jay Lee

From: Matt Wang [REDACTED]
Sent: Tuesday, November 3, 2020 4:03 PM
To: Jay Lee
Subject: Second hand smoke - Milpitas

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links.

Hi Jay,

Hope you are doing well.

I have a question on second hand smoke and hopefully you are the right contact as I found your information on City of Milpitas website.

I live in a single family house in Milpitas. My two young kids keep complaining about cigarettes smoking coming from my neighbor and we constantly smell the secondhand smoke inside and outside of the house.

I have spoken to the neighbor multiple times on the secondhand smoke but he is reluctant to make any change.

I am very concerned about my family's well beings. Will there be any new policies to limit secondhand exposure and how? Would there be any punitive measures?

Any information is much appreciated.

Best Regards,
Matt

Sent from my iPhone

10/2020: Tobacco-Free Communities - Policies Across Santa Clara County Jurisdictions

Jurisdiction	Reducing Exposure to Secondhand Smoke							Reducing Youth Access & Exposure to Tobacco Products					
	Parks & Trails	Outdoor Dining Areas	Entryways	Service Areas	Public Events	Multi-Unit Housing	Common Areas of Multi-Unit Housing	Tobacco Retail Permit	Reduce Density of Tobacco Outlets	Limit Sales Near Schools	Flavored Tobacco Restrictions	No Tobacco Sales in Pharmacies	Restricts Sale of all Tobacco (T) and/or Vaping (V) Products
% of County population covered by policy	92.6%	97.2%	39.3%	85.9%	31.6%	24.3%	79.9%	77.4%	14.7%	17.5%	18.5%	14.7%	13.30%
County of Santa Clara	2010	2010	2010	2010		2010	2010	2010	2010	2010	2010	2010	2019 (V)
Campbell	2011	2011	2011	2011	2011			2012					
Cupertino	2011	2014	2014					2019	2019	2019	2019	2019	2020 (V)
Gilroy								2014		2014			
Los Altos	2011	2018	2018	2018	2018			2020			2020		2020 (V)
Los Altos Hills		n/a*		n/a*	n/a*	n/a*	n/a*	n/a*	n/a*	n/a*	n/a*	n/a*	n/a*
Los Gatos	2013	pre-2010	2016	2016	2016	2016	2016	2017	2017	2017	2017	2017	2019 (V)
Milpitas	2012	2017											
Monte Sereno	n/a*	n/a*	n/a*	n/a*	n/a*	2020	2020	n/a*	n/a*	n/a*	n/a*	n/a*	n/a*
Morgan Hill	2012	2012	2012	2012	2012			2014			2019***		2019 (V)
Mountain View		2012	2012		2012								
Palo Alto	2013	2014	2014	2014	2014	2016	2016	2017	2017	2017	2017	2017	2020 (V)
San Jose	pre-2010	2012		2012			2012	2011					
Santa Clara	2019	2019	2019	2019	2019	2019	2019						
Saratoga	pre-2010	2016	2016	2016	2016		2016	2015	2016	2016	2018**	2018	2020 (V)
Sunnyvale	2012	2016	2016	2016	2016	2016	2016						

* Not included in denominator of % of county population covered by policy because don't have the specific venues/areas covered by policy (Ex. Monte Sereno & Los Altos Hills do not have any tobacco retailers)

** Includes an exemption for menthol-cigarettes

***Includes exemption for loose-leaf tobacco products

Jurisdictions where work is expected in 2021

Rev. 10/19/2020

Santa Clara County

	Campbell	Cupertino	Gilroy	Los Altos	Los Altos Hills	Los Gatos	Milpitas	Monte Sereno	Morgan Hill	Mountain View	Palo Alto	San Jose	Santa Clara	Saratoga	Sunnyvale	Santa Clara County Unincorporated
Overall Tobacco Control Grade	B	C	C	B	F	A	D	D	B	D	A	B	B	A	B	A
TOTAL POINTS	8	7	5	9	0	12	2	4	8	2	13	8	8	11	8	13
Smokefree Outdoor Air	A	C	D	A	F	A	C	F	B	C	A	B	A	A	A	A
Dining	4	4	2	4	0	4	4	0	2	4	4	4	4	4	4	4
Entryways	4	4	0	2	0	4	0	0	4	4	4	2	4	4	4	4
Public Events	4	0	0	4	0	4	0	0	3	2	4	2	4	2	4	2
Recreation Areas	4	4	2	4	0	4	4	0	3	2	4	4	4	4	4	4
Service Areas	4	0	0	4	0	4	0	0	4	0	4	4	4	4	4	4
Sidewalks	0	0	0	1	0	1	0	0	0	0	1	0	0	0	1	0
Worksites	0	0	0	0	0	1	0	0	0	0	1	0	0	1	0	1
TOTAL POINTS	20	12	4	19	0	22	8	0	16	12	22	16	20	19	21	19
Smokefree Housing	F	F	F	F	F	B	F	A	F	F	A	C	A	C	A	A
Nonsmoking Apartments	0	0	0	0	0	4	0	4	0	0	4	0	4	1	4	4
Nonsmoking Condominiums	0	0	0	0	0	0	0	4	0	0	4	0	4	0	4	4
Nonsmoking Common Areas	0	0	0	0	0	4	0	2	0	0	4	4	4	4	4	4
TOTAL POINTS	0	0	0	0	0	8	0	10	0	0	12	4	12	5	12	12
Reducing Sales of Tobacco Products	A	A	A	A	n/a	A	F	F	A	F	A	B	F	A	F	A
Tobacco Retailer Licensing	4	4	4	4		4	0	0	4	0	4	3	0	4	0	4
TOTAL POINTS	4	4	4	4		4	0	0	4	0	4	3	0	4	0	4
Emerging Issues Bonus Points																
Emerging Products Definition - <i>Secondhand Smoke</i>	1	1	0	1	0	1	1	1	1	1	1	0	1	1	1	1
Emerging Products Definition - <i>Licensing</i>	1	1	1	1	0	1	0	0	1	0	1	0	0	1	0	1
Retailer Location Restrictions	0	1	1	1	0	1	0	0	0	1	1	0	0	1	0	1
Sale of Tobacco Products in Pharmacies	0	1	0	1	0	1	0	0	0	0	1	0	0	1	0	1
Flavored Tobacco Products	0	1	0	1	0	1	0	0	1	0	1	0	0	1	1	1
Minimum Pack Size of Cigars	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL POINTS	2	5	2	5	0	5	1	1	3	2	5	0	1	5	2	5





CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Receive Update on the Beautify Milpitas Program
Category:	Community Services and Sustainable Infrastructure
Meeting Date:	6/1/2021
Staff Contact:	Renee Lorentzen, 408-586-3409
<u>Recommendation:</u>	Receive update on the Beautify Milpitas and provide any additional direction to staff

Background:

On March 16, 2021, Council approved the “Beautify Milpitas” Program as an additional work plan item supported by the existing Recreation and Community Services Milpitas Volunteer Program (MVP) and the Public Works Solid Waste program. Through the “Beautify Milpitas” Program, staff organizes ongoing volunteer litter and graffiti abatement events such as with a focus on parks and creeks providing necessary supplies to volunteers and offering opportunities for youth to earn required community service hours.

Analysis:

Staff began coordinating and promoting regular volunteer park, litter and creek cleanup events soon after Council approved “Beautify Milpitas” and COVID-19 gathering restrictions have lessened with the County moving into the Orange and Yellow tiers. The first park and creek clean up was hosted on Saturday, May 15 at Higuera Adobe Park. The event was attended by close to 50 volunteer students, families, business groups and City staff. Our volunteers wiped down playground structures, picked up litter and trash, and cleaned tables and BBQ pits among many other tasks.

Beautify Milpitas litter kits were purchased through the CalRecycle’s Bottle Bill Program, which was secured through the City’s Solid Waste program. Litter kits that included a reusable tote bag, gloves, a litter picker, and garbage and recycled trash bags were awarded to each volunteer which was theirs to keep and take home. It is important to note that litter kits purchased for the launch of the Beautify Milpitas program will soon be depleted. If direction is received to continue to supply kits at each cleanup events, additional budget allocation for litter kits would be needed. Staff estimates the average litter kit cost for a clean up event is \$620 per event.

Additional park and litter cleanup events are planned in the Summer, early Fall, and Spring seasons. Scheduling cleanup events in the warmer weather months allows for the provision of consistent volunteer opportunities for the community. Event locations are selected based on public feedback/suggestion, level of public use, and proximity to other locations recently cleaned. Volunteer events are advertised on the City’s website and social media pages, Recreation and Community Services social media pages, seasonal activity guides, eblasts to MVP database, and to Junior High and High School principals and/or activities directors. Those interested in volunteering are able to sign up online through the MVP program page. The next scheduled volunteer cleanup event is on Saturday, June 19 at 11:00 am at Starlite Park. An event schedule for the remainder of 2021 will be developed and published in June to incorporate Council feedback.

Current staffing resources as planned for in the FY 2021-22 Proposed Budget can accommodate up to six (6) park cleanup events in a fiscal year. The cost for these six clean up events does not include the cost to purchase Beautify Milpitas litter kits nor graffiti removal kits. The most recent event did not include graffiti removal. The estimated cost for graffiti removal kits per event is about \$700.

If Council desires to expand the program from six to nine events annually and provide litter and graffiti kits, staff recommends funding the additional cost of \$12,500 per year from American Rescue Plan Act funds.

Fiscal Impact:

The FY 2021-22 Proposed Budget includes funding for six beautiful Milpitas events and does not assume the distribution of Beautify Milpitas litter kits or graffiti removal kits. The annual cost for adding these kits and expanding the program from six to nine events annually is estimated to cost \$12,500 per year.

Recommendation:

Receive update on the Beautify Milpitas and provide any additional direction to staff.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	<u>Receive Presentation of Police Department's Response to Mental Health Related Calls</u>
Category:	Public Safety
Meeting Date:	6/1/2021
Staff Contact:	Jared Hernandez, Acting Chief of Police, 408-586-2402
<u>Recommendation:</u>	Receive Presentation of Police Department's Response to Mental Health Related Calls

Background:

During a special meeting of the City Council on Tuesday, May 11, 2021, Council requested that staff return to Council with an informational presentation regarding the Police Department's response to 911 mental health calls.

The Milpitas Police Department (MPD) is a full-service police department that responds to a variety of call types including incidents involving persons experiencing a mental health crisis. Mental health calls for service are amongst the most complex and time consuming for law enforcement. A law enforcement response to mental health calls for service can sometimes draw public scrutiny. This is particularly true when such an encounter results in a use of force. MPD has taken proactive measures to ensure officers are properly trained in de-escalation techniques and are properly equipped to stabilize mental health incidents.

In October 2020, the police department conducted an internal process-based evaluation of their response to mental health calls. The evaluation included a review of current practices, the review of available resources, and an evaluation of service delivery models used by other police departments. The evaluation yielded a recommendation to increase de-escalation training and to better utilize the Santa Clara County Behavioral Health Department's Mobile Crisis Response Team (MCRT).

Analysis:

In response to the Council request, staff is providing information regarding MPD's response protocol to mental health calls, mental health response protocol staff training, mental health calls for service data, and mental health response models.

Response to Mental Health Calls - Dispatch:

The Milpitas Police Department operates its own Dispatch Center twenty-four hours per day, seven days per week. The communications center is staffed with dispatchers who receive calls for service, dispatch police services, dispatch fire services, and dispatch public works services. Calls for service are received through phone calls to 9-1-1, text to 9-1-1, and calls to a non-emergency landline. The dispatcher receiving the call obtains information from the caller and determines what type of service is appropriate to respond. During a mental health call for service, the caller may be a third party or the person experiencing the mental health crisis. In these situations, dispatchers are trained to keep callers calm and de-escalate the caller while services are being sent. Dispatchers will remain on the phone until officers arrive at the scene when appropriate.

Response to Mental Health Calls - Officer:

Officers are dispatched to mental health calls for service to ensure public safety, prevent an individual from hurting him or herself, and to take a person into protective custody per Welfare and Institutions Code 5150 (5150 W&I), when appropriate.

Upon arriving to a mental health call for service, officers first ensure the scene is safe. Once the scene is safe, the officer talks to the involved parties to determine the best course of action. As part of these interactions, the officer needs to determine if a crime was committed, if the person is a danger to themselves, if the person is a danger to others, and/or if the person is gravely disabled causing them to be unable to care for themselves.

When an officer determines a person has committed a crime requiring a criminal booking at the jail and the person meets the criteria under 5150 W&I, the officer will take the person into custody and book them at the Santa Clara County Jail. The county jail has 24-hour mental health staff on-site to provide mental health services to the individual while in criminal custody.

When an officer determines a person did not commit a crime but does meet the criteria under 5150 W&I, the officer will take the person into protective custody and take them to Emergency Psychiatric Services at Valley Medical Center. The person is placed on a 72-hour hold. Hospital staff evaluate the individual and determine how long the person is to be held. This can be less or more than 72-hours based on the clinician's assessment.

When a person does not meet the criteria under 5150 W&I but there are indicators of a mental health issue, the officer encourages the individual to seek mental health assistance. In these situations, the officer seeks to obtain voluntary compliance to take the person to: Emergency Psychiatric Services at Valley Medical Center or the Mission Street Sobering Station. The officer may also request assistance from the Santa Clara County Mobile Crisis Response Team, Homeless Engagement and Access Team, or UpLift Family Services. UpLift Family Services works exclusively with juveniles.

Training

MPD ensures staff is properly trained to respond to mental health calls. Officers receive approximately 70-hours of training tailored specifically for service responses involving someone who is suffering from a mental health crisis. This training includes Crisis Intervention Team (CIT) training (40-hours), Integrating Communications, Assessment and Tactics (ICAT) training (12-hours), Dealing with People with Disabilities training (16-hours), and Autism Recognition and Response training (2-hours). Principals of these trainings are regularly reviewed during shift briefings. MPD anticipates adding an additional 4-hours of scenario-based training expected to be offered by the Santa Clara County Mobile Crisis Response Team in January of 2022.

Currently, 74.4% of sworn staff and 57% of dispatchers have Crisis Intervention Team (CIT) training. These percentages fluctuate due to new staff hired into the police department. Four (4) police officers are scheduled to attend CIT training during June and July. Additional staff will attend as training classes become available.

Prior to becoming sworn Officers, Officer Trainees receive 16 hours of training in the police academy in dealing with people with disabilities which includes mental health illnesses. This training includes 3 hours of scenario-based training.

Mental Health related Calls for Service Data

The table below shows the total 911 calls for the last two calendar years and four full months in 2021. For each period, 5150 calls accounted for 1.00 to 1.46% of all 911 calls.

	Total 911 Calls	5150	% of 5150 calls	Transient
2019	23,026	231	1.00%	36
2020	19,053	267	1.40%	36
Jan/Apr 21	4,598	67	1.46%	14

Many of the 5150 calls are the result of repeat service. Repeat service is defined as being taken into protective custody per 5150 W&I on more than one occasion during the year. Of the 5150 calls for 2020, the top ten individuals requiring repeat service accounted for 18.7% of the mental health calls. Thus far in 2021, the top ten individuals requiring repeat service accounted for 43.3% of the mental health calls. The top person requiring service in 2020 required service eleven (11) times while the top person requiring service in 2021 required service five (5) times.

Mental Health Response Resources

In 2019, the Santa Clara County Mobile Crisis Response Team (MCRT) became available as a county resource. The MCRT was created to screen and assess crisis situations over the phone and aid when a mental health crisis is occurring. They provide an immediate response, Monday through Friday, from 8am to 8pm, and deliver crisis intervention services at locations throughout the county. The MCRT is comprised of licensed clinicians and therapists with training and expertise in crisis response.

In 2019, the police department made six (6) referrals to MCRT and conducted nine (9) joint response field visits in Milpitas. In 2020, the police department made twenty (20) referrals to the MCRT and conducted twenty-three (23) joint response field visits. Year to date for 2021, the police department made five (5) referrals to MCRT and conducted five (5) joint response field visits.

In addition to field response, the MCRT provides telephone consultations to police departments. Although, MCRT has provided this service to Milpitas, consultations are not currently tracked and there is not data on the number of times the service was utilized. The MCRT has been particularly helpful in situations where an individual required criminal booking, and in many circumstances involving persons requiring repeat service.

In situations involving juveniles that require mental health services, the police department utilizes Uplift Family Services. Uplift specializes in aid to children, adolescents and families in need. They provide care coordination services, wellness services, continuum of crisis care, developmental disabilities services, education support services, intensive behavioral health services and other services. The police department has been using this service to help our youth in crisis since 2017. Since 2017, the police department has made 114 referrals to this agency (an average of 22.8 per year).

Mental Health Response Models:

Response models for mental health related calls vary nationwide and include both police response models and non-police response models. In a police response model, the most prevalent model, a police officer is involved in the response to a mental health call as a first responder. In non-police response models, which is currently emerging in some larger cities such as Eugene (OR), San Francisco (CA), and Oakland (CA) a police officer is not involved in the response unless there are determining factors requiring their presence. Non-police

response models often utilize mental health professionals as the first responders to a mental health call. Some cities utilize their fire personnel, paired with a clinician, to respond to mental health calls.

MPD uses a police response model. In most cases, a Crisis Intervention Team (CIT) trained officer responds to mental health calls. The police department collaborates with the county Mobile Crisis Response Team on mental health calls, as needed.

Fiscal Impact:

Not applicable.

California Environmental Quality Act:

Not applicable.

Recommendation:

Receive Presentation of Police Department's Response to Mental Health Related Calls

**AGENDA REPORT AND ATTACHMENTS
WILL BE MADE AVAILABLE**

BEFORE 6/1/2021

Item No. 12

**Recommendations from Mayor Tran for
Appointments for City Commissions
(Contact: Mayor Tran, 408- 586-3029)**

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

NOTE: Deferred and completed items are not listed

2021					
OPEN					
Request No.	Topic	Submitted by	A, F, CM, or CCM	Date requested or Rec'd Form	STATUS and/or DATE scheduled on City Council meeting agenda:
1	Collaborative video with the City Council to send a message to help break the stigma against mental health	Dominguez	A	5/18/2021	In progress
2	Presentation on City's action items for re-opening City Hall for ARPA funding purposes	Chua	A	5/18/2021	Scheduled on 6/15/2021 Council meeting
3	Discussion to create a special City Council fund to allocate money for Council benevolence giving.	Montano	A	5/11/2021	To be discussed at next quarterly prioritization of Council requests
4	Discussion in the next fiscal year, to have a sliding scale permitting program for seniors and low-income residence for necessary safety renovations	Tran	A	5/4/2021	To be discussed at next quarterly prioritization of Council requests
5	Information showing that the ordinance requiring developers to provide art features is being followed and an update on the Art developer fees.	Montano	A	5/4/2021	To be discussed at next quarterly prioritization of Council requests
6	Report on Transit Occupational Tax (TOT) status	Montano	A	5/4/2021	Info Memo to be prepared
7	Purchase a display cabinet for City Hall with safety glass	Montano	A	5/4/2021	City Manager to explore options
8	Discussion to reduce the City's Senior Center facilities deposit	Montano	A	5/4/2021	To be discussed at next quarterly prioritization of Council requests

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

Request No.	Topic	Submitted by	A, F, CM, or CCM	Date requested or Rec'd Form	STATUS and/or DATE scheduled on City Council meeting agenda:
9	Discussion on a policy that makes human trafficking training mandatory in the hospitality industry	Dominguez	A	4/20/2021	To be discussed at next quarterly prioritization of Council requests
10	Clean-up on Earth Day	Montano	A	4/20/2021	To be discussed at next quarterly prioritization of Council requests
11	Requested that the City have mini-libraries in the low-income areas of the City.	Montano	A	4/20/2021	To be discussed at next quarterly prioritization of Council requests
12	Receive a Police Department presentation on the process and systems for 5150 calls	Dominguez	A	5/11/2021	To be agendized for 6/1/2021
13	Discussion on developing a pilot neighborhood association program	Dominguez	A	4/6/2021	Councilmember to work with City Manager on this request and provide a memo to the City Council
14	Staff to create a plan on how to increase the number of local businesses doing business with the City	Chua	A	4/6/2021	Info memo will be prepared
15	Staff to look into creating a rose garden with a children's memorial site	Montano	A	4/6/2021	To be discussed at next quarterly prioritization of Council requests
16	Staff to look into creating "Welcome to Milpitas" signs in key areas of in the City	Montano	A	4/6/2021	To be agendized at a future City Council meeting
17	Staff to provide information to place a measure on the ballot to change the directly elected Mayor to a rotational at-large position	Tran	CCM	3/16/2021	To be agendized at a future City Council meeting, along with discussion of Mayor and Councilmember term limits
18	Staff to provide information on a landmark policy for the City of Milpitas	Tran	A	3/16/2021	Policy to be sent to Council if existing, or a new policy to be brought for Council consideration by December

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

Request No.	Topic	Submitted by	A, F, CM, or CCM	Date requested or Rec'd Form	STATUS and/or DATE scheduled on City Council meeting agenda:
19	Discussion on exploring a mural program and requested information on the framework or best practices	Montano	A	3/16/2021	To be agendized for the June 15 City Council meeting
20	Discussion to memorialize those that have passed due to COVID19 in Milpitas	Dominguez	A	3/2/2021	To be discussed at next quarterly prioritization of Council requests
21	Discussion to explore opportunity housing and prohibit single family zoning	Phan	A	2/16/2021	To be discussed at next quarterly prioritization of Council requests

2021	ACTIVE (Items that are currently underway)				
Request No.	Topic	Submitted by	A, F, CM, or CCM	Date requested or Rec'd Form	STATUS and/or DATE scheduled on City Council meeting agenda:
22	Closed session presentation from a member of the executive team to receive an update on the City's preparedness against cyber-crime	Chua	A	4/20/2021; 5/11/2021	No closed session. Staff offering 1:1 briefing to intersted Councilmember
23	Discussion to explore the opportunity to create middle-income workforce housing such as a program through the California Statewide Communities Development Authority	Phan	A	5/4/2021	Agendized for 5/11/2021; return with more information at a future meeting
24	Requested that the City provide a second round of small business grants using CDBG/Federal funds to help the small business community.	Montano	A	3/2/2021	Agendized for discussion on 4/06/2021; CC direction to Agendize for 5/11/2021; include in future ARPA discussion 6/08/2021

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

Request No.	Topic	Submitted by	A, F, CM, or CCM	Date requested or Rec'd Form	STATUS and/or DATE scheduled on City Council meeting agenda:
25	Amendment to the existing ordinance for third-party food delivery vendor services to prohibit regulatory response fees	Phan	A	2/16/2021	Agendized for discussion on 3/16/2021, deferred to 4/06/2021; CC direction for City Attorney to prepare a report
26	Performance Evaluation (Contract) of City Attorney	Tran	A	1/5/2021	2/2/2021; 3/2/2021; 4/6/2021 closed session item; agendized for 5/4/2021. Mayor requests to extend to June 1 budget adoption.
27	Emergency power resources during COVID-19	Phan	A	1/19/2021	Information will be prepared for Council in May
28	Amend Accessory Dwelling Units (ADU) ordinance to address unpermitted ADUs	Chua	A	1/5/2021	Target date: 3/16/2021; Council approved to move forward on 4/6/2021
29	Form "Beautify Milpitas" subcommittee - for a future Task Force or Commission	Chua	A	12/15/2020	Info Memo to Council in March
30	Amend ordinance to remove affordable housing in-lieu fee	Chua	A	12/15/2020	Agendized on 1/5/21, CC direction to agendize for further meeting
31	Consider "Old Town" Main St. revitalization, funding, economic dev., improve area	Montano	A	12/15/2020	Info Memo to Council in March; Item on 4/20 CC Agenda; agendize for future discussion as part of budget process 5/11/2021; add to budget 6/01/2021
32	Ordinance to ban vaping in the City	Montano	A	12/15/2020	Staff to bring back an Ordinance
33	Review City policy on speed bumps	Tran	A	12/15/2020	Presented to Transportation Subcommittee on 2/12
34	Discussion of Minute Man as City's image, when City branding comes back	Phan	A	8/18/2020	Discuss when report on "Branding" is on CC agenda in 2021; agendized for 5/4/2021; continued to future meeting
35	Discuss a "safety first" or other event in lieu of National Night Out (per CAC)	Phan	A	10/20/2020	Dec. 15: Returning to Nat. Night Out in August

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

Request No.	Topic	Submitted by	A, F, CM, or CCM	Date requested or Rec'd Form	STATUS and/or DATE scheduled on City Council meeting agenda:
36	Bring back update report & discuss status of playing fields for girls' softball in Milp.	Dominguez	A	10/20/2020	To City/Schools Subcomm. then CC. See C. Montano 10/14 Bobby Sox softball memo; staff to bring an amendment to City/MUSD JUA for Russell Fields
37	Consider naming "Milpitas Hills"	Dominguez	A	10/20/2020	to Econ. Dev. Commission first. Return later to City Council
38	Require implicit bias training for City Council, Commissioners & staff	Dominguez	A	6/16/2020	approved 8/18/2020
39	Discussion/staff report on Beautify Milpitas, graffiti abatement, resources	Montano	A	6/30/2020	8/18/20: Directed to staff develop program requiring min. staff resource & return to CC
40	Consider change in term limits for Mayor + Councilmembers	Montano	A	6/16/2020	8/4/2020: Voted 3 -2 to pursue; 2/02/2021 to agendaize for a future meeting; 3/16/2021 voted 3-1-1 to move forward
41	Restrict smoking in multi-unit bldgs	Montano	A	1/7/2020	Ordinance pending. Discussed 3/03/2020 Affirmed 6/02/2020; Agendized for 6/01/2021
43	Consider Community Museum and Park on Main St.	Phan	F	8/20/2019	to Rules 8/23/2019. Moved to Specific Plan Community Conversation events.

CCM: City Council Meeting

A: @Announcements

F: on a Form

CM: to/from City Manager

MILPITAS CITY COUNCIL AGENDA PREVIEW LIST

June 15, 2021

CLOSED SESSION

INVOCATION (assigned to Mayor Tran)

PRESENTATION

- Juneteenth (Proclamation)
- July – Parks and Recreation Month (Proclamation)

CONSENT CALENDAR

1. Receive City Council calendar for June 2021 (City Clerk)
2. Approve City Council meeting minutes of June 1, 2021, Regular meeting, and June 8, Special meeting (City Clerk)
3. Approve and Authorize the City Manager to Execute a Master Funding Agreement with the Santa Clara Valley Transportation Authority (VTA) for the 2016 Measure B Innovative Transit Service Models Program; Approve New Fiscal Year 2020-21 Capital Improvement Program Project No. 3493 Milpitas OnDemand; and Approve a budget appropriation of \$1,355,916 in Measure B Innovative Transit Service Models Program Funding and developer contributions into Project No. 3493 (Ned Thomas)
4. Approve Accounts Receivable Write-offs for the Fiscal Year Ending June 30, 2021(Lauren Lai)
5. Adopt a Resolution Granting Acceptance of Public Improvements and Approving Reduction of Faithful Performance Bond for Public Improvements for 450 Montague Residential Project located at 450 Montague Expressway and 620 E. Capitol Avenue, Tract 10324 by Lennar Homes of California and LMC Milpitas Holdings I, LLC, and Granting Authorization to the City Engineer to Release the Performance Bond after the One-year Warranty Period (Steve Erickson)
6. Adopt a Resolution Granting Acceptance of Public Improvements and Approving Reduction of Faithful Performance Bond for Public Improvements for the Metro Subdivision located at 1425 South Milpitas Boulevard, Tract 10349 by Pulte Home Corporation, and Granting Authorization to the City Engineer to Release the Performance Bond after the One-year Warranty Period (Steve Erickson)
7. Approve and Authorize the City Manager to Execute the Right-of-Way Agreement with the Santa Clara Valley Water District for the Purchase of City Owned Land for Lower Penitencia Creek Flood Protection Improvements (Steve Erickson)
8. Adopt a Resolution to approve Site Development Permit Amendment No. P-SA21-0001 to reduce the size and scope of a previously approved single-family residence from a two-story, 4,381-square foot home to a one-story, 3,000-square foot home located in the R-1-H Residential Zoning and Hillside Combining District. CEQA: Exempt (Ned Thomas)
9. Approve and Authorize the City Manager to Execute a Three-Year Contract with AT&T Managed Internet Services to provide Capacity, Redundancy and Resiliency Additions to Existing Internet Services for the Total Contract Amount of \$118,697.20 (Mike Luu)
10. Approve a General Services Agreement with Hanford Applied Restoration & Conservation for Wrigley, Ford, and Wrigley-Ford Creek Maintenance for a total Amount Not-to-Exceed \$128,430.00 (Tony Ndah)

11. Approve Change Order No. 3 in the Amount of \$320,000 for the Contract with Redwood Construction and Equipment, Inc. for the Citywide Parks and Playgrounds Rehabilitation Project, Increasing the Total Project Not-to-Exceed Amount from \$1,905,437 to \$2,225,437 (Tony Ndah)
12. Authorize the City Manager to Execute Amendment No. 1 to the Maintenance Service Agreement with BrightView, Inc. for Citywide Parks Maintenance Services for the Not-to-Exceed Amount of \$23,508.00 for a new Total Not-to-Exceed Contract Amount of \$8,442,563.76 (Tony Ndah)
13. Adopt a Resolution Granting Acceptance of Public Improvements and Approving Reduction of Faithful Performance Bond for Public Improvements for the South Main Senior Lifestyles Project located at 80 Cedar Way by Milpitas Phase I, LP and Granting Authorization to the City Engineer to Release the Performance Bond after the One-year Warranty Period (Steve Erickson)

PUBLIC HEARING

14. Conduct a Public Hearing and Adopt a Resolution Confirming the Assessment and Ordering the Levy for the Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch for Fiscal Year 2021-22 (Steve Erickson)
15. Conduct a Public Hearing and Adopt a Resolution Confirming the Assessment and Ordering the Levy for the Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon for Fiscal Year 2021-22 (Steve Erickson)
16. Conduct a Public Hearing and Adopt Urban Water Management Plan (Tony Ndah)
17. Conduct a Public Hearing and Adopt Water Shortage Contingency Plan (WSCP) (Tony Ndah)
18. Conduct a Public Hearing and Approve Community Development Block Grant (CDBG) Allocations (Sharon Goei)
19. Conduct a Public Hearing and Adopt Resolution Approving Annexation No. 21 (Hanson Hom / Steve Erickson)

COMMUNITY DEVELOPMENT

COMMUNITY SERVICES

20. Receive a Presentation on the Draft Parks and Recreation Master Plan and Provide Feedback to Staff (Steve Erickson and Renee Lorentzen)
21. Approve the Milpitas Unified School District Joint Understanding Use Agreement (JUA) (Renee Lorentzen)

PUBLIC SAFETY

LEADERSHIP

22. Receive a presentation on a Return to the Workplace Plan for the City of Milpitas and provide feedback to staff (Ashwini Kantak)

REPORTS

23. Review list of Future Agenda Items Requested by City Councilmembers (Mayor & CC/City Clerk)

PREVIEW NEXT AGENDA

24. *Preview list of items for August 3, 2021 (City Clerk)

***City Council goes on break throughout July 2021**