



REGULAR MEETING OF THE MILPITAS CITY COUNCIL

AGENDA

**TUESDAY, SEPTEMBER 1, 2020
MILPITAS, CA
6:00 PM (CLOSED SESSION)
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 will be held via teleconference /Zoom webinar only (no physical meeting space).
Submit any Public Forum or agenda item comments in writing on the form online, to be read aloud by
the City Clerk.

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>

Virtual public comments may be submitted on a form from the City website:
<http://www.ci.milpitas.ca.gov/publiccomment>

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

ADJOURN TO CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

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

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
Santa Clara County Superior Court Case No. 18CV325480

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

PLEDGE OF ALLEGIANCE

INVOCATION (assigned to Mayor Tran)

PRESENTATIONS

- Proclaim September 6 - 12, 2020 as *National Suicide Prevention Week*
- Proclaim September 2020 as *National Preparedness Month*

PUBLIC FORUM (7:05 PM)

Those who wish to address City Council on any subject not on tonight's agenda may submit comments in writing on the form available online and may provide their name and city of residence for the Clerk's record. Remarks read aloud by the City Clerk will 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. Council may instruct the City Manager to place the item on a future meeting agenda.

Written comments sent in to the City Clerk or directly to the City Council in advance of the live City Council meeting will not be read out loud during the meeting, and are kept on file in the City Clerk's office as records of the meeting. Such comments are distributed to City Council and posted on the City website with all other meeting agenda material.

Virtual public comments may be submitted on a form from the City website: www.ci.milpitas.ca.gov/publiccomment

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

Members of the City Council may make brief announcements or 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

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 September 2020 (Staff Contact: Mary Lavelle, 408-586-3001)

C2. Approve Meeting Minutes of the August 18, 2020 City Council meeting (Staff Contact: Mary Lavelle, 408-586-3001)

Recommendation: To approve the City Clerk's draft meeting minutes of the regular meeting on August 18, 2020.

C3. Adopt a Resolution regarding the City's Tort Claims Procedure (Staff Contact: Walter Rossmann, 408-586-3111)

Recommendation: Adopt a resolution regarding the City's tort claims procedure.

C4. Adopt a Resolution Authorizing the City Manager to Execute a Purchase and Sale Agreement for property located at 1831-1841 Tarob Court and Approve Transit Area Development Impact Fee (TADIF) Budget Amendment (Staff Contact: Alex Andrade, 408-586-3046)

Recommendations:

- a) Adopt a Resolution authorizing the City Manager to execute a Purchase and Sale Agreement for property located at 1831-1841 Tarob Court (APN 086-036-030) located within the Transit Area Specific Plan (TASP) to accommodate extensions of South Milpitas Boulevard and Sango Court.
- b) Approve Transit Area Development Impact Fee (TADIF) budget amendment to appropriate \$11.1 million.

C5. Approve and Authorize the City Manager to Execute an Agreement with Environmental Services Inc. for a Five-Year Agreement Amount Not to Exceed \$214,707.35 to provide Citywide HVAC Maintenance Services, subject to annual appropriation of funds (Staff Contacts: Tony Ndah, 408-586-2602 and Chris Schroeder, 408-586-3161)

Recommendation: Approve and authorize the City Manager to execute a five-year agreement with Environmental Services Inc. for citywide HVAC Maintenance Services, for an amount of \$41,270.00 in the first year and a total amount not to exceed \$214,707.35 over the five-year period, subject to annual appropriation of funds.

C6. Approve and Authorize the City Manager to Execute Amendment No. 1 to the Contract with Environmental Logistics, Inc. for Routine Disposal and Emergency Cleanup of Hazardous Materials to increase the Annual Amount Not to Exceed by \$40,000 to \$80,000 for the Two Remaining Option Years for a New Total Contract Amount Not to Exceed \$280,000 (Staff Contacts: Chris Schroeder, 408-586-3161 and Tony Ndah, 408-586-2602)

Recommendation: Approve and Authorize the City Manager to Execute Amendment No. 1 to the Agreement with Environmental Logistics, Inc. to increase the Annual Contract not-to-exceed amount by \$40,000 to \$80,000 for the remaining two years of the contract.

C7. Approve and Authorize the City Manager to Execute a Professional Services Agreement with Silicon Valley Independent Living Center and Approve a related Budget Amendment (Staff Contact: Sharon Goei, 408-586-3260)

Recommendations:

- a) Approve and authorize the City Manager to execute a Professional Services Agreement with Silicon Valley Independent Living Center for the management of the EFSP grant for the Rent Relief Program.
- b) Approve a budget amendment to appropriate \$12,600 from the Affordable Housing Fund to the FY 2020-21 Building Safety and Housing Operating Budget.

C8. Consider and Approve Mayor's Recommendation to Appoint Two New Alternate Members on the Science, Technology and Innovation Commission (Contact: Mayor Tran, 408-586-3029)

Recommendations:

Receive Mayor Tran's recommendation, and move to appoint two residents to the Science, Technology and Innovation Commission:

- a. Ms. Rajani Nair as Alternate Member No. 1 to a term that will expire in January 2021.
- b. Mr. Kevin Le as Alternate Member No. 2 to a term that will expire in January of 2023.

LEADERSHIP AND SUPPORT SERVICES (7:45 PM)

9. Accept FY 2019-20 Fourth Quarter Financial Status Report and Related Budget Amendments to Close-out the FY 2019-20 Budget (Staff Contact: Walter Rossmann, 408-586-3111)

Recommendations:

- a) Accept the FY 2019-20 Quarterly Financial Status Report for the quarter ending June 30, 2020.
- b) Approve budget appropriation from the Affordable Housing Fund for \$26,419 to the City Attorney's operating budget, from the Hetch-Hetchy Fund for \$258 to the Non-Departmental operating budget, from the 2008 Community Facilities Fund for \$7,933 to the Public Works and Non-Departmental operating budget and from the Vehicle Registration Fee Fund for \$303,331 to CIP No. 3440 Annual Street Light, Signal and Signage Project.

10. Accept FY 2021-2030 Ten-Year General Fund Financial Forecast Update (Staff Contact: Walter Rossmann, 408-586-3111)

Recommendation: Accept the FY 2021-2030 Ten-Year General Fund Financial Forecast Update.

11. Adopt a Resolution Approving and Directing the City Manager to Implement the COVID-19 Fiscal Response Strategies and Guidelines (Staff Contact: Walter Rossmann, 408-586-3111)

Recommendation: Adopt a Resolution approving and directing the City Manager to implement the COVID-19 Fiscal Response Strategies and Guidelines.

12. Approve Side Letter No. 4 between the Milpitas Police Officers Association (MPOA) and the City of Milpitas effective Fiscal Year 2020-21 (Staff Contact: Francine Hunt, 408-586-3085)

Recommendation: Approve Side Letter No. 4 between the Milpitas Police Officers Association (MPOA) and the City of Milpitas regarding the MPOA Retiree Dependent Health Care Fund for Fiscal Year 2020-21.

REPORT OF MAYOR (9:30 PM)

13. Receive and Direct Staff on List of Agenda Items Requested by City Councilmembers (Contact: Mayor Tran, 408-586-3029)

Recommendation: Review list of items presented (list in agenda packet) 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 the item is scheduled as a full agenda item.

NEXT AGENDA PREVIEW

14. Receive Preview List of Anticipated Items for the Next Regular City Council Meeting Scheduled on September 15, 2020 (Staff Contact: Mary Lavelle, 408-586-3001)

Recommendation: Receive list of anticipated agenda items for the September 15, 2020 City Council meeting.

ADJOURNMENT

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 408-586-3003 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 mlavelle@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda.

August 2020						
S	M	T	W	T	F	S
2	3	4	5	6	7	1
9	10	11	12	13	14	8
16	17	18	19	20	21	15
23	24	25	26	27	28	22
30	31					29

October 2020						
S	M	T	W	T	F	S
	4	5	6	7	1	2
11	12	13	14	15	8	9
18	19	20	21	22	16	17
25	26	27	28	29	23	24
					30	31

Milpitas City Council Calendar

September 2020

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1 6:00 PM-Closed Session 7:00 PM-City Council	2 2:00 PM-Santa Clara VTA Monthly Briefing - Northeast Group (BN) 7:00 PM-Community Advisory Commission (BN)	3 5:30 PM-Santa Clara VTA Board of Directors (BN) 5:30 PM-Milpitas Chamber of Commerce Board (CM)	4	5
6	7 City Hall Closed  In Observance of Labor Day	8	9 6:00 PM-Special Planning Commission 7:00 PM-Planning Commission 7:00 PM-Silicon Valley Clean Energy Board of Directors (CM)	10 4:00 PM-Santa Clara VTA Policy Advisory Committee (KD) 4:00 PM-Treatment Plant Advisory Committee (CM) 5:30 PM-General Plan Advisory Committee (GPAC) 7:00 PM-Cities Assoc SCC (CM) 7:00 PM-Youth Advisory Commission (AP)	11 <i>*4:30 PM-City Council Finance Subcommittee (RT/CM)</i>	12
13	14 4:30 PM-Economic Development and Trade Commission (KD) 7:00 PM-Parks, Recreation & Cultural Resources Commission (AP)	15 7:00 PM-Closed Session 7:00 PM-City Council	16 6:00 PM-Energy and Environmental Sustainability Commission (BN)	17 2:00 PM-VTA Safety, Security, & Transit Operations (BN) 6:30 PM-Bay Area Water Supply Conserv Agency (CM) 7:00 PM-Public Safety and Emergency Preparedness Commission (KD)	18	19
20	21 7:00 PM-Science, Technology, and Innovation Commission (BN) 7:00 PM-Library and Education Commission (CM)	22	23 7:00 PM-Planning Commission	24	25	26
27	28 7:00 PM-Arts Commission (CM)	29 6:30 PM-Special Joint City Council & Planning Commission Study Session	30 6:30 PM-Community Workshop: Milpitas Metro Plan			

**Finance Subcommittee will meet only as needed*

Draft CITY OF MILPITAS MEETING MINUTES

Minutes of: Regular Meeting of the Milpitas City Council
Date: Tuesday, August 18, 2020
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 meeting to order at 6:02 PM. City Clerk Mary Lavelle called the roll. The meeting took place via teleconference and zoom webinar.

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

ABSENT: None

CLOSED SESSION

City Council convened into Closed Session (online webinar) to discuss two items listed on the agenda, one labor negotiation item and a real estate matter.

At 7:02 PM, Mayor and Council reconvened for the Open Session.

ANNOUNCEMENT – from Closed Session

City Attorney Chris Diaz said there was no announcement out of Closed Session, while City Council provide direction to staff on items that will be on upcoming agendas.

PLEDGE

Mayor Tran led the pledge of allegiance.

INVOCATION

Councilmember Montano read a poem in honor of Susan B. Anthony.

PRESENTATION

Mayor Tran proclaimed *Women's Equality Day* celebrated on August 26, 2020, which first was celebrated in the U.S. in 1971.

PUBLIC FORUM

City Clerk and Planning Director read aloud comments submitted in writing from 28 residents.

ANNOUNCEMENTS

Vice Mayor Nuñez requested three actions:

- 1) Following a report in the newspaper regarding "Project HomeKey" in Milpitas, he asked for a report or info memo from the City Manager related to that housing program in Milpitas.
- 2) After he displayed a 2-year old photo of various City officials and a candidate for office, he was concerned and did not want to put a 501(c)3 in jeopardy. He referred to recent memo from the City Attorney and wanted it shared with others.
- 3) Concerning the budget and financial status, he asked for a Resolution at the next meeting on the next steps the Council needs to be taking, and for the Council to be clear on specific ways the Council is going to address declining revenues. The Resolution should include specific steps to be taken, following the most recent information shared by the Finance Director.

City Attorney Diaz queried all Councilmembers on the request for a Resolution at the next meeting, and all were in favor.

Councilmember Phan asked, that when the Council brings back City branding, to have a discussion on the Minute Man as the City's image. Upon City Attorney's query, all were in favor of that topic.

Councilmember Dominguez wanted Council direction, based on comments from the Vice Mayor, to find clarity of where they were moving. In the middle of a pandemic, she was concerned for staff time and burnout. She asked for a meeting with staff and the Council on their top three concerns to work on and identify staff time to make it clear. This should be done at a retreat with scope of work, goals, and list the top three concerns on which to work.

After some discussion amongst the Council. City Attorney Diaz queried all City Councilmembers about a special meeting for this topic and all were in favor.

Councilmember Montano proposed support for the Cities Association of Santa Clara County support of the City of Mountain View's "Cut the Commute" effort. She proposed support to reduce single drivers on the road. The City Attorney queried all members and found four supporting it with one no (Phan).

City Manager McHarris introduced the new Human Resources Director Jeannine Seher. He highlighted service of Milpitas Firefighters, 11 of whom were sent to combat fires away from Milpitas. On Covid-19 testing, Fire and Recreation staff were providing the testing all around the City. He announced that a failed fire sprinkler caused water damage in the City Hall lobby. In the area of economic development, the City launched the microenterprise grant program on August 14, with a lottery scheduled for August 31. A Milpitas Spotlight program would kick off on August 21, emphasizing "shop local."

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 or reportable campaign contributions. By roll call, no conflicts or contributions in the last 12 months were reported.

Councilmember Dominguez reported that in 2018, she had received a contribution from Joe McCarthy (re: item no. C3 Traffic Signal Project).

APPROVAL OF AGENDA

Motion: to approve the August 18, 2020 meeting agenda, as presented

Motion/Second: Vice Mayor Nuñez/Mayor Tran

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

CONSENT CALENDAR

Motion: to approve the consent calendar, including items no. C1, C2, C3, C5, and added items No. 6 and No. 12

Vice Mayor Nuñez asked to remove item no. C4 (Resolution) from consent.

Councilmember Phan requested to place item no. 6 (Vehicle Miles Traveled policy) onto consent.

Mayor Tran asked to add item no. 12 (celebrate Mexican Independence Day) onto consent.

Motion/Second: Mayor Tran/Vice Mayor Nuñez

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

- C1. Council Calendar Received calendars of upcoming meetings for August and September 2020.
- C2. Meeting Minutes Approved the City Council meeting minutes of the Regular City Council meeting on August 4, 2020.
- C3. Resolution Adopted Resolution No. 8997 granting acceptance of the McCarthy/Sandisk Traffic Signal, Project No. 4292, authorizing the City Engineer to file a Notice of Completion and authorizing him to issue a Notice of Final Acceptance after the one-year warranty.
4. Resolution – Salary Table This item was removed from the consent calendar for discussion.
- Vice Mayor Nuñez asked one question and Employee Relations Manager Francine Hunt replied, on the approved salary increase for Milpitas Employees Association in the salary table. Mr. Nuñez requested that items related to salary increase or Memorandums of Understanding (MOUs) not be placed in the Consent section of the agenda.
- Motion: to adopt Resolution No. 8998 amending Resolution No. 1626, the Classification Plan to adjust salary ranges for Milpitas Employees Association, consistent with the approved and adopted pay schedule titled All Job Classifications Salary Table Effective July 5, 2020
- Motion/Second: Vice Mayor Nuñez/Mayor Tran
- Motion carried by a vote of: AYES: 5
NOES: 0
- C5. Terminate Agreement Authorized the City Manager to terminate the Professional Services Agreement with Engie Services U.S. Inc. for conducting an investment grade audit of City facilities and land due to convenience.

COMMUNITY DEVELOPMENT

- C6. Vehicle Miles Traveled This item was added to the consent calendar and approved by unanimous vote.
- Per staff report on vehicle miles traveled (VMT), approved the policy to implement Senate Bill 743 and transition from level of service (LOS) to VMT for California Environmental Quality Act (CEQA) analysis.

LEADERSHIP

7. Coronavirus Relief Funds Expenditure Plan Finance Director Walter Rossmann presented information on funds that the City was awarded from Coronavirus Relief Funds from the federal government, and reviewed items the City had allocated those funds towards. Total costs for the calendar year were anticipated to be \$2,663,000.
- City Clerk read aloud public comments from two residents Urvish Mehta and Voltaire Montemayor.
- Motion: to approve the Coronavirus Relief Funds Expenditure Justification Plan and direct the Finance Director to submit the plan to the State of California for reimbursement in the amount of \$962,595 of costs incurred in March – June 2020
- Motion/Second: Vice Mayor Nuñez/Councilmember Montano
- Motion carried by a vote of: AYES: 5
NOES: 0

REPORTS

8. List of Agenda Items

Mayor Tran asked the City Manager to review list of topics that City Councilmembers had requested for future agendas. Four topics were on the agenda at this meeting.

Vice Mayor Nuñez spoke about request no. 1 (Establish Railroad Quite Zone) on the list, wherein the City of San Jose was dealing with this issue and had some possible solutions, so a plan was to follow San Jose in taking action. He asked the City Manager to designate on the list when this matter would come to City Council, with more clear information on the topic when it becomes available (i.e. follow San Jose).

Councilmember Montano asked for an explanation of why an item was on the bottom of this list, since Free Dump Days had not occurred. Staff responded the matter was already brought to the Council during the CIP discussions.

City Councilmembers directed staff to provide more clarity on the list of items to indicate when scheduled, steps taken, and pertinent information in between when a topic was discussed and when it would be acted upon.

9. Requirement for Training

Councilmember Dominguez described why she sought Council approval to require implicit bias training by a contracted professional trainer for all City of Milpitas City Councilmembers, Commissioners and staff. She had distributed a written memo to the Council on this date.

Ms. Dominguez' stated request was to require a certified trainer by a person of color, move beyond the awareness level, present real life interaction scenarios, including practical experience in making conscious decisions to move beyond the bias, implement equitable work practices, and behavior to dismantle oppressive systems and foster equitable outcomes. Training should ideally take place in person (if possible) for City Council, City Commissioners and City employees.

City Clerk read aloud public comments from five residents: Jammie Schletzbaum, Liberty Walker, Barbara Navarro, Urvish Mehta and Voltaire Montemayor.

Motion: to direct staff to incorporate implicit bias training as part of the existing City training program for City Council, all Commissioners and place this item on a future agenda for consideration

Motion/Second: Mayor Tran/Councilmember Phan

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

10. City-wide Beautification

Assistant City Manager Ashwini Kantak gave a report on the City's volunteer (MVP) program, Adopt-a-Spot program, park clean-ups organized by the Community Advisory Commission annually, and "Lend-a-Tool" available by the Building Department staff for home improvement projects. She recommended the City Council consider technology, staffing, liability when working outdoors in right-of-way, and perhaps to expand Adopt-a-Spot program up in other areas of City if Council wished to expand volunteer beautification programs.

Councilmember Montano wanted City staff (Public Works) to coordinate with outside groups, and in concert with Santa Clara Valley Water District. She asked staff to research models from other cities and develop a program for which the City would provide supplies. Staff would bring back program options for a program to start after the Covid19 pandemic.

City Clerk read aloud public comments from two residents Urvis Mehta and Voltaire Montemayor.

Motion: per Councilmember Montano, City staff shall coordinate with outside groups such as Milpitas Cares, and in concert with Santa Clara Valley Water District, to provide minimal equipment for volunteers to conduct city clean-up and beautification, after looking into what other cities did; as a continual effort, monthly or another time frame with weed abatement and clean-ups – after the Covid19 pandemic

Motion/Second: Councilmember Dominguez/Councilmember Montano

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

11. Read Code of Conduct

Councilmember Montano requested making a requirement to read aloud the Code of Conduct for City Council at the start of each City Council meeting, as it was currently printed on every agenda. She read out loud the Code to demonstrate it would take less than one minute to do so.

Three Councilmembers favored moving the Code of Conduct to the front of the agenda and to consider displaying it on screen at the beginning of City Council meetings.

City Clerk read aloud public comments from seven residents: Curtis Jackson, Raymond Lawson, Roger Nguyen, Jammie Schletzbaum, J P, Voltaire Montemayor and Urvis Mehta.

Councilmember Phan agreed with a comment from resident Jammie Schletzbaum. All elected officials bear responsibility to be responsible in words and action, and he was not in favor of this proposal.

Motion: to consider adopting a policy to require the City Council Code of Conduct be read aloud at the beginning of each City Council meeting; to approve staff work hours to draft a policy, and return on a particular Milpitas City Council meeting

Motion/Second: Mayor Tran/Councilmember Montano

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

C12. Celebrate Mexican Independence Day

This item was added to the consent calendar and approved unanimously.

Motion from Councilmember Montano was to request the City Council to consider adding a report from staff for a celebration in Milpitas of Mexican Independence Day each year near September 16, as a topic on an upcoming agenda. Council provided direction to staff to include this subject, requiring staff work, on a particular Milpitas City Council meeting.

NEXT AGENDA PREVIEW

13. Anticipated Agenda

Received list of anticipated agenda items for the next regular City Council meeting on September 1, 2020.

ADJOURNMENT

Mayor Tran adjourned the meeting at 10:53 PM, acknowledging the service of City of Milpitas Firefighters sent throughout California to assist in disaster response to fires and expressed support for volunteer Milpitas Spring Valley Firefighters.

*Draft meeting minutes submitted by
City Clerk Mary Lavelle*



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution regarding the City's Tort Claims Procedure
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	9/1/2020
Staff Contact:	Walter C. Rossmann, 408-586-3111
<u>Recommendation:</u>	Adopt a resolution regarding the City's tort claims procedure.

Background:

The California Tort Claims Act (commencing with Section 900) of the California Government Code governs the manner in which a local public entity must handle claims for money or damages filed against it.

Section 2 of Chapter 1 of Title IV of the Milpitas Municipal Code prescribes the requirements for submitting a demand or claim against the City and certain City responsibilities with reference to the applicable California Government Code sections. Per Title I, Chapter 5, Section 2.01 of the Milpitas Code, the Risk Manager is authorized to compromise and settle any claims against the City for damages where the amount to be paid does not exceed \$10,000, provided the Risk Manager deems the compromise and settlement to be in the City's best interest. The Code Section further states that staff shall report annually to the City Council the claims or actions against the City settled. Per established practice, the Risk Manager submits a quarterly report to the City Council on active and closed claims including a brief description of each claim filed and the disposition of the claim. However, the City's Code does not provide clear guidance regarding the Risk Manager's authority to reject claims, rule on late claims applications, extend the time for action on a pending claim, or other actions consistent with State law.

The Finance Director, who serves, as the City's Risk Manager works closely with PLAN JPA, the City's insurance pool, representatives regarding all claims filed against the City.

Analysis:

Consistent with Government Code Section 935.4, staff recommends that the City Council clarifies the Risk Manager's or his/her designee's authority to perform claims administration functions as prescribed in the attached resolution:

1. Provide claim forms, pursuant to Government Code Section 910.4;
2. Give written notice of insufficiency of claims, pursuant to Government Code Section 910.8;
3. Rule on applications for leave to present late claims, pursuant to Government Code Sections 911.4 through 911.8;
4. Agree to extend the time for action on a pending claim, pursuant to Government Code Section 912.4;
5. Act on claims, pursuant to Government Code Sections 912.6 and 913;
6. Re-examine previously rejected claims for the purpose of settlement, pursuant to Government Code Section 913.2; and
7. Process claims presented under any ordinance or resolution of the City Council.

Further, the resolution includes a direction to staff to return with an ordinance amending Section 2 of Chapter 1 of Title IV of the Milpitas Municipal Code related to demands or claims against the City for money or damages, consistent with the resolution (in the agenda packet).

Fiscal Impact:

Not applicable.

California Environmental Quality Act:

Not applicable.

Recommendation:

Adopt a resolution regarding the City's tort claims procedure.

Attachments:

Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS ADOPTING A GOVERNMENT TORT CLAIMS PROCEDURE

WHEREAS, the City of Milpitas is a general law city and municipal corporation organized under the laws of the state of California; and

WHEREAS, the California Tort Claims Act (commencing with Section 900) of the California Government Code governs the manner in which a local public entity must handle claims for money or damages filed against it; and

WHEREAS, the City Council desires that the Government Tort Claims Procedure set forth in the California Tort Claims Act be the City's Tort Claims Policy and Procedure; and

WHEREAS, notwithstanding any other ordinance or regulation of the City, the City Council desires that the City's Tort Claims Policy and Procedure, as set forth in this Resolution, be applicable to suits for money or damages maintained against the City; and

WHEREAS, Government Code Section 935.4 provides that the City Council may authorize an employee of the City to perform such claims administration functions as are prescribed by resolution; and

WHEREAS, the City wishes to adopt this Resolution to clarify procedures for reviewing claims submitted to the City under the Tort Claims Act and to conform to current practice.

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. Government Tort Claims Act Followed by the City. The City follows the Tort Claims Act, in that all claims for money or damages against the City are governed by Part 3 (commencing with Section 900) except as provided therein, or by other statutes or regulations expressly applicable thereto.
3. The Risk Manager of the City of Milpitas, or his/her designee, is hereby authorized pursuant to Government Code Section 935.4, to perform the following claims functions provided in Government Code Section 900 et seq., including, but not limited to:
 - a. Provide claim forms, pursuant to Government Code Section 910.4;
 - b. Give written notice of insufficiency of claims, pursuant to Government Code Section 910.8;
 - c. Rule on applications for leave to present late claims, pursuant to Government Code Sections 911.4 through 911.8;
 - d. Agree to extend the time for action on a pending claim, pursuant to Government Code Section 912.4;
 - e. Act on claims, pursuant to Government Code Sections 912.6 and 913;
 - f. Re-examine previously rejected claims for the purpose of settlement, pursuant to Government Code Section 913.2; and
 - g. Process claims presented under any ordinance or resolution of the City Council.

4. The City Clerk shall forward a copy of all claims to the Risk Manager's designee for purposes of addressing and investigating claims submitted to the City.
5. The City Council hereby directs staff to return with an ordinance amending Section 2 of Chapter 1 of Title IV of the Milpitas Municipal Code related to demands or claims against the City for money or damages, consistent with this Resolution.
6. Severability. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this Resolution are declared to be severable.
7. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this _____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Rich Tran, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Authorizing the City Manager to Execute a Purchase and Sale Agreement for property located at 1831-1841 Tarob Court and Approve Transit Area Development Impact Fee (TADIF) Budget Amendment
Category:	Community Development
Meeting Date:	9/1/2020
Staff Contact:	Alex Andrade, Economic Development Director, 408-586-3046
Recommendations:	1. Adopt a Resolution authorizing the City Manager to execute a Purchase and Sale Agreement for property located at 1831-1841 Tarob Court (APN 086-036-030) located within the Transit Area Specific Plan (TASP) to accommodate extensions of South Milpitas Boulevard and Sango Court. 2. Approve Transit Area Development Impact Fee (TADIF) budget amendment to appropriate \$11.1 million.

Executive Summary:

The proposed property acquisition is required to extend South Milpitas Boulevard as well as extend and connect Tarob Court and Sango Court as envisioned in the Milpitas Transit Area Specific Plan (TASP) and the Transit Area Development Impact Fee Program (TADIF). The \$11.1 million property acquisition cost has been programmed into the adopted TADIF, paid for entirely by private development occurring within the TASP. There is no impact to the City's General Fund for this proposed land acquisition or subsequent street extension project. All due diligence concerning title and environmental clearance has been completed. Engineering and construction plans are near completion. Upon completion of this property acquisition, street construction is anticipated to occur as soon as 2021.

Background:

The City Council adopted the Transit Area Specific Plan (TASP) in June 2008 to support the future Milpitas Transit Center including Bay Area Rapid Transit (BART) service as well as existing Valley Transportation Authority (VTA) light rail and bus service as local and regional mobility options. The TASP was developed to accommodate substantial new development, minimize traffic impacts on local roadways, and reduce urban sprawl. Since 2008, the TASP has facilitated the transformation of an industrial area into a high-intensity mixed-use, transit-oriented district. To date, close to 7,000 residential units have been completed or are under development resulting in a new community situated near the Great Mall and the Milpitas Transit Center.

Public improvements and services needed to serve the area's increasing residents and workforce are set forth in the [TASP](#). These basic infrastructure requirements include streets, parks, pedestrian/bike bridges, community facilities, sewer and water facilities, storm drainage, and associated land acquisition. To ensure new development in the TASP pays its fair share of public improvement costs, the City enacted the Transit Area Development Impact Fee ([TADIF](#)) in 2008. The TADIF is a development impact fee adopted by the City of Milpitas pursuant to the provisions of Government Code Section 66000 (the Mitigation Fee Act) and per the City Code Title VIII4.2.01.

TADIF is a successful financing strategy to ensure the TASP is fiscally responsible for the City and property owners. The TADIF is independent of the City's General Fund and is funded entirely by private developer fees associated with each development project in the TASP area. A copy of the TASP and TADIF is available [here](#).

At the October 1, 2019 Closed Session, the City's Real Property Negotiator presented the proposed price and terms of payment for acquiring the 1831-1841 Tarob Court property to the City Council. The City Council directed staff to return for consideration of purchasing the property at a future City Council meeting. Soon thereafter, the San Francisco Bay Regional Water Quality Control Board (Water Board) informed staff that the property may contain hazardous materials in the soil and groundwater, requiring a pause in acquisition. On August 10, 2020, the Water Board determined that no further remediation is required on the site, allowing acquisition to proceed.

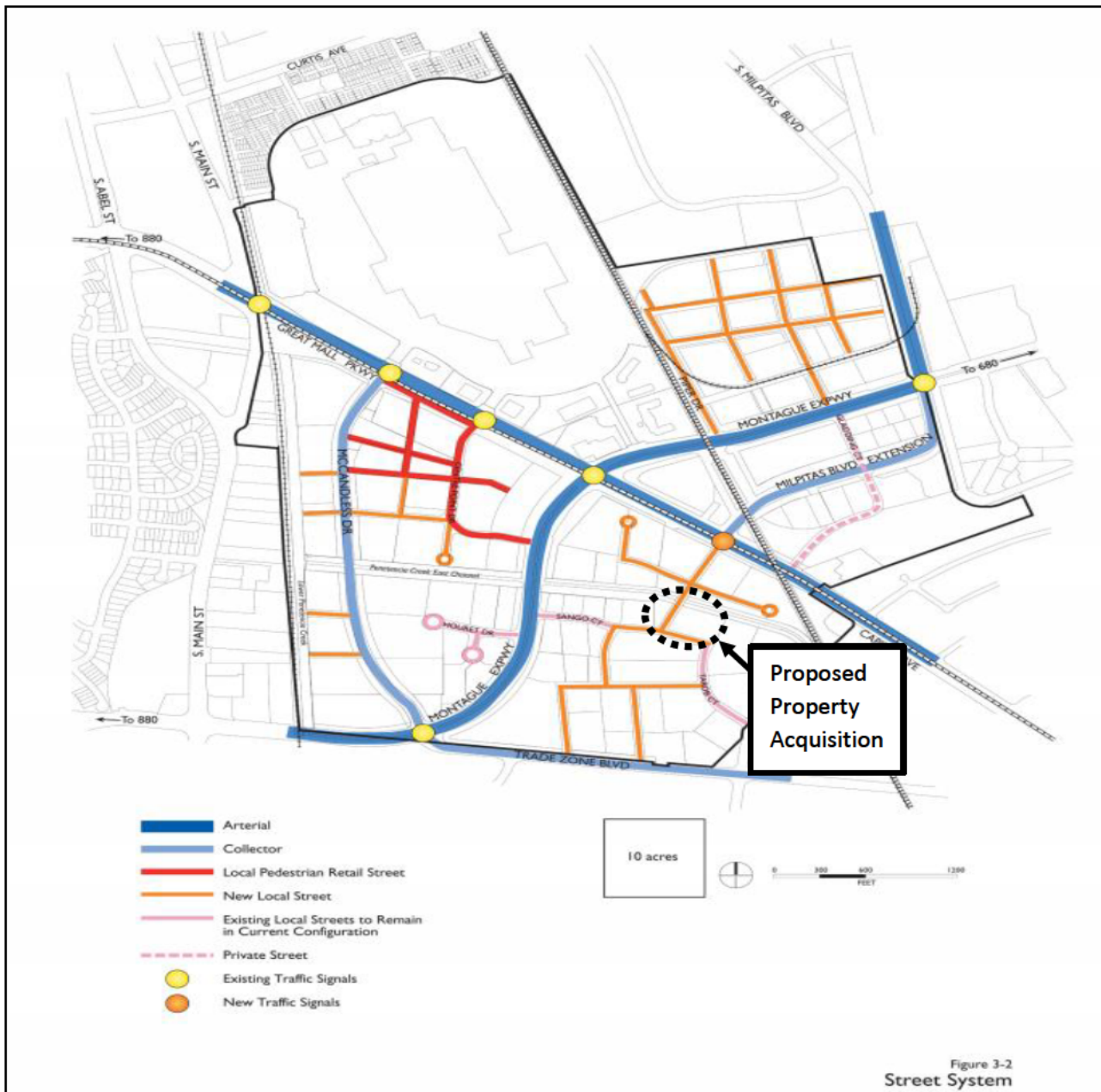
Analysis:

The City Council adopted several Streets and Connections Policies to guide street development within the TASP. The TASP street system consists of public roadways as illustrated in TASP Figure 3-2. The street layout establishes connections between properties, parks, transit, and importantly, to create pedestrian-oriented districts with direct pedestrian routes. In compliance with the TASP and the TADIF program, S. Milpitas Boulevard is currently being constructed southward between Great Mall Parkway and E. Penetencia Creek where a vehicle and pedestrian bridge is required. The City is near completion of construction plans for the E. Penetencia Creek crossing and now needs to acquire the subject property to accommodate both the creek crossing landing and the roadway connection to Sango Court and Tarob Court.

Implementation of the proposed Purchase and Sale Agreement (PSA) will allow extension of South Milpitas Boulevard and extension connections to both Sango Court and Tarob Court. The connections will provide this residential TASP neighborhood with direct pedestrian and vehicle access to the Milpitas Transit Center as specified in the TASP and TADIF program. Section 3.3 (Transportation) of the Environmental Impact Report (EIR) prepared for the TASP includes detailed analysis of the existing conditions and transportation-related impacts associated with implementation of the proposed plan.

As illustrated below in Figure 3-2 (TASP Street System), the extension of S. Milpitas Boulevard and extension connections to both Sango Court and Tarob Court are key components of the circulation plan for the so-called Montague/Trade Zone sub-district. The EIR includes detailed traffic impact analysis for the extension of S. Milpitas Boulevard, and analysis of the overall street network includes the planned extension connections to Sango Court and Tarob Court. The extension of S. Milpitas Boulevard is specifically analyzed in EIR Table 3.3-10 (Project Intersection Levels of Service), Figure 3.3-12 (Trip Assignment), and Figure 3.3-13 (Peak-hour Volumes). This analysis is based on traffic modeling that included all roadway improvements shown in the TASP Land Use Plan (Figure 3-1) and TASP Street System diagram (Figure 3-2).

The EIR also addresses other aspects of circulation in the TASP area such as recommendations for pedestrian and bike circulation (Figure 3.3-15). The figure below shows the planned extension connections between Sango Court and Tarob Court as described above.



The subject property is a 2.48-acre site with a vacant 40,474-square foot industrial building located at 1831-1841 Tarob Court. The site is bounded by Penitencia Creek to the north, a new multi-family residential development under construction to the east, existing legal non-conforming industrial use to the south, and an approved multi-family affordable housing site to the west. The site is within the TASP and has a land use designation of Very High-Density Transit Oriented Residential (41 un/ac, min. avg. and 60 un/ac max. avg., 4 – 6 stories). The TASP Zoning is R4-TOD.

San Francisco Bay Regional Water Quality Control Board (Water Board)

The Water Board serves to protect human health and water quality throughout the San Francisco Bay Area. The following represents an overview of the property, prior chemical detection and the finding that no further remediation is required at the subject site. The delay in bringing the property acquisition back to the City Council for consideration was due to staff wanting to resolve the site remediation issue first.

The 1831-1841 Tarob Court property was developed with the existing commercial building in 1979 which used for circuit board manufacturing until facility closure in 2016. Volatile organic compounds (VOCs) including trichloroethene (TCE) and benzene were detected in soil, groundwater, and soil vapor at the Site. This is a

common occurrence in the TASP area, requiring various levels of mitigation as the former industrial properties are redeveloped for new uses.

TCE is a known carcinogen and teratogen for which short-term inhalation exposure action levels were set by the U.S. Environmental Protection Agency (EPA) in 2014. It is likely that chemical releases may have occurred during circuit board manufacturing, and the chemicals may have seeped into the soil and groundwater. Soil and groundwater contaminated with VOCs are considered secondary sources of contamination with the potential to continually dissipate into the environment. The exposure pathway that is of concern to the Water Board is the potential for VOCs to migrate from contaminated soil and groundwater through the soil vapor and into the indoor air of any structures onsite, known as the vapor intrusion pathway. Concentrations of VOCs in groundwater and soil vapor at the site exceeded the environmental screening levels (ESLs) that present a potential risk to commercial or residential land users. Considering that vapor intrusion is a primary concern for the subject site, removal of the secondary contamination source and restricting land use to street development and remaining undeveloped portions of the site as open-air park was considered a feasible development scenario for land acquisition and environmental assessment purposes.

A risk-assessment approved by the Water Board in June 2019 concluded that the cancer risk to future street and park use, potential restroom users and custodians, and construction workers is less than significant, but that TCE in soil vapor may present a significant hazard of noncancer adverse effects for construction workers performing trenching or excavation at the site. To reduce this risk, the owners of the property (Geomax) agreed to excavate contaminated soil near the sampling location where highest TCE concentrations were detected. Soil removal was performed in October 2019. Post-excavation sampling found elevated concentrations of residual TCE. Additional excavation was performed in December 2019, and the Water Board received post excavation sampling results in February 2020.

On August 10, 2020, the Water Board issued a No Further Remedial Action Required Letter (Attachment B) with the determination that Geomax has completed remediation at the site and the soil remediation has successfully reduced contaminant concentrations in soils to acceptable risk-based cleanup levels and residual soil vapor and groundwater contamination. A [Risk Management Plan](#) (RMP) provides locations and concentrations of residual contamination, soil and groundwater management requirements for any future earthwork, and requirements for any future development projects or occupiable enclosed structures. The RMP will be incorporated into a deed restriction for future property owners and occupants. The deed restriction must include provisions to prohibit residential land use, prohibit well drilling, restrict earthwork to be compliant with the RMP, and require Water Board notification of future land use changes. Additionally, the deed restriction must include a requirement for the construction of any structures onsite to be preceded by a vapor intrusion assessment, with Water Board approval and the possibility of additional remedial action or mitigation measures.

To reiterate, the Water Board has determined that the soil remediation has successfully reduced contaminant concentrations in soils and groundwater and are currently at acceptable levels based on the current proposed use. More information on this case is available on the Water Board's [GeoTracker site](#).

Price and Terms of Payment

The City and the property owner established a fair market value for the subject site based on two independent appraisals and a third appraisal evaluation. The two appraisals identified a value of \$9,590,000 and \$13,070,000. The third appraisal evaluation cited the \$9,590,000 price as the appropriate fair market value, which was the purchase and sales price recommended by staff. On April 2, 2019, the City Council approved the PSA at the price of \$9,590,000.

At the October 1, 2019 Closed Session, the City Council directed staff to return for consideration of purchasing the property at a future City Council meeting with a revised price due to current property price comparisons. Now that the Water Board has deemed the property remediated to the required legal level, staff proposes to proceed with the acquisition.

The revised purchase price is \$11,100,000 (\$102.80/SF) due to current property price comparisons. The revised purchase price is between the two previous appraisals of \$13,070,000 (\$121.04/SF) and \$9,590,000 (\$88.81/SF). While the purchase price has increased, the Water Board clearance provides much greater certainty regarding environmental contamination and significantly reduces the financial risks to the City of possibly having to incur additional remediation costs in the future.

If approved by the City Council, the terms of the PSA (Attachment C) are summarized as follows:

- Refundable deposit: \$35,000;
- Contingency Period: 15 days from PSA to perform due diligence;
- Close of Escrow: On or before November 12, 2020; and
- Purchase Price: \$11,100,000.

As previously mentioned, funding for property acquisition is derived from TADIF related to TASP area development specifically for the purpose of public infrastructure improvements and associated land acquisition. The property acquisition will not affect the City's General Fund and will allow the planned southerly extension of South Milpitas Boulevard over Penetencia Creek to create a key connection with Sango Court and Tarob Court.

At present, the City's Planning Department is updating the TASP and has renamed this effort as the Milpitas Metro Specific Plan. This update will ensure that ongoing residential and mixed-use development in the area around the Milpitas Transit Center reflects current economic conditions and addressed the needs of people living and working in the neighborhood. The Milpitas Metro Specific Plan will include updated development policies and design guidelines to shape the development of new residential and commercial development, streets and trails to accommodate vehicle and pedestrian/bike circulation, high quality parks and open space, and the underlying utility infrastructure necessary to support new growth. With regard to the GeoMax site and other properties in the Tarob-Sango area, the Milpitas Metro Plan will explore possible property exchanges to maximize future land uses and ensure a coherent development pattern for the benefit of the City and property owners. This planning effort is ongoing and separate from the property purchase, and it is mentioned here as background information to support the proposed acquisition of the property. The purchase of the Tarob Court property will enable the completion of key street and trail connections as well as planning for public amenities that are essential for the continued transformation of this area from older industrial and auto-oriented land uses into a vibrant transit-oriented community with housing, retail, entertainment, and employment uses. Acquisition of the Tarob Court property will allow greater flexibility in the planning process as work on the Milpitas Metro Specific Plan proceeds.

City Council Action

Government Code Section 65402(a) requires a finding of General Plan conformance by a Planning Agency, but the City of Milpitas' Municipal Code does not explicitly delegate responsibility to the Planning Commission to make findings under section 65402(a). It is reasonable to assume that the responsibility remains with the City Council as the legislative body. Therefore, the City Attorney has determined that the City Council, as the legislative body, shall make the findings for the General Plan conformance. Staff recommends that the City Council find that the property acquisition is in conformance with the General Plan and implementation of the TASP (Resolution - Attachment A).

Fiscal Impact:

The TADIF program currently retains a balance of over \$46,000,000, which is available for the purposes of property acquisition and roadway construction.

A budget appropriation of \$11,100,000 will be required for the PSA. There are sufficient funds in the TADIF program (Fund 350) for the purchase price amount. This action will not affect the City's General Fund.

California Environmental Quality Act:

The City prepared and certified the Final EIR (EIR) for the TASP, and now proposes, in furtherance of the TASP to purchase of 1831-1841 Tarob Court so that it may extend S. Milpitas Boulevard, as well as extend and connect Tarob Court and Sango Court. Pursuant to CEQA, when taking subsequent discretionary actions in furtherance of a project for which an EIR has been certified, City is required to review any changed circumstances to determine whether any of the circumstances under Public Resources Code section 21166 and State CEQA Guidelines section 15162 require additional environmental review. Staff evaluated the revisions to the TASP in light of the standards for subsequent environmental review outlined in Public Resources Code section 21166 and State CEQA Guidelines section 15162 and, based on that evaluation, staff concluded that the TASP EIR fully analyzed and mitigated, where feasible, all potentially significant environmental impacts, if any, that would result from the revisions to the TASP, and therefore, no subsequent EIR or mitigated negative declaration is required.

The TASP EIR is available [here](#).

Recommendations:

1. Adopt a Resolution authorizing the City Manager to execute a Purchase and Sale Agreement for property located at 1831-1841 Tarob Court (APN 086-036-030) located within the Transit Area Specific Plan (TASP) to accommodate extensions of South Milpitas Boulevard and Sango Court.
2. Approve Transit Area Development Impact Fee (TADIF) budget amendment to appropriate \$11.1 million.

Attachments:

- A) Resolution
- B) Water Board – No Further Remedial Action Required
- C) Purchase and Sale Agreement
- D) Budget Change Form

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS RESCINDING RESOLUTION NO. 8859 AND APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE, PURSUANT TO THE CERTIFIED FINAL ENVIRONMENTAL IMPACT REPORT SCH #2006032091 FOR THE TRANSIT AREA SPECIFIC PLAN, A PURCHASE AND SALE AGREEMENT FOR THE PURCHASE OF REAL PROPERTY LOCATED AT 1831-1841 TAROB COURT (APN 086-036-030) WITHIN THE TRANSIT AREA SPECIFIC PLAN TO ACCOMMODATE EXTENSIONS OF SOUTH MILPITAS BOULEVARD, SANGO COURT AND TAROB COURT

WHEREAS, Section I-2-12.01 of the Milpitas Municipal Code exempts the purchase or lease of real property from the procedures set forth in the Purchasing Ordinance (Chapter 2 of Title I) and authorizes the City Council to otherwise proceed in accordance with law; and

WHEREAS, pursuant to Government Code Section 37350 the City of Milpitas (the “City”) has full authority to purchase real property for the common benefit; and

WHEREAS, on April 2, 2019, the City Council adopted Resolution No. 8859, authorizing the City Manager to execute a Purchase and Sale Agreement to acquire certain real property and interests in real property to accommodate extensions of South Milpitas Boulevard, Sango Court and Tarob Court. Thereafter, the circumstances surrounding the purchase of property have changed, necessitating rescission of Resolution No. 8859 and adoption of a new resolution encompassing the changed circumstances prior to execution of the Purchase and Sale Agreement by the City; and

WHEREAS, after receiving Council approval on April 2, 2019, the San Francisco Bay Regional Water Quality Control Board (Water Board) informed the City that the subject property contained hazardous materials in the soil and groundwater, requiring remediation of the site. In the ensuing six months, the property owner conducted extensive remediation of the site at no cost to the City. On August 10, 2020, the Water Board determined that no further remediation is required on the site, which allows the City to proceed with property acquisition; and

WHEREAS, the subject property is a 2.48-acre site with a vacant 40,474 square foot industrial building located at 1831-1841 Tarob Court. The site is bounded by E. Penetencia Creek to the north, a new multi-family residential development under construction to the east, the existing legal non-conforming industrial use to the south, and a recently-approved multi-family affordable housing site to the west. The site is within the Transit Area Specific Plan (TASP) with a land use designation of Very High Density Transit Oriented Residential and a TASP Zoning of R4-TOD; and

WHEREAS, the proposed property acquisition is in conformance with Policy 2.a-I-31 of the Milpitas General Plan in that purchase of the property will further allow for development of the Transit area, as shown on the Transit Area Plan, into attractive, high density, urban neighborhoods with a mix of land uses around the Milpitas Transit Center. Purchase of the property will also allow for the creation of pedestrian connections so that residents, visitors, and workers can walk, bike, and take transit. The extension of South Milpitas Boulevard and extensions of Sango Court and Tarob Court will be designed to create a lively and attractive street character and a distinctive character for the Montague-Trade Zone sub-district.

WHEREAS, the proposed property acquisition is required to extend South Milpitas Boulevard, as well as extend and connect Tarob Court and Sango Court as envisioned in the TASP, and is included in the Transit Area Development Impact Fee Program (TADIF). The property acquisition cost has been programmed into the adopted TADIF, paid for entirely by private development occurring within the TASP. The TADIF is a development impact fee adopted by the City of Milpitas pursuant to the provisions of Government Code Section 66000 (the Mitigation Fee Act) and per the Milpitas Municipal Code, Title VIII, Section 4.2.01; and

WHEREAS, the City Council adopted the Transit Area Specific Plan (TASP) in June 2008 to support the then-future Milpitas Transit Center, including Bay Area Rapid Transit (BART) service as well as existing Valley Transportation Authority (VTA) light rail and bus service as local and regional mobility options. The TASP was developed to accommodate substantial new development, minimize traffic impacts on local roadways, and reduce urban sprawl. Since 2008, the TASP has facilitated the transformation of an industrial area into a high-intensity mixed-use, transit-oriented district; and

WHEREAS, public improvements and services are needed to serve the TASP area's existing and future residents and workers, including streets, parks, pedestrian/bike bridges, community facilities, sewer and water facilities, and storm drainage. TADIF financing ensures that the TASP is fiscally responsible with fees paid by development occurring exclusively within the area and is applied to construction of streets, parks, and infrastructure, and such funds are available for the purchase of this property; and

WHEREAS, in compliance with the TASP and the TADIF program, South Milpitas Boulevard is currently being constructed southward between Great Mall Parkway and E. Penetencia Creek where a vehicle and pedestrian bridge is required. The City is near completion of construction plans for the E. Penetencia Creek crossing and is in need of acquiring the subject property to accommodate both the creek crossing landing and the roadway connection to Sango Court and Tarob Court, as identified in both the TASP and the TADIF; and

WHEREAS, the City prepared and certified a programmatic Environmental Impact Report (EIR) in conjunction with adoption of the TASP and in accordance with the requirements of the California Environmental Quality Act (CEQA). The purchase of the subject property is consistent with the adopted TASP EIR and subsequent development will implement the vision, goals, and policies of the TASP, as more particularly set forth in the Agenda Report; and

WHEREAS, pursuant to CEQA, when taking subsequent discretionary actions in furtherance of a project for which an EIR has been certified, the lead agency is required to review any changed circumstances to determine whether any of the circumstances under Public Resources Code section 21166 and State CEQA Guidelines section 15162 require additional environmental review; and

WHEREAS, staff evaluated the purchase in light of the standards for subsequent environmental review outlined in Public Resources Code section 21166 and State CEQA Guidelines section 15162; and

WHEREAS, based on that evaluation, staff concluded that the EIR fully analyzed and mitigated, where feasible, all potentially significant environmental impacts, if any, that would result from the purchase, and therefore, no subsequent EIR or mitigated negative declaration is required; and

WHEREAS, the proposed Purchase and Sale Agreement is attached hereto as **Exhibit A**, which includes the legal description of the property and property interests to be acquired as Exhibit A to the Purchase and Sale Agreement, and a map depicting the area to be acquired which shows the general location and extent of the property to be acquired is contained in the Agenda Report; and

WHEREAS, due to the passage of time incident to the remediation and current property price comparisons, the purchase price is \$11,100,000 (\$102.80/SF), up from the original price of \$9,590,000. The revised purchase price is between the two previous appraisals of \$13,070,000 (\$121.04/SF) and \$9,590,000 (\$88.81/SF). The Water Board clearance provides much greater certainty and significantly reduces the financial risks to the City of possibly having to incur its own remediation costs after acquisition of the property; and

WHEREAS, implementation of the proposed Purchase and Sale Agreement and purchase of the subject property will benefit the public by enabling further implementation of the TASP land use and circulation plans for this area. Purchase of the subject property will provide precise locations for both street extensions of South Milpitas Boulevard to Sango Court and Tarob Court; and

WHEREAS, Government Code Section 65402(a) requires a finding of General Plan conformance by a Planning Agency, but the City of Milpitas' Municipal Code does not explicitly delegate responsibility to the Planning Commission to make findings under section 65402(a). Therefore, it is reasonable to assume that the responsibility remains with the City Council as the legislative body, and hence the City Council can make the findings of General Plan conformance; and

WHEREAS, on August 10, 2020, the Water Board issued a No Further Remedial Action Required Letter determining that the soil remediation has successfully reduced contaminant concentrations in soils and groundwater and are currently at acceptable levels. The Water Board's determination and the BART service commencing on June 13, 2020

aligns well with the community and City Council discussion on the new Milpitas Metro Plan (formerly known as TASP).

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

1. Compliance with CEQA. The City Council has reviewed and considered the EIR and the record and finds that those documents, taken together, contain a complete and accurate reporting of all of the environmental impacts associated with the purchase.
2. Findings Regarding Environmental Impacts. Based on the substantial evidence set forth in the record, including but not limited to the EIR, the Council finds that, based on the whole record before it, none of the conditions under State CEQA Guidelines section 15162 requiring subsequent environmental review have occurred because the purchase:
 - a. will not result in substantial changes that would require major revisions of the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and
 - b. will not result in substantial changes with respect to the circumstances under which the purchase is developed that would require major revisions of the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and
 - c. does not present new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the EIR documents were certified or adopted, as applicable, showing any of the following: (i) that the modifications would have one or more significant effects not discussed in the earlier environmental documentation; (ii) that significant effects previously examined would be substantially more severe than shown in the earlier environmental documentation; (iii) that mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects, but the applicant declined to adopt such measures; or (iv) that mitigation measures or alternatives considerably different from those analyzed previously would substantially reduce one or more significant effects on the environment, but which the applicant declined to adopt.

Further, based on the substantial evidence set forth in the record, including but not limited to the EIR the Council finds that the applicable mitigation measures identified in the EIR have been incorporated into a specific mitigation monitoring program for the purchase and would ensure that any potential environmental impacts would be reduced to less than significant levels.

3. Custodian of Record: The documents and materials that constitute the record of proceedings on which this Resolution has been based are located at Milpitas City Hall, 455 East Calaveras Street, Milpitas, CA. The custodian for these records is the Milpitas Planning Director. This information is provided in compliance with Public Resources Code section 21081.6.
4. 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.
5. The City Council hereby rescinds Resolution No. 8859.
6. The City Council finds that the Purchase of the subject property is in conformance with Policy 2.a-I-31 of the Milpitas General Plan.

7. The City Council hereby approves and authorizes the City Manager to execute the Purchase and Sale Agreement attached hereto as **Exhibit A**, and all related closing documents for the purchase of real property located at 1831-1841 Tarob Court (APN 086-036-030) in Milpitas, California, as more particularly described on the legal description attached as Exhibit A to the Purchase and Sale Agreement, for the amount of \$11,100,000.00, subject to approval as to form by the City Attorney.

PASSED AND ADOPTED this _____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Rich Tran, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

San Francisco Bay Regional Water Quality Control Board

August 10, 2020

File No. 43S0267 (KAW)

[GeoTracker ID: T10000008880](#)

Geomax
Attn.: George Quinn
3460 Edward Avenue
Santa Clara, CA 95054
gquinn@geo-max.net

Subject: No Further Remedial Action Required – former Dynamic Circuits Site, 1831 Tarob Court, Milpitas, Santa Clara County

Dear Mr. Quinn,

Geomax has completed remediation at the former Dynamic Circuits Site as required by the Water Board's directive letters. The soil remediation has successfully reduced contaminant concentrations in soils to acceptable risk-based cleanup levels and residual soil vapor and groundwater contamination will be managed with the April 10, 2020, [Risk Management Plan](#) (RMP) for the Site.

The Site operated as a circuit board manufacturer from 1979 to 2015, during which time chemical releases likely occurred. Volatile organic compounds, most notably trichloroethene (TCE), were detected in soil, groundwater, and soil vapor at the Site. The City of Milpitas plans to purchase the property and develop part of the Site into roadways and part of the Site into a public open-air park. In the [Remedial Action Alternatives Report](#), dated May 11, 2019, Geomax provided a risk assessment that determined the levels of contamination that would pose a health risk to future construction workers, utility workers, and park users. Because concentrations of TCE exceeded risk-based thresholds, Geomax performed soil excavation in 2019 to remove the secondary source of TCE at the Site.

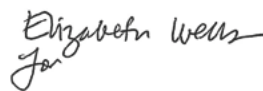
The RMP provides locations and concentrations of residual contamination, soil and groundwater management requirements for any future earthwork at the Site, and requirements for any future development projects or occupiable enclosed structures at the Site. The RMP will be incorporated into a deed restriction for future property owners and occupants. After the property sale, Geomax may be held responsible in its capacity as the past landowner during the period when the release likely occurred, and the City of Milpitas will be held responsible as the current landowner. The City of Milpitas is expected to enroll in the Water Board's voluntary Cost Recovery Program for the Site and comply with the RMP requirements, including notification and report submittals to the Water Board. When the development is complete, the City of Milpitas may request case closure by demonstrating that the Site satisfies the criteria established in the [Assessment Tool for Closure of Low-Threat Chlorinated Solvent Sites](#).

JIM McGRATH, CHAIR | MICHAEL MONTGOMERY, EXECUTIVE OFFICER

This letter confirms the completion of remedial activities required by the Water Board for the Site. Based upon the available information, including the current and proposed future land uses, and with the provision that the information provided to this agency was accurate and representative of site conditions, no further remediation is required at the former Dynamic Circuits Site. We may reconsider these findings should the land use change or new information be discovered regarding previously undetected contamination.

If you have any questions, please contact Kimberlee West of my staff at kimberlee.west@waterboards.ca.gov.

Sincerely,



Digitally signed by
Elizabeth Wells
Date: 2020.08.10
20:10:12 -07'00'

Michael Montgomery
Executive Officer

Copy by email:

Mitch Hajiaghai, Envirocom, mitch@enviro-com.net
Aaron Costa, Santa Clara County Dept of Env Health, aaron.costa@cep.sccgov.org
George Cook, Santa Clara Valley Water District, gcook@valleywater.org
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PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

This Purchase and Sale Agreement and Joint Escrow Instructions (this “**Agreement**”) is made as of August __, 2020 (the “**Effective Date**”), between GEOMAX, a California general partnership (“**Seller**”), and CITY OF MILPITAS, a California municipal corporation (“**Buyer**”) who agree as follows:

ARTICLE 1. AGREEMENT OF SALE.

Seller wishes to sell and Buyer wishes to buy the property described in this Article I on the terms contained in this Agreement. This Agreement shall supersede and replace in its entirety that certain Purchase and Sale Agreement and Joint Escrow Instructions dated April 2, 2019 by and between Buyer and Seller, which was terminated by mutual agreement between Buyer and Seller (“**Terminated Agreement**”). The parties agree that if the transaction contemplated by this Agreement cannot be consummated, then Buyer may pursue its eminent domain power to acquire the Property. Subject to and on the terms and conditions of this Agreement, Seller shall sell to Buyer and Buyer shall purchase from Seller all of the following (collectively, the “**Property**”):

1.1 Land. An approximate 2.5 acre parcel improved with an 39,440 square foot industrial building located at 1831-1841 Tarob Court, Milpitas APN # 086-036-030, which is more particularly described in Exhibit A, together with (a) all privileges, rights, easements and appurtenances belonging to the real property, including without limitation all minerals, oil, gas and other hydrocarbon substances on and under the real property, (b) all development rights, air rights, water, water rights and water stock relating to the real property, and (c) all right, title and interest of Seller in and to any streets, alleys, passages, other easements and other rights-of-way or appurtenances included in, adjacent to or used in connection with such real property, before or after the vacation thereof (collectively, the “**Land**”);

1.2 Improvements. Any and all structures, systems, facilities, fixtures, fences and parking areas located on the Land and any and all machinery, equipment, apparatus and appliances owned by Seller and used in connection with the operation or occupancy of the Land (such as heating and air conditioning systems and facilities used to provide utility services, refrigeration, ventilation, garbage disposal or other amenities on the Land) (collectively, the “**Improvements**”). There is no personal property of Seller included with the Property; and

1.3 Other Assets. To the extent owned by Seller, all tangible and intangible assets of any nature relating to the Property, including without limitation (a) all warranties upon the Improvements, to the full extent such warranties are assignable, (b) copies of all plans, specifications, engineering drawings and prints relating to the construction of the Improvements, (c) all claims and causes of action arising out of or in connection with the Property.

ARTICLE 2. PURCHASE PRICE.

2.1 Amount. The purchase price (the "**Purchase Price**") for the Property shall be Eleven Million One Hundred Thousand and 00/100 Dollars (\$11,100,000).

2.2 Deposit/Purchase Price. Within three (3) business days after the Effective Date, Buyer shall deposit Thirty-Five Thousand Dollars (\$35,000) into Escrow (as defined below) into an interest bearing account on behalf of Buyer (the "**Deposit**"). The Deposit shall be refundable to Buyer unless Buyer waives all contingencies by the expiration of the Due Diligence Period. If the Closing of the transaction contemplated by this transaction occurs, the Deposit shall be disbursed to Seller and applied to the Purchase Price at Closing. The failure of Buyer to make the Deposit within the time frame specified in this Section shall be material breach of this Agreement and Seller may terminate the Agreement. Buyer shall pay the Purchase Price to Seller through escrow at the Closing described in Section 9.1. On or before the Closing Date (as defined below), Buyer shall deposit into Escrow the Purchase Price, subject to adjustment by reason of any applicable prorations and the allocation of closing costs described below. The Deposit and Purchase Price shall be made by wire transfer of federal funds, cashier's check or in another immediately available form. Notwithstanding anything herein to the contrary, One Hundred Dollars (\$100.00) of the Deposit (the "**Independent Consideration**") shall not be refundable to Buyer, but shall represent consideration for this Agreement. The Independent Consideration shall serve as consideration for the granting of the time periods herein contained for Buyer to exercise Buyer's right to satisfy and approve all of Buyer's conditions herein contained. If the Deposit is refunded to Buyer for any reason pursuant to this Agreement, the Independent Consideration shall be subtracted from the Deposit pursuant to this Section.

ARTICLE 3. DUE DILIGENCE.

3.1 Due Diligence Period; Inspection and Access.

3.1.1 Due Diligence Period. The "**Due Diligence Period**" means the period beginning on the Effective Date and ending at 5:00 p.m. on the date fifteen (15) business days later.

3.1.2 Access to Information and the Property. Buyer shall conduct its investigation of the Property during the Due Diligence Period at no cost to Seller. This investigation ("**Due Diligence Investigation**") may include, at Buyer's option: a physical inspection of the Land and all Improvements thereon, including soil, geological and other tests, review of the Plans, the Improvements; review of all governmental matters affecting the Property, including zoning, environmental and building permit and occupancy matters; review and verification of all financial and other information previously provided by Seller relating to the operation of the Property; review of the condition of title to the Property, and review of such other matters pertaining to an investment in the Property as Buyer deems advisable.

3.1.3 Buyer's Inspections. Buyer shall have the right to obtain additional reports without liability or expense to the Seller. Seller hereby grants to Buyer, its employees, agents, contractors and nominees ("**Buyer Parties**"), the right, upon no less than three (3) business days' prior written notice to Seller (and upon Buyer's proof to Seller of insurance

satisfactory to Seller), to enter onto the Property during reasonable times, during ordinary business hours throughout the Due Diligence Period to conduct such tests, inspections and studies as Buyer may deem appropriate, including, but not limited to, any or all of the following: environmental site assessments (which may include a Phase I assessment) and further environmental investigations, geologic evaluations, property inspections and review and evaluation of the Property. Notwithstanding the foregoing and/or anything to the contrary contained in this Agreement, any invasive tests, inspections and/or studies shall be subject to Seller's prior written consent (which consent shall not be unreasonably withheld). Any entry by Buyer onto the Property by Buyer Parties shall be conducted in such a manner as to cause the least disruption possible in the ongoing operation of the Property. In furtherance of the foregoing, but without limiting the generality thereof, Buyer shall not disturb or interfere with the rights of any tenants or occupants located on the Land. Buyer agrees to keep the Property free and clear of any liens caused by any such entry by Buyer upon the Property, and to repair any damage caused by such tests, inspections and studies, except that Buyer shall not be responsible for any damage related to or resulting from the discovery or disturbance of any Hazardous Materials on the Property unless such Hazardous Materials were caused by Buyer Parties and/or the condition thereof is exacerbated by Buyer Parties. Except for claims arising out of Seller's gross negligence, Buyer agrees to indemnify, protect, defend, and hold Seller free and harmless against any claims for personal injury or property damage resulting from Buyer's accessing the Property and conducting tests, inspections and studies thereon and from any liens asserted against the Property as a consequence of such entry, or work, labor, and materials rendered by persons acting on behalf of Buyer, except that Buyer shall not be required to indemnify or hold Seller harmless from any claims related to or resulting from the discovery or disturbance of any Hazardous Materials on the Property (unless such Hazardous Materials were caused by Buyer Parties and/or the condition thereof is exacerbated by Buyer Parties).

As used herein, the term "**Hazardous Materials**" means any hazardous or toxic substance, material or waste which is now or hereafter the subject of Governmental Regulations, including without limitation any material or substance which is (A) defined as a "hazardous waste," "extremely hazardous waste" or "restricted hazardous waste" under Section 25115, 25117 or 25122.7, or listed pursuant to Section 25140, or the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law), (B) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (C) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (D) petroleum and petroleum products, including crude oil and any fractions thereof, and other hydrocarbons, (E) asbestos, (F) listed under Article 9 or defined as hazardous or extremely hazardous pursuant to Article 11 of Title 22 of California Administrative Code, Division 4, Chapter 20, (G) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act 33 U.S.C. § 1251 et. seq., (33 U.S.C. § 1321) or as listed pursuant to § 307 of the Federal Water Pollution Control Act (33 U.S.C. § 1317), (H) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. (42 U.S.C. § 9601), (I) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq., or (J) described in the Covenant. As used herein, the term "**Governmental Regulations**" means any laws

(including common law), statutes, ordinances, rules, requirements, resolutions, policy statements and regulations (including, without limitation, those relating to land use, subdivision, zoning, Hazardous Materials, occupational health and safety, handicapped access, water, earthquake hazard reduction, and building and fire codes) of any governmental or quasi-governmental body or agency claiming jurisdiction over the Property.

3.2 Delivery of Preliminary Documents. Within five (5) business days following the Effective Date, Seller shall deliver, or cause to be delivered, an updated preliminary title report or commitment for title insurance (the “**Preliminary Title Report**”), dated no earlier than ten (10) days before the Effective Date, covering the Property and issued by Chicago Title Company (the “**Title Company**”), together with a legible copy of each document, map and survey referred to in the Preliminary Title Report. Buyer, at Buyer’s sole cost, may obtain an as-built survey of the Property (the “**Survey**”) prepared by a certified land surveyor in accordance with the most recent American Land Title Association standards, certified by such surveyor to Buyer and the Title Company in a form acceptable to the Title Company for the purpose of deleting any survey exception from the Title Policy described in Section 4.1.5 below. With the exception of the Preliminary Title Report, Buyer acknowledges that, prior to the Effective Date, Seller has delivered to Buyer, at Seller’s expense, all of the documents described in the remaining subsections of this Section 3.2 (collectively, the “**Preliminary Documents**”), and unless otherwise set forth in this Agreement, Seller has no obligation to delivery any other documents to Buyer.

3.2.1 Plans. Copies of all as-built plans and specifications for the Improvements in Seller’s possession, including without limitation the plans and specifications for and a complete description of all existing renovations and improvements to the Property and all rentable space therein, and as-built drawings for all underground utilities, including, without limitation any underground storage tanks (collectively, the “**Plans**”), together with a certificate from an architect approved by Buyer certifying to Buyer that the Improvements were constructed and completed in accordance with the Plans;

3.2.2 Soils Report. Any soils report on the Land prepared at Seller’s request and in the possession or control of Seller, including (if available) a report on compliance with any soils work recommended to be done prior to construction of the Improvements;

3.2.3 Engineers’ Reports. Any structural, mechanical, environmental or geological reports concerning the Property which have been prepared at Seller’s request and which are within Seller’s possession or control;

3.2.4 Operating Statements; Tax Bills. Copies of operating statements for the Property and copies of all real property tax bills for the Property for the calendar years 2017 through 2019;

3.2.5 Licenses, Etc. Copies of any licenses, permits or certificates required by governmental authorities in connection with construction or occupancy of the Improvements, including, without limitation, building permits, certificates of completion, certificates of occupancy and environmental permits and license agreements;

3.2.6 Inspection Reports. Copies of all written reports received by Seller within three (3) years prior to the Effective Date from Seller's insurance companies, any governmental agency or any other person or entity, which requires or demands correction of any condition, or requests modification in or termination of any uses of the Property.

3.3 Approval/Disapproval of Due Diligence Investigations. Buyer shall approve or disapprove the results of Buyer's Due Diligence Investigation, including without limitation, all title matters, in the exercise of Buyer's sole discretion, by written notice delivered to Seller no later than the expiration of the Due Diligence Period. Buyer's disapproval shall terminate this Agreement. If Buyer fails to deliver to Seller notice of its approval or disapproval of the results of its Due Diligence Investigation, Buyer shall be deemed to have disapproved such results. If Buyer elects to terminate the Agreement, Buyer shall return to Seller all of the Preliminary Documents previously delivered by Seller to Buyer within 5 business days of such termination.

3.4 Title Review.

3.4.1 Monetary Liens. At its expense, Seller shall remove all liens on the Property at or prior to the Closing (collectively, "**Monetary Liens**"): (i) all delinquent taxes, bonds and assessments and interest and penalties thereon (it being agreed that Seller shall not be required to remove any non-delinquent taxes and assessments imposed by any governmental agency that are paid with the property taxes for the Property); and (ii) all other monetary liens, including without limitation all those shown on the Preliminary Title Report (including judgment and mechanics' liens, whether or not liquidated, and mortgages and deeds of trust, with Seller being fully responsible for any fees or penalties incurred in connection therewith), other than non-delinquent property taxes and assessments.

3.4.2 Approval/Disapproval of Title Review. On or before the date that is five (5) business days after delivery of the Preliminary Title Report, Buyer shall deliver written notice to Seller of Buyer's approval or disapproval of the Preliminary Title Report, the Survey and any exceptions to title shown thereon (other than the Monetary Liens) in the exercise of Buyer's sole discretion. If Buyer disapproves, then Buyer shall identify the disapproved title matters in its written notice ("**Disapproved Title Matters**"). With respect to any Disapproved Title Matters, other than the Monetary Liens, Seller shall notify Buyer in writing within five (5) days after Seller's receipt of the Buyer's written notice of the Disapproved Title Matters whether Seller will cause the Disapproved Title Matters to be removed or cured at or prior to Closing. If Seller elects not to remove or cure all Disapproved Title Matters, Buyer shall deliver written notice within five (5) days after Seller's delivery of the Disapproval Notice, electing to (at Buyer's option): (i) subject to satisfaction of the other conditions to Closing, close the purchase of the Property and take title subject to the Disapproved Title Matters which Seller elects not to remove or cure; or (ii) terminate this Agreement in accordance with Section 9.6.1.

3.4.3 Failure to Disapprove. If Buyer fails to notify Seller of its approval or disapproval of the Preliminary Title Report in accordance with the terms and conditions of Section 3.4.2 above, the Survey or the exceptions shown thereon by the end of the Due Diligence Period, then Buyer shall be deemed to have approved the same.

ARTICLE 4. CONDITIONS PRECEDENT.

4.1 Buyer's Conditions. Buyer's obligations under this Agreement are expressly subject to the timely fulfillment of the conditions set forth in this Section 4.1 on or before the Closing Date, or such earlier date as is set forth below. Each condition may be waived in whole or in part by Buyer by written notice to Seller.

4.1.1 Due Diligence. Buyer's approval of the results of its Due Diligence Investigation pursuant to Section 3.3;

4.1.2 Title Review. Buyer's approval of the results of its review of title pursuant to Section 3.4.

4.1.3 No Remedial Action Letter. Seller's receipt of a letter from the San Francisco Regional Water Board stating no further environmental remediation is needed on the Property as of the Closing Date ("**Preliminary Letter**").

4.1.4 Revised Covenant and Environmental Restriction. Seller's receipt of an updated Covenant and Environmental Restriction on Property which has been approved by the San Francisco Regional Water Board ("**Covenant**").

4.1.5 Title Policy. The Title Company's irrevocable commitment to deliver to Buyer Title Company's ALTA Owner's standard policy of title insurance (the "**Title Policy**"), with liability equal to the Purchase Price showing fee title to the Property vested in Buyer and subject only to: (i) the matters and exceptions which were approved by Buyer pursuant to Section 3.3; and (ii) the standard printed exceptions in the form of title policy called for (collectively, "**Conditions of Title**"). Buyer may require an ALTA extended coverage policy if Buyer pays the incremental premium for ALTA extended coverage and obtains an ALTA survey acceptable to the Title Company.

4.1.6 Performance of Covenants. Seller's performance and compliance in all material respects with all of the terms of this Agreement to be performed and complied with by Seller prior to or at the Closing.

4.1.7 Representations and Warranties. The truth and accuracy of the representations and warranties of Seller set forth in Article 5 as of the Closing Date, as if made on such date.

4.1.8 Non-Foreign Certification. Seller's execution and delivery to Buyer on or prior to the Closing Date of a certification (the "**Non-Foreign Certification**"), substantially in the form of Exhibit B.

4.1.9 California Certification. Seller's delivery of the residency certification required pursuant to Sections 18805 and 26131 of the California Revenue and Taxation Code or having authorized Escrow Holder in writing to withhold from the Purchase Price the amounts required to be withheld by such Sections.

4.2 Seller's Conditions. Seller's obligations under this Agreement are expressly subject to the timely fulfillment of the conditions set forth in this Section 4.2 on or before the Closing Date, or such earlier date as is set forth below. Each condition may be waived in whole or part by Seller by written notice to Buyer.

4.2.1 Covenants. Buyer's performance and compliance in all material respects with all of the terms of this Agreement to be performed and complied with by Buyer prior to or at the Closing.

4.2.2 Representations and Warranties. The truth and accuracy of the representations of Buyer set forth in Article 6 on the Closing Date, as if made on such date.

ARTICLE 5. SELLER'S REPRESENTATIONS AND WARRANTIES.

Seller hereby makes the following representations and warranties to Buyer with the understanding that each such representation and warranty is material and is being relied upon by Buyer:

5.1 Defects. The Improvements are in good condition and repair and are free of any latent or patent design, construction, physical or mechanical defects and there is no actual or threatened settlement, earth movement, termite infestation or damage affecting the Property.

5.2 Documents. All of the Preliminary Documents which have been delivered or made available to Buyer pursuant to Article 3, and all other documents delivered to Buyer by or on behalf of Seller (a) are true, correct and complete copies of what they purport to be, (b) represent truly the factual matters stated therein, (c) are in full force and effect, (d) have not been modified, except as set forth therein and (e) do not omit any information required to make the submission thereof accurate and complete in all material respects.

5.3 Taxes and Condemnation. Except as disclosed in the Preliminary Title Report, to Seller's knowledge, there are no presently pending or, contemplated special taxes or assessments which will affect the Property. Except for potential condemnation by Buyer, there are no presently pending or, to Seller's knowledge, contemplated proceedings to condemn or demolish the Property or any part of it.

5.4 Utilities. All water, sewer, gas, electric, telephone and drainage facilities, and all other utilities required by law or by the normal operation of the Property, are (a) installed to the property lines of the Property, (b) connected to the Property, (c) adequate to service the Property in its present use and to permit full compliance with all requirements of law and normal usage by the occupants of the Property and (d) in good working order and repair. All such utilities and storm and sanitary sewers required for the operation of the Property enter the Land through adjoining public streets or through adjoining private land in accordance with valid public or private easements that will inure to the benefit of Buyer.

5.5 Licenses. Seller has all required licenses, permits (including, without limitation, all building permits and occupancy permits), easements and rights-of-way which are required in order to continue the present use of the Property. Seller has no knowledge of any law or regulation of any governmental authority having jurisdiction which might require the Property to

be improved beyond its present state or which might restrict the use and enjoyment of the Property in the manner it is presently being used and enjoyed.

5.6 Contracts/Leases/Occupancy Rights. All contracts entered into by Seller relating to the management, maintenance, or operation of the Property in force as of the Effective Date (“**Service Contracts**”) have been disclosed to Buyer and are listed on Schedule 5.6. Except for the Service Contracts, there are no agreements or other obligations to which Seller is party or, to Seller's knowledge, by which it or the Property is bound which may affect the current use of the Property, nor are there any current leases, occupancy or operating agreements in force. No party has a right to occupancy, tenancy, or a license to use or enter the Property. Seller has fully performed all the obligations required to be performed by Seller under the Service Contracts, and to Seller's knowledge, the other parties to the same are not in default thereunder. There are no collective bargaining agreements, other union contracts of any nature, pension plans or other benefit plans of any nature in existence to which Seller is a party and which affect the Property or the operation thereof.

5.7 Litigation. There are no actions, suits, proceedings, judgments, orders, decrees or governmental investigations pending or threatened against the Property or Seller which could affect the Property or the purchase, use or enjoyment thereof by Buyer.

5.8 Agreements with Governmental Authorities. There are no agreements with governmental authorities, agencies, utilities or quasi-governmental entities which affect the Property except this Agreement and those agreements which are identified in the Preliminary Title Report and those matters which are disclosed by the Survey.

5.9 Title to the Property. Seller has good and marketable title to the Property, subject to the Conditions of Title. There are no outstanding rights of first refusal or first look, options to purchase, rights of reverter, or claim of right relating to the transfer or sale of the Property or any interest therein. To Seller's knowledge, there are no unrecorded or undisclosed documents or other matters which affect title to the Property. No person holding a security interest in the Property or any part thereof has the right to consent or deny consent to the sale of the Property as contemplated herein, and Seller has the right to pay off such person and to remove all such liens as of the Closing Date. Seller has enjoyed the continuous and uninterrupted quiet possession, use and operation of the Property.

5.10 Seller's Authority. Seller has the requisite power and authority to own and operate the Property and conduct its business where the same is now owned or operated. The execution, delivery and performance of this Agreement by Seller have been duly and validly authorized by all necessary action and proceedings, and no further action or authorization is necessary on the part of Seller (or its board of directors or shareholders) in order to consummate the transactions contemplated herein. This Agreement and the other documents executed by Seller in connection herewith are legal, valid and binding obligations of Seller, enforceable in accordance with their respective terms. Neither the execution and delivery of this Agreement by Seller, nor performance of any of its obligations hereunder, nor consummation of the transactions contemplated hereby, shall conflict with, result in a breach of, or constitute a default under, the terms and conditions of the organizational documents pursuant to which Seller was organized, or any indenture, mortgage, deed of trust, agreement, undertaking, instrument or

document to which Seller or any affiliate thereof is a party or is bound, or any order or regulation of any court, regulatory body, administrative agency or governmental body having jurisdiction over Seller.

5.11 Zoning. Seller has received no written notice from any governmental agency that the Property is not in compliance with zoning requirements and laws.

5.12 Foreign Person. Seller is not a "foreign person" within the meaning of Section 1445(f) of the Internal Revenue Code.

5.13 No Employees. Other than the caretaker who provides certain specified services to Seller regarding the Property, but whose service shall end at Closing, there are no on-site employees of Seller at the Property. On or before Closing, Seller shall terminate such employment at the Property and any residence or occupancy thereof and Buyer shall have no obligation to employ or continue to employ any individual employed by Seller or its affiliates in connection with the Property.

5.14 Inspections. Schedule 5.14 accurately describes (a) all inspections of the Property by any governmental agency or insurance company occurring within three (3) years prior to the Effective Date, (b) all matters which were noted by such governmental agency or insurance company as requiring correction, requesting or recommending modifications or termination of uses of the Property and (c) the present status of each such noted matter.

5.15 Misstatements and Omissions. Neither the representations and warranties made by Seller in this Article 5 nor elsewhere in this Agreement contain any untrue statement of a material fact.

5.16 Acknowledgement Regarding Taxes. Seller represents and warrants it has sought advice from a tax advisor regarding the transactions contemplated by this Agreement and acknowledges that neither the City of Milpitas nor any of its employees, agents, attorneys, or representatives have made any representations regarding the tax consequences of the transactions contemplated by this Agreement.

5.17 Limitation on Seller's Representation and Warranties. Anything herein to the contrary notwithstanding, if Buyer obtains actual knowledge of any information prior to the Closing which renders any of the above representations and warranties of Seller inaccurate or incomplete, then such representations and warranties shall be deemed modified to reflect the disclosure of such information. All of Seller's representations and warranties are made to the present actual knowledge, without taking into account any constructive or imputed knowledge, of George Quinn, without any duty of inquiry or investigation. Buyer acknowledges that the individual named above is named solely for the purpose of defining and narrowing the scope of Seller's knowledge and not for the purpose of imposing any liability on or creating any duties running from such individual to Buyer. Except in cases of fraud or intentional misrepresentation by George Quinn, Buyer covenants that it will bring no action of any kind against such individual, arising out of these representations and warranties.

ARTICLE 6. BUYER'S REPRESENTATIONS AND WARRANTIES.

Buyer makes the following representation and warranties to Seller with the understanding that each such representation and warranty is material and is being relied upon by Seller:

6.1 Buyer's Authority. The execution, delivery and performance of this Agreement by Buyer have been duly and validly authorized by all necessary action and proceedings, and no further action or authorization is necessary on the part of Buyer in order to consummate the transactions contemplated herein.

6.2 No Conflict. Neither the execution nor delivery of this Agreement by Buyer, nor performance of any of its obligations hereunder, nor consummation of the transactions contemplated hereby, shall conflict with, result in a breach of, or constitute a default under, the terms and conditions of the organizational documents pursuant to which Buyer was organized, or any agreement to which Buyer is a party or is bound, or any order or regulation of any court, regulatory body, administrative agency or governmental body having jurisdiction over Buyer.

ARTICLE 7. SURVIVAL OF REPRESENTATIONS AND WARRANTIES AND INDEMNIFICATION.

7.1 Survival of Warranties. Buyer and Seller agree that each representation and warranty in Articles 5 and 6, respectively, shall (A) not merge with the delivery to Buyer of the Grant Deed, and (B) survive the Closing Date for one (1) year after the Closing Date, at which time such representations and warranties shall terminate.

7.2 Notice of Changed Circumstances. If either party becomes aware of any fact or circumstances which would render false or misleading a representation or warranty made by such party, then it shall immediately give notice of such fact or circumstance to the other party, but such notice shall not relieve any party of any liabilities or obligations with respect to any representation or warranty.

ARTICLE 8. SELLER'S PRECLOSING COVENANTS.

Seller shall comply with the covenants contained in this Article 8 from the Effective Date through the Closing Date unless Buyer consents otherwise in writing. Buyer may grant or withhold any such consent requested by Seller in Buyer's sole discretion.

8.1 Contracts and Documents. Seller shall not, without Buyer's approval, not to be unreasonably withheld or delayed, enter into any material agreement of any type affecting the Property.

8.2 Insurance. Seller shall maintain or cause to be maintained in full force and effect its present insurance policies for the Property.

8.3 Operation. Seller covenants to own, operate and maintain its interests in the items comprising the Property in substantially the same manner as presently owned, operated and maintained.

8.4 No Transfers. Seller shall not sell, encumber or otherwise transfer any interest in all or any portion of the Property, or agree to do so.

8.5 Termination of Contracts. Seller at its sole cost and expense shall terminate all of the Service Contracts described in Section 5.6 at or before the Closing Date.

8.6 Maintenance. At its sole cost and expense, Seller shall operate and maintain the Property such that on the Closing Date the Property shall be in substantially the same condition and repair as on the Effective Date, reasonable wear and tear excepted. Without limiting the generality of the foregoing, Seller shall, at a minimum, spend such amounts for repair and maintenance as are consistent with its prior practice. Seller shall promptly advise Buyer of any significant repair or improvement required to keep the Property in such condition. Seller shall not make any material alterations to the Property without Buyer's prior consent.

ARTICLE 9. CLOSING.

9.1 Time. Provided all conditions set forth in Article 4 have been either satisfied or waived, the parties shall close this transaction (the “**Closing**”), on August 31, 2020 (the “**Closing Date**”). The Closing Date shall automatically be extended if any conditions set forth in Article 4, including, without limitation receipt of the Preliminary Letter and approved Covenant, have not been satisfied on or before the Closing Date. To the extent the Closing Date is extended pursuant to this Section 9.1, the Closing shall occur five (5) business days after Buyer’s written notice to Escrow Holder (defined below) that the conditions set forth in Article 4 have been satisfied. Notwithstanding the foregoing, should the Closing not occur by November 12, 2020 (“**Outside Closing Date**”) as a result of the nonsatisfaction of either of the conditions set forth in Section 4.1.3 (Preliminary Letter) and/or Section 4.1.4 (Covenant), then each of Buyer and Seller shall have the right to terminate this Agreement by written notice delivered to the other party at any time after the Outside Closing Date and prior to the satisfaction of such conditions, and, in the event of any such termination, Escrow Holder shall promptly return to Buyer and Seller, respectively, all documents and monies deposited by them into escrow and thereafter neither party shall have any further liabilities or obligations to one another under this Agreement except for those that expressly survive a termination of this Agreement.

9.2 Escrow. This Article 9, together with such additional instructions as Chicago Title Company, Lori Young, 12156 Saratoga Sunnyvale Road, Saratoga, CA 95070 (“**Escrow Holder**”), shall reasonably request and the parties shall agree to, shall constitute the escrow instructions to Escrow Holder. If there is any inconsistency between this Agreement and the Escrow Holder's additional escrow instructions, this Agreement shall control unless the intent to amend this Agreement is clearly stated in said additional instructions. Buyer and Seller shall cause Escrow Holder to execute and deliver a counterpart of this Agreement to each of them. If the Title Company does not serve as the Escrow Holder, the Title Company shall provide a letter to Buyer, in form and content acceptable to Buyer, pursuant to which the Title Company accepts responsibility and liability for the acts and omissions of Escrow Holder in discharging Escrow Holder's obligations hereunder, including, without limitation, any acts or omissions of Escrow Holder relating to the Title Company's commitment to issue the Title Policy, the receipt, recordation or delivery of any documents placed into escrow, and the receipt and disbursement of any funds placed into escrow.

9.3 Seller's Deposit of Documents and Funds Into Escrow. Seller shall deposit into escrow on or before Closing the following documents:

9.3.1 A duly executed and acknowledged grant deed, in the form acceptable to Buyer, conveying the Property to Buyer ("**Grant Deed**") in the form attached as Exhibit D;

9.3.2 A duly executed assignment, in the form of Exhibit C, assigning to Buyer all of Seller's interest (a) in all as-built plans and specifications for the Improvements in Seller's possession, including without limitation the plans and specifications for and a complete description of all existing renovations and improvements to the Property and all rentable space therein, and as-built drawings for all underground utilities, including, without limitation any underground storage tanks, (b) in all warranties of which Seller is the beneficiary with respect to the Property, and (c) in all intangible assets of the Property (the "**General Assignment**");

9.3.3 Seller's Non-foreign Certification;

9.3.4 A duly executed original of the Covenant; and

9.3.5 Such additional documents, including written escrow instructions consistent with this Agreement, as may be necessary for conveyance of the Property in accordance with this Agreement.

9.4 Deliveries Outside of Escrow. Notwithstanding Section 9.3, Seller and Buyer may elect to deliver the documents described in Section 9.3 outside of escrow (other than documents which are to be recorded) by giving Escrow Holder a joint written notice of such election, specifying the documents which will be so delivered outside of escrow. Upon receipt of such notice, Escrow Holder shall have no further obligation concerning such specified documents.

9.5 Buyer's Deposit of Documents and Funds in Escrow. Buyer shall deposit into escrow on or before the Closing:

9.5.1 The Purchase Price in accordance with the provisions of Article 2, plus or minus prorations as provided in Section 9.8, by cashier's or certified check or electronic transfer of federal funds to Escrow Holder, on or before the Closing Date; and

9.5.2 Such additional documents, including written escrow instructions consistent with this Agreement, as may be necessary or desirable for conveyance of the Property in accordance with this Agreement.

9.6 Default, Termination and Remedies.

9.6.1 Buyer's Termination. This Agreement shall automatically terminate without further notice or action by Buyer upon the occurrence of any of the following events, provided that Buyer is not then in material breach of this Agreement: (a) any condition to Closing contained in Section 4.1 has not been satisfied or waived by Buyer by the Closing Date; or (b) Buyer having exercised its right to terminate this Agreement pursuant to Section 3.4 (disapproval of Due Diligence Investigation), Section 3.5 (disapproval of title) or Article 10

(damage or condemnation). In such event, the parties shall have no further obligation to each other except for those obligations that specifically survive the termination of this Agreement.

9.6.2 Seller's Termination. Provided that Seller is not then in material breach of this Agreement, this Agreement shall automatically terminate without further notice or action by Seller if any condition to Closing contained in Section 4.2 has not been satisfied or waived by Seller by the Closing Date.

9.6.3 Release from Escrow. Upon termination of this Agreement pursuant to Section 9.6.1 or 9.6.2, Escrow Holder shall promptly return to Buyer and Seller, respectively, all documents and monies deposited by them into escrow without prejudice to their rights and remedies hereunder.

9.6.4 Remedies.

(a) Buyer's Remedies. If Seller breaches this Agreement, Buyer shall be entitled to pursue all remedies permitted under this Section 9.6.4, including the remedy of specific performance or a refund of all deposits. Seller shall be deemed to be in default under this Agreement if Seller fails, for a reason other than Buyer's default hereunder or the failure of a condition precedent to Seller's obligation to perform hereunder, to meet, comply with, or perform any covenant, agreement or obligation on its part required within the time limits and in the manner required in the Agreement; provided, however, no such default shall be deemed to have occurred unless and until Buyer has given Seller written notice thereof, describing the nature of the default, and Seller has failed to cure such default within five (5) days of receipt of such notice.

If Seller shall be deemed in default under Section 9.6.4(a) at or before Closing, and Buyer does not waive such default, Buyer may pursue one of the following remedies, each of which shall be Buyer's sole and exclusive remedy:

(i) Institute and prosecute an action to compel specific performance of this Agreement against Seller, in which case Buyer shall have no claim for damages or any other remedy against Seller; provided, however, if Buyer fails to file suit for specific performance against Seller in a court having jurisdiction in Santa Clara County on or before the date one hundred twenty (120) days following the date upon which the Closing hereunder was to have occurred, then Buyer shall be deemed to elected to terminate this Agreement and receive back the return of its Deposit as provided in Section 9.6.4(a)(ii) below. Buyer shall only be entitled to bring a specific performance action against Seller if Seller breaches its obligation to convey the Property to Buyer; or

(ii) Terminate this Agreement by written notice delivered to Seller on or before the Closing Date and, in the event of such termination, Buyer shall be entitled to the prompt return of the Deposit made by Buyer hereunder and Seller shall promptly reimburse to Buyer its reasonable property diligence related expenses, including, without limitation, attorneys' fees, staff time, and consulting fees (not to exceed Fifty Thousand and No/100 Dollars (\$50,000)).

(b) Seller's Remedies/Liquidated Damages. THE PARTIES HERETO AGREE THAT SELLER'S ECONOMIC DETRIMENT RESULTING FROM THE REMOVAL OF THE PROPERTY FROM THE REAL ESTATE MARKET FOR AN EXTENDED PERIOD OF TIME AND ANY CARRYING AND OTHER COSTS INCURRED AFTER THE REMOVAL OF THE PROPERTY FROM THE REAL ESTATE MARKET ARE IMPRACTICABLE OR EXTREMELY DIFFICULT TO ASCERTAIN. THE PARTIES HERETO AGREE THAT THE AMOUNT OF THE DEPOSIT, INCLUDING ANY INTEREST ACCRUED THEREON, IS A REASONABLE ESTIMATE OF THE DAMAGES THAT WILL BE INCURRED BY SELLER IN THE EVENT ESCROW FAILS TO CLOSE DUE TO A DEFAULT OR BREACH OF THIS AGREEMENT BY BUYER. BUYER AGREES THAT IN THE EVENT ESCROW FAILS TO CLOSE DUE TO SUCH DEFAULT OR BREACH BY BUYER OF BUYER'S OBLIGATION TO PURCHASE THE PROPERTY, SELLER, AS ITS SOLE REMEDY, SHALL BE ENTITLED TO RECEIVE AND RETAIN THE DEPOSIT AS LIQUIDATED DAMAGES PURSUANT TO SECTIONS 1671, 1676 AND 1677 OF THE CALIFORNIA CIVIL CODE, AND SHALL NOT BE DEEMED TO CONSTITUTE A FORFEITURE OR PENALTY WITHIN THE MEANING OF SECTION 3275 OR SECTION 3369 OF THE CALIFORNIA CIVIL CODE, OR ANY SIMILAR PROVISION. SELLER HEREBY WAIVES THE REMEDY OF SPECIFIC PERFORMANCE WITH RESPECT TO ANY DEFAULT BY BUYER OF ITS OBLIGATION TO PURCHASE THE PROPERTY, AND AGREES THAT THE LIQUIDATED DAMAGES SET FORTH HEREIN SHALL BE SELLER'S SOLE REMEDY IN THE EVENT BUYER DEFAULTS OR BREACHES IN ITS OBLIGATION TO PURCHASE THE PROPERTY HEREUNDER. THIS LIQUIDATED DAMAGES PROVISION SHALL NOT BE APPLICABLE TO ANY DEFAULT OR BREACH BY BUYER OF ANY INDEMNIFICATION, DEFENSE OR HOLD HARMLESS OBLIGATION OR RESTORATION OBLIGATION OF BUYER UNDER THIS AGREEMENT, OR ANY OTHER OBLIGATION OF BUYER THAT EXPRESSLY SURVIVES THE TERMINATION OF THIS AGREEMENT. BY INITIALING THIS SECTION 9.6.4 BELOW, SELLER AND BUYER AGREE TO THE TERMS OF THIS SECTION 9.6.4.

SELLER'S INITIALS:

BUYER'S INITIALS: _____

9.7 Closing. When Escrow Holder has received all documents and funds identified in Sections 9.3 and 9.5, has received notification from Buyer and Seller that all conditions to Closing to be satisfied outside of escrow have been satisfied or waived and Title Company is irrevocably committed to issue the Title Policy, then, and only then, Escrow Holder shall:

9.7.1 Record the Covenant;

9.7.2 Record the Grant Deed after first recording the Covenant;

9.7.3 Cause the Title Company to issue the Title Policy to Buyer;

9.7.4 To the extent not otherwise delivered to Buyer outside of escrow, deliver to Buyer: (a) a conformed copy (showing all recording information thereon) of the Grant Deed; (b) the General Assignment; and (c) the Non-foreign Certification;

9.7.5 Deliver the Purchase Price (as adjusted pursuant to Section 9.8) to Seller.

Escrow Holder shall prepare and sign closing statements showing all receipts and disbursements and deliver copies to Buyer and Seller and, if applicable, shall file with the Internal Revenue Service (with copies to Buyer and Seller) the reporting statement required under Section 6045(e) of the Internal Revenue Code.

9.8 Prorations.

(a) Subject to this Section 9.8 below, all expenses of the Property, including, without limitation, real property taxes, special taxes and assessments and utility fees and/or deposits, shall be prorated and apportioned between Buyer, on the one hand, and Seller, on the other hand, as of the Closing Date, so that Seller bears all expenses with respect to the Property, through and including the date immediately preceding the Closing Date. If, prior to the Closing, Seller has commenced any contest or filed any objection with any applicable taxing authority as to real property taxes and assessments attributable to the Real Property for the period prior to the Closing Date, Seller shall have the right to continue such proceeding following the Closing and any refunds attributable to any period prior to the Closing Date shall be paid to and retained by Seller, and Buyer shall have no interest therein. To the extent that Buyer is required by law to participate in any such tax contest, Buyer agrees to reasonably cooperate with Seller in such proceeding, at no cost to Buyer.

Real and personal property taxes and assessments, water, sewer and utility charges (calculated on the basis of the period covered); and any other expenses normal to the operation and maintenance of the Property, shall all be prorated as of the Closing, on the basis of a three hundred sixty (360) day year.

Any revenue or expense which cannot be ascertained with certainty as of the Closing Date shall be prorated on the basis of the parties' reasonable estimates of such amounts and shall be the subject of a final proration as soon thereafter as the precise amounts can be ascertained, but in no event later than one hundred twenty (120) days after the Closing. A statement setting forth such agreed proration shall be delivered to the Title Company, provided the Title Company shall not be required to calculate any such prorations. Seller and Buyer shall each cooperate with the other diligently and promptly to correct any errors in computations or estimates under this Section 9.8(a) and shall promptly pay to the party entitled thereto any refund, credit or other payment necessary to comply with this Section 9.8(a). This Section 9.8(a) shall survive the Closing. Either party owing the other party a sum of money based on adjustments made to prorations after the Closing shall promptly pay that sum to the other party, together with interest thereon at the rate of ten percent (10%) per annum from the date of demand for payment to the date of payment, if payment is not made within thirty (30) days after demand therefor.

(b) Buyer is a public entity and the transaction set forth herein is thus exempt from transfer taxes and recording fees. Seller shall pay the premium for the standard portion of Buyer's Title Policy. Buyer shall pay the cost of Buyer's endorsements, if any, plus the cost of

any extended coverage. Seller and Buyer shall split equally all escrow fees incurred in connection with the consummation of the sale of the Property by Seller to Buyer. All other customary closing costs incurred shall be allocated to Buyer and Seller in accordance with the custom in Santa Clara County. Except as otherwise expressly provided in this Agreement, each party shall pay its own attorneys' fees incurred in connection with this Agreement and the transaction described herein.

9.9 DAMAGE, DESTRUCTION AND CONDEMNATION.

This Agreement shall be governed by the Uniform Vendor and Purchaser Risk Act as set forth in Section 1662 of the California Civil Code as supplemented and modified by this Article 10. Seller shall promptly notify Buyer in writing of any material damage to the Property and of any taking or threatened taking of all or any portion of the Property. Within a reasonable period of time after receipt of such notice, Buyer shall determine whether a material part of the Property has been damaged or whether such taking or threatened taking has affected or will affect a material part of the Property. As used herein, (a) the destruction of a "**material part**" of the Property shall be deemed to mean an insured or uninsured casualty to the Property having an estimated cost of repair which in the reasonable judgment of Seller equals or exceeds \$1,000,000; and (b) a taking by eminent domain of a portion of the Property shall be deemed to affect a "**material part**" of the Property if in the reasonable judgment of Seller the estimated value of the portion of the Property taken exceeds \$1,000,000. Upon making its determination, Seller shall notify Buyer in writing of the results of such determination. Buyer may elect, by written notice delivered to Seller within 30 days after giving Seller notice of such determination, to terminate this Agreement in accordance with Section 9.6.1 if a material part of the Property has been damaged or if such taking has affected or will affect a material part of the Property. If Buyer does not so terminate, (i) in the case of damage to a material part of the Property, Seller shall assign to Buyer at the Closing its right to recover under any insurance policies covering such damage and shall pay Buyer at the Closing the amount of the deductible, if any, and (ii) in the case of a threatened or actual taking of a material part of the Property, Seller shall assign to Buyer at the Closing Seller's entire right, title and interest in the proceeds thereof. If between the Effective Date and the Closing Date the Property suffers damage which is not material, Buyer shall be bound to purchase the Property for the full Purchase Price as required by the terms hereof, without regard to the occurrence or effect of any damage to the Property or destruction of any improvements thereon or condemnation of any portion of the Property. The Closing Date shall be extended as necessary to permit Buyer to exercise its rights under this Section 9.9.

ARTICLE 10. GENERAL.

10.1 Notices. All notices, demands, approvals, and other communications provided for in this Agreement shall be in writing and shall be effective (a) when personally delivered to the recipient at the recipient's address set forth below (it is agreed that email shall constitute personal delivery provided that a copy of any such notice sent by email is also sent out the same day via one of the other delivery methods permitted by this Section 10.1); (b) five business days after deposit in a sealed envelope in the United States mail, postage prepaid, by registered or certified mail, return receipt requested, addressed to the recipient as set forth below; or (c) one business day after deposit with a recognized overnight courier or delivery service, addressed to the recipient as set forth below, whichever is earlier. If the date on which any notice to be given

hereunder falls on a Saturday, Sunday or legal holiday, then such date shall automatically be extended to the next business day immediately following such Saturday, Sunday or legal holiday.

The addresses for notice are:

SELLER: GeoMax
Attn: George Quinn
3460 Edward Avenue
Santa Clara, CA 95054
Phone: (408) 330-0801
Email: gquinn@geo-max.net

With a copy to: Groom & Cave, LLP
Attn: Christopher M. Cave
1570 The Alameda, Suite 100
San Jose, CA 95126
Phone: (408) 286-3300
Email: ccave@groomandcave.com

BUYER: City of Milpitas.
Attn: Steven McHarris
455 East Calaveras Boulevard
Milpitas, CA 95035
Phone: 408-586-3050
Email: smcharris@ci.milpitas.ca.gov

With a copy to: Best Best & Krieger LLP
Attn: Nancy Park
500 Capitol Mall, Suite 1700
Sacramento, CA 95814
Phone: (916) 551-2849
Email: nancy.park@bbklaw.com

Either party may change its address by written notice to the other given in the manner set forth above.

10.2 Entire Agreement. This Agreement and the Schedules and Exhibits hereto contain the entire agreement and understanding between Buyer and Seller concerning the subject matter of this Agreement and supersede all prior agreements, including, without limitation the Terminated Agreement, any previous letter of intent or terms, understandings, conditions, representations and warranties, whether written or oral, made by Buyer or Seller concerning the Property or the other matters which are the subject of this Agreement.

10.3 Amendments and Waivers. No addition to or modification of this Agreement shall be effective unless set forth in writing and signed by the party against whom the addition or

modification is sought to be enforced. The party benefited by any condition or obligation may waive the same, but such waiver shall not be enforceable by another party unless made in writing and signed by the waiving party.

10.4 Invalidity of Provision. If any provision of this Agreement as applied to either party or to any circumstance shall be adjudged by a court of competent jurisdiction to be void or unenforceable for any reason, the same shall in no way affect (to the maximum extent permissible by law) any other provision of this Agreement, the application of any such provision under circumstances different from those adjudicated by the court, or the validity or enforceability of this Agreement as a whole.

10.5 References. Unless otherwise indicated, (a) all Article, Section, Schedule and Exhibit references are to the articles, sections, schedules and exhibits of this Agreement, and (b) all references to days are to calendar days. All the Schedules and Exhibits attached hereto are incorporated herein by this reference. Whenever under the terms of this Agreement the time for performance of a covenant or condition falls upon a Saturday, Sunday or California state holiday, such time for performance shall be extended to the next business day. The headings used in this Agreement are provided for convenience only and this Agreement shall be interpreted without reference to any headings. The masculine, feminine or neuter gender and the singular or plural number shall be deemed to include the others whenever the context so indicates or requires.

10.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California applicable to contracts made and to be performed in California.

10.7 Confidentiality and Publicity. The parties shall at all times keep this transaction and any documents received from each other confidential, except to the extent necessary to (a) comply with applicable law and regulations, or (b) carry out the obligations set forth in this Agreement. Any such disclosure to third parties shall indicate that the information is confidential and should be so treated by the third party. No press release or other public disclosure may be made by Seller or any of its agents concerning this transaction without the prior consent of Buyer.

10.8 Time. Time is of the essence in the performance of the parties' respective obligations under this Agreement.

10.9 Attorneys' Fees. In the event of any legal or equitable proceeding to enforce any of the terms or conditions of this Agreement, or any alleged disputes, breaches, defaults or misrepresentations in connection with any provision of this Agreement, the prevailing party in such proceeding shall be entitled to recover its reasonable costs and expenses, including, without limitation, reasonable attorneys' fees and costs of defense paid or incurred in good faith.

10.10 Assignment. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. However, Seller shall not have the right to assign all or any portion of its interest in this Agreement without Buyer's prior written consent. Buyer shall have the right to assign all or any portion of its interest in this Agreement,

or substitute for itself a nominee, upon notice to Seller not later than three days prior to the Closing Date.

10.11 Further Assurances. Seller, at any time before or after Closing, shall, at its own expense, execute, acknowledge and deliver any further deeds, assignments, conveyances and other assurances, documents and instruments of transfer reasonably requested by Buyer and shall take any other action consistent with the terms of this Agreement that may reasonably be requested by Buyer for the purpose of transferring and confirming to Buyer, or reducing to Buyer's possession, any or all of the Property or otherwise carrying out the terms of this Agreement.

10.12 Cooperation With Exchange. Each party agrees to cooperate with the other if such party intends to accomplish a tax-deferred exchange pursuant to Section 1031 of the Internal Revenue Code of 1986. Buyer and/or Seller may assign this Agreement to an exchange intermediary for the purpose of facilitating such an exchange by the assigning party. Buyer's duty to cooperate shall be limited to the transfer of money to Seller or Seller's designee in exchange for the Property, and in no event shall Buyer act as purchaser or acquirer of any exchange property. Seller's duty to cooperate shall be limited to the transfer of the Property to Buyer or Buyer's designee and in no event will Seller exchange the Purchase Property for any exchange property designated by Buyer. The requesting party shall indemnify and defend and hold the other party harmless from any claims, loss, damages or liability arising out of participation in an exchange.

10.13 No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any person other than the parties to it and their respective permitted successors and assigns, nor is anything in this Agreement intended to relieve or discharge any obligation of any third person to any party hereto or give any third person any right of subrogation or action over against any party to this Agreement.

10.14 Remedies Cumulative. Except as otherwise provided in Section 9.6.4 above, the remedies set forth in this Agreement are cumulative and not exclusive to any other legal or equitable remedy available to a party.

10.15 Commissions, Indemnity, Disclosure. Each party represents to the other party that there is no broker representing such party in the current transaction, and that the representing party has incurred no liability for any brokerage commission or finder's fee arising from or relating to the transactions contemplated by this Agreement. Each party hereby indemnifies and agrees to protect, defend and hold harmless the other party from and against all liability, cost, damage or expense (including without limitation attorneys' fees and costs incurred in connection therewith) on account of any brokerage commission or finder's fee which the indemnifying party has agreed to pay or which is claimed to be due as a result of the actions of the indemnifying party. This Section 10.15 is intended to be solely for the benefit of the parties hereto and is not intended to benefit, nor may it be relied upon by, any person or entity not a party to this Agreement.

10.16 Counterparts/Facsimile/.PDF Signatures. This Agreement may be executed in

counterparts and when so executed by the parties, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument that shall be binding upon the parties, notwithstanding that the parties may not be signatories to the same counterpart or counterparts. The parties may integrate their respective counterparts by attaching the signature pages of each separate counterpart to a single counterpart. In order to expedite the transaction contemplated herein, facsimile or .pdf signatures may be used in place of original signatures on this Agreement. Seller and Buyer intend to be bound by the signatures on the facsimile or .pdf document, are aware that the other party will rely on the facsimile or .pdf signatures, and hereby waive any defenses to the enforcement of the terms of this Agreement based on the form of signature.

ARTICLE 11. SELLER'S ENVIRONMENTAL COVENANTS.

11.1 Environmental Conditions. Seller acknowledges that Hazardous Materials have been discovered on or under the Property (the "**Contamination**").

11.2 Seller Environmental Indemnity. Seller shall indemnify, defend (with counsel acceptable to Buyer) and hold Buyer harmless from and against any and all costs, damages, claims, and liabilities, including attorneys' fees, whether foreseeable or unforeseeable, whether directly or indirectly arising from the release, treatment, use, generation, storage, or disposal on, under, or from the Property of Hazardous Materials, including, without limitation, the Contamination identified in identified in Section 11.1, above, or Hazardous Materials discovered or existing after Closing whether or not caused by Seller or any predecessor-in-interest of Seller, and whether or not known to Seller or Buyer at or before Closing, but specifically excluding any Hazardous Materials contamination first occurring after the date of the Closing. Seller's obligations hereunder shall include, without limitation, the cost of any required or necessary remediation or removal of such Hazardous Materials, any cost of repair or improvements on the Property or surrounding property(ies) necessitated by the remediation or removal of such Hazardous Materials, the costs of any testing, sampling, or other investigations or preparation of remediation or other required plans undertaken in connection with the remediation or removal of such Hazardous Materials, and any Hazardous Materials remediation and investigation related costs and expenses as may be necessary for Seller to obtain a no further action letter for the Property from the San Francisco Regional Water Board. Seller's indemnity shall survive the Closing until the date that is five (5) years from and after the Closing.

ARTICLE 12. AS-IS SALE AND PURCHASE.

Buyer acknowledges that the provisions of this Article 11 have been required by Seller as a material inducement to enter into the contemplated transactions, and the intent and effect of such provisions have been explained to Buyer by Buyer's counsel and have been understood and agreed to by Buyer. The provisions of this Article 11 shall survive the Closing.

12.1 Buyer's Acknowledgment. As a material inducement to Seller to enter into this Agreement and to convey the Property to Buyer, Buyer hereby acknowledges and agrees as follows:

12.1.1 AS IS. Except with respect to Seller's environmental indemnity and remediation obligations set forth in Article 11, Buyer is purchasing the Property in its existing condition, "AS-IS, WHERE-IS, WITH ALL FAULTS", and will, by the expiration of the Due Diligence Period, have made or have had the opportunity to make all inspections and investigations of the Property and its vicinity which Buyer believes are necessary to protect its own interest in, and its contemplated use of, the Property.

12.1.2 No Representations. Other than the express representations and warranties of Seller contained in Article 5 and Article 11, neither Seller, its members or managers, nor any person or entity acting by or on behalf of Seller, or any member, manager, partner, shareholder, officer, director, trustor, trustee, beneficiary, employee, agent, affiliate, successor or assign of any of the foregoing has made any representation, warranty, inducement, promise, agreement, assurance or statement, oral or written, of any kind to Buyer upon which Buyer is relying, or in connection with which Buyer has made or will make any decisions concerning the Property

12.1.3 No Implied Warranties. Other than the express representations and warranties of Seller contained in Article 5, Seller's environmental covenants in Article 11, and any warranties that may be implied by law into the Grant Deed, Seller hereby disclaims all warranties implied by law arising out of or with respect to the execution of this Agreement, any aspect or element of the Property or the performance of Seller's obligation hereunder, including, without limitation, all implied warranties of merchantability and/or fitness for a particular purpose.

12.1.4 Information Supplied by Seller. Buyer specifically acknowledges and agrees that, other than any express representations and warranties of Seller contained in Article 5 hereof, Seller has made, is making, and shall make, no representation or warranty of any nature concerning the accuracy or completeness of Preliminary Documents or the authenticity, source, accuracy or completeness of any information contained in such Preliminary Documents or any other documents previously or hereafter furnished by or on behalf of Seller to Buyer, including without limitation various studies, inspections, reports and exhibits and correspondence relating thereto. As to certain of the materials made available to Buyer in Preliminary Documents which were prepared by third parties, Buyer specifically acknowledges that they have been prepared by third parties with whom Buyer has no privity and Buyer acknowledges and agrees that no warranty or representation, express or implied, has been made, nor shall any be deemed to have been made, to Buyer with respect thereto, either by Seller (other than any express representations and warranties of Seller contained in Article 5 hereof) or by any third parties that prepared the same.

12.1.5 Buyer's Investigation of Property. Prior to the expiration of the Due Diligence Period, Buyer will have had the opportunity to investigate all physical and economic aspects of the Property and to make all inspections and investigations of the Property which Buyer deems necessary or desirable to protect its interests in acquiring the Property, including, without limitation, review of the environmental audits and assessments, toxic reports, surveys, investigation of land use and development rights, development restrictions and conditions that are or may be imposed by governmental agencies, agreements with associations affecting or concerning the Property, the condition of title, soils and geological reports, engineering and structural tests, insurance contracts, contracts for work in progress, marketing studies, cost-to-

complete studies, governmental agreements and approvals, architectural plans and site plans, and all other matters concerning the Property, and that, except for the express representations and warranties of Seller set forth in Article 5 hereof and the express covenants, including without limitation Article 11, Buyer shall purchase the Property on Buyer's own knowledge of the Property and Buyer's prior investigation and examination of the Property (or Buyer's election not to do so). Buyer agrees that it shall have the opportunity to make an independent investigation of any matters relating to the Property (or shall have elected not to do so) and shall not rely on any specific information or any other materials provided by Seller, except for the express representations and warranties of Seller set forth Article 5 and the express covenants, including without limitation Article 11. Buyer undertakes and assumes the risks associated with all matters pertaining to the Property's location in any area designated as a special flood hazard area, dam failure inundation area, earthquake fault zone, seismic hazard zone, high fire severity area or wildland fire area, by any federal, state or local agency.

12.1.6 Natural Hazard Disclosure Statement. Seller has made or will make a property disclosure report (the "**Disclosure Report**") available to Buyer prior to the Closing Date. The Disclosure Report fully and completely discharges Seller from its disclosure obligations, if any, which may be required under the Natural Hazard Disclosure Act, California Government Code Sections 8589.3, 8589.4, and 51183.5, California Public Resources Code Sections 2621.9, 2694, and 4136, and California Civil Code Sections 1102.6 and 1103.2, and any successor law, and, for the purposes of this Agreement, the provisions of Civil Code Section 1102.4 regarding the non-liability of Seller for errors and/or omissions not within its personal knowledge shall be deemed to apply and the preparer of the Disclosure Report shall be deemed to be an expert, dealing with matters within the scope of its expertise with respect to the examination and Disclosure Report. Nothing set forth in the Disclosure Report shall (A) require Seller to remediate any matter referred to in the Disclosure Report or (B) create any liability by Seller to Buyer therefor and Seller shall in no event be required to expend funds to remediate any matters disclosed in the Disclosure Report.

[Signatures Appear on Following Page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

BUYER:

CITY OF MILPITAS, a California municipal corporation

By: _____

Name: _____

Its: _____

ATTEST:

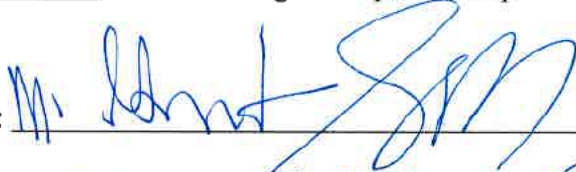
By: _____
City Clerk

APPROVED AS TO FORM:
BEST BEST & KRIEGER LLP

By: _____
Christopher Diaz, City Attorney

SELLER:

GEOMAX, a California general partnership

By:  _____

Name: Mahmood Baharwal George Poirier

Its: Partners

Acceptance by Escrow Holder

Escrow Holder acknowledges receipt of the foregoing Agreement and accepts the instructions contained therein.

Dated: _____, 20_____

By: _____

Name: _____

Title: _____

EXHIBIT A
LAND DESCRIPTION

PARCL 6, as delineated upon that certain MAP entitled "PARCEL MAP", filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on November 28th, 1978 in Book 431 of Maps, at Pages 2 and 3.

EXHIBIT B

TRANSFEROR'S CERTIFICATION OF NON-FOREIGN STATUS

Section 1445 of the Internal Revenue Code of 1986, as amended (the "Code"), provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform the CITY OF MILPITAS, a California municipal corporation (the "Transferee"), that withholding of tax under Section 1445 of the Code will not be required upon the transfer of a U.S. real property interest to the Transferee by _____ (the "Transferor"), the undersigned hereby certifies the following on behalf of the Transferor:

1. The Transferor is not a foreign corporation, foreign partnership, foreign trust or foreign estate (as those terms are defined in the Code and the Income Tax Regulations promulgated thereunder);
2. The Transferor's U.S. employer identification number is _____; and
3. The Transferor's office address is _____.

The Transferor understands that this Certificate may be disclosed to the Internal Revenue Service by the Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalty of perjury I declare that I have examined this Certification and, to the best of my knowledge and belief, it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of the Transferor.

DATED: _____, 20____.

_____, a California general partnership

By: _____

Name: _____

Title: _____

EXHIBIT C

GENERAL ASSIGNMENT

This Assignment (the "Assignment") is made as of _____, by _____, a California corporation ("Assignor").

FOR VALUABLE CONSIDERATION, as set forth in that certain Agreement of Purchase and Sale and Joint Escrow Instructions dated August __, 20__ (the "Agreement"), Assignor hereby assigns and transfers to the CITY OF MILPITAS, a California municipal corporation ("Assignee"), with respect to the real property described in Schedule 1, following:

A. All equipment leases, service and/or maintenance agreements and contracts relating to the Real Property (collectively, the "Contracts");

B. All permits, licenses, consents, registrations and other similar approvals applicable to the Real Property (collectively, the "Approvals");

C. All as-built plans and specifications for: (1) the Real Property; (2) any and all improvements used in connection with the operation or occupancy of the Real Property or located upon the Real Property (the "Improvements"); and (3) any and all personal property owned by Assignor located within or used in connection with the operation of the Real Property and Improvements (the "Personal Property") (collectively, the "Plans"); and

D. All warranties of which Assignor is the beneficiary (the "Warranties") with respect to the Improvements or Personal Property.

This Assignment shall not supersede the Agreement and, in the event of conflict between this Assignment and the Agreement, the Agreement shall control.

This Assignment shall be binding upon and inure to the benefit of Assignor and Assignee and their respective heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, Assignor has executed this Assignment as of the date first above written.

ASSIGNOR:

_____, a California corporation

By _____

Its _____

EXHIBIT D
GRANT DEED

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO

City of Milpitas
Attn: Steven McHarris
455 East Calaveras Boulevard
Milpitas, CA 95035

EXEMPT FROM RECORDING FEES PURSUANT
TO GOVERNMENT CODE SECTION 27383

SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN: 086-036-030

Grant Deed

The undersigned Grantor(s) declare(s): City of Milpitas is exempt from property taxes
Documentary transfer tax is \$0.

- ☐ Computed on full value of property conveyed, or
☐ Computed on full value less value of liens and encumbrances remaining at time of sale.
☐ Unincorporated area ☒ City of Milpitas

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
GEOMAX, a California general partnership

hereby GRANT(S), subject to encumbrances of record, to
CITY OF MILPITAS, a California municipal corporation

the following described real property in the City of Milpitas, County of Santa Clara
State of California:

**PARCEL 6, as delineated upon that certain Map entitled "PARCEL MAP", filed for
record in the Office of the Recorder of the County of Santa Clara, State of
California, on November 28th, 1978 in Book 431 of Maps, at Pages 2 and 3.**

Dated: _____, 20__

GEOMAX, a California general partnership

By: _____

Name: _____

Its: _____

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF _____)

On _____, 20__ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____ (seal)

CERTIFICATE OF ACCEPTANCE

Pursuant to Section 27281 of the
California Government Code

This is to certify that the interest in real property conveyed by the Grant Deed dated _____, 20____, from _____, to the **City of Milpitas**, a municipal corporation, is hereby accepted by the undersigned officer on behalf of the City of Milpitas, pursuant to the authority conferred by Resolution No. _____, adopted by the City Council of the City of Milpitas on _____, and the Grantee consents to recordation thereof by its duly authorized officer.

Dated: _____, 20____

CITY OF MILPITAS

By _____

SCHEDULE 5.6
SERVICE CONTRACTS

SCHEDULE 5.14
PROPERTY INSPECTIONS

Attachment D - City of Milpitas, California

BUDGET CHANGE FORM

Type of Change	From*		To*	
	Account	Amount	Account	Amount
Check one: ☒ Budget Appropriation ☐ Budget Transfer	350-2931	\$11,100,000	350-9514811	\$11,100,000

Adopt a Resolution Authorizing the City Manager to Execute a Purchase and Sale Agreement for property located at 1831-1841 Tarob Court and TADIF Budget Amendment.

Background:

The City Council adopted the Transit Area Specific Plan (TASP) in June 2008 to support the future Milpitas Transit Center including Bay Area Rapid Transit (BART) service as well as existing Valley Transportation Authority (VTA) light rail and bus service as local and regional mobility options. The TASP was developed to accommodate substantial new development, minimize traffic impacts on local roadways, and reduce urban sprawl. Since 2008, the TASP has facilitated the transformation of an industrial area into a high-intensity mixed-use, transit-oriented district. To date, close to 7,000 residential units have been completed or are under development resulting in a new community situated near the Great Mall and the Milpitas Transit Center.

Public improvements and services needed to serve the area's increasing residents and workforce are set forth in the TASP. These basic infrastructure requirements include streets, parks, pedestrian/bike bridges, community facilities, sewer and water facilities, storm drainage, and associated land acquisition. To ensure new development in the TASP pays its fair share of public improvement costs, the City enacted the Transit Area Development Impact Fee (TADIF) in 2008. The TADIF is a development impact fee adopted by the City of Milpitas pursuant to the provisions of Government Code Section 66000 (the Mitigation Fee Act) and per the City Code Title VIII4.2.01.

TADIF is a successful financing strategy to ensure the TASP is fiscally responsible for the City and property owners. The TADIF is independent of the City's General Fund and is funded entirely by private developer fees associated with each development project in the TASP area. A copy of the TASP and TADIF is available here.

At the October 1, 2019 Closed Session, the City's Real Property Negotiator presented the proposed price and terms of payment for acquiring the 1831-1841 Tarob Court property to the City Council. The City Council directed staff to return for consideration of purchasing the property at a future City Council meeting. Soon thereafter, the San Francisco Bay Regional Water Quality Control Board (Water Board) informed staff that the property may contain hazardous materials in the soil and groundwater, requiring a pause in acquisition. On August 10, 2020, the Water Board determined that no further remediation is required on the site, allowing acquisition to proceed.

Analysis:

The Council adopted several Streets and Connections Policies to guide street development within the TASP. The TASP street system consists of public roadways as illustrated in TASP Figure 3-2. The street layout establishes connections between properties, parks, transit, and importantly, to create pedestrian-oriented districts with direct pedestrian routes. In compliance with the TASP and the TADIF program, S. Milpitas Boulevard is currently being constructed southward between Great Mall Parkway and E.

Penetencia Creek where a vehicle and pedestrian bridge is required. The City is near completion of construction plans for the E. Penetencia Creek crossing and now needs to acquire the subject property to accommodate both the creek crossing landing and the roadway connection to Sango Court and Tarob Court.

Implementation of the proposed Purchase and Sale Agreement (PSA) will allow extension of South Milpitas Boulevard and extension connections to both Sango Court and Tarob Court. The connections will provide this residential TASP neighborhood with direct pedestrian and vehicle access to the Milpitas Transit Center as specified in the TASP and TADIF program. The diagram below depicts the S. Milpitas Boulevard street extension southbound beyond Capitol Avenue.

Policy Alternatives:

N/A

Fiscal Impact:

The TADIF program currently retains a balance of over \$46,000,000, which is available for the purposes of property acquisition and roadway construction.

A budget appropriation of \$11,100,000 will be required for the PSA. There are sufficient funds in the TADIF program (Fund 350) for the purchase price amount. This action will not affect the City's General Fund.

California Environmental Quality Act: N/A

In accordance with the requirements of the California Environmental Quality Act (CEQA), the City prepared and certified a programmatic Environmental Impact Report (EIR) in conjunction with adoption of the TASP. The TASP incorporates mitigation measures in the specific plan policies to minimize or reduce significant environmental impacts to the extent feasible. The EIR is based on extensive quantitative analysis and modeling to assess service requirements for public infrastructure, including parks and open space. The TASP EIR is available [here](#).

Recommendations:

1. Adopt a Resolution Authorizing the City Manager to Execute a Purchase and Sale Agreement for property located at 1831-1841 Tarob Court (APN 086-036-030) located within the Transit Area Specific Plan (TASP) to accommodate extensions of South Milpitas Boulevard and Sango Court; and
2. Approval of Transit Area Development Impact Fee (TADIF) Budget Amendment to appropriate \$11.1 million.

Attachments:

- A) Water Board – No Further Remedial Action Required
- B) Draft Purchase and Sale Agreement
- C) Resolution
- D) Budget Change Form

☐ Check if City Council Approval required.

Meeting Date: September 01, 2020

Requested by:	Department Head: Alex Andrade	Date: September 01, 2020
Reviewed by:	Finance Director: Walter C. Rossmann	Date: September 01, 2020
Date approved by City Council, if required:		Confirmed by:



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve and Authorize the City Manager to Execute an Agreement with Environmental Services Inc. for a Five-Year Agreement Amount Not to Exceed \$214,707.35 to provide Citywide HVAC Maintenance Services, subject to annual appropriation of funds
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	9/1/2020
Staff Contact:	Tony Ndah, 408-586-2602 Chris Schroeder, 408-586-3161
<u>Recommendation:</u>	Approve and authorize the City Manager to execute a five-year agreement with Environmental Services Inc. for citywide HVAC Maintenance Services, for an amount of \$41,270.00 in the first year and a total amount not to exceed \$214,707.35 over the five-year period, subject to annual appropriation of funds.

Background:

On October 7, 2015, the City entered into a contract with ACCO Engineered Systems to perform ongoing preventive maintenance on the City's Heating, Ventilation, and Air Conditioning (HVAC) systems, which provided for up to a five -year contract term. The contract is set to expire on October 6, 2020. In order to provide continued preventative maintenance service on the City's HVAC systems, a Request for Proposals (RFP) was issued to solicit proposals from qualified Contractors.

Analysis:

On April 16, 2020, the Purchasing Division released RFP No. 2411 seeking proposals from qualified vendors with demonstrated experience in providing large-scale heating, ventilation air conditioning (HVAC) services to municipal clients throughout the Bay Area. The RFP was publicly noticed in accordance with the City's Municipal Code, advertised on the City's website, emailed to companies registered with the City via ProcureNow.com (the City's eProcurement system) and a bid notice posted to PublicPurchase.com as well. Additionally, the RFP was published on the City website. Upon release, 163 firms received the solicitation notification and 22 firms downloaded the RFP documents. A mandatory virtual pre-proposal meeting was held on April 29, 2020 and was attended by 13 firms. In addition, four firms attended the mandatory job walk which was held on June 11, 2020.

The Purchasing Division received four proposals by 2:00 pm on the June 25, 2020 deadline in response to the RFP. All four proposals were reviewed for completeness, were accepted and continued in the evaluation process.

The four (4) companies that continued in the evaluation process were:

1. Mesa Energy Systems (MES)
2. ACCO Engineered Systems Inc.
3. PRIDE Industries
4. Environmental Services Inc. (ESI)

The evaluation committee reviewed proposals based on the following criteria:

1. Cover Letter
2. Company Profile
3. Personnel Assigned

4. Execution Plan
5. References, and
6. Proposed Compensation

After an initial evaluation by three City staff members who comprised the evaluation committee, the two highest ranked firms (ESI and ACCO) were invited to and attended an interview to gather further information regarding their proposals and offer the evaluation committee the opportunity to ask clarifying questions before forwarding a recommendation for award to the City Council. Interviews were held via Zoom video conference on July 21, 2020.

The table below shows the final evaluation scores with the recommended firm highlighted in green:

Citywide HVAC Maintenance Services RFP No. 2411	ESI	ACCO	MES	PRIDE Industries
Final Evaluation Score	81.67	71.33	58.67	47.17

Approval of the contract with Environmental Services Inc. will provide the City with continued preventive maintenance services on the City's HVAC systems, which includes, but is not limited to, preventive maintenance of heating and air conditioning equipment, air handlers, residential refrigerant units and heat pumps, forced hot air heaters, water treatment, and system controls.

Policy Alternative:

Alternative: Reject all bids and re-issue RFP for HVAC services.

Pros: Allows City to exploring pricing from additional vendors for this service.

Cons: Would result in a delay in providing preventative maintenance service for the City's HVAC system.

Reason not recommended: Delays in HVAC maintenance can result in major systemwide issues that negatively impact the accessibility of essential City facilities and often result in significant repair costs.

Fiscal Impact:

There are sufficient funds available in the FY 2020-21 operating budget of the Public Works Department to cover the cost of the first year of this contract. Funding for the remaining years of this contract will be subject to annual appropriations.

California Environmental Quality Act:

By the definition provided in the CEQA Guidelines Section 15378, this action does not qualify as a "project" for the purpose of CEQA as this action has no potential to result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

Recommendation:

Approve and authorize the City Manager to execute a five-year agreement with Environmental Services Inc. for citywide HVAC Maintenance Services, for an amount of \$41,270.00 in the first year and a total amount not to exceed \$214,707.35 over the five-year period, subject to annual appropriation of funds.

Attachments:

Maintenance Service Agreement with Environmental Services Inc.

**CITY OF MILPITAS
MAINTENANCE SERVICES AGREEMENT**

1. PARTIES AND DATE.

This Agreement is made _____ by and between the City of Milpitas, a municipal corporation organized under the laws of the State of California with its principal place of business at 455 E. Calaveras Boulevard, Milpitas, California 95035 ("City") and **Environmental Services Inc.** a corporation with its principal place of business at **3353 De La Cruz Blvd, Santa Clara, CA 95054** ("Contractor"). City and Contractor are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

2. RECITALS.

2.1 Contractor.

Contractor desires to perform and assume responsibility for the provision of certain maintenance services required by the City on the terms and conditions set forth in this Agreement. Contractor represents that it is experienced in providing **Citywide HVAC Maintenance Services** to public clients, that it and its employees or subcontractors have all necessary licenses and permits to perform the Services in the State of California, and that is familiar with the plans of City. Contractor shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

2.2 Project.

City desires to engage Contractor to render such services for the Citywide HVAC Maintenance Services project ("Project") as set forth in this Agreement.

3. TERMS.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Contractor promises and agrees to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional Citywide HVAC maintenance services necessary for the Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.1.2 Term.

The term of this Agreement shall be from **October 1, 2020 to September 30, 2025**, unless earlier terminated as provided herein. The City reserves the right to review the Contractor's performance at the end of each year and cancel all or part of the Agreement.

3.2 Responsibilities of Contractor.

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Contractor or under its supervision. Contractor will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. City retains Contractor on an independent contractor basis and not as an employee. Contractor retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Contractor shall also not be employees of City and shall at all times be under Contractor's exclusive direction and control. Contractor shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Contractor shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services. Contractor shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services set forth in Exhibit "B" attached hereto and incorporated herein by reference. Contractor represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Contractor's conformance with the Schedule, City shall respond to Contractor's submittals in a timely manner. Upon request of City, Contractor shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work prepared by Contractor shall be subject to the approval of City.

3.2.4 City's Representative. The City hereby designates the Public Works Manager for Facilities, or his or her designee, to act as its representative for the performance of this Agreement ("City's Representative"). City's Representative shall have the power to act on behalf of the City for all purposes under this Agreement. Contractor shall not accept direction or orders from any person other than the City's Representative or his or her designee.

3.2.5 Contractor's Representative. Contractor hereby designates **Ken Felice, Project Manager**, or his or her designee, to act as its representative for the performance of this Agreement ("Contractor's Representative"). Contractor's Representative shall have full authority to represent and act on behalf of the Contractor for all purposes under this Agreement. The Contractor's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.6 Coordination of Services. Contractor agrees to work closely with City staff in the performance of Services and shall be available to City's staff, consultants and other staff at all reasonable times.

3.2.7 Standard of Care; Performance of Employees. Contractor shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the Services. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally,

Contractor represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, including a City Business License, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Contractor shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Contractor's failure to comply with the standard of care provided for herein. Any employee of the Contractor or its sub-contractors who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the City, shall be promptly removed from the Project by the Contractor and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.8 Period of Performance and Liquidated Damages. Contractor shall perform and complete all Services under this Agreement within the term set forth in Section 3.1.2 above ("Performance Time"). Contractor shall perform the Services in strict accordance with any completion schedule or Project milestones described in Exhibits "A" or "B" attached hereto, or which may be provided separately in writing to the Contractor. Contractor agrees that if the Services are not completed within the aforementioned Performance Time and/or pursuant to any such completion schedule or Project milestones developed pursuant to provisions of this Agreement, it is understood, acknowledged and agreed that the City will suffer damage. Pursuant to Government Code Section 53069.85, Contractor shall pay to the City as fixed and liquidated damages, and not as a penalty, the sum of One Hundred Dollars and Zero Cents (\$100.00) per day for each and every calendar day of delay beyond the Performance Time or beyond any completion schedule or Project milestones established pursuant to this Agreement.

3.2.9 Disputes. Should any dispute arise respecting the true value of any work done, of any work omitted, or of any extra work which Contractor may be required to do, or respecting the size of any payment to Contractor during the performance of this Agreement, Contractor shall continue to perform the Work while said dispute is decided by the City. If Contractor disputes the City's decision, Contractor shall have such remedies as may be provided by law.

3.2.10 Laws and Regulations; Employee/Labor Certifications. Contractor shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Contractor shall be liable for all violations of such laws and regulations in connection with Services. If the Contractor performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the City, Contractor shall be solely responsible for all costs arising therefrom. City is a public entity of the State of California subject to certain provisions of the Health & Safety Code, Government Code, Public Contract Code, and Labor Code of the State. It is stipulated and agreed that all provisions of the law applicable to the public contracts of a municipality are a part of this Agreement to the same extent as though set forth herein and will be complied with. These include but are not limited to the payment of prevailing wages, the stipulation that eight (8) hours' labor shall constitute a legal day's work and that no worker shall be permitted to work in excess of eight (8) hours during any one calendar day except as permitted by law. Contractor shall defend, indemnify and hold City, its officials, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.2.10.1 Employment Eligibility; Contractor. By executing this Agreement, Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time. Such requirements and restrictions include, but are not limited to, examination and retention of documentation confirming the identity and immigration status of each employee of the Contractor. Contractor also verifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Agreement, and shall not violate any such law at any time during the term of the Agreement. Contractor shall avoid any violation of any such law during the term of this Agreement by participating in an electronic verification of work authorization program operated by the United States Department of Homeland Security, by participating in an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, or by some other legally acceptable method. Contractor shall maintain records of each such verification, and shall make them available to the City or its representatives for inspection and copy at any time during normal business hours. The City shall not be responsible for any costs or expenses related to Contractor's compliance with the requirements provided for in Section 3.2.10 or any of its sub-sections.

3.2.10.2 Employment Eligibility; Subcontractors, Sub-subcontractors and Consultants. To the same extent and under the same conditions as Contractor, Contractor shall require all of its subcontractors, sub-subcontractors and consultants performing any work relating to the Project or this Agreement to make the same verifications and comply with all requirements and restrictions provided for in Section 3.2.10.1.

3.2.10.3 Employment Eligibility; Failure to Comply. Each person executing this Agreement on behalf of Contractor verifies that they are a duly authorized officer of Contractor, and understands that any of the following shall be grounds for the City to terminate the Agreement for cause: (1) failure of Contractor or its subcontractors, sub-subcontractors or consultants to meet any of the requirements provided for in Sections 3.2.10.1 or 3.2.10.2; (2) any misrepresentation or material omission concerning compliance with such requirements (including in those verifications provided to the Contractor under Section 3.2.10.2); or (3) failure to immediately remove from the Project any person found not to be in compliance with such requirements.

3.2.10.4 Labor Certification. By its signature hereunder, Contractor certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.2.10.5 Equal Opportunity Employment. Contractor represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

3.2.10.6 Air Quality. Contractor must fully comply with all applicable laws, rules and regulations in furnishing or using equipment and/or providing services, including, but not limited to, emissions limits and permitting requirements imposed by the California Air

Resources Board (CARB). Contractor shall specifically be aware of the CARB limits and requirements' application to "portable equipment", which definition is considered by CARB to include any item of equipment with a fuel-powered engine. Contractor shall indemnify City against any fines or penalties imposed by CARB or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Contractor, its subcontractors, or others for whom Contractor is responsible under its indemnity obligations provided for in this Agreement.

3.2.10.7 Water Quality.

(A) Management and Compliance. To the extent applicable, Contractor's Services must account for, and fully comply with, all local, state and federal laws, rules and regulations that may impact water quality compliance, including, without limitation, all applicable provisions of the Federal Water Pollution Control Act (33 U.S.C. §§ 1300); the California Porter-Cologne Water Quality Control Act (Cal Water Code §§ 13000-14950); laws, rules and regulations of the Environmental Protection Agency and the State Water Resources Control Board; the City's ordinances regulating discharges of storm water; and any and all regulations, policies, or permits issued pursuant to any such authority regulating the discharge of pollutants, as that term is used in the Porter-Cologne Water Quality Control Act, to any ground or surface water in the state.

(B) Liability for Non-Compliance. Failure to comply with the laws, regulations and policies described in this Section is a violation of law that may subject Contractor or City to penalties, fines, or additional regulatory requirements. Contractor shall defend, indemnify and hold the City, its officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from and against any and all fines, penalties, claims or other regulatory requirements imposed as a result of Contractor's non-compliance with the laws, regulations and policies described in this Section, unless such non-compliance is the result of the sole established negligence, willful misconduct or active negligence of the City, its officials, officers, agents, employees or authorized volunteers.

(C) Training. In addition to any other standard of care requirements set forth in this Agreement, Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them without impacting water quality in violation of the laws, regulations and policies described in this Section. Contractor further warrants that it, its employees and subcontractors will receive adequate training, as determined by City, regarding the requirements of the laws, regulations and policies described in this Section as they may relate to the Services provided under this Agreement. Upon request, City will provide Contractor with a list of training programs that meet the requirements of this paragraph.

3.2.11 Insurance. Contractor shall not commence work for the City until it has provided evidence satisfactory to the City it has secured all insurance required under Exhibit "D" (Insurance Requirements), attached hereto and incorporated herein by this reference. In addition, Contractor shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required therein.

3.2.12 Safety. Contractor shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Contractor shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable

shall include, but shall not be limited to: (A) adequate life protection and lifesaving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

3.2.13 Bonds.

[RESERVED]

3.3 Fees and Payments.

3.3.1 Compensation. Contractor shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The total compensation shall not exceed **Two Hundred Fourteen Thousand Seven Hundred Seven Dollars and Thirty-Five Cents (\$214,707.35)** without written approval of City's City Manager. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

3.3.2 Payment of Compensation. Contractor shall submit to City a monthly itemized statement which indicates work completed and hours of Services rendered by Contractor. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. City shall, within forty-five (45) days of receiving such statement, review the statement and pay all approved charges thereon.

3.3.3 Reimbursement for Expenses. Contractor shall not be reimbursed for any expenses unless authorized in writing by City.

3.3.4 Extra Work. At any time during the term of this Agreement, City may request that Contractor perform Extra Work. As used herein, "Extra Work" means any work which is determined by City to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Contractor shall not perform, nor be compensated for, Extra Work without written authorization from City's Representative.

3.3.5 California Labor Code Requirements

a. Contractor is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000.00 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. Contractor shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Contractor and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775),

employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

b. If the Services are being performed as part of an applicable “public works” or “maintenance” project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Contractor and all subcontractors performing such Services must be registered with the Department of Industrial Relations. Contractor shall maintain registration for the duration of the Project and require the same of any subcontractors, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

c. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Contractor’s sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor that affect Contractor’s performance of Services, including any delay, shall be Contractor’s sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Contractor caused delay and shall not be compensable by the City. Contractor shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor.

3.4 Termination of Agreement.

3.4.1 Grounds for Termination. City may, by written notice to Contractor, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Contractor of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Contractor shall be compensated only for those services which have been adequately rendered to City, and Contractor shall be entitled to no further compensation. Contractor may not terminate this Agreement except for cause.

3.4.2 Effect of Termination. If this Agreement is terminated as provided herein, City may require Contractor to provide all finished or unfinished Documents and Data and other information of any kind prepared by Contractor in connection with the performance of Services under this Agreement. Contractor shall be required to provide such document and other information within fifteen (15) days of the request.

3.4.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.4.4 Agreement Subject to Appropriation of Funds. The Contractor understands and accepts that at all times; the Agreement is subject to appropriation of funds by the Milpitas City Council. The Agreement may terminate without penalty, liability or expense of any kind to the City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year.

If funds are appropriated for a portion of the fiscal year, the Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. The City has no obligation to make appropriations for the Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and City Council. Contractor's assumption of risk of possible non-appropriation is a part of the consideration for the Agreement. This section controls against any and all other provisions of the Agreement

3.5 General Provisions.

3.5.1 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Contractor:

Environmental Systems Inc.
3353 De La Cruz Blvd.
Santa Clara, CA 95054
Attn: Ken Felice, Sr. Project Manager

City:

City of Milpitas
1265 N. Milpitas Boulevard
Milpitas, California 95035
Attn: Tony Ndah, Director of Public Works

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.5.2 Indemnification.

3.5.2.1 Scope of Indemnity. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold the City, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions of Contractor, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Contractor's Services, the Project or this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses. Notwithstanding the foregoing, to the extent Contractor's Services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor.

3.5.2.2 Additional Indemnity Obligations. Contractor shall defend, with Counsel of City's choosing and at Contractor's own cost, expense and risk, any and all claims, suits, actions or other proceedings of every kind covered by Section 3.5.2.1 that may be brought or instituted against City or its officials, officers, employees, volunteers and agents. Contractor

shall pay and satisfy any judgment, award or decree that may be rendered against City or its officials, officers, employees, volunteers and agents as part of any such claim, suit, action or other proceeding. Contractor shall also reimburse City for the cost of any settlement paid by City or its officials, officers, employees, agents or volunteers as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for City's attorneys' fees and costs, including expert witness fees. Contractor shall reimburse City and its officials, officers, employees, agents, and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall survive expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by the City, its officials officers, employees, agents, or volunteers.

3.5.3 Governing Law; Government Code Claim Compliance. This Agreement shall be governed by the laws of the State of California. Venue shall be in Santa Clara County, California. In addition to any and all Agreement requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, claims and/or changed conditions, Contractor must comply with the claim procedures set forth in Government Code sections 900 et seq. prior to filing any lawsuit against the City. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Contractor. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Contractor shall be barred from bringing and maintaining a valid lawsuit against the City.

3.5.4 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.5.5 City's Right to Employ Other Contractors. City reserves right to employ other contractors in connection with this Project.

3.5.6 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

3.5.7 Assignment or Transfer. Contractor shall not assign, hypothecate or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the City. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.5.8 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Contractor include all personnel, employees, agents, and subcontractors of Contractor, except as otherwise specified in this Agreement. All references to City include its officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content or intent of this Agreement.

3.5.9 Amendment; Modification. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.5.10 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel or otherwise.

3.5.11 No Third Party Beneficiaries. Except to the extent expressly provided for in Section 3.5.7, there are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.5.12 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.5.13 Prohibited Interests. Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Contractor further agrees to file, or shall cause its employees or subcontractors to file, a Statement of Economic Interest with the City's Filing Officer as required under state law in the performance of the Services. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.5.14 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.5.15 Attorneys' Fees and Costs. If any action in law or equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing Party shall be entitled to recover from the losing party attorney's fees and costs in an amount determined to be reasonable by a court of competent jurisdiction.

3.5.16 Authority to Enter Agreement. Contractor has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.5.17 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.5.18 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both parties.

3.5.19 Wage Theft Prevention.

3.5.19.1 Contractor, and any subcontractor it employs to complete work under this Agreement, shall comply with all applicable federal, state and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act, the California Labor Code and the Milpitas Minimum Wage Ordinance.

3.5.19.2 BY SIGNING THIS AGREEMENT, CONTRACTOR AFFIRMS THAT IT HAS DISCLOSED ANY FINAL JUDGMENTS, DECISIONS OR ORDERS FROM A COURT OR INVESTIGATORY GOVERNMENT AGENCY, FINDING IN THE FIVE (5) YEARS PRIOR TO EXECUTING THIS AGREEMENT THAT CONTRACTOR OR ITS SUBCONTRACTORS HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. CONTRACTOR FURTHER AFFIRMS THAT IT OR ITS SUBCONTRACTOR(S) HAS EITHER FULLY SATISFIED EACH JUDGMENT, DECISION OR ORDER, OR, IF ANY JUDGMENT, DECISION OR ORDER HAS NOT BEEN FULLY SATISFIED, CONTRACTOR AFFIRMS THAT IT OR ITS SUBCONTRACTOR(S) IS CURRENTLY SATISFYING SAID JUDGMENT, DECISION OR ORDER THROUGH A PAYMENT OR ALTERNATIVE PLAN APPROVED BY THE APPLICABLE COURT/GOVERNMENT AGENCY AND THAT CONTRACTOR OR ITS SUBCONTRACTOR(S) ARE IN COMPLIANCE WITH SAID PLAN AS OF THE DATE OF EXECUTING THIS AGREEMENT.

3.5.19.3 If at any time during the term of this Agreement, a court or investigatory government agency issues a final judgment, decision or order finding that Contractor or a subcontractor it employs to perform work under this Agreement has violated any applicable wage and hour law, or Contractor learns of such a judgment, decision, or order that was not previously disclosed in its bid/proposal, Contractor shall inform the City no more than fifteen (15) calendar days after the judgment, decision or order becomes final or from the date of learning of the final judgment, decision or order. Contractor or its subcontractor(s) shall, within thirty (30) calendar days after notifying the City, either (i) fully satisfy any such judgment, decision, or order and provide the City with documentary evidence of satisfying said judgment, decision or order; or (ii) provide the City documentary evidence of a payment or other alternative plan approved by the court/government agency to satisfy the judgment, decision or order. If the Contractor or its subcontractor is subject to a payment or other alternative plan, the Contractor or its subcontractor shall continue to submit documentary evidence every thirty (30) calendar days during the term of the Agreement demonstrating continued compliance with the plan until the judgment, decision or order has been fully satisfied.

3.5.19.4 For purposes of this Section, a "final judgment, decision, or order" refers to one for which all appeals have been exhausted or the time period to appeal has expired. Relevant investigatory government agencies include: the United States Department of Labor, the California Division of Labor Standards Enforcement, the City, or any other governmental entity or division tasked with the investigation and enforcement of wage and hour laws.

3.5.19.5 Failure to comply with any part of this Section constitutes a material breach of this Agreement. Such breach may serve as a basis for immediate termination of this Agreement and/or any other remedies available under this Agreement and/or law.

3.5.19.6 Notice provided to the City shall be addressed to: Attention: Finance Director, 455 E. Calaveras Blvd. Milpitas, CA 95035. The Notice provisions of this Section

are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section.

3.5.20 Federal Provisions.

[RESERVED]

[SIGNATURES ON NEXT PAGE]

**SIGNATURE PAGE FOR MAINTENANCE SERVICES AGREEMENT
BETWEEN THE CITY OF MILPITAS
AND ENVIRONMENTAL SERVICES INC.**

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the date first written above.

CITY OF MILPITAS

Approved By:

Steven G. McHarris
City Manager

Date

Approved As To Form:

Christopher J. Diaz
City Attorney

Approved:

Walter C. Rossmann
Risk Manager/Director of Finance

Approved As To Content:

Tony Ndah
Director of Public Works

ENVIRONMENTAL SERVICES INC.

Signature

Name

Title

Date

EXHIBIT "A"
SCOPE OF SERVICES

Summary of Scope of Work

The Contractor must provide all labor, supervision, supplies, materials, tools, equipment, insurance, fuel charges, tolls, taxes, and permits necessary to perform all preventive and predictive maintenance for heating, air conditioning and ventilation units in various City-owned or occupied facilities as defined in this Scope of Work.

The City of Milpitas requires a qualified service provider with a C-20 California State Contractor's License to provide scheduled inspections and comprehensive preventative maintenance to comply with manufacturer's warranty or warranties, as applicable and improve equipment operations, increase efficiency, minimize breakdowns and prolong equipment life as well as develop an equipment maintenance and replacement program.

1. EQUIPMENT AND FACILITIES TO BE SERVICED

A this of equipment to be serviced as part of this contract is provided in **Attachment A**. The following table lists the various buildings, square footage and descriptions.

BUILDING NAME	SQUARE FOOTAGE	BUILDING DESCRIPTION
City Hall	96,808	Four story building with underground parking garage
Fire Station No. 1	15,000	Three story building
Fire Station No. 2	10,259	Single story building, opening Winter 2021
Fire Station No. 3	6,100	Single story building
Fire Station No. 4	6,668	Two story building
Milpitas Sports Center	44,676	Single story building
Barbara Lee Senior Center	10,000	Single story building
Police Department	57,320	Two story building
Public Works Department	15,520	Two story building
Sal Cracolice Building	5000	Single story building
Fleet Maintenance	6,250	Two story building at the Corporation Yard
Jose Higurea Adobe	1,200	Single story historical building

2. SERVICES TO BE PROVIDED

2.A. BASELINE EQUIPMENT INVENTORY AND CONDITION ASSESSMENT

The City of Milpitas has provided information about the physical location, type, make and model of the City's HVAC equipment to the best of its knowledge and ability. It is understood that the information is not 100% accurate. Therefore, prior to commencing maintenance services, the Contractor will work with Facilities Maintenance staff to walk each City building and conduct a

Baseline Equipment Inventory to document the physical location, type, make and model of all City HVAC equipment. The Contractor shall provide recommended updates/changes for the HVAC Equipment Inventory in an editable Microsoft Excel spreadsheet to the Assigned Public Works Manager within four (4) weeks of the beginning of the contract term. Contractor shall update the Equipment Inventory and Condition Report annually at no additional costs to the City and prior to October 30th of each year.

The initial inventory/report will document the condition of all equipment to be serviced by:

- Building address, building name, specific equipment location within the building
- Manufacturer name, equipment description; model and serial number and quantity
- Applicable warranties (Manufacture, Servicing entity; labor and materials)
- Rate the equipment condition as Excellent, Good, Satisfactory, Poor or Fail. Only new equipment or equipment under manufacturer warranty can be classified as “**Excellent**”; “**Good**” condition means that there are no current known repairs required; **Satisfactory** means that there are foreseeable minor repairs within twelve (12) months from the contract commencement date, but not required at the time of inspection; **Poor** or **Fail** means that repairs or replacement parts/equipment are required to bring the equipment up to routine maintenance serviceable condition.

2.B. PREVENTIVE MAINTENANCE PER MANUFACTURERS SPECIFICATIONS

Initial Preventive Maintenance Service. The contractor shall hold a contract kick-off meeting with the Assigned Public Works Manager within 30 calendar days following notice to proceed, to develop a timeline for all scheduled preventive maintenance and seasonal service visits for the first year. Service is to be performed from 8:00 a.m. to 5:00 p.m., Monday through Friday. The initial preventive maintenance schedule shall be due ten (10) calendar days following the contract kick-off meeting.

Regularly scheduled preventive Maintenance shall be comprehensive pursuant to manufacturer specifications for all city buildings and equipment. It shall include all routine preventative maintenance services as well as additional services not limited to the following:

Heating and Air Conditioning Equipment

- a. Check with General Buildings Supervisor and appropriate customer representative for operational deficiencies
- b. Check area around equipment
- c. Examine each piece of equipment and device to see that it is functioning properly and is in good operational condition.
- d. Clean all components of dust, old lubricants, etc. to allow the equipment to function as designed.
- e. Lubricate all equipment where needed to permit bearings, gears, and all contact wearing points to operate freely and without undue wear.
- f. Adjust all linkages, motors, drives, etc. that have drifted from the initial design settings and positions.
- g. Calibrate all sensing, monitoring, output, safety, and readout devices for proper ranges, settings, and optimum efficiencies.
- h. Check system thermostat operation, temperature and pressure controls and adjust as

- necessary
- i. Inspect and tighten all electrical connections
- j. Check for proper voltage and amp draw.
- k. Inspect safeties
- l. Inspect all contactor and relays
- m. Inspect all wiring for chafing, burning, or deteriorated insulation
- n. Inspect all breakers
- o. Inspect capacitors
- p. Check rain guards
- q. Check insulation and clamps
- r. Check and adjust dampers
- s. Lubricate all motors, bearings, and any other moving parts
- t. Inspect air filters and clean or replace as necessary
- u. Check all applicable belts, for proper condition; replace all belts once at the beginning of each contract year and then as necessary
- v. Check all applicable belt tension and adjust as necessary
- w. Check drives and pulleys for tightness and alignment
- x. Inspect fan control
- y. Inspect and adjust all valves
- z. Inspect oil in compressors and add if necessary
- aa. Wash fans at beginning of each contract year
- bb. Any applicable VAV Boxes are to be serviced once per year.
- cc. Check for unusual noises, vibration and wear
- dd. Carry out other preventive maintenance procedure recommended by the equipment manufacturers
- ee. Test and cycle all equipment as a system after it has been cleaned, lubricated, adjusted, and calibrated, to see that it is in good operational condition and at optimum efficiency
- ff. Provide itemized checklist documentation of Preventive Maintenance activities per location and report observations and any unusual or out of scope conditions to the Facilities Maintenance Manager.
- gg. Recommend the repair of the device by the addition of replacement parts, should the described maintenance not be adequate
- hh. Recommend the replacement of the device if needed, in view of its condition, age, and cost of previous and subsequent repair
- ii. Provide service tag on all serviced units, containing the information listed per these specifications

Heating Equipment

- a. Inspect all pilot lights and operation of the ignition system
- b. Inspect and clean the flame sensor
- c. Inspect and adjust burner assembly
- d. Inspect flue pipe, diverter and flue connections
- e. Inspect the heat exchanger
- f. Inspect heating coils
- g. Inspect temperature rise
- h. Inspect furnace safety controls
- i. Inspect fuel input
- j. Inspect for gas leaks

- k. Inspect gas valve operation
- l. Inspect gas pressure and set to factory specifications
- m. Inspect backup heat elements
- n. Inspect sequencer operation
- o. Inspect actual amperage draw on motors
- p. Inspect actual voltage to the unit
- q. Inspect oil filter and oil pressure switches
- r. Inspect all high limits and safety controls
- s. Inspect reversing valve operation
- t. Inspect valves, stem traps and belts
- u. Inspect flue pipe, diverter and flue connections
- v. Inspect any applicable hot water heaters, boilers and related pumps. Inspection shall include annual tune-up of burners and cleaning of boilers as required.

Air Conditioning Equipment

- a. Check refrigerant systems for leaks and operation
- b. Inspect temperature drop
- c. Check condenser general operation and condition and clean condenser coil thoroughly at the beginning of each contract year and then as necessary
 - i. Check for scaling or corrosion of water-cooled condensers, clean as required.
 - ii. Check condition of air-cooled condensers, clean as required.
- d. Check and adjust condensate pumps and drains as necessary
- e. Inspect and clean condensate drain pan, drains, and traps to ensure proper draining. Inform the Assigned Public Works Manager of unusual or discolored drain pan accumulations.
- f. Replenish condensate treatment tablets
- g. Inspect condenser fans – blade conditions, clearance, etc.
- h. Lubricate condenser fan motors and bearings
- i. Inspect amp and voltage draw
- j. Inspect evaporator coils and clean at the beginning of each contract year, then as necessary
- k. Inspect evaporator drip pan, drains, and filters
- l. Inspect all compressors and starter – contacts and free movement
- m. Inspect compressor general operation and condition, oil level, head pressure and suction pressure
- n. Inspect refrigerant pressure and charge and replenish as needed
- o. Inspect refrigerant system for leaks and for potential leak points–chafing lines, cap tubes, etc.
- p. Record amount of refrigerant, if applicable:
 - i. Removed from system _____ and amount replaced _____
- q. Inspect unit disconnect system
 - i. Record unit voltage – rated _____, and actual _____
- r. Inspect “economizer”, if applicable
- s. Megohm or oil test compressors – record readings _____
- t. Inspect compressor terminals
- u. Inspect disconnect power box
- v. Inspect all coils for cleanliness, fin condition
- w. Check for leaks in air supply if applicable

- x. Inspect the system to avoid or correct freeze up

Air Handlers

- a. Check and change filters as necessary
- b. Replace all belts one time per year
- c. Check drive components for wear and alignment
- d. Check blower wheels – conditions and cleanliness
- e. Inspect blower housing, deck mountings – cracks, loose bolts, etc.
- f. Check fan bearings
- g. Check blower bearings
- h. Check blower motor bearings
- i. Lubricate all bearings at least once at the beginning of each contract year and then as necessary
- j. Record supply fan amperage – rated _____, actual _____
- k. Record return fan amperage – rated _____, actual _____
- l. Inspect all wiring for chafing, burning, deteriorated insulation
- m. Record overall condition of equipment
- n. Check heat and cooling coils for cleanliness and clean if needed

Residential Refrigerant Type A/C Units, Heat Pumps

- a. Check economizer operation
- b. Check compressor crankcase heater(s)
- c. Record:
- d. Compressor voltage _____
- e. Compressor amperage _____
- f. Operating suction pressure _____
- g. Operating head pressure _____
- h. Operating superheat _____
- i. Operating oil level _____
- j. Operating oil pressure _____
- k. Check unloader function, if applicable
- l. Check hot gas bypass function, if applicable
- m. Check all controls for proper function and setpoints
- n. Check and record discharge air temperature
- o. Record overall condition of equipment

Forced Hot Air Heaters, Gas

- a. Check combustion controls
- b. Check room air intake system
- c. Check contacts
- d. Check mercury bulbs
- e. Inspect all wiring for chafing, burning and deteriorated insulation
- f. Clean internal surfaces, if necessary
- g. Clean external surfaces
- h. Clean burner assembly, if necessary
- i. Clean fireside
- j. Clean flue
- k. Inspect refractory

- l. Prepare heater for winter conditions
- m. Do efficiency test and record
- n. Log heater condition at departure

Controls: Temperature, Humidity HVAC Sensors

- a. Check alarms
- b. Check the operation of all controls, thermostats, starters, relays, pressure switches, disconnect switches and fuses
- c. Perform programming adjustments where needed
- d. Clean where needed
- e. Check for any overrides
- f. Check set points, make adjustments where needed
- g. Check contacts and relays, clean or tighten contact where needed
- h. Check thermostats, calibrate if needed
- i. Check sensors and adjust if needed
- j. Annual Calibration of Garage Exhaust System Sensors
- k. Perform Cooling Tower Drain and Flush

System Controls

- a. Log onto Automated Logic Controls (ALC) or Johnson Controls Front end
- b. Check for alarm condition
- c. Identify out-of-spec zones
- d. Troubleshoot out-of-spec zones
- e. Check room thermostats and calibrate, as required
- f. Check control valves
- g. Check dampers
- h. Back-up and restore hard drive

Water Treatment.

Monthly water treatment service will include the following:

- Contractor shall take water samples of both the make up and re-circulating water on a monthly basis.
- Contractor shall complete a field test at the jobsite and shall report results on the City's CMMS.
- Water tests shall measure the following items:
 - Conductivity- measures the amount of minerals present in the water. The unit of measurement shall be in micro mhos (Mmhos).
 - Calcium Hardness – measures the amount of calcium scale present in the water. The unit of measure shall be parts per million (ppm).
 - Total Alkalinity – measures the level of alkaline present in the water. The unit of measure shall be parts per million (ppm).
 - Chlorides - measures the level of chlorides in the water. The unit of measure shall be parts per million (ppm).
 - Total Threshold Sequestrates – measures the level of scale inhibitor in the recirculating system only. The unit of measurement shall be parts per million

- Contractor shall feed an algicide and biocide to cut bacteria growth as required. All chemicals provided by Contractor shall be in full compliance with State and federal regulations. Contractor will provide City of Milpitas with safety data information on all chemicals utilized in conjunction with the proposed water treatment program.

2.C. SEASONAL MAINTENANCE

Initial Seasonal Preventive Maintenance. The Contractor shall provide a preventive maintenance and inspection program covering all City HVAC equipment to the Assigned Public Works Manager within ten (10) calendar days prior to the first service visit.

Initial Seasonal Inventory. The first service for each unit will include confirmation, in writing, of each unit's location, type, model number, serial number, size and filter.

The Contractor shall provide the services required of each season by the deadline(s) shown in the schedule below to assure optimum and continuous HVAC equipment functioning. All seasonal Maintenance shall be completed within the calendar month outlined below.

Contract Year 1		
Maintenance Scheduled	Start Date	Completed by Date
Fall Maintenance	October 1	October 31
Winter Maintenance	December 1	December 31
Spring Maintenance	March 1	March 31
Summer Maintenance	June 1	June 30

Contract Years 2-5		
Maintenance Scheduled	Start Date	Completed by Date
Fall Maintenance	September 1	September 30
Winter Maintenance	December 1	December 31
Spring Maintenance	March 1	March 31
Summer Maintenance	June 1	June 30

Spring Inspection / Service: The Contractor shall schedule and perform a Pre-Cooling season maintenance service call. The following services shall be performed in addition to regularly scheduled maintenance:

- Cycle units and check pressures and refrigerant charge
- Be sure condensate lines are clean and pump is working properly
- Visually inspect all wiring
- Check and clean the indoor and outdoor coil if needed
- Provide and replace filters, inspect belts, replace as needed

Summer Inspection / Service: The Contractor shall schedule and perform the following in addition to regularly scheduled maintenance:

- Provide and replace filters, inspect belts, replace as needed
- Visually inspect all wiring

Fall Inspection / Service: The Contractor shall schedule and perform a Pre-Heating season maintenance service call. The following services shall be performed in addition to regularly scheduled maintenance:

- i. Cycle and check each unit for proper heating operation
- ii. Check and clean pilot lights and bearings if needed
- iii. Provide and replace filters, inspect belts, replace as needed
- iv. Visually inspect all wiring
- v. Inspect and service or repair gas radiant tube and space heaters

Winter Inspection / Service: The Contractor shall schedule and perform the following services in addition to regularly scheduled maintenance:

- i. Provide and replace filters, inspect belts, replace as needed
- ii. Visually inspect all wiring

2.D. ANNUAL PREVENTIVE MAINTENANCE

The contractor shall hold a contract kick-off meeting with the Assigned Public Works Manager within 30 calendar days following notice to proceed, to develop a timeline for the annual preventive maintenance. The initial annual maintenance schedule shall be due ten (10) calendar days following the contract kick-off meeting.

Contractor will troubleshoot and/or diagnose HVAC/Mechanical problems and recommend emergency or routine repair programs as required. Annual preventive maintenance shall include detailed maintenance reports for each system.

Annual preventive maintenance will include any and all costs for providing the necessary labor, tools, equipment, mobilization/demobilization, licenses and incidental materials such as fluids, belts and filters, etc. per the Annual Preventive Maintenance items below as required to test, maintain, and diagnose the specified HVAC equipment, including but not limited to air flow analysis, water quality and flow, delta T, humidity, refrigerant and electronic conditions.

Test and Inspection - All labor to visually inspect and search for worn, failed and/or doubtful parts. Visually check coil surfaces, fan blades, fan belts, couplings, equipment housings, motor mounts, dampers, valves, fluid levels, VAV boxes, heat exchangers, etc. Make recommendations to the City of any necessary replacements and/or adjustments outside of scheduled maintenance service(s).

Preventive Maintenance and Predictive Maintenance – Labor to perform preventive maintenance on the equipment included. Maintenance intervals for systems and equipment are determined by run time, system use, application, location and manufacturer's recommendations.

Consumable Materials – Routine maintenance parts and supplies included at no additional cost to the City during the life of the contract such as: refrigerant, fan or drive belts, lubricants, grease, towels/rags, wire nuts and small quantities of electrical wire and cable up to 8 AWG, electrical tape/shrink tubing as required to maintain insulation integrity, paint and rust proofing

as required to prevent corrosion damage to metal parts, cleaning solutions, oil and clean-up materials. **NOTE: All refrigerant required to be removed from any unit during any maintenance or repair procedure shall be captured and replaced at no cost to the City. Any new refrigerant added to fully charge any system shall be at verified contractors cost plus a maximum of 10% markup.**

Air Filter Media and Service - Includes regular air filter changing per the manufacturer's specifications. Includes monitoring of air filter conditions. Should additional changes be required, Air Filter Media and Service include notifying the City of any recommended adjustments to the maintenance program.

Coil Service - One (1) annual cleaning of each condenser coil each Spring service or as defined in manufacturer's Equipment and Maintenance Schedule. Should additional cleaning be required, Coil Service includes notifying the City of any necessary adjustments to this program.

Belt Service – The Contractor will include one (1) annual belt change for each belt in the system during each Fall Service. Should additional belt changes be required, Belt Service includes notifying the City of any necessary adjustments to this program.

Service Tag/Sticker - All technicians shall complete a service tag/sticker and attach it to the serviced equipment after completion of work. The service tag/sticker shall be used to document the following information: the date serviced, the name of the technician(s), and a description of the service(s) performed. The service tag/sticker must contain adequate space to document future repairs and must be placed in a location to prevent weather related damages. The technician shall not place the new service tag over pre-existing service tags, including tags that have previous history and repairs.

3. GENERAL PROVISIONS AND PARTIAL LIST OF CONTRACT DELIVERABLES / REPORTS

a. General Provisions

- All parts, supplies and materials used must be new and comply with manufacture warranty requirements.
- All work performed under the contract shall meet all applicable state and local laws, rules, regulations and codes. The Contractor shall be responsible for obtaining all necessary permits. Permits issued by the City of Milpitas shall be no-fee permits.

b. Designated Contact Person - Contractor

The Contractor must provide the names, telephone numbers and email addresses of its Project Manager and back-up Project Manager who is designated as crew leader and point of contact for work to be executed under the contract.

- *The contractor must always notify the designated City personnel prior to arriving on City premises to start work. Likewise, when leaving for the day, the Contractor must notify the designated City personnel to notify the City of their departure upon completing work for the day.*

- The Contractor shall ensure that all staff wears clearly visible identification badges (company name/first name) and/or company uniforms when working on a job site for the City.
- The Contractor's Project Manager/Foreman must be able to work unsupervised and run a crew.
- Contractor will not assign any personnel for whom background checks have revealed factors that make them unsuitable for the work to be undertaken for the city. This includes replacement personnel and subcontractors.
- All personnel who report to work in buildings occupied by the Police Department require a background check which will be conducted by the City of Milpitas Police Department at no cost to the contractor.
- The Contractor will provide its assigned personnel with a copy of the installed HVAC equipment manufacturer's manuals to be used to effectively service the systems.
- Contractor's service personnel shall be equipped with the appropriate equipment and tools for testing and servicing

c. Designated Contact Person – City

Prior to commencement of services, the City shall provide the Contractor with a contact list for City Representatives required for the Contractor to execute its work.

d. Reporting.

COMPUTERIZED MAINTENANCE MANAGEMENT SYSTEM (CMMS). The City will be using a web-based CMMS called Lucity for work orders, cost tracking, and asset management. The contractor must be willing to use this system (at no cost to the City) for all work performed under this contract.

MAINTENANCE AND SERVICE REPORTS. The Contractor shall submit a full report for all scheduled maintenance and service calls. All information shall be inputted to the City's CMMS system to the satisfaction of the City's Facilities Manager. The Contractor shall submit a full report for all work, not later than five (5) working days after such maintenance work is completed. The report shall include the following minimum information or as otherwise determined by the assigned Public Works Manager:

- a. Date of the maintenance or service request
- b. Name of City representative that placed the service call
- c. Date of service
- d. Time in and time out
- e. Type of Service
- f. Building serviced
- g. Specific area and equipment being serviced (location of equipment, make and model, serial number)
- h. Services performed or scheduled completion date
- i. Number of service hours
- j. Name of the technician
- k. Hourly rate for services performed
- l. Parts and Material(s) used
- m. Cost of material(s)/equipment

- n. Job title of the technician(s); Job Classification and Skill Level
- o. Signature of building representative
- p. Warranty of any new material/equipment installed (labor included)

SPECIAL REPORTS. If an issue is discovered that has the potential to become a major problem, or if it may be the cause for shutdown repairs, this problem must be directly brought to the attention of the Assigned Public Works Manager orally and in writing so that a plan of action can be formulated for the timeliest repair to the equipment.

REFRIGERANT STATUS REPORT. Refrigerant Status Report shall be executed every time refrigerant is added to or removed from any air conditioning unit. This form shall comply with EPA guidelines in form and content. One copy of each form shall be given to the assigned Public Works Manager, one copy shall be left on the jobsite in close proximity to the machine/equipment serviced and a copy shall be kept at the Contractor's office.

HVAC CAPITAL EQUIPMENT REPLACEMENT PLAN. A five (5) year HVAC Capital Equipment Replacement Plan, estimating equipment and replacement costs, must be provided at the end of the first year as part of the Annual Equipment Condition Report.

e. Invoicing

Invoices shall be sent within fifteen (15) calendar days of completion of each seasonal maintenance completion. Invoices shall only be processed by assigned Public Works Manager after verifying the completion of all items reported on the invoice. Invoices shall be numbered sequentially and shall include the following information as well as the other required items described in these specifications:

- i. Contractor's name, address, email address, and telephone number
- ii. Contractor's remittance address (if different from Item "i" above)
- iii. Date of Invoice
- iv. Service location/address
- v. Purchase Order number
- vi. Authorized Work Order number and City approver
- vii. Date(s) of services
- viii. Complete and detailed description of services and costs (labor, materials, rented equipment, markups, etc.)
- ix. Total cost
- x. Name and date of reports, as applicable
- xi. Copies of required reports, as applicable
- iii.

f. Work Hours

For the purposes of this contract and due to the nature of the facilities covered under the terms of this agreement work hours are defined as follows:

- **Regular Hours:** Regular hours are defined as Monday through Friday from 8:00 a.m. to 5:00 p.m.
- **Overtime Hours:** Overtime hours are defined as Monday through Saturday outside of Regular Hours.
- **Premium/Holiday Hours:** Holiday/Premium hours are defined as anytime on Sundays and City Holidays.

EXHIBIT “B”

SCHEDULE OF SERVICES

Contractor shall adhere to all schedules outlined in Exhibit “A”. Any modification to schedules in Exhibit “A” shall be in writing and signed by the city’s project manager or their designee.

EXHIBIT "C"
COMPENSATION

[BEGINS ON FOLLOWING PAGE]

Year 1 Pricing

<u>FACILITY</u>	<u>Annual Maintenance</u>	<u>Fall Maintenance</u>	<u>Winter Maintenance</u>	<u>Spring Maintenance</u>	<u>Summer Maintenance</u>	<u>Annual Total</u>
Fleet Maintenance	\$ 300.00	\$ 450.00	\$ 150.00	\$ 450.00	\$ 150.00	\$ 1,500.00
Public Works/Police Main Building	\$ 1,685.00	\$ 3,750.00	\$ 2,950.00	\$ 3,750.00	\$ 2,950.00	\$ 15,085.00
Barbara Lee Senior Center	\$ 1,050.00	\$ 1,350.00	\$ 650.00	\$ 1,350.00	\$ 650.00	\$ 5,050.00
Community Center	\$ 1,160.00	\$ 750.00	\$ 375.00	\$ 750.00	\$ 375.00	\$ 3,410.00
Cracolice Buildings	\$ 400.00	\$ 300.00	\$ 150.00	\$ 300.00	\$ 150.00	\$ 1,300.00
Jose Higuera Adobe Sport Center	\$ -	\$ 150.00	\$ 150.00	\$ 150.00	\$ 150.00	\$ 600.00
City Hall	\$ 750.00	\$ 800.00	\$ 475.00	\$ 800.00	\$ 475.00	\$ 3,300.00
Fire Station 1	\$ 600.00	\$ 1,800.00	\$ 750.00	\$ 1,800.00	\$ 750.00	\$ 5,900.00
Fire Station 2	\$ 400.00	\$ 600.00	\$ 150.00	\$ 600.00	\$ 150.00	\$ 1,900.00
Fire Station 3	\$ 175.00	\$ 300.00	\$ 150.00	\$ 300.00	\$ 150.00	\$ 1,075.00
Fire Station 4	\$ 175.00	\$ 300.00	\$ 150.00	\$ 300.00	\$ 150.00	\$ 1,075.00
				Contract Year 1 NTE		\$ 41,270.00

Year 2 Pricing

<u>FACILITY</u>	<u>Annual</u> <u>Maintenance</u>	<u>Fall</u> <u>Maintenance</u>	<u>Winter</u> <u>Maintenance</u>	<u>Spring</u> <u>Maintenance</u>	<u>Summer</u> <u>Maintenance</u>	<u>Annual Total</u>
Fleet Maintenance	\$ 300.00	\$ 450.00	\$ 150.00	\$ 450.00	\$ 150.00	\$ 1,500.00
Public Works/Police Main Building	\$ 1,685.00	\$ 3,750.00	\$ 2,950.00	\$ 3,750.00	\$ 2,950.00	\$ 15,065.00
Barbara Lee Senior Center	\$ 1,050.00	\$ 1,350.00	\$ 650.00	\$ 1,350.00	\$ 650.00	\$ 5,050.00
Community Center	\$ 1,150.00	\$ 750.00	\$ 375.00	\$ 750.00	\$ 375.00	\$ 3,410.00
Cracolice Buildings	\$ 400.00	\$ 300.00	\$ 150.00	\$ 300.00	\$ 150.00	\$ 1,300.00
Jose Higuera Adobe	\$ -	\$ 150.00	\$ 150.00	\$ 150.00	\$ 150.00	\$ 600.00
Sport Center	\$ 750.00	\$ 800.00	\$ 475.00	\$ 800.00	\$ 475.00	\$ 3,300.00
City Hall	\$ 800.00	\$ 1,800.00	\$ 750.00	\$ 1,800.00	\$ 750.00	\$ 5,900.00
Fire Station 1	\$ 400.00	\$ 600.00	\$ 150.00	\$ 600.00	\$ 150.00	\$ 1,900.00
Fire Station 2	\$ 175.00	\$ 300.00	\$ 150.00	\$ 300.00	\$ 150.00	\$ 1,075.00
Fire Station 3	\$ 175.00	\$ 300.00	\$ 150.00	\$ 300.00	\$ 150.00	\$ 1,075.00
Fire Station 4	\$ 175.00	\$ 300.00	\$ 150.00	\$ 300.00	\$ 150.00	\$ 1,075.00
				Contract Year 2 NTE	\$	\$ 41,270.00

Year 3 Pricing

<u>FACILITY</u>	<u>Annual</u> <u>Maintenance</u>	<u>Fall</u> <u>Maintenance</u>	<u>Winter</u> <u>Maintenance</u>	<u>Spring</u> <u>Maintenance</u>	<u>Summer</u> <u>Maintenance</u>	<u>Annual Total</u>
Fleet Maintenance	\$ 315.00	\$ 472.50	\$ 157.50	\$ 472.50	\$ 157.50	\$ 1,575.00
Public Works/Police Main Building	\$ 1,769.25	\$ 3,937.50	\$ 3,087.50	\$ 3,937.50	\$ 3,087.50	\$ 15,839.25
Barbara Lee Senior Center	\$ 1,102.50	\$ 1,417.50	\$ 682.50	\$ 1,417.50	\$ 682.50	\$ 5,302.50
Community Center	\$ 1,218.00	\$ 787.50	\$ 393.75	\$ 787.50	\$ 393.75	\$ 3,580.50
Cracolice Buildings	\$ 420.00	\$ 315.00	\$ 157.50	\$ 315.00	\$ 157.50	\$ 1,365.00
Jose Higuera Adobe	\$ -	\$ 157.50	\$ 157.50	\$ 157.50	\$ 157.50	\$ 630.00
Sport Center	\$ 787.50	\$ 840.00	\$ 488.75	\$ 840.00	\$ 488.75	\$ 3,465.00
City Hall	\$ 840.00	\$ 1,890.00	\$ 787.50	\$ 1,890.00	\$ 787.50	\$ 6,195.00
Fire Station 1	\$ 420.00	\$ 630.00	\$ 157.50	\$ 630.00	\$ 157.50	\$ 1,995.00
Fire Station 2	\$ 183.75	\$ 315.00	\$ 157.50	\$ 315.00	\$ 157.50	\$ 1,128.75
Fire Station 3	\$ 183.75	\$ 315.00	\$ 157.50	\$ 315.00	\$ 157.50	\$ 1,128.75
Fire Station 4	\$ 183.75	\$ 315.00	\$ 157.50	\$ 315.00	\$ 157.50	\$ 1,128.75
				Contract Year 3 NTE		\$ 43,333.50

Year 4 Pricing

FACILITY	Annual Maintenance	Fall Maintenance	Winter Maintenance	Spring Maintenance	Summer Maintenance	Annual Total
Fleet Maintenance	\$ 315.00	\$ 472.50	\$ 157.50	\$ 472.50	\$ 157.50	\$ 1,675.00
Public Works/Police Main Building	\$ 1,769.25	\$ 3,937.50	\$ 3,097.50	\$ 3,937.50	\$ 3,097.50	\$ 15,839.25
Barbara Lee Senior Center	\$ 1,102.50	\$ 1,417.50	\$ 682.50	\$ 1,417.50	\$ 682.50	\$ 5,302.50
Community Center	\$ 1,218.00	\$ 787.50	\$ 393.75	\$ 787.50	\$ 393.75	\$ 3,580.50
Cracofice Buildings	\$ 420.00	\$ 315.00	\$ 157.50	\$ 315.00	\$ 157.50	\$ 1,365.00
Jose Higuera Adobe	\$ -	\$ 157.50	\$ 157.50	\$ 157.50	\$ 157.50	\$ 630.00
Sport Center	\$ 787.50	\$ 840.00	\$ 498.75	\$ 840.00	\$ 498.75	\$ 3,465.00
City Hall	\$ 840.00	\$ 1,890.00	\$ 787.50	\$ 1,890.00	\$ 787.50	\$ 6,195.00
Fire Station 1	\$ 420.00	\$ 630.00	\$ 157.50	\$ 630.00	\$ 157.50	\$ 1,995.00
Fire Station 2	\$ 183.75	\$ 315.00	\$ 157.50	\$ 315.00	\$ 157.50	\$ 1,128.75
Fire Station 3	\$ 183.75	\$ 315.00	\$ 157.50	\$ 315.00	\$ 157.50	\$ 1,128.75
Fire Station 4	\$ 183.75	\$ 315.00	\$ 157.50	\$ 315.00	\$ 157.50	\$ 1,128.75
				Contract Year 4 NTE	\$	\$ 43,333.50

Year 5 Pricing

FACILITY	Annual Maintenance	Fall Maintenance	Winter Maintenance	Spring Maintenance	Summer Maintenance	Annual Total
Fleet Maintenance	\$ 330.75	\$ 496.13	\$ 165.38	\$ 496.13	\$ 165.38	\$ 1,653.77
Public Works/Police Main Building	\$ 1,857.71	\$ 4,134.38	\$ 3,252.38	\$ 4,134.38	\$ 3,252.38	\$ 16,631.23
Barbara Lee Senior Center	\$ 1,157.63	\$ 1,488.38	\$ 716.63	\$ 1,488.38	\$ 716.63	\$ 5,567.65
Community Center	\$ 1,278.90	\$ 826.88	\$ 413.44	\$ 826.88	\$ 413.44	\$ 3,759.54
Cracolice Buildings	\$ 441.00	\$ 330.75	\$ 165.38	\$ 330.75	\$ 165.38	\$ 1,433.26
Jose Higuera Adobe	\$ -	\$ 165.38	\$ 165.38	\$ 165.38	\$ 165.38	\$ 661.52
Sport Center	\$ 826.88	\$ 882.00	\$ 523.69	\$ 882.00	\$ 523.69	\$ 3,638.26
City Hall	\$ 882.00	\$ 1,984.50	\$ 826.88	\$ 1,984.50	\$ 826.88	\$ 6,504.76
Fire Station 1	\$ 441.00	\$ 661.50	\$ 165.38	\$ 661.50	\$ 165.38	\$ 2,094.76
Fire Station 2	\$ 192.94	\$ 330.75	\$ 165.38	\$ 330.75	\$ 165.38	\$ 1,185.20
Fire Station 3	\$ 192.94	\$ 330.75	\$ 165.38	\$ 330.75	\$ 165.38	\$ 1,185.20
Fire Station 4	\$ 192.94	\$ 330.75	\$ 165.38	\$ 330.75	\$ 165.38	\$ 1,185.20
				Contract Year 5 NTE	\$	\$ 45,500.35

EXHIBIT "D"

INSURANCE REQUIREMENTS

Please refer to the insurance requirements listed below. **Those that have an "X" indicated in the space before the requirement apply to Contractor's or Consultant's Agreement.**

Contractor or Consultant shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor or Consultant, its agents, representatives, employees or subcontractors.

Contractor or Consultant shall provide its insurance broker(s)/agent(s) with a copy of these requirements and request that they provide Certificates of Insurance complete with copies of all required endorsements.

Contractor or Consultant shall furnish City with copies of original endorsements affecting coverage required by this Exhibit D. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements and certificates are to be received and approved by City before work commences. City has the right to require Contractor's or Consultant's insurer to provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

Commercial General Liability (CGL):

☐ Coverage at least as broad as Insurance Services Office ("ISO") Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$2,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

☒ Coverage at least as broad as ISO Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$1,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

☐ Coverage at least as broad as ISO Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$5,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

Automobile Liability:

X Coverage at least as broad as ISO Form Number CA 0001 covering, Code 1 (any auto), of if Contractor or Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limits no less than \$1,000,000.00 combined single limit for bodily injury and property damage.

 Coverage at least as broad as ISO Form Number CA 0001 covering, Code 1 (any auto), with limits no less than \$5,000,000.00 combined single limit for bodily injury and property damage.

 Garage keepers' extra liability endorsement to extend coverage to all vehicles in the care, custody and control of the Contractor or Consultant, regardless of where the vehicles are kept or driven.

Professional Liability (Errors and Omissions):

 Insurance appropriate to the Contractor or Consultant's profession, with limit no less than \$1,000,000.00 per occurrence or claim, \$2,000,000.00 aggregate.

 (If Design/Build), with limits no less than \$1,000,000.00 per occurrence or claim, and \$2,000,000.00 policy aggregate.

 Insurance appropriate to the Contractor or Consultant's profession, with limit no less than _____ per occurrence or claim, _____ aggregate

Workers' Compensation Insurance:

 X Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000.00 per accident for bodily injury or disease. *(Not required if Contractor or Consultant provides written verification it has no employees)*

The Employer's Liability policy shall be endorsed to waive any right of subrogation as respects the City, its elected and appointed officials, officers, attorneys, agents, and employees.

Builder's Risk (Course of Construction):

 Insurance utilizing an "All Risk" (Special Perils) coverage form, with limits equal to the completed value of the project and no coinsurance penalty provisions. If the project does not involve new or major reconstruction, at the option of the City, an Installation Floater may be acceptable. For such projects, a Property Installation Floater shall be obtained that provides for the improvement, remodel, modification, alteration, conversion or adjustment to existing buildings, structures, processes, machinery and equipment. The Property Installation Floater shall provide property damage coverage for any building, structure, machinery or equipment damaged, impaired, broken, or destroyed during the performance of the Work, including during transit, installation, and testing at the City's site.

Contractor's or Consultant's Pollution Legal Liability:

 Contractor's or Consultant's pollution legal liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) with limits no less than \$1,000,000.00 per occurrence or claim and \$2,000,000.00 policy aggregate.

If the Contractor or Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Contractor or Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

Cyber Liability Insurance

___ Cyber Liability Insurance with limits not less than \$1,000,000 per claim.

Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor or Consultant in this Agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion, and network security.

The policy shall provide coverage for breach response costs as well as regulatory fines and penalties, and credit monitoring expenses with limits sufficient to respond to these obligations.

Surety Bonds:

Contractor shall provide the following Surety Bonds:

___ Bid Bond
___ Performance Bond
___ Payment Bond

The Payment Bond and Performance Bond shall be in a sum equal to the contract price. Bonds shall be duly executed by a responsible corporate surety, authorized to issue such bonds in the State of California and secured through an authorized agent with an office in California.

Other Insurance Provisions:

The insurance policies are to contain, or be endorsed to contain the following provisions:

X Additional Insured Status and Primary/Non-Contributory Language:

Contractor's general liability and automobile liability policies shall be primary and shall not seek contribution from the City's coverage and be endorsed to add the City and its officers, officials, employees, and agents as additional insureds under such policies using Insurance Services Office form CG 20 10 (or equivalent) on the general liability policy. For construction projects, an endorsement providing completed operations coverage for the additional insured on the general liability policy, ISO form CG 20 37 (or equivalent), is also required.

The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City (if agreed to in a written contract or agreement) before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

___ Loss Payee Status – Builder’s Risk/Course of Construction Insurance (applicable to Construction Contracts only)

Contractor or Consultant may submit evidence of Builder’s Risk insurance in the form of Course of Construction coverage. Such coverage shall name the City as a loss payee as their interest may appear.

X___ Notice of Cancellation, Suspension or Otherwise Voiding Policies:

Each insurance policy required above shall contain or be endorsed to contain that coverage shall not be suspended, voided, canceled or reduced in coverage or in limits except with thirty (30) days’ prior written notice by certified mail, return receipt requested to the City.

X Waiver of Subrogation:

Contractor or Consultant hereby grants to City a waiver of any right to subrogation which any insurer of said Contractor or Consultant may acquire against the City by virtue of the payment of any loss under such insurance. Contractor or Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer. The Workers’ Compensation Policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by Contractor or Consultant, its employees, agents and subcontractors.

___ Completed Operations

For Construction Agreements, Contractor shall maintain insurance as required by this Agreement to the fullest amount allowed by law and shall maintain insurance for a minimum of five (5) years following the completion of this project. In the event Contractor fails to obtain or maintain completed operations coverage as required by this Agreement, the City at its sole discretion may purchase the coverage required and the cost will be paid by Contractor.

THE FOLLOWING PROVISIONS APPLY TO ALL AGREEMENTS

Deductibles and Self-Insured Retentions (“SIR”):

Any deductibles or self-insured retentions must be declared to and approved by City. The City may require the Contractor or Consultant to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. At the option of the City, either (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its elected and appointed officials, officers, attorneys, agents, and employees; or (2) the Contractor or Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

All SIRs must be disclosed to Risk Management for approval and shall not reduce the limits of liability.

Policies containing any SIR provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the City.

City reserves the right to obtain a full-certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Acceptability of Insurers:

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-:VII, unless otherwise acceptable to City.

Claims Made Policies: (note - should be applicable only to professional liability, see below)

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor or Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.
4. A copy of the claims reporting requirements must be submitted to the City for review.
5. If the services involve lead-based paint or asbestos identification/remediation, the Contractor's Pollution Liability Policy shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification/remediation, the Contractor's Pollution Liability Policy shall not contain a mold exclusion, and the definition of Pollution shall include microbial matter, including mold.

Subcontractors:

Contractor or Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City is an additional insured on insurance required from subcontractors.

Subcontractor agrees to be bound to Contractor and City in the same manner and to the same extent as Contractor is bound to City under this Agreement and any other contract documents. Subcontractor further agrees to include the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, with any sub-subcontractor to the extent they apply to the scope of the sub-subcontractor's work. A copy of the City indemnity and insurance provisions will be furnished to the subcontractor upon request.

Verification of Coverage:

Contractor or Consultant shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor or Consultant's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Special Risks or Circumstances

City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage or other special circumstances.

Failure to Comply:

Each insurance policy required above shall contain or be endorsed to contain that any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its elected and appointed officials, officers, attorneys, agents, and employees.

Applicability of Coverage:

Each insurance policy required above shall contain or be endorsed to contain that the Contractor's or Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

EXHIBIT “E”
FEDERAL REQUIREMENTS

[RESERVED]

ATTACHMENT “A”
EQUIPMENT LIST

[BEGINS ON FOLLOWING PAGE]



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve and Authorize the City Manager to Execute Amendment No. 1 to the Contract with Environmental Logistics, Inc. for Routine Disposal and Emergency Cleanup of Hazardous Materials to increase the Annual Amount Not to Exceed by \$40,000 to \$80,000 for the Two Remaining Option Years for a New Total Contract Amount Not to Exceed \$280,000
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	9/1/2020
Staff Contact:	Chris Schroeder, 408-586-3161, and Tony Ndah, 408-586-2602
Recommendation:	Approve and Authorize the City Manager to Execute Amendment No. 1 to the Agreement with Environmental Logistics, Inc. to increase the Annual Contract not-to-exceed amount by \$40,000 to \$80,000 for the remaining two years of the contract

Background:

On August 19, 2016, staff issued a Request for Proposal (RFP) for Routine Disposal and Emergency Cleanup of Hazardous Materials. Purchasing worked closely with Fire Prevention to develop the specification and bid package for the RFP. The RFP was advertised on the City website, on Public Purchase and in the Milpitas Post. Services under the Routine Disposal section of the bid include a variety of hazardous materials such as discarded paint, solvents, and oil mixed with water to name a few. Services under the Emergency Cleanup section of the bid include any materials and/or liquids that are dropped on city streets and/or wind up on the city streets as a result of traffic accidents and typically include such things as gas and diesel fuel, anti-freeze and oil.

Ten vendors accessed the bid and one proposal was received from Environmental Logistics, Inc. in response to the RFP. The proposal was reviewed by the Purchasing Agent and the Deputy Fire Chief. Environmental Logistics met all the requirements of the RFP and their references were all positive. An award was approved by City Council on March 21, 2017 for an initial contract amount of \$40,000.00 per year with four one-year options and a price escalator based on the Consumer Price Index for All Urban Consumers San Francisco, Oakland, San Jose not seasonally adjusted to a maximum of 5%.

Analysis:

After execution of the contract, two purchase orders were issued for the contract with a combined not-to-exceed amount of \$40,000 for services needed in the Fire and Public Works Departments. However, the Public Works Department has seen an increase in the volume of waste paint and other hazardous material spills on City streets. With the adoption of the FY 2020-21 Budget, the City Council approved transferring the funding from the Fire Department to the Capital Improvement Project 3462 – On-Call Facilities Maintenance & Repair Services, which is managed by the Public Works Department in order to centralize these services. To cover the anticipated increase in the volume of hazardous materials encountered by staff, staff are requesting that the remaining two years of the contract be increased by a total of \$40,000.00 per year for a new annual total of \$80,000 per year for the remaining two option years and a new not to exceed total of \$280,000.

Policy Alternative:

Alternative: Do not approve the amendment with Environmental Logistics, Inc.

Pros: The City would save \$80,000 over the remaining two years of the contract.

Cons: City staff do not have the capability to process and dispose of all of the hazardous material that accumulates at the Corporation Yard and would not have adequate resources to clean up all street spills or collect against the responsible parties for such street spills.

Reason not recommended: Santa Clara County Environmental Health conducts annual inspections of the hazardous waste storage areas at City Facilities and performs a review of storage time for the material. The City must remain compliant by regularly hauling hazardous waste off-site for proper disposal or risk enforcement actions and incurring fines. Emergency clean-up of the increasing number of spills on City streets must occur to protect the health of the public, property, and the environment.

Fiscal Impact:

The additional funds for this amendment have been budgeted in Capital Improvement Project 3462 – On-Call Facilities Maintenance & Repair Services.

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 as this action has no potential to result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

Recommendation:

Approve and Authorize the City Manager to Execute Amendment No. 1 to the Agreement with Environmental Logistics, Inc. to increase the Annual Contract not-to-exceed amount by \$40,000 to \$80,000 for the remaining two years of the contract.

Attachments:

1. Original Signed Contract with Environmental Logistics
2. Amendment No. 1 to the Contract with Environmental Logistics, Inc.



AMENDMENT NO. 1
TO THE CONTRACT WITH
ENVIRONMENTAL LOGISTICS, INC.
FOR

ROUTINE DISPOSAL AND EMERGENCY CLEANUP OF HAZARDOUS WASTE

This Amendment No. 1 is entered into as of _____, by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "City"), and **Environmental Logistics, Inc.**, a California corporation (hereafter referred to as "Contractor"). City and Contractor are sometimes individually referred to as "Party" and collectively as "Parties" in this Amendment No 1.

RECITALS

WHEREAS, on March 22, 2017, the Parties entered into a Contract for Routine Disposal and Emergency Cleanup of Hazardous Waste (the "Contract") for \$40,000.00 for the initial one-year term period of March 22, 2017, to March 21, 2018, with four one-year options to continue services at \$40,000.00 per year; and

WHEREAS, on January 30, 2018, the Parties entered into Option No. 1 (contract year two) for the continuation of services for the maximum amount of \$40,000.00 for the new term period of March 22, 2018, to March 21, 2019; and

WHEREAS, on January 30, 2019, the Parties entered into Option No. 2 (contract year three) for the continuation of services for the maximum amount of \$40,000.00 for the new term period of March 22, 2019, to March 21, 2020; and

WHEREAS, on March 12, 2020, the Parties entered into Option No. 3 (contract year four) for the continuation of services for the maximum amount of \$40,000.00 for the new term period of March 22, 2020, to March 21, 2021; and

WHEREAS, the Parties now desire to amend the Contract to add \$40,000.00 in compensation to Option No. 3 (contract year 4), and \$40,000.00 for Option No. 4 (contract year 5), should Option No. 4 be exercised by the City, for a new not-to-exceed contract amount of \$280,000.00 for all potential five years of the Contract.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, the Parties agree to amend the Contract as follows:

1. The compensation amount for the term period of March 22, 2020 to March 21, 2021 (contract year four) is increased by \$40,000.00, and the compensation amount for the term period of March 22, 2021 to March 21, 2022 (Option No. 4/contract year five) is increased by \$40,000.00, should the City exercise Option No 4, for a new, combined total compensation amount not to exceed \$280,000.00 for all potential five years of the Contract.
2. All other provisions of the Contract not amended by this Amendment No. 1 shall remain in full force and effect.

SIGNATURES ON THE FOLLOWING PAGE

IN WITNESS WHEREOF, the Parties have executed this Amendment No. 1 as of the date first written above.

CITY OF MILPITAS

Approved By:

Steven G. McHarris, City Manager

Date

Approved As To Form:

Christopher J. Diaz, City Attorney

Approved:

Walter C. Rossmann, Risk
Manager/Director of Finance

Approved:

Tony Ndah Director of Public Works

ENVIRONMENTAL LOGISTICS INC.

Signature

Name

Title

Date

City of Milpitas

PURCHASE ORDER

Purchasing Division
455 E. Calaveras Blvd.
Milpitas, CA 95035-5411
Telephone: (408) 586-3161
Fax: (408) 586-3170

MAIL INVOICE TO: CITY OF MILPITAS
ACCOUNTS PAYABLE
455 E. CALAVERAS BLVD.
MILPITAS, CA 95035-5411

INVOICE QUESTIONS : (408) 586-3135 PO NUMBER: FY 19803
PAGE 1 OF 1
DATE: 11/02/18

SHIP TO: Albert Zamora
City of Milpitas
777 S. Main St.
Milpitas, CA 95035

VENDOR: Environmental Logistics Inc
PO Box 806
18398
Colton CA 92324

CONTACT:
PHONE#:
FAX#:

FOB: NA SHIP VIA: PAYMENT TERMS: Net30 DATE REQUIRED: 11/02/18

LINE	QUANTITY	UNIT	UNIT PRICE	AMOUNT	DESCRIPTION OF ITEM AND/OR SERVICES ORDERED
1			1.00	40,000.00	RFP No. 2156 - Disposal & Emergency Cleanup of Hazardous Material. Agreement entered on March 22, 2017. Option Year No. 1 is valid from March 22, 2018 through March 21, 2019. For questions regarding this purchase order, please contact Albert Zamora @408.586.3371

TOTAL: \$40,000.00

100 8124237

\$40,000.00

PURCHASING OFFICER:

Chris Schroeder

CITY MANAGER:

Option Year No. 1

(Required Only On Orders Greater Than \$5,000)

RECEIVED
OCT 29 2016
Purchasing
this

Contract Exhibit A

NOTICE OF EXERCISE OF OPTION TO EXTEND AGREEMENT

AGREEMENT TITLE and DATE:	RFP No. 2156 Routine Disposal and Emergency Clean-up of Hazardous Materials March 22, 2017
CONTRACTOR Name and Address:	Environmental Logistics Inc. 3200 Depot Rd Hayward CA 94545
DATE OF OPTION:	February 5, 2018

(date the notice is sent must be consistent with the time for exercise set forth in Agreement)

Pursuant to Section B of the Agreement referenced above, the City of Milpitas hereby exercises its option to extend the term under the following provisions:

OPTION NO.	1
-------------------	---

NEW OPTION TERM

Begin date:	March 22, 2018
End date:	March 21, 2019

Pursuant to the Terms and Conditions - Price Adjustments Section of the Agreement the Rates of Compensation are hereby adjusted as follows:

MAXIMUM COMPENSATION for New Option Term:	\$40,000.00
--	-------------

For the option term exercised by this Notice, City shall pay Contractor an amount not to exceed the amount set forth above for Contractor's services and reimbursable expenses, if any. The undersigned signing on behalf of the City of Milpitas hereby certifies that an unexpended appropriation is available for the term exercised by this Notice, and that funds are available as of the date of this signature.

CITY OF MILPITAS
a municipal corporation

By Chris Schroeder

Chris Schroeder
Name of Authorized Representative

Purchasing Agent
Title of Authorized Representative:

CONTRACTOR

By Marcial Barragan - 2/15/2018

Marcial Barragan
Name of Authorized Representative

General Manager
Title of Authorized Representative



City of Milpitas Contract

Project: Routine Disposal and Emergency Cleanup of Hazardous Materials

Bid No: RFP #2156

Amount of Contract: Initial One Year Term not-to-exceed: \$40,000.00

Total Five Year Contract not-to-exceed: \$200,000.00

THIS CONTRACT, made this 22nd day of March, 2017, by and between the City of Milpitas, hereinafter referred to as the "City of Milpitas", a municipal corporation and Environmental Logistics, Inc., a California corporation, hereinafter referred to as "Contractor",

WITNESSETH:

- A. WHEREAS, the City of Milpitas has caused specifications, drawings and other contract documents, hereinafter referred to as "Specifications", to be prepared for certain work on the referenced project; and
- B. WHEREAS, The term of the contract shall be for one (1) year from March 22, 2017 to March 21, 2018 (the "Anniversary Date"). The City reserves the right to review the Contractor's performance at the end of each year and cancel all or part of the contract. The City of Milpitas reserves the right to extend this contract for four (4) one (1) year options exercisable at the City's sole discretion, not to exceed five (5) years in total. The City may exercise the renewal option years by written notice to the Contractor by mail, fax or email. If a renewal option is exercised and/or a price increase is granted it will be transmitted to the Contractor using "Exhibit A (of the Contract) - Notice of Exercise of Option to Extend Agreement".
- C. WHEREAS, said Specifications include: Proposal No. 2156 for Routine Disposal and Emergency Cleanup of Hazardous Materials, in its entirety, all Addenda, and the following documents by this reference are hereby offered as a part of the contract to be awarded:
1. Part 1 - Narrative Proposal
 2. Part 2 - Proposal Offer Form
 3. Summary of Proposer's Waste Management Processes Form
 4. Non-Collusion Affidavit
 5. Proposer's Statement Regarding Insurance Coverage
 6. Worker's Compensation Insurance Certificate
 7. References
 8. Subcontractors List (If applicable)
 9. Subcontractor's Acceptance of Solicitation Requirements (If applicable)
 10. Nondiscriminatory Employment Certificate
 11. Insurance Requirements

D. WHEREAS, Contractor has offered to perform the proposed work in accordance with the terms of said Specifications as set forth by submission of the Contractor's Proposal;

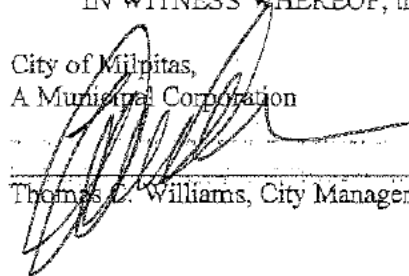
NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties contained in said Specifications and Contractor's Proposal, which are made a part hereof as though fully set forth, Contractor hereby agrees to complete the work at the prices and on the terms and conditions therein contained, and the City

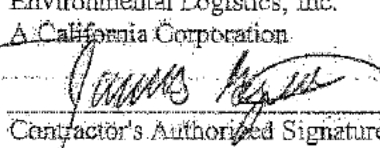
of Milpitas hereby employs the Contractor and agrees to pay the Contractor the contract prices therein provided for the fulfillment of the work and the performance of the covenants therein set forth.

IN WITNESS WHEREOF, this contract has been executed on the day and year first noted on page one.

City of Milpitas,
A Municipal Corporation

Environmental Logistics, Inc.
A California Corporation


Thomas E. Williams, City Manager


Contractor's Authorized Signature

James Govich
Name of Authorized Representative

Vice President
Title of Authorized Representative

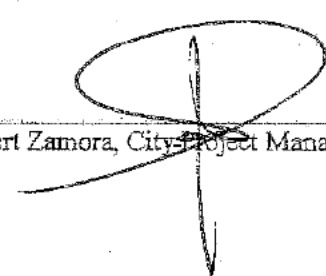
City of Milpitas Business Tax Compliance:
Certificate No. Pending

FEIN: 20-4546206

Approved As
To Form:


Christopher J. Diaz, City Attorney

Approved As
To content:


Albert Zamora, City-Project Manager

Contract Exhibit A

NOTICE OF EXERCISE OF OPTION TO EXTEND AGREEMENT

AGREEMENT TITLE and DATE:	RFP #2156 - Routine Disposal and Emergency Cleanup of Hazardous Materials March 22, 2017
CONTRACTOR Name and Address:	Environmental Logistics, Inc. 3200 Depot Rd. Hayward, CA 94545
DATE OF OPTION:	

(date the notice is sent must be consistent with the time for exercise set forth in Agreement)

Pursuant to Section _____ of the Agreement referenced above, the City of Milpitas hereby exercises its option to extend the term under the following provisions:

OPTION NO.	
-------------------	--

NEW OPTION TERM

Begin date:	
End date:	

☐ **CHANGES IN RATE OF COMPENSATION**

Percentage change in CPI Index upon which adjustment is based:	
---	--

Pursuant to the Terms and Conditions - Price Adjustments Section of the Agreement the Rates of Compensation are hereby adjusted as follows:

MAXIMUM COMPENSATION for New Option Term:	
--	--

For the option term exercised by this Notice, City shall pay Contractor an amount not to exceed the amount set forth above for Contractor's services and reimbursable expenses, if any. The undersigned signing on behalf of the City of Milpitas hereby certifies that an unexpended appropriation is available for the term exercised by this Notice, and that funds are available as of the date of this signature.

CITY OF MILPITAS
A Municipal Corporation

ENVIRONMENTAL LOGISTICS, INC.
A California Corporation

By _____

By _____

Name of Authorized Representative

Name of Authorized Representative

Title of Authorized Representative:

Title of Authorized Representative



City of Milpitas

NOTICE OF REQUEST FOR PROPOSALS

No. 2156

Routine Disposal and Emergency Cleanup of Hazardous Materials



Notice is hereby given that proposals will be received at the Purchasing Office, until **September 9, 2016; 2:00 PM**, local time for furnishing all labor, materials and equipment, and performing all work necessary and incidental to furnishing:

Routine Disposal and Emergency Cleanup of Hazardous Materials

in accordance with the City of Milpitas specifications, scope of services and contract documents contained herein.

SUBMITTING THE PROPOSAL: *The City of Milpitas requires that proposals be submitted electronically.* Electronic proposals are to be submitted through a secure mailbox at Public Purchase (www.publicpurchase.com) until the date and time indicated in this document. It is the sole responsibility of the supplier to ensure their proposal reaches Public Purchase before the closing date and time. There is no cost to the proposer for submitting City of Milpitas proposals electronically via Public Purchase. Electronic proposals require the uploading of electronic attachments. The submission of attachments containing embedded documents is prohibited. All documents must be attached as separate WORD or PDF documents ONLY.

Registration. All Bidders must register on Public Purchase. To receive registration instructions call the Purchasing Agent at 408-586-3161 or email a request for registration instructions to cschroeder@ci.milpitas.ca.gov.

Pre-Proposal Conference. A non-mandatory pre-proposal conference will be held at **10:00 AM on August 29, 2016 at City Hall 455 E. Calaveras Blvd. Milpitas, CA 95035-5411 1st Fl. Committee Meeting Room.** Proposers are invited to meet and discuss the RFP with City Staff.

Contractors License. All Bidders shall be licensed under the provisions of Chapter 9, Division 3 of the Business and Professions Code of the State of California to do the type of work contemplated in the project. The Successful Bidder shall possess a valid Contractor's License issued by the Contractor's State License Board at the time the contract is awarded. The class of license shall be **A or B with appropriate certificates** or any other classification applicable to the work specified in the contract. Each bidder shall also have no less than **five (5) of years of experience** in the magnitude and character of the work bid.

Payment Bond. Pursuant to Civil Code 3247, for work involving an expenditure of greater than \$25,000 the Successful Bidder will be required to furnish a Payment Bond in an amount equal to one hundred percent (100%) of the total amount of the contract before commencement of work and conforming to the contract documents.

Substitution of Securities. The Contractor shall be permitted to substitute securities for any monies withheld by the City of Milpitas to ensure performance under this contract, such substitution to be subject to the limitations and requirements of Public Contract Code Section 22300.

Notice to Contractors and Subcontractors:

Prevailing wage and SB854 compliance applies to the contract awarded from this RFP.

Chris Schroeder

Purchasing Agent

City of Milpitas

Published: Milpitas Post – August 19, 2016



The City of Milpitas

Request for Proposal No. 2156 For Routine Disposal and Emergency Cleanup of Hazardous Materials

Issued: August 19, 2016

Proposals Due: September 9, 2016; 2:00 PM PST

TABLE OF CONTENTS

RFP #2156; Routine Disposal and Emergency Cleanup of Hazardous Materials

BACKGROUND	5
PROJECT OBJECTIVE	5
NOTICE TO CONTRACTORS AND ASSOCIATED SUBCONTRACTORS	6
SCOPE OF WORK	8
INSTRUCTIONS TO PROPOSER	12
TERMS AND CONDITIONS	21
SPECIAL PROVISIONS FOR SERVICES	25
PROPOSAL DOCUMENTS TO BE RETURNED	28
NARRATIVE PROPOSAL	29
PROPOSAL OFFER FORM	32
SUMMARY OF PROPOSERS WASTE MANAGEMENT PROCESS	38
NON-COLLUSION AFFIDAVIT	39
PROPOSER'S STATEMENT REGARDING INSURANCE COVERAGE	40
WORKER'S COMPENSATION INSURANCE CERTIFICATE	41
REFERENCES	42
SUBCONTRACTORS LIST	43
SUBCONTRACTOR'S ACCEPTANCE OF SOLICITATION REQUIREMENTS	44
NONDISCRIMINATORY EMPLOYMENT CERTIFICATE	45
EXHIBIT A - INSURANCE REQUIREMENTS	48
EXHIBIT B - SAMPLE CONTRACT	52
EXHIBIT C - HAZARDOUS WASTE INVENTORY BY LOCATION	55

Schedule of Activities Dates *(The City reserves the right to amend the schedule below as necessary).* All time referenced are in Pacific Standard Time (PST).

<u>Major Milestone Activities</u>	<u>Tentative Dates</u>
RFP release to prospective proposers	8/19/16
Pre-Proposal Conference (10:00 AM)	8/29/16
Deadline for Submitting Questions (2:00PM)	9/6/16
Proposal Submission Deadline (2:00PM)	9/9/16
Evaluation Committee Review	week of 9/12/16
Interview/Presentations	week of 9/19/16
Contract Award	10/18/16

BACKGROUND

The City of Milpitas is located near the southern tip of San Francisco Bay, forty-five miles south of San Francisco. With a population of approximately 72,606, Milpitas is a progressive community that is an integral part of the high tech Silicon Valley. Milpitas features quality schools, conveniently located neighborhood parks and shopping centers and a population rich in diversity.

Incorporated in 1954, Milpitas is a general law city operating under the City Council/City Manager form of government. Milpitas is a creative, forward-thinking city providing quality police, fire, water, streets, parks, engineering, planning and recreation services. The City is financially secure with an annual budget in excess of \$137 million. The operating budget of \$114.6 million and the capital improvement budget of \$22.4 million include all City services and the Redevelopment Agency administered by the City.

The City provides the full range of services normally associated with a municipality, including fire, police, parks and recreation, planning, zoning and building, engineering, public works, utility service including water and sewer, and general administration. Solid waste collection is provided through a franchise arrangement with a local refuse collection service.

PROJECT OBJECTIVE

The City of Milpitas ("City") is seeking a proposal to provide **Routine Disposal and Emergency Cleanup of Hazardous Materials** at the following City sites.

City Corporation Yard
1265 N. Milpitas Blvd.
Milpitas, CA 95035-5411

And

Fire Station No.1
777 S. Main Street
Milpitas, CA 95035-5411

Pick-up frequency of routine hazardous material shall be upon request, but is not expected to exceed four (4) times per calendar year; ideally, quarterly at the end of each 3rd month; March, June, September and December. Pick-up frequency of Emergency Cleanup Hazardous Materials shall be upon request and may occur any time day or night 365 days a year on any street in the City. The City anticipates approximately 10 to 12 spills/cleanup calls per year. This is not a guarantee, the number of spills/cleanup calls may be more or less than 10 to 12.

Routine Hazardous Materials are such items as latex and/or oil paint, aerosol paint cans, floor sealer, asphalt releasing agent, various solvents, Water Wetter products, petroleum contaminated Sorbal bags, gasoline and diesel and gasoline and diesel contaminated dirt or water, left over herbicide or insecticide, oil and oily water to name some of the more common hazardous materials. For current quantities on hand see EXHIBIT D.

NOTICE TO CONTRACTORS AND ASSOCIATED SUBCONTRACTORS.

Licensing and Bonding

Required State Contractors License: Class A or B with appropriate certificates.

Bonding: Proposers must be able to secure a payment bond if a subcontractor is proposed for a subcontracted portion of the work totaling over \$25,000.

California State Department of Industrial Relations (DIR) Contractor and Sub Contractor Registration Requirements:

California Labor Code section 1771.1 states:

A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, or engage in the performance of any contract for public work, unless currently registered with the Department of Industrial Relations and qualified to perform public work pursuant to Section 1725.5 of the California Labor Code.

The DIR registration number of the contractor and each subcontractor must be identified on the appropriate Bid Form. Failure to do so will result in the bid submittal being deemed non-responsive.

Prevailing Wage Requirements and Compliance Monitoring:

Workers employed on this Project must be paid at rates at least equal to the prevailing wage rates as determined by the State of California Department of Industrial Relations pursuant to §1770 of the Labor Code. Said wage rates are incorporated herein by reference and may be inspected upon request. The rates are also available on the State of California Department of Industrial Relations website at <http://www.dir.ca.gov/>. See Standard Provisions — Articles 6.04 through 6.06 for related requirements.

Contractor and each approved subcontractor shall keep accurate payroll records and comply in all respects with Labor Code Section 1776, including the timely response to written notices requiring copies of such records.

This Project is subject to compliance monitoring and enforcement by the State of California Department of Industrial Relations. The Contractor and subcontractors must furnish the records specified in Section 1776 directly to the Labor Commissioner, in the following manner: monthly, in a format prescribed by the Labor Commissioner.

Copies of certified payroll as well as the electronic verification of submittal of certified payroll to the DIR for payment of wages to contractor's employees and employees of its subcontractors providing services must be submitted along with all invoices submitted to the District.

Enforcement of the Requirement to Submit Electronic Certified Payroll Reports to DIR to Resume in August 2016.

DIR advises contractors and subcontractors that the requirement to keep certified payroll reports (CPRs) has not changed. The electronic certified payroll reporting system is fully operational while DIR works on simplifying online reporting.

California State Department of Industrial Relations Contractor and Sub Contractor Registration Requirements.

California Labor Code section 1771.1 requires:

“(a) A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.”

(b) An inadvertent error in listing a subcontractor who is not registered pursuant to Section 1725.5 in a bid proposal shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive, provided that any of the following apply:

- (1) The subcontractor is registered prior to the bid opening.
- (2) Within 24 hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee specified in subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.
- (3) The subcontractor is replaced by another registered subcontractor pursuant to Section 4107 of the Public Contract Code.”

For further details go to: www.dir.ca.gov/public-works/SB854.html

Prevailing Wage Rates

Pursuant to Sections 1770, 1771 and 1774 of the California Labor Code, contractor shall pay not less than the prevailing rate of per diem wages as determined by the Director of the State of California Department of Industrial Relations.

1. Workers employed on various city projects must be paid at rates at least equal to the prevailing wage rates as determined by the State of California Department of Industrial Relations pursuant to §1770 of the Labor Code. Said wage rates are incorporated herein by reference and may be inspected upon request. The rates are also available on the State of California Department of Industrial Relations website at <http://www.dir.ca.gov/>. See Standard Provisions — Articles 6.04 through 6.06 for related requirements.

2. This Contract is subject to compliance monitoring and enforcement by the State of California Department of Industrial Relations. The Contractor and subcontractors must furnish the records specified in Section 1776 directly to the Labor Commissioner monthly, in a format prescribed by the Labor Commissioner.

3. Contractor and each approved subcontractor shall keep accurate payroll records and comply in all respects with Labor Code Section 1776, including the timely response to written notices requiring copies of such records. In the event contractor or any subcontractor fails to comply within the ten (10) day period, that bidder or subcontractor shall forfeit one hundred dollars (\$100.00) for each calendar day, or portion thereof, for each worker until strict compliance is effectuated.

SCOPE OF WORK
RFP 2156

Routine Disposal and Emergency Cleanup of Hazardous Materials

- A. **Routine Services** – Several City facilities generate hazardous waste during routine operations. Services requests will be made by a designated Fire Department or Public Works representative. Upon receipt of such a request, Contractor shall:
1. Identify, categorize, profile, package, label, manifest, transport and dispose of regularly generated hazardous wastes. Examples of materials to be processed include, but are not limited to: waste flammable liquids (contains acetone and petroleum distillates), Non-Resource Conservation and Recovery Act (RCRA)-hazardous waste solids, Non-RCRA hazardous waste liquids (latex paint and road oil), empty containers, filters, soil with oil, waste and absorbent materials from vehicular accidents, flammable waste aerosol containers and/or RCRA waste.
 2. Send to the requesting City facility a work team consisting of a lead person and a hazardous waste technician under the supervision of a chemical packaging specialist or equivalent personnel. Response time shall be no more than one week from date of request. This work team shall:
 - a. Establish waste streams, as required.
 - b. Complete a waste profile sheet for each waste stream so established.
 - c. Complete a Uniform Hazardous Waste Manifest and any other required documentation prior to materials transport.
 - d. Provide to the requesting City facility a copy of all documentation listed above.
 3. Pack and label all wastes in accordance with Department of Transportation (DOT) requirements prior to transport from City facilities. Remove hazardous materials from City facilities to a secure storage facility to await transport to a Treatment Storage and Disposal Facility (TSDF). Perform packaging or bulking at least once every three months.
 4. Send City-generated hazardous wastes only to City-approved TSDFs.
- B. **Emergency Services** – In the event of a hazardous materials or waste incident (abandoned waste, spill, leak, etc.), a request for emergency services will be made by a designated Fire Department or Public Works representative. Upon receipt of such a request, Contractor shall:
1. Provide all labor, materials, equipment, tools, labels, transportation, and supervision to perform the required services. Typical services include, but are not limited to, waste containment, spill cleanup, site decontamination, hazmat identification of unknown materials, waste packaging, transportation and disposal. Contractor's personnel, responding to emergency service requests, shall be under the direct supervision of an employee of Contractor who is trained and certified in emergency response procedures.
 2. In the case of a spill or leak, secure the site containing the spillage or leakage and minimize further environmental contamination. Efforts shall be directed to first

reduce/eliminate health and safety risks and then to minimize environmental contamination.

3. Be available (on call) 24 hours per day 7 days per week 365 days per year. Prior to the contract start date, provide to the City 24-hour emergency contact telephone numbers and notification procedures for requesting emergency response services.
4. Report to the site within two hours or less of receipt of a request for emergency services.
5. Contain, cleanup, remove, transport and dispose of spilled substances, containment materials and absorbent materials in accordance with applicable local, state and federal laws and regulations.
6. Determine the composition of "unknown" spilled materials and recommend safe handling and disposal methods, as required.
7. Excavate, test, remove, profile, transport and dispose of contaminated soil from the spill site, as required or as directed by the City's on-scene representative.
8. Provide guidance and recommendations for cleanup alternatives and procedures, disposal requirements and notification requirements.
9. Prior to the contract start date, provide to the designated Fire Department or Public Works representative written material indicating information required by Contractor prior to responding to a City call for emergency services.
10. Have the capability to bill the company responsible for incident directly (if City guarantees payment in the event of default).

C. **Disposal Methods** – Contractor shall dispose of all hazardous solids and liquids, requiring either thermal processing, land disposal, and/or treatment prior to disposal only at facilities permitted by the California Department of Toxic Substance Control (CDTSC) or United States Environmental Protection Agency (USEPA). Disposal methods shall conform with all applicable local, state and federal regulations. All Non-RCRA oily wastes shall be managed in accordance with 22 CCR, Division 4.5, Chapter 29 (Used Oil Recycling Program). All RCRA hazardous wastes that are recycled shall be recycled only at EPA permitted treatment facilities.

D. **Contractor Requirements** – Throughout the term of this contract, Contractor shall be licensed for packaging, labeling, pumping, transporting and disposing of hazardous waste solids and liquids, as defined in the California Code of Regulations (CCR), Title 22, Division 4, and in the code of Federal Regulations (CFR), Title 40, Part 261, and CFR, Title 49, Part 171.

Contractor shall possess and provide proof (photo copy) of the following with his proposal:

- Hazardous waste hauler registration.
- CAL-OSHA carcinogen registration.
- Federal waste hauler permit.

- California State Contractors License, Class "A" (General Engineering) with Hazardous Substances Removal Certification.
- California Highway Patrol Hazardous Materials Transportation License.
- Environmental Protection Agency Identification Number.
- All employees assigned to the contract must have current Hazardous Operations Waste and Emergency Response certificates.

In addition, Contractor shall either possess a current, valid **City of Milpitas Business License** or shall have submitted a City of Milpitas business license application and fee at the time of contract execution.

E. **Compliance with Laws and Regulations** – Contractor shall comply with all applicable local, state and federal regulations when segregating, classifying, packaging, labeling, transporting and disposing of City-generated hazardous materials, including, but not limited to:

1. Environmental Protection Agency
 - a. 40 CFR 240 through 40 CFR 272.
 - b. 40 CFR 100 through 40 CFR 149.
2. Occupational Safety and Health Administration
 - a. 29 CFR 1910.
3. Department of Transportation
 - a. 49 CFR 106 through 49 CFR 177.
4. State of California
 - a. 8 CCR, Division 1 – Industrial Relations (CAL/OSHA).
 - b. 14 CCR, Division 7 – California Waste Management Board.
 - c. 22 CCR, Division 4.5 – Environmental Health.
 - d. 23 CCR, Division 3 – State Water Resources Control Board.
5. Rules and Regulations of the Bay Area Air Quality Management District.
6. Rules and Regulations of the City of Milpitas.
7. Rules and Regulations of Santa Clara County.

F. **Permits** – Contractor shall obtain all permits required for the performance of the services specified in this Request for Proposals. All disposal and permit fees shall be paid by Contractor other than those which are required by the generator.

G. **Transportation Requirements** – City-generated waste materials shall be transported only by a transporter that has a valid EPA transporter's ID number and that is registered with the State of California to haul hazardous wastes.

H. **Reports** – Contractor shall provide on a quarterly basis a computer printout of all City-generated hazardous wastes processed during the previous three months, including City facility requesting pickup, waste description, quantity, waste stream and TSDF.

- I. **Fee Schedule:** Contractor shall invoice the City in accordance with his Proposer's Standard Equipment and Pricing Fee Schedule to indicate the charge for services included in this RFP. No additional fees will be invoiced to the City. The fees listed on the Proposer's Standard Equipment and Pricing Fee Schedule shall include all charges payable by the City including but not limited to disposal facility state fees, registrations, licenses, overhead, profit, taxes, violation penalties, etc.

The emergency spill responses shall be paid on a time and materials basis, based on the submitted Proposer's Standard Equipment and Pricing Fee Schedule. However, standard unit costs for waste disposal generated by these services shall apply.

- J. **Packaging, Transportation and Disposal:** Contractor shall identify, categorize, profile, segregate, package, label, mark, manifest, transport, and dispose of all collected wastes as directed and in accordance with all applicable federal, state and local laws and regulations. Fees provided for Packaging, Transportation and Disposal shall incorporate all costs related to packaging, transportation, and disposal, including, but not limited to, identification, profiling, bulking, loose-packing, lab-packing, waste compaction (e.g., empty container crushing), marking, manifesting, and loading, transportation and disposal of all collected wastes.

It is the City's preference to utilize non-landfill management methods, where feasible. Recycling, fuel substitution, incineration, treatment and other incineration/destruction alternatives will be considered for use as management methods for the program, where practical. If waste management methods other than those listed in the Proposer's Standard Equipment and Pricing Fee Schedule are proposed, the Proposer shall specify the alternate disposal method on the **Summary of Proposers Waste Management Processes Form**.

INSTRUCTIONS TO PROPOSERS

ACCEPTANCE PERIOD. Unless otherwise specified herein, proposals are firm for a period of ninety- (90) days.

ADDENDA. Addenda issued pursuant to this RFP, if any, will be posted on the Public Purchase website. However, it is the sole responsibility of the proposer to check the website and/or contact the Purchasing Agent directly to determine that they have included all addenda in their proposal before submitting to the Agency. **Any proposal submitted that does not acknowledge each and every addenda issued will be considered non-responsive. Addenda, if any, must be acknowledged on the RFP proposal Form in the space provided.**

AUTHORIZED SIGNATURES. Every proposal must be signed by the person or persons legally authorized to bind the Proposer to a contract for the execution of the work. Upon request of City of Milpitas, any agent submitting a proposal on behalf of a Proposer shall provide a current power of attorney certifying the agent's authority to bind the Proposer. If an individual makes the proposal, his or her name, signature, and post office address must be shown. If a firm or partnership makes the proposal, the name and post office address of the firm or partnership and the signature of at least one of the general partners must be shown. If a corporation makes the proposal, the proposal shall show the name of the state under the laws of which the corporation is chartered, the name and post office address of the corporation and the title of the person signing on behalf of the corporation. Upon request of the City of Milpitas, the corporation shall provide a certified copy of the bylaws or resolution of the board of directors showing the authority of the officer signing the proposal to execute contracts on behalf of the corporation.

AWARD OF CONTRACT. Award will be made to the Proposer offering the most advantageous proposal after consideration of all Evaluation Criteria set forth below. An Evaluation Committee will be established by the City of Milpitas. **Proposers not meeting the Minimum Qualifications and not submitting the required documents will be deemed non-responsive to the RFP and thus will not be considered by the Evaluation Committee.** The Committee will evaluate all proposals received in accordance with the Evaluation Criteria. Evaluation scores will not be released until after award of proposal. The City of Milpitas shall not be obligated to accept the lowest priced proposal, but will make an award in the best interests of the City of Milpitas after all factors have been evaluated.

Evaluation Criteria that will be used to evaluate all proposals that are received are listed below:

EVALUATION CRITERIA	Weighted %
Proposers Pricing (See Proposal Offer Form; All price proposals will be ranked and scored accordingly.)	40%
Proposal Responsiveness (Compliance with proposal format requirements and completeness and detail of the proposal.)	10%
Demonstrated Competence (to perform the work and any other related service that demonstrates the range of services provided directly by the proposer.)	20%
Qualifications and Experience of Proposer (Company Profile and ability, capacity, experience and skill to perform the contract in accordance with the scope of work. Resumes of individuals assigned to the contract.) (Registrations / Certifications)	25%

References (recent experience in successfully performing similar service for other public entities)	5%
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The evaluation committee may also contact and evaluate the Proposer's and subcontractor's references; contact any Proposer to clarify any response; contact any current users of a Proposer's services; solicit information from any available source concerning any aspect of a proposal; and seek and review any other information deemed pertinent to the evaluation process.

Discussions may, at the City of Milpitas' sole option, be conducted with a short-list of responsive and responsible Proposers. Discussions may be for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and written revision of proposals. Revisions may be permitted after submissions and before award for obtaining best and final proposals. In conducting discussions, the City of Milpitas will not disclose information derived from proposals submitted by competing Proposers. A Notification of Intent to Award may be sent to any Proposer selected. Award is contingent upon the successful negotiation of final contract terms. Negotiations shall be confidential and not subject to disclosure to competing Proposers unless an agreement is reached. If contract negotiations cannot be concluded successfully, the City of Milpitas may negotiate a contract with the next highest scoring Proposer or withdraw the RFP.

AWARD SELECTION PROCESS. Selection of qualified Proposers will be based on the following: quality and completeness of submitted proposal; understanding of project objectives; project approach; experience and expertise with public agencies and similar types of efforts; and references. Additional questions may be asked of Proposers and interviews may be conducted. Proposers will be notified of any additional required information or interviews after the written proposals have been evaluated. See Proposal Forms for description of the RFP Item Proposed and Proposal Evaluation Criteria Rankings. Interviews may be held with the most qualified proposers based upon score rankings. The recommended proposals will be submitted to the City Council for contract approval. The Proposer selected will enter into a contract with the City of Milpitas.

CANCELLATION OF SOLICITATION. The City of Milpitas may cancel this solicitation at any time.

COMMUNICATION. All respondents to this RFP must comply with the specified communication requirements. Any respondent/proposer who conducts or otherwise participates in communication concerning this RFP with parties or methods not provided for in this RFP, shall be subject to disqualification. Such communication includes contact with City of Milpitas elected officials, staff or any member of the evaluation panel regarding this RFP.

The City of Milpitas is not responsible for any explanation, clarification, interpretation, or approval made or given in any manner, except by written addendum.

COMPENSATION/FEES. All Proposals shall include the compensation proposed, both in writing and in figures, shall give all other information requested herein, and shall be signed by the Proposer's authorized representative. Fee proposals shall include everything necessary for the completion of work or otherwise fulfillment of the contract including but not limited to furnishing all labor, materials, equipment, tools, facilities and all management; overhead expenses and profit required to complete the work in accordance with the contract documents, except as may be provided otherwise in the contract documents. Fee proposals must contain the information as outlined in the RFP Proposal Offer Form.

COMPLIANCE WITH OR DEVIATION FROM SPECIFICATIONS. Proposer hereby agrees that the material, equipment or service offered will meet all the requirements of the specifications in this solicitation unless deviations from them are clearly indicated in the Proposer's response. **Proposer may submit an attachment entitled "Exceptions to Specifications", which must be signed by Proposer's authorized representative. An explanation must be made for each item in which an exception is taken, giving in detail the extent of the exception, the reason for which it is taken, and the suggested change.** Proposals failing to comply with this requirement will be considered non-responsive. Submittal of brochure or other manufacturer literature is desirable but may not be a substitution for this requirement.

CONFLICT OF INTEREST. Pursuant to Government Code 1090 and any other laws, rules and regulations that may apply, the Bidder/Proposer covenants that neither it, its subcontractors nor employees presently do not have an interest, and shall not acquire any interest, direct or indirect, financial or otherwise that would conflict in any manner or degree with contract awarded from this solicitation. Bidder/Proposer certifies that to the best of their knowledge, no one who has or will have any financial interest in the contract awarded from this solicitation is an officer or employee of the City of Milpitas. Through its submittal of a bid Contractor acknowledges that it is familiar with Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California and will immediately notify the City if it becomes aware of any facts concerning the contract to be awarded that constitute a violation of said provisions.

CONTRACT DOCUMENTS, EXAMINATION OF. It is the responsibility of the Proposer to carefully thoroughly examine and be familiar with legal and procedural documents, general conditions, all forms, specifications, drawings, plans, and addenda (if any), hereinafter-referred to as Contract Documents. Proposer shall satisfy himself as to the character, quantity, and quality of work to be performed and materials, labor, supervision, equipment and appurtenances necessary to perform the work as specified by the Contract Documents. The failure or neglect of the Proposer to examine the Contract Documents shall in no way relieve him from any obligations with respect to the solicitation or contract. The submission of a proposal shall constitute an acknowledgment upon which the City of Milpitas may rely that the Proposer has thoroughly examined and is familiar with the contract documents. The failure or neglect of a Proposer to receive or examine any of the contract documents shall in no way relieve him from any obligations with respect to the Proposal. No claim will be allowed for additional compensation that is based upon a lack of knowledge of any solicitation document.

DEFINITION OF TERMS. For the purposes of this RFP, the following definitions will be used:

- a. **Contract.** A legally binding document executed by two or more parties or by issuance of a purchase order (accepting a bid/quote) for the provision of agreed goods and/or services.
- b. **Contractor.** The term "Contractor" refers to the party entering into a contract with the City of Milpitas as a result of this solicitation. Same as Successful Proposer.
- c. **Evaluation Committee.** An independent committee established by the City of Milpitas to review, evaluate, and score the proposals, and to recommend award to the Proposer that submitted the proposal determined by the committee to be in the best interest of the City of Milpitas.
- d. **May.** Indicates something that is not mandatory but permissible.
- e. **Must/Shall.** Indicates a mandatory requirement. A bid that fails to meet a mandatory requirement will be deemed non-responsive and not be considered for award.
- f. **Proposer.** The person or firm making a legally binding offer.
- g. **Proposal.** The offer submitted by the Proposer.

- h. **RFP.** Acronym for Request for Proposal; same as solicitation and Contract Documents.
- i. **Should.** Indicates something that is recommended but not mandatory. Failure to do what "should" be done will not result in rejection of your proposal.
- j. **Submittal Deadline.** The date and time on or before all proposals must be submitted.
- k. **Successful Proposer.** The person, contractor, or firm to whom the award is made.

DISQUALIFICATION OF PROPOSER. If there is reason to believe that collusion exists among the Proposers, the City of Milpitas may refuse to consider proposals from participants in such collusion. No person, firm, or corporation under the same or different name, shall make, file, or be interested in more than one proposal for the same work unless alternate proposals are called for. A person, firm, or corporation who has submitted a sub-Proposal to a Proposer, or who has quoted prices on materials to a Proposer, is not thereby disqualified from submitting a sub-Proposal or quoting prices to other Proposers. Reasonable ground for believing that any Proposer is interested in more than one Proposal for the same work will cause the rejection of all Proposals for the work in which a Proposer is interested. If there is reason to believe that collusion exists among the Proposers, the City of Milpitas may refuse to consider Proposals from participants in such collusion. Proposers shall submit as part of their Proposal documents the completed Non-Collusion Affidavit provided herein.

DOCUMENTS TO BE RETURNED WITH PROPOSAL. Failure to completely execute and submit the required documents before the Submittal Deadline may render a proposal non-responsive. **The documents that must be returned by the Submittal Deadline are listed on the form entitled "Proposal Documents to be Returned" and attached hereto.**

EXECUTION OF CONTRACT. Time is of the essence of this contract. The Successful Proposer/Contractor shall execute the contract (in substantially the form provided in this RFP as EXHIBIT B - "Sample Contract"), including but not limited to signing all necessary documents and submitting all required bonds and evidences of insurance, within ten (10) days after personal delivery of the notice or within fifteen (15) days after such notice has been deposited in the United States mail. One copy of the contract will be returned to the Contractor after the City of Milpitas executes the contract. In case of failure of the Contractor to execute and return the contract and all required documents within the time allowed, the City of Milpitas may, at its option, consider that the Proposer has abandoned the contract. After the contract has been executed, including the insurance documents, certificates, and bonds. Proposer agrees to commence work within ten- (10) working days after the date of the Notice to Proceed.

EXPERIENCE AND COMPETENCY. The Successful Proposer shall be skilled and regularly engaged in the general class or type of work called for under the contract. **The Successful Proposer shall also have no less than 5 years' experience in the magnitude and character of the work proposal.** It is the intention of the City of Milpitas to award a contract to a Proposer who furnishes satisfactory evidence that he/she has the requisite experience, ability, sufficient capital, and facilities to enable him to prosecute the work successfully and properly, and to complete it within the time specified in the contract. To determine the degree of responsibility to be credited to the Proposer, the City of Milpitas will weigh any evidence that the Proposer has performed satisfactorily other contracts of like nature, magnitude, and comparable difficulty. In selecting the proposal most advantageous to the Agency, consideration will be given not only to the financial standing but also to the general competency of the Proposer for the performance of the work specified in the contract documents. To this end, each Proposal shall be supported by a statement of the Proposer's experience on the form entitled "References", which is a part of the contract documents.

FIRM PRICE PERIOD. Proposers' offer shall remain open and firm for a period of not less than ninety (90) calendar days from the Submittal Deadline.

FORMATION OF CONTRACT. Proposer's signed proposal and City of Milpitas's written acceptance shall constitute a binding contract.

INFORMED PROPOSER. Proposers are expected to fully inform themselves as to the conditions, requirements, and specifications before submitting proposals. Failure to do so will be at Proposers' own risk and they cannot secure relief on the plea of error.

INK OR TYPEWRITTEN. All information, prices, notations, signatures, and corrections must be in ink or typewritten. Mistakes may be crossed out and corrections typed or printed adjacent to the mistake and initialed in ink by the person signing the proposal.

INTERPRETATION OF CONTRACT DOCUMENTS. If any person is in doubt as to the true meaning of any part of the specifications or other contract documents, or finds discrepancies or omissions in the specifications, may submit a written request for an interpretation or correction through the Public Purchase website no later than **72 hours** before the time announced for opening the bids. When the City of Milpitas considers interpretations necessary, interpretations will be in the form of an addendum to the contract documents, and when issued, will be posted on the Public Purchase website. All such addenda shall become a part of the contract. Oral and other interpretations or clarifications shall be without legal or contractual effect. It is the responsibility of each bidder, including any prospective bidder who obtained a set of contract documents from anyone other than the Public Purchase, to check the website for addenda prior to submitting any bid.

To submit questions: 1) Log into the Public Purchase website; 2) click on the title of the solicitation and the solicitation page will open up; 3) find on the right hand side of the page under "Questions", then click on [View/Ask questions] and 4) type in your question or request for clarification. **Responses to questions/requests for clarification will be sent via e-mail notification to all registered proposers.**

**The deadline for asking questions related to this RFP is:
2:00 P.M. PST, September 6, 2016**

Questions answered on Public Purchase are considered to be a part of or clarification to the Request for Proposal and are considered to be addenda to be acknowledged by Proposers on the Proposal Form. The City may also issue a separate addendum document in response to questions/requests for clarification or initiate an addendum. It is the responsibility of each Proposer to ensure that they have registered on Public Purchase to receive all notifications. To register on Public Purchase, contact the Purchasing Agent at: (408) 687-1639.

Mandatory Registration on Public Purchase. Any Proposer obtaining a set of contract documents from any source other than the City of Milpitas is responsible for contacting the City of Milpitas Purchasing Agent at the above reference telephone number and registering on Public Purchase.

LATE BIDS. Bids not received by the Bid Deadline are late and cannot be accepted.

NOMENCLATURES. The terms Successful Proposer, Successful Contractor, and Contractor may be used interchangeably in these specifications and shall refer exclusively to the firm with whom the City of Milpitas enters into a contract because of this solicitation.

NON-COLLUSION AFFIDAVIT. Proposers are required to submit a Non-Collusion Affidavit with their Proposals.

OFFERS OF MORE THAN ONE PRICE. Proposers are NOT allowed to submit more than one proposal.

NOTICES. Unless otherwise provided herein, all notices required hereunder shall be given by United States registered or certified mail, or other form of mail which offers proof of mailing, postage prepaid and addressed to the party at the address below.

Any written notice to Contractor shall be sent to: Any written notice to City shall be sent to:

Environmental Logistics, Inc.
Marcial Barragan
3200 Depot Road
Hayward, CA 94545

City of Milpitas
Purchasing Agent
455 E. Calaveras Blvd.
Milpitas, California 95035-5411

PRICE DISCREPANCIES. In the event that there are unit price items in a proposal schedule and the "amount" indicated for a unit price of an item does not equal the product of the unit price and quantity listed, the unit price shall govern and the amount will be corrected accordingly. If there is more than one item in a proposal schedule, and the total indicated for the schedule does not agree with the sum of prices of the individual items, the prices given for the individual items shall govern and the total for the schedule will be corrected accordingly. The Proposer will be bound by said corrections.

PROPOSAL CONTENT. (See Narrative Proposal and Proposal Offer Forms) Proposer must describe in detail how he will meet the requirements of this RFP, and may provide additional related information with his proposal. **The proposal shall be presented in a format that corresponds to and references the sections outlined in the Scope of Work and Part 1 – Narrative Proposal; and presented in the same order. Responses to each section and subsection should be labeled to indicate which item is being addressed.** Proposals shall be straightforward and concise and provide "layman" explanations of technical terms that are used. Emphasis should be concentrated on conforming to the RFP instructions, responding to the RFP requirements, and on providing a complete and clear description of the offer. If a complete response cannot be provided without referencing supporting documentation, you must provide such documentation with the proposal indicating where the supplemental information can be found.

The City of Milpitas is not liable for any costs incurred by Proposers before entering into a formal contract. Costs of developing the proposals or any other such expenses incurred by the Proposer in responding to the RFP, are entirely the responsibility of the Proposer, and shall not be reimbursed in any manner by the City of Milpitas.

PROPOSAL MODIFICATIONS. Any Proposer who wishes to make modifications to a proposal already received by the City of Milpitas must withdraw his proposal in order to make the modifications. Withdrawals must be made in accordance with the terms and conditions of this solicitation (see Withdrawal of Proposal). All modifications must be made in ink, properly initialed by Proposer's authorized representative, executed, and submitted in accordance with the terms and conditions of this solicitation. It is the responsibility of the Proposer to ensure that modified or withdrawn proposals are resubmitted before the Submittal Deadline.

PROPOSAL PRICES, NOTATIONS, AND MISTAKES. All prices and notations must be in ink or typewritten. Mistakes may be crossed out and corrections typed or printed adjacent to the mistake and initialed in ink by the person signing the Proposal. Prices shall be stated in units and offers made separately on each item. In case of conflict between unit prices and extended prices, unit prices will govern. Where there is a conflict between words and figures, words will govern.

PROPOSAL RESULTS. Proposal responses are downloaded from the Public Purchase website in the Purchasing Office. A tabulation with the names of Proposers will be posted on the Purchasing page of the City website and E-mailed to all registered Proposers.

The City of Milpitas reserves the right to postpone the Submittal Deadline and opening of proposals any time before the date and time announced in the Request for Proposals or subsequent addenda.

PROPOSAL WITHDRAWAL. Proposers' authorized representative may withdraw proposals through the Public Purchase website prior to the Submittal Deadline.

PROPOSER IS SOLE POINT OF CONTACT. The Successful Proposer will be the sole point of contact. The City of Milpitas will look solely to the Successful Proposer for the performance of all contractual obligations which may result from an award based on this RFP, and the awarded Proposer shall not be relieved for the non-performance of any or all subcontractors.

PUBLIC AGENCY ("Piggyback Clause"). It is intended that any other public agency be permitted to purchase under the terms submitted in response to this procurement. Any participating public agency shall accept sole responsibility for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Milpitas will not be liable or responsible for any obligations, including but not limited to financial responsibility, in connection with participation by other public agencies. If other agencies participate, the Successful Proposer shall furnish the City of Milpitas with an annual report showing the name of the agencies, contact person, and phone number for each agency, and details of items supplied, including quantities. This report shall be furnished to the City on the anniversary date of the contract effective date.

QUESTIONS AND COMMENTS. Questions and comments regarding this solicitation must be submitted in writing, See: "INTERPRETATION OF CONTRACT DOCUMENTS" above. General questions may be directed to the Purchasing Office by calling 408-586-3161.

RECYCLED PRODUCT PROCUREMENT. The City of Milpitas is committed to the conservation and protection of state and local resources; therefore bidders able to supply recycled products and products containing recycled and environmentally preferable materials that meet performance requirements are encouraged to offer them in bids and proposals. The Purchasing Agent shall purchase

recycled products whenever they are available at the same total cost and the fitness and quality are equal to that of non-recycled products

- a. Contractors and consultants are required to use environmentally preferable products, and use products manufactured with the maximum practicable amount of post-consumer material, whenever cost effective and to the extent practicable.
- b. All businesses doing business with the City are required to certify in writing the minimum, if not exact, percentage of post-consumer materials in the products or supplies offered or sold to the City.
- c. With respect to printer or duplication cartridges, a certification from the vendor is required to specify that the cartridges are remanufactured and are in compliance with the requirements of Section 12156 (e) of the Public Contract Code.
- d. For all paper materials of any kind delivered to the City, by a contractor, supplier, or consultant, whether in the form of a product such as a cup or a deliverable such as a report, or bid documents or completed print jobs as specified in Section 12209 of the Public Contract Code. A product such as a cup may have the identifying logo and/or language on the packaging, while a deliverable such as a report shall have the identifying logo on the first page. This shall apply for all paper materials delivered to the City whenever practicable.
- e. Contractors and consultants shall use both sides of paper sheets whenever practicable.

REJECTION OF PROPOSALS AND WAIVER OF INFORMALITIES. The City of Milpitas reserves the right to reject any proposals, all proposals, or any part of any proposal presented and re-advertise for bids. The City reserves the right to cancel the solicitation and make no award. The City of Milpitas reserves the right to reject the proposal of any Proposer who previously failed to perform adequately for the City of Milpitas or any other governmental agency. The City of Milpitas expressly reserves the right to reject the proposal of any Proposer who is in default on the payment of taxes, licenses, or other monies due the City of Milpitas.

RULES FOR SUBMITTING PROPOSALS.

- a. **Submittal Deadline.** Proposals must be uploaded to the Public Purchase website by the Submittal Deadline shown in this solicitation and any subsequent addenda to this RFP.
- b. **Responsibility.** Proposers are solely responsible for ensuring their proposal is successfully uploaded onto the Public Purchase website in accordance with the solicitation requirements, before the Submittal Deadline. The City of Milpitas shall not be responsible for any delays in transmission errors or delays. Proposals must be uploaded in MS Word, PDF or MS Excel format as specified in the RFP, using as few files as possible. **Do not wait until the last minute to upload files as delays can occur.** In the event that there is a problem uploading documents, contact Public Purchase at: (800) 591-5546.
- c. **Extension of Submittal Deadline.** The City of Milpitas reserves the right to extend the Submittal Deadline when it is in the best interest of the City of Milpitas.
- d. **Forms.** To be considered for award, each proposal shall be made on forms furnished by the City of Milpitas in this RFP.
- e. **Late Proposals.** The Submittal Deadline is FIRM. Proposals will NOT be accepted after the Submittal Deadline.

- f. **Signature.** To be considered for award, each proposal shall be signed by an authorized representative of the Proposer.
- g. **Submittal Deadline.** The Submittal Deadline is **September 9, 2016 at 2:00 p.m. local time.** Complete proposals must be uploaded on the Public Purchase website by the submittal deadline.

SUBMITTAL METHOD. Proposals must be submitted electronically through the Public Purchase website: www.publicpurchase.com.

TAXES. Successful Proposer shall pay all federal, state and local taxes, levies, duties and assessments of every nature due in connection with any work under the contract and shall indemnify and hold harmless the City of Milpitas from any liability on account of any and all such taxes, levies, duties, assessments and deductions. Proposal prices shall include said taxes.

TERMS OF THE OFFER. The City of Milpitas reserves the right to negotiate final contract terms with any Proposer selected. Specific exceptions to this general rule may be noted in the final executed contract. Proposer understands and acknowledges that the representations above are material and important, and will be relied on by the City of Milpitas in evaluation of the proposal. Proposer misrepresentation shall be treated as fraudulent concealment from the City of Milpitas of the facts relating to the proposal.

WITHDRAWAL OF PROPOSAL. Following the Proposal Submittal Deadline, Proposers may not withdraw their Proposals for a period of ninety- (90) days from the date of opening. At no time may the successful Proposer(s) withdraw his Proposal.

TERMS AND CONDITIONS

ACCEPTANCE PERIOD. Unless otherwise specified herein, proposals remain open and are firm for a period of not less than ninety- (90) calendar days from the proposal submission deadline.

ANTI-DISCRIMINATION. It is the policy of the Agency that in connection with all work performed under contract, there will be no discrimination against any prospective or active employee engaged in the work because of race, color, ancestry, national origin, religious creed, sex, age, or marital status. The contractor agrees to comply with applicable Federal and California laws including, but not limited to, the California Fair Employment Practice Act, beginning with Labor Code Section 1735. In addition, the contractor agrees to require like compliance by any subcontractor employed on the work.

ASSIGNMENT OF RIGHTS OR OBLIGATIONS. Except as noted hereunder, Successful Proposer may not assign, transfer or sell any rights or obligations resulting from this solicitation without first obtaining the specific written consent of the City of Milpitas.

ATTORNEY FEES. In the event a suit or action is instituted in connection with any controversy arising out of this contract, the prevailing party shall be entitled to receive, in addition to its costs, such sum as the court may adjudge reasonable as to attorney's fees and costs.

AUTHORITY OF THE CITY OF MILPITAS. Subject to the power and authority of the City of Milpitas as provided by law in this contract, the City of Milpitas shall in all cases determine the quantity, quality, and acceptability of the work, materials and supplies for which payment is to be made under this contract. The City of Milpitas shall decide the questions that may arise relative to the fulfillment of the contract or the obligations of the contractor hereunder.

CANCELLATION OF THE CONTRACT. *Without* CAUSE, the City of Milpitas may cancel this contract at any time with thirty (30) days written notice to the supplier/contractor. *With cause*, the City of Milpitas may cancel this contract at any time with ten (10) days written notice to the Proposer. Cancellation for cause shall be at the discretion of the City of Milpitas and shall be, but is not limited to, failure to supply the materials, equipment or service specified within the time allowed or within the terms, conditions or provisions of this contract. The successful Proposer may not cancel this contract without prior written consent of the City of Milpitas Purchasing Agent.

CHANGES IN WORK. The City of Milpitas may, at any time work is in progress, by written order and without notice to the sureties, make alterations in the terms of work as shown in the specifications, require the performance of extra work, decrease the quantity of work, or make such other changes as the City of Milpitas may find necessary or desirable. The Contractor shall not claim forfeiture of contract by reasons of such changes by the City of Milpitas. Changes in work and the amount of compensation to be paid to the Contractor for any extra work as so ordered shall be determined in accordance with the unit/item prices of contractor's proposal.

CONTRACT INCORPORATION. This contract embodies the entire contract between the City of Milpitas and the Contractor. The parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein. No changes, amendments, or modifications of any of the terms or conditions of the contract shall be valid unless reduced to writing and signed by both parties. The complete contract shall include the entire contents of the RFP solicitation, all addenda, all of Proposer's successful submittal, supplemental

agreements, change orders, applicable bond(s), and any and all written agreements which alter, amend or extend the contract.

CONTRACT SUBJECT TO APPROPRIATION OF FUNDS. The successful Proposer understands and accepts that at all times; the contract awarded from this solicitation is subject to appropriation of funds by the Milpitas City Council. The contract awarded from this solicitation may terminate without penalty, liability or expense of any kind to the City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, the contract will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. The City has no obligation to make appropriations for the contract in lieu of appropriations for new or other contracts. City budget decisions are subject to the discretion of the Mayor and City Council. Contractor's assumption of risk of possible non-appropriation is a part of the consideration for the contract. This section controls against any and all other provisions of the contract.

CONTRACT TERM. Contract term will be for one (1) year from **October 19, 2016 to October 18, 2017** (the "Anniversary Date"). The City reserves the right to review the Contractor's performance at the end of each year and cancel all or part of the contract. The City of Milpitas reserves the right to extend this contract for four (4) one (1) year options exercisable at the City's sole discretion, not to exceed five (5) years in total. The City may exercise the renewal option years by written notice to the Contractor by mail, fax or email. If a renewal option is exercised it will be transmitted to the Contractor using **"Exhibit A (of the Contract) – Notice of Exercise of Option to Extend Agreement"**.

CONTRACTOR RESPONSIBILITY. Any work completed by the contractor that does not meet the quality standards as determined by the Agency, shall be re-done by the contractor at no cost to the Agency. In the event contractor's work repeatedly does not meet the quality standards, the Agency reserves the right to terminate contract without any cost to the Agency.

FORCE MAJEURE. If execution of this contract shall be delayed or suspended and if such failure arises out of causes beyond the control of and without fault or negligence of the Contractor, the Contractor shall notify the City of Milpitas, in writing, within twenty-four (24) hours, after the delay. Such causes may include but are not limited to acts of God, war, acts of a public enemy, and acts of any governmental entity in its sovereign or contractual capacity, fires, floods, epidemics, strikes and unusually severe weather.

FORMATION OF CONTRACT. Proposer's signed Proposal and City of Milpitas's written acceptance shall constitute a binding contract.

INDEPENDENT CONTRACTOR. Contractor or any agent or employee of Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by the City of Milpitas under contract. Contractor or any agent or employee of Contractor shall not have employee status with the City of Milpitas, nor be entitled to participate in any plans, arrangements, or distributions by the City of Milpitas pertaining to or in connection with any retirement, health or other benefits that the City of Milpitas City of Milpitas may offer its employees. Contractor or any agent or employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to: FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Contractor's performing services and work, or any agent or employee of Contractor provided

same. Nothing in this solicitation nor the contract awarded thereof shall be construed as creating an employment or agency relationship between the City of Milpitas and Contractor or any agent or employee of Contractor. Any terms in the contract awarded from this solicitation referring to direction from the City of Milpitas shall be construed as providing direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained. The City of Milpitas does not retain the right to control the means or the method by which Contractor performs work under the contract. It is expressly agreed by Contractor that in the performance of the services required under this contract, Contractor, and any of its subcontractors or employees, shall at all times be considered independent contractors and not agents of the City of Milpitas.

IDEMNIFICATION. Contractor shall indemnify, defend with counsel reasonably acceptable to the City of Milpitas, and hold harmless the City of Milpitas and its officials, officers, employees, agents, contractors, consultants, and volunteers from and against any and all losses, liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct or negligent acts or omissions of Contractor or its employees, subcontractors, or agents, by acts for which they could be held strictly liable, or by the quality or character of their work. The foregoing obligation of Contractor shall not apply when (1) the injury, loss of life, damage to property, or violation of law arises wholly from the negligence or willful misconduct of the City of Milpitas or its officers, employees, agents, contractors, consultants, or volunteers and (2) the actions of Contractor or its employees, subcontractor, or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law. It is understood that the duty of Contractor to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of Milpitas of insurance certificates and endorsements required under the contract awarded from this solicitation does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause is a material element of the contract and shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply.

LAWS GOVERNING CONTRACT. This contract shall be in accordance with the laws of the state of California. The parties stipulate that this contract was entered into in the County of Santa Clara, in the state of California. The parties further stipulate that the County of Santa Clara, California, is the only appropriate forum for any litigation resulting from a breach hereof or any questions risen here from.

PRICE ADJUSTMENTS. All prices shall remain fixed for the initial contract term. Eligibility for price adjustments occurs at each renewal period when an option is exercised to extend the contract. Prices quotes may remain the same, or be increased or decreased in direct proportion to the change in the Consumer Price Index (CPI) – All Urban Consumers San Francisco All Items, 1982–1984=100 - CUURA422SA0 - not seasonally adjusted for San Francisco-Oakland-San Jose, CA as reported by the Bureau of Labor Statistics of the U. S. Department of Labor. The base index shall be the February 2016 index. Subsequent price changes shall be based on the index compared to the February 2017 index. Any request for an increase must be in writing at least sixty (60) days prior to the then current term. Any change in price shall not exceed the index unless the Contractor can provide documented justification of increased operational costs such as contract labor rate increases, pass through costs from the manufactures, etc. to a maximum total of 5%.

PROPRIETARY INFORMATION. The master copy of each proposal shall be retained for official files and will become public record after the award of a contract unless the proposal or specific parts

of the proposal can be shown to be exempt by law. Each Proposer may clearly label part of a proposal as "CONFIDENTIAL" if the Proposer thereby agrees to indemnify and defend the City of Milpitas for honoring such a designation. The failure to so label any information that is released by the City of Milpitas shall constitute a complete waiver of all claims for damages caused by any release of the information. If a public records request for labeled information is received by the City of Milpitas, the City of Milpitas will notify the Proposer of the request and delay access to the material until seven working days after notification to the Proposer. Within that time delay, it will be the duty of the Proposer to act in protection of its labeled information. Failure to so act shall constitute a complete waiver.

SEVERABILITY. If any provisions or portion of any provision, of this contract are held invalid, illegal or unenforceable, they shall be severed from the contract and the remaining provisions shall be valid and enforceable.

SPECIFICATIONS, CHANGES TO. The parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein or by written amendment. No changes, amendments, or modifications of any of the terms or conditions of the specification shall be valid unless reduced to writing and signed by both parties.

SPECIFICATIONS, DEFINITION. The term "specification" as used in this solicitation shall be interpreted to mean all the pages that make up this solicitation, including all Appendices, Exhibits, or Attachments.

SPECIAL PROVISIONS FOR SERVICES

ACCESSIBILITY. The Contractor shall be fully informed regarding any peculiarities and access limitations in the performance of work required under the contract awarded from this solicitation. Contractor shall exercise due diligence and particular caution to determine timeliness and ease of access in performing work required under the contract.

ADHERENCE TO ALL LOCAL, STATE, AND FEDERAL LAWS AND REQUIREMENTS. The contractor shall adhere to all applicable health and safety laws and regulations including, but not limited to, those promulgated by CAL-OSHA, FED-OSHA, EPA, the California State Department of Health Services, and County Environmental Health Department.

BONDS – PAYMENT BOND (Labor & Materials). The **Successful Bidder** may be required to furnish within *ten (10) consecutive calendar days* after written notice, a Payment Bond in an amount equal to one hundred percent (100%) of the total amount of the contract. See below for "Substitution of Securities for Retained Funds".

Substitution of Securities for Retained Funds. The contractor shall be permitted to substitute securities for *any* monies withheld by the City of Milpitas to ensure performance under this contract, such substitution to be subject to the limitations and requirements of Public Contract Code Part 5, §22300.

BUSINESS LICENSE. If the scope of work under this bid includes performing services or installation on City of Milpitas property, the **SUCCESSFUL BIDDER** must have a current City of Milpitas Business License. Inquires regarding Business License may be directed to (Finance at 408-586-3100). Business Licenses are not required for materials or equipment shipped by U.S. mail or common carrier.

CONFIDENTIAL OR PROPRIETARY INFORMATION OF THE CITY OF MILPITAS. Contractor understands and agrees that, in the performance of the contracted work or services or in contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by the City of Milpitas and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to the City of Milpitas. Contractor agrees that all information disclosed by the City of Milpitas to Contractor shall be held in confidence and used only in performance of contracted work or services. Contractor shall exercise the same standard or care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

DAMAGE. The contractor shall be held responsible for any breakage, loss of the City of Milpitas's equipment or supplies through negligence of the contractor or his employee while working on the City of Milpitas's premises. The contractor shall be responsible for restoring or replacing any equipment, facilities, etc. so damaged. The contractor shall immediately report to the City of Milpitas any damages to the premises resulting from services performed under this contract. Failure or refusal to restore or replace such damaged property will be a breach of this contract.

INSURANCE REQUIREMENTS. Within ten (10) consecutive calendar *days* of award of contract, Successful Proposer must furnish the City of Milpitas with the Certificates of Insurance proving coverage as specified in **Exhibit A – Insurance requirements - General**. Failure to furnish the required certificates within the time allowed will result in forfeiture of the Proposal Security.

RIGHTS RESERVED. (a) Rejection of Work. Contractor agrees that the City of Milpitas has the right to make all final determinations as to whether the work has been satisfactorily completed. (b) Completion of Work. If Contractor fails to comply with the conditions of the contract, or fails to complete the required work or furnish the required materials within the time stipulated, the City of Milpitas reserves the right to purchase in the open market, or to complete the required work, at the expense of the Contractor.

SUBCONTRACTOR INFORMATION. If the proposal offer includes the use of subcontractors, the Proposer must identify specific subcontractors and the specific requirements of this RFP for which each proposed subcontractor would perform services. Contractor's license numbers must be provided, for work where a Contractor's license is required. In compliance with the provisions of Section 4100 thru 4109 of the Public Contract Code of the State of California and any amendments thereto, the undersigned Bidder shall list on the SUBCONTRACTORS LIST FORM the name, business address, and portion of the work of each subcontractor who will perform work, labor, or render services to the Bidder under this bid in excess of one-half (1/2) of one percent (1%) of the total bid, or in the case of streets or highways including bridges, in excess of one-half (1/2) of one percent (1%) of the total bid or Ten Thousand Dollars (\$10,000), whichever is greater.

The Proposer agrees that any portions of the work in excess of one-half (1/2) of one percent (1%) of the total amount of this bid; or Ten Thousand Dollars (\$10,000), if applicable; and for which no subcontractor is designated herein, will be performed by the Proposer.

It is the intention that not more than ten (10) percent of work shall be subcontracted. The listing for subcontracted work of more than ten (10) percent may cause a rejection of the proposal; if in the opinion of the City, such extensive contracting is undesirable.

After the proposal submittal deadline, no changes or substitutions will be allowed except as otherwise provided by law. The listing of more than one subcontractor for each item of work to be performed with the words "and/or" will not be permitted. Errors in the completion of the form or a failure to comply with this requirement may render the bid non-responsive and may cause its rejection. The Contractor is prohibited from performing work with a subcontractor who is debarred pursuant to Labor Code Sections 1777.1 or 1777.7.

SUBCONTRACTOR AGREEMENT TO TERMS OF THIS SOLICITATION. A proposal submitted in response to this RFP must identify all subcontractors, and outline the contractual relationship between the awarded Bidder and each subcontractor. **It is the Proposer's responsibility to ensure that an official of each proposed subcontractor has read and signs the "Subcontractor's Acceptance of Specification Requirements" and will agree to the specification requirements of any contract resulting from this solicitation.**

SUBCONTRACTOR COMPETENCY. The Successful Proposer will be required to establish to the satisfaction of the City of Milpitas the competency, reliability and responsibility of the subcontractors proposed to furnish or perform the work described in the contract documents. Before the award of the contract, the City of Milpitas will notify the Proposer in writing if, after due investigation, the City of Milpitas has reasonable objection to any proposed subcontractor. If the City of Milpitas has reasonable objection to any subcontractor, the Proposer shall submit an acceptable substitute to the City of Milpitas.

Entities proposed by the Proposer to be used as subcontractors, and to whom the City of Milpitas has made no reasonable objection, must be used on the work for which they were proposed and shall not be changed except with the written consent of the City of Milpitas.

SUBCONTRACTOR SUBSTITUTION. The provisions of the California Subletting and Subcontracting Fair Practices Act (California Public Contract Code §§4100-4113) are incorporated herein by this reference.

IMPORTANT NOTICE –
PROPOSAL DOCUMENTS TO BE RETURNED

The following forms must be completed and uploaded into Public Purchase with your **Proposal** on or before the Submittal Deadline.

1. Part 1 - Narrative Proposal
2. Part 2 - Proposal Offer Form
3. Summary of Proposer's Waste Management Processes Form
4. Non-Collusion Affidavit
5. Proposer's Statement Regarding Insurance Coverage
6. Worker's Compensation Insurance Certificate
7. References
8. Subcontractors List (**If applicable**)
9. Subcontractor's Acceptance of Solicitation Requirements (**If applicable**)
10. Nondiscriminatory Employment Certificate

Proposer **MUST PROVIDE** the following:

- Hazardous waste hauler registration.
- CAL-OSHA carcinogen registration.
- Federal waste hauler permit.
- California State Contractors License, Class "A" (General Engineering) with Hazardous Substances Removal Certification.
- California Highway Patrol Hazardous Materials Transportation License.
- Environmental Protection Agency Identification Number.
- All employees assigned to the contract must have current Hazardous Operations Waste and Emergency Response certificates.

Failures to complete, sign (where required), and return the above documents with your proposal will render it non-responsive.

PART 1 - NARRATIVE PROPOSAL

Each proposal must include both parts:

PART I. Narrative Proposal - **MAXIMUM LENGTH SHALL NOT EXCEED 25 PAGES**

PART II. Cost Proposal (Proposal Offer Form)

NARRATIVE PROPOSAL FORMAT

Section 1- **Proposer's Company Background** signed by a person or persons authorized to bind the company in contract. Include the information listed in the Instructions To Proposers. Proposer must include in his proposal a complete disclosure of any alleged significant prior or ongoing contract failures, bankruptcy or insolvency, any civil or criminal litigation or investigation pending which involves the Proposer or in which the Proposer has been judged guilty or liable. Failure to comply with the terms of this provision will disqualify any proposal. The City of Milpitas reserves the right to reject any proposal based upon the Proposer's prior history with the City of Milpitas or with any other party, which documents, without limitation, unsatisfactory performance, adversarial or contentious demeanor, significant failure(s) to meet contract milestones or other contractual failures.

Proposer must provide a Company Profile containing the following information:

- a. Company ownership. If incorporated, the state in which the company is incorporated and the date of incorporation.
- b. Location of the company offices.
- c. Number of employees.
- d. Name, address, and telephone number of the Proposer's point of contact for a contract resulting from this RFP.
- e. Length of time Proposer has been providing services described in this RFP. Please provide a brief description.
- f. **Resumes for key staff** responsible for performance of any contract resulting from this RFP.
- g. Gross annual business volume, nationally and at the location from which the service will be provided.

Section 2- **Proposer's Standard Equipment and Pricing Fee Schedule.**

- a. Completed **City of Milpitas Fee Schedule** for materials and services typical of those required by the City of Milpitas.

Section 3- **Completed Summary of Proposer's Waste Management Processes.**

Section 4- **Firm Qualifications**

- a. Proposer's experience and capability in providing both emergency response and routine hazardous materials disposal services.
- b. Proposer's waste handling procedures including identification, classification,

segregation, packaging and consolidation of collected wastes. Include procedure for the identification of "unknowns".

- c. Proposer's arrangements for the transportation of City-generated wastes, including:
 - 1. A copy of the State of California DTSC Certificate of Registration as a hazardous waste transporter for proposer (if proposer provides transportation) and for any subcontracted transporters to be utilized;
 - 2. A list of transporter hazardous waste hauler registrations for other states through which City-generated hazardous wastes may be transported.
- d. The regulatory compliance record of proposer and any subcontractors, including a description of any accidents or violations issued to proposer and any subcontracted transporter by the EPA, Department of Transportation, DTSC, local regulatory agency and/or California Highway Patrol during the past two years.
- e. Detailed and specific information about proposer's capabilities for emergency response services, including location(s) of emergency response groups and equipment, a list of locally available emergency response equipment, etc.

Section 5- **Additional Requirements**

- A list of the TSDFs to be utilized to manage City-generated wastes, including the facility name, address, telephone number, EPA ID number, specific waste streams to be managed at each TSDF listed, and a description of the waste management processes to be utilized.
- Provide a list of DOT hazard classifications or types of materials proposer CANNOT handle in the event of an incident (i.e. toxic gases flammable solids, unknown compressed gases, etc),
- Provide an organizational chart for proposer's field operations personnel with associated training standards for each position.
- Identify the highest level of personnel protective equipment that employees are provided and trained to use in a response.
- Include any other information that will assist the City in evaluating proposer's capabilities relative to this contract.

Section 6- **References.** Provide a summary of at least three (3) projects with a public entity, similar in scope of work. Complete the reference form for these projects. References shall include agency name, address, contact name, phone number, e-mail address, yearly contract amount, total number of years and type of event. (See RFP Reference Form)

Section 5- **Forms:** Include all forms as required on the List of Documents included in the Proposal in the sequential order as listed.

THIS FORM MUST BE PRINTED OUT, COMPLETED AND UPLOADED BACK INTO
THE PUBLIC PURCHASE SYSTEM

PART 2 - PROPOSAL OFFER FORM

RFP #2156 for Routine Disposal and Emergency Cleanup of Hazardous Materials

To: City of Milpitas
455 E. Calaveras Blvd.
Milpitas, CA, 95035-5411

From: Environmental Logistics Inc.
Name of Proposer
3200 Depot Road
Mailing Address
Hayward, CA 94545
City, State & Zip

CONTRACTOR'S PROPOSAL

The undersigned Proposer agrees that he will contract with the City of Milpitas to provide all necessary labor, supervision, machinery, tools, apparatus and other means of production to do all the work and furnish all the materials specified in the contract in the manner and time therein prescribed, and that he will take in full payment the amount set forth hereon.

Proposal No. 2156 for Routine Disposal and Emergency Cleanup of Hazardous Materials, in its entirety, all Addenda, and the following documents by this reference are hereby offered as a part of the contract to be awarded:

1. Part 1 - Narrative Proposal
2. Part 2 - Proposal Offer Form
3. Summary of Proposer's Waste Management Processes Form
4. Non-Collusion Affidavit
5. Proposer's Statement Regarding Insurance Coverage
6. Worker's Compensation Insurance Certificate
7. References
8. Subcontractors List (If applicable)
9. Subcontractor's Acceptance of Solicitation Requirements (If applicable)
10. Nondiscriminatory Employment Certificate
11. City of Milpitas Insurance Requirements

**FAILURE TO ACKNOWLEDGE ADDENDA, IF ANY, AND/OR QUESTIONS MAY RENDER
YOUR PROPOSAL NON-RESPONSIVE.**

By filling in the Addenda Number and checking the blank at the end of the sentence, Proposer acknowledges receipt of Addenda Number(s) N/A, , and all questions, if any, listed on Public Purchase .

The cost of all labor and materials necessary for the completion of the work itemized, even though not shown or specified, shall be included in the unit price for the various items shown hereon. There is no guarantee that the actual contract value will equal or exceed the amounts stated in the RFP. Quantities provided are estimates for bid purposes.

**CITY OF MILPITAS - FEE SCHEDULE
FOR SERVICES COMMONLY REQUIRED BY THE CITY OF MILPITAS**

Proposer **MUST PROVIDE** their Fee Schedule as stated in Section I of the Scope of Work, including Proposer's Standard Equipment and Pricing Fee Schedule to indicate the charge for services listed in the RFP.

SCENARIO #1 - LABOR RATES – ROUTINE SERVICES

Work Team (Reference: RFP Page 5 (A)(2.3.4)) – ****This is a sample task for pricing evaluation purposes only****. Assume the following materials: Acetone, 5 gallons, Oil & Absorbent, 55 Gallon Drum, Latex Paint, twelve (12) 5 gallon buckets and fifteen (15) 1 gallon cans, and one (1) 55 gallon drum containing oil with 8% water.

Send to the requesting City facility a work team consisting of a lead person and a hazardous waste technician under the supervision of a chemical packaging specialist or equivalent personnel. Response time shall be no more than one week from date of request.

ITEM	UNIT	DESCRIPTION	Total Amount
1	JOB	Establish four (4) Waste Streams	\$ N/C
1	JOB	Complete a waste profile sheet for each waste stream so established	\$ N/C
1	JOB	Complete a Uniform Hazardous Waste Manifest and any other required documentation prior to materials transport	\$ N/C
1	JOB	Provide to the requesting City Facility a copy of all documentation listed above	\$ N/C
1	JOB	Pack and label all waste in accordance with DOT requirements prior to transport from City Facility	\$ 996
1	JOB	Remove hazardous materials from City facility to await transport to Treatment Storage and Disposal Facility	\$ 380
1	JOB	Send City-generated hazardous wastes to City-approved TSDFs	\$ N/C
		TOTAL AMOUNT	\$ 1,376

ITEM	DESCRIPTION - If your title for Positions 1, 2, and/or 3 is different than ours please fill in the blank	Regular Hourly Rate
1	Team Lead (Lead Tech)	\$ 79
2	Hazardous Waste Technician	\$ 72
3	Chemical Packaging Specialist (Project Manager)	\$ 98
4	Other Labor Rate: Specify Type of Labor	\$ N/A
5	Labor Markup percentage (%) 0	
6	Minimum Hours (if any) 4	
7	Mark-up percentage (%), if any, off Contractors verified invoice cost for materials will be 0. (Max 10%)	
8	Markup percentage (%) for rented Equipment: 0. (Max 10%)	
	Total Amount Items 1 - 4	\$ 249

SCENARIO #2 - LABOR RATES - EMERGENCY RESPONSE - **This is a sample task for pricing evaluation purposes only.**

Assume a 30 gallon diesel spill that requires five (5) hours of clean up time. Assume the diesel is contained by the curb along the side of a 250 foot stretch of street and has not gotten into the storm drain yet.

Provide all labor, materials, equipment, tools, labels, transportation, and supervision to perform the required services. Typical services include, but are not limited to, waste containment, spill cleanup, site decontamination, hazmat identification of unknown materials, waste packaging, transportation and disposal. Contractor's personnel, responding to emergency service requests, shall be under the direct supervision of an employee of Contractor who is trained and certified in emergency response procedures.

Please price ALL applicable categories:

Labor:

1. Project Manager

\$ 490

2. Chemist \$ N/C
3. Chemical Packaging Specialist \$ N/C
4. Hazardous Waste Technician \$ 720
5. Other (Specify): _____ \$ 395
6. Other (Specify): _____ \$ N/A

Materials:

8. List Materials: PPE, Pressure Washer, Drum Vacuum, Brooms, Shovels \$ 1,600

Absorbent, 55g Drum Metal O/T

Transportation and Disposal:

9. Transportation and Disposal Disposal 6 X 55g Non-RCRA Solid (ABS, Diesel) \$ 1,750
4 X 55g Non-RCRA Liquid (water, Diesel)

Other:

10. List all Other Categories: Transportation Item 9, 28ft Box Van, PM Unit, ER Unit \$ 1,600

TOTAL ITEMS 1 - 10 \$ 6,555

*Use Other to identify positions/roles not listed. Mark NA as appropriate.

PROFILE FEES

1. Standard Turn-Around (Emergency Response Profiles) \$ 85 /ea.

Define "Standard," Turn-Around _____

2. Rush \$ N/C /ea.

Define "Rush," _____

3. Recertification of Profile \$ N/C /ea.

DISPOSAL FEES

	Unit Price	Unit Price	Unit Price
	1-Gal Can	5-Gal Bucket	55-Gal Drum
1. RQ Waste Flammable Liquids	\$ <u>75</u>	\$ <u>150</u>	\$ <u>275</u>
2. Non-RCRA Hazardous Waste Solids			

- | | | | |
|------------------|-------|--------|---------------------|
| A. Oil/Absorbent | \$ 65 | \$ 100 | \$ 175 CY Box \$525 |
|------------------|-------|--------|---------------------|
3. Non-RCRA Hazardous Waste Liquids
- | | | | |
|------------------|-------|--------|---------------------|
| A. Latex Paint | \$ 65 | \$ 100 | \$ 175 CY Box \$525 |
| B. Oil and Water | \$ 65 | \$ 100 | \$ 175 |
4. Oil Contaminated Soil \$ 65 \$ 100 \$ 175
5. Aerosols, Flammable, Empty Containers \$ 75 \$ 75 \$ 195
6. Sludge \$ 75 \$ 75 \$ 175
7. Minimum Disposal Per Profile \$ 65

	Unit Price	Unit Price	Unit Price
TRANSPORTATION FEES	1-Gal Can	5-Gal Bucket	55 Gal Drum
1. Out of State (Already covered)			
0-5 drums	\$ N/C	\$ N/C	\$ N/C
5-10 drums	\$ N/C	\$ N/C	\$ N/C
>10 drums	\$ N/C	\$ N/C	\$ N/C
2. In State (Already covered)			
A. Mileage - Truck	\$ N/C /mile		
B. Mileage - Driver	\$ N/C /mile		
D. Minimum	N/C		

OTHER FEE(S) / SURCHARGE(S)

Please list/specify any other fees or surcharges. Indicate dollars or percentage as appropriate. _____

15% Energy/Environmental/Securities surcharge is added to all invoice totals.

I/We (Insert Company Name) Environmental Logistics Inc. agree to provide any/all Routine Disposal and Emergency Cleanup of Hazardous Materials as stipulated in this Request for Proposal (RFP) and pricing as indicated on the Price Proposal Forms. I/We further agree that the below; undersigned is authorized by the (Insert Company Name) Environmental Logistics Inc. to bind the company in contract for the specified contract

term. All exceptions (if applicable) are attached as an addendum to this pricing proposal. I understand that the City of Milpitas may not accept exceptions to the RFP. I further agree that if awarded the contract, to abide the terms and conditions of the contract and not to materially modify such terms without expressed written consent of the City of Milpitas Purchasing Agent.

Company Name: Environmental Logistics Inc.

Legal Entity Type: Corporation

Authorized Contact Title: General Manager

Print Contact Name: Marcial Barragan

Contact Signature: 

Contact E-Mail Address: mbaragan@environmentallogistics.org

Contact Telephone#: 510-670-9901

Contact Fax #: 510-670-9904

Proposer's Address: 3200 Depot Road

City, State & Zip Code: Hayward, CA 94545

Taxpayer I.D. #: 20-4548206

Milpitas Business License #: _____

CSLB # 927360 Class A-HAZ

DIR Labor Compliance Reg. # 1000014653

NON-COLLUSION AFFIDAVIT

THIS FORM MUST BE PRINTED OUT, COMPLETED AND UPLOADED BACK INTO
THE PUBLIC PURCHASE SYSTEM

RFP #2156 for
Routine Disposal and Emergency Cleanup of Hazardous Materials

State of (State) California
County of (County) Santa Clara County

(Bidder's Authorized Representative Name) Marcial Barragan, being first duly sworn, deposes and says that he or she is Owner or Authorized Representative of (Bidder's Company Name) Environmental Logistics, Inc the party making the foregoing bid that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the Bidder has not directly or indirectly induced or solicited any other Bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any Bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the Bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the Bidder or any other Bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other Bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and further, that the Bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid."

Environmental Logistics, Inc
Bidder Name (Person, Firm, Corp.)

General Manager
Title of Authorized Representative

3200 Depot Road
Address

Marcial Barragan
Name of Authorized Representative

Hayward, CA 94545
City, State, Zip

09 / 08 / 16
(Date)


(Signed at (Place))

**PROPOSER'S STATEMENT
REGARDING INSURANCE COVERAGE**

THIS FORM MUST BE PRINTED OUT, COMPLETED AND UPLOADED BACK INTO
THE PUBLIC PURCHASE SYSTEM

RFP #2156 for
Routine Disposal and Emergency Cleanup of Hazardous Materials

PROPOSER HEREBY CERTIFIES that the Proposer has reviewed and understands the insurance coverage requirements specified in the Request for Proposal No. 2156, Routine Disposal and Emergency Cleanup of Hazardous Materials. Should the Proposer be awarded the contract for the work, Proposer further certifies that the Proposer can meet the specified requirements for insurance, and agrees to name the City of Milpitas as Additional Insured for the work specified.

Environmental Logistics Inc.

Name of Proposer (Person, Firm, or Corporation)


Signature of Proposer's Authorized Representative

Marciel Barragan General Manager

Name & Title of Authorized Representative

9/8/2016
Date of Signing

WORKER'S COMPENSATION INSURANCE CERTIFICATE

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RFP #2156 for
Routine Disposal and Emergency Cleanup of Hazardous Materials

The Contractor shall execute the following form as required by the California Labor Code, Sections 1860 and 1861:

I am aware of the provisions of Section 3700 of the Labor Code, which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

Environmental Logistics Inc.

Name of Proposer (Person, Firm, or Corporation)


Signature of Proposer's Authorized Representative

Marcial Barragan General Manager

Name & Title of Authorized Representative

9/8/2016
Date of Signing

REFERENCES

THIS FORM MUST BE PRINTED OUT, COMPLETED AND UPLOADED BACK INTO
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RFP No. 2156 Routine Disposal and Emergency Cleanup of Hazardous Materials

Proposer: Environmental Logistics Inc.
(Legal Name of Entity Submitting Proposal)

List three references for work of a similar nature performed within the last three years.

1.

<u>City of San Jose</u>	<u>1551 Senter Road, Bldg. A, Suite 300</u>
<u>Name of Agency</u>	<u>Agency Address</u>
<u>Behlma Magday</u>	<u>Safety Manager</u>
<u>Contact Name</u>	<u>Contact Title</u>
<u>408-975-2593</u>	<u>bahlma.magday@sanjose.ca.gov</u>
<u>Contact Telephone #</u>	<u>Contact E-mail Address</u>
<u>2011-Present</u>	<u>\$246,000</u>
<u>Contract Period</u>	<u>Contract \$ Amount</u>
<u>Waste characterization, HAZCAT and analysis, profiling, manifesting, labeling, transportation and disposal.</u>	
<u>Description of Work Performed</u> of hazardous and bio-medical wastes.	

2.

<u>City and County of San Francisco</u>	<u>Port of San Francisco Pier 1</u>
<u>Name of Agency</u>	<u>Agency Address</u>
<u>Tim Felton</u>	<u>Hazardous Materials Manager</u>
<u>Contact Name</u>	<u>Contact Title</u>
<u>510-875-9854</u>	<u>tim.felton@sfpport.com</u>
<u>Contact Telephone #</u>	<u>Contact E-mail Address</u>
<u>2009-Present</u>	<u>\$100,000/year</u>
<u>Contract Period</u>	<u>Contract \$ Amount</u>
<u>Hazardous and Universal Waste pickup, transportation and disposal. Abandoned Waste, lab packing, bulk oil</u>	
<u>Description of Work Performed</u> pickups, vacuum tankers, and pumpout of sumps.	

3.

<u>Caltrans District #3</u>	<u>3940 Rosin Court, Sacramento</u>
<u>Name of Agency</u>	<u>Agency Address</u>
<u>George Avila</u>	<u>Superintendent, Hazmat and Water Conservation</u>
<u>Contact Name</u>	<u>Contact Title</u>
<u>916-709-2056</u>	<u>francisco.avila@dot.ca.gov</u>
<u>Contact Telephone #</u>	<u>Contact E-mail Address</u>
<u>2012-Present</u>	<u>\$962,000</u>
<u>Contract Period</u>	<u>Contract \$ Amount</u>
<u>Hazardous waste drum pickup, Universal Wastes, lab packing, sump cleaning, transportation and disposal</u>	
<u>Description of Work Performed</u> of tires and treated wood wastes.	

I hereby certify that the Proposer/Bidder performed the work listed above.

 9/8/2016
Signature of Proposer/Bidder (Individual with Authorization to Bind the Firm in Contract)

IF APPLICABLE

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SUBCONTRACTORS LIST

RFP No. 2156 Routine Disposal and Emergency Cleanup of Hazardous Materials

The following is a list of the subcontractors that will be used in the work if the Proposer is awarded the contract. No subcontractor not listed below will be used without the written approval of the City of Milpitas. Additional numbered pages outlining this portion of the proposal may be attached to this page.

NOTE: Subcontractors' address, telephone number, license numbers, class and expiration date information may be omitted from this form but must then be submitted within two (2) working days following the opening of bids. Subcontractor name, location, and item of work must be stated at the time of the bid.

Environmental-Logistics Inc.
Proposer Name

N/A

SUBCONTRACTORS LIST, Page 1		
<i>All Subcontractors in excess of 1/2 of 1% of total bid must be listed.</i>		
Subcontractor Name:		Item of Work:
Address:		
License No. Class:	Expiration Date: / /	
DIR Labor Compliance Reg. #	Percent of Total Bid	Phone: ()

SUBCONTRACTORS LIST		
<i>All Subcontractors in excess of 1/2 of 1% of total bid must be listed.</i>		
Subcontractor Name:		Item of Work:
Address:		
License No. Class:	Expiration Date: / /	
DIR Labor Compliance Reg. #	Percent of Total Bid	Phone: ()

IF APPLICABLE

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THE PUBLIC PURCHASE SYSTEM**

**SUBCONTRACTOR'S ACCEPTANCE OF
SOLICITATION REQUIREMENTS**

RFP No. 2156 Routine Disposal and Emergency Cleanup of Hazardous Materials

Pursuant to the Special Provisions for Services requirements of this solicitation, (Subcontractor Firm Name) _____ has offered to provide (Item of Work) _____ subcontract services as part of the proposal submitted by (Proposer Name) _____.

SUBCONTRACTOR HEREBY CERTIFIES that the Subcontractor has reviewed and understands the solicitation requirements as defined in the **Request for Proposal No. 2156 Routine Disposal and Emergency Cleanup of Hazardous Materials**. Should the Proposer be awarded the contract for the work, Subcontractor further certifies that the Subcontractor can meet the solicitation requirements for insurance and agrees to name the City of Milpitas as Additional Insured for its applicable work.

Name of Subcontractor (Person, Firm, or Corporation)

Signature of Subcontractor's Authorized Representative

Name of Authorized Representative

Title of Authorized Representative

Date of Signing

NONDISCRIMINATORY EMPLOYMENT CERTIFICATE

FORM MUST BE PRINTED OUT, COMPLETED AND UPLOADED BACK INTO THE
PUBLIC PURCHASE SYSTEM

RFP #2156 for
Routine Disposal and Emergency Cleanup of Hazardous Materials

Certificate Generally

Consistent with a policy of nondiscrimination in employment on contracts of the City of Milpitas and in furtherance of the provisions of Section 1735 and 1777.6 of the California Labor Code a "contractor's obligation for nondiscriminatory employment certificate" as hereinafter set forth shall be attached and incorporated by reference as an indispensable and integral term of all RFQ specifications and contracts of the City of Milpitas for the construction, repair, or improvement of public works.

Contents of Certificate

The Contractor's obligation for nondiscriminatory employment is as follows:

In performing the work of this contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, ancestry, sexual orientation, political affiliation or beliefs, sex, age, physical handicap, medical condition, marital status or pregnancy (as those terms are defined by the California Fair Employment and Housing Act -- Government Code Section 12900-12996), except where such discrimination is based on a bona fide occupational qualification.
2. The Contractor will take positive action or ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, national origin, ancestry, sexual orientation, political affiliation or beliefs, sex, age, physical handicap, medical condition, marital status or pregnancy (as those terms are defined by the California Fair Employment and Housing Act -- Government Code Section 12900-12996), except where such discrimination is based on a bona fide occupational qualification. Such action shall include but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City of Milpitas setting forth the provisions of this nondiscrimination clause.
3. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, national origin, ancestry, sexual orientation, political affiliation or beliefs, sex, age, physical handicap, medical condition, marital status or pregnancy (as those terms are defined by the California Fair Employment and Housing Act -- Government Code Section 12900-12996), except where such discrimination is based on a bona fide occupational qualification.
4. The Contractor will send to each labor union or representative of workers, with which the Contractor has a collective bargaining agreement or other contract or understanding, a notice to be

provided by the City of Milpitas advising the said labor union or workers' representative of the Contractor's commitments under this provision, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. The Contractor will permit access to the Contractor's records of employment, employment advertisements, application forms, and other pertinent data and records by the City of Milpitas, the Fair Employment Practices Commission, or any other appropriate Agency of the State designated by the City of Milpitas for the purposes of investigation to ascertain compliance with the Contractor's Obligation for Nondiscriminatory Employment provisions of this contract, or Fair Employment Practices statute.

6. A finding of willful violation of the nondiscriminatory employment practices article of this contract or of the Fair Employment Practices Act shall be regarded by the City of Milpitas as a basis for determining that as to future contracts for which the Contractor may submit quotes, the Contractor is a "disqualified bidder" for being "non-responsible".

7. The City of Milpitas shall deem a finding of willful violation of the Fair Employment Practices Act to have occurred upon receipt of written notice from the Fair Employment Practices Commission that it has investigated and determined that the Contractor has violated the Fair Employment Practices Act and has issued an order under Labor Code Section 1426 or obtained an injunction under Labor Code Section 1429.

8. Upon receipt of any such written notice, the City of Milpitas shall notify the Contractor that unless he or she demonstrates to the satisfaction of the City of Milpitas within a stated period that the violation has been corrected, he or she shall be declared a "disqualified bidder" until such time as the Contractor can demonstrate that he or she has implemented remedial measures, satisfactory to the City of Milpitas, to eliminate the discriminatory employment practices which constituted the violation found by the Fair Employment Practices Commission.

9. Upon receipt from any person of a complaint of alleged discrimination under any City of Milpitas contract, the City of Milpitas Administrator shall ascertain whether probable cause for such complaint exists. If probable cause for the complaint is found, the Administrator shall request the City Council to hold a public hearing to determine the existence of a discriminatory practice in violation of this contract.

10. In addition to any other remedy or action provided by law or the terms of this contract, the Contractor agrees that, should the Council determine after a public hearing duly noticed to the Contractor that the Contractor has not complied with the nondiscriminatory employment practices provisions of this contract or has willfully violated such provisions, the City of Milpitas may, without liability of any kind, terminate, cancel, or suspend this contract, in whole or in part. In addition, upon such determination the Contractor shall, as a penalty to the City of Milpitas, forfeit a penalty of \$25.00 for each calendar day, or portion thereof, for each person who was denied employment as a result of such noncompliance. Such monies shall be recovered from the Contractor. The City of Milpitas may deduct any such penalties from any monies due the Contractor from the City of Milpitas.

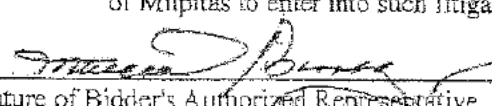
11. The Contractor certifies to the City of Milpitas that he or she has met or will meet the following standards for positive compliance, which shall be evaluated in each case by the City of Milpitas:

- a. The Contractor shall notify all supervisors and other personnel officers in writing of the content of the nondiscrimination provision and their responsibilities under it.
- b. The Contractor shall notify all sources of employee referrals (including unions, employment agencies, advertisements, Department of Employment) of the content of the nondiscrimination provision.
- c. The Contractor shall file a basic compliance report as required by the City of Milpitas. Willfully false statements made in such reports shall be punishable as provided by law. The compliance report shall also specify the sources of the work force and who has the responsibility for determining whom to hire, or whether or not to hire.
- d. The Contractor shall notify the City of Milpitas of opposition to the nondiscrimination provision by individuals, firms or organizations during the period of this contract.

12. Nothing contained in this Contractor's Obligation for Nondiscriminatory Employment Certificate shall be construed in any manner to prevent the City of Milpitas from pursuing any other remedies that may be available at law.

13. The Contractor certifies to the City of Milpitas that the Contractor will comply with the following requirements with regard to all subcontractors and suppliers:

- a. In the performance of the work under this contract, the Contractor will include the provisions of the foregoing paragraphs (1) through (8) in all subcontracts and in any supply contract to be performed within the State of California, so that such provisions will be equally binding upon each subcontractor and each supplier.
- b. The Contractor will take such action with respect to any subcontract or purchase order as the City of Milpitas may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigations with a subcontractor or supplier as a result of such direction by the City of Milpitas, the Contractor may request the City of Milpitas to enter into such litigation to protect the interests of the City of Milpitas.


Signature of Bidder's Authorized Representative

Marcial Barragan General Manager
Name & Title of Authorized Representative

9/8/2016
Date of Signing



EXHIBIT A INSURANCE REQUIREMENTS - GENERAL

Definition:

For purposes of this contract, the following definition applies: City of Milpitas includes the duly elected or appointed officers, agents, employees and volunteers of the City of Milpitas, individually or collectively.

Insurance Required:

No work shall be done under this Contract unless there is in effect insurance required by the Contract and under this section, and such insurance has been approved by the City, nor shall the Contractor allow any subcontractor to commence work on his subcontract until all insurance required of the subcontractor has been so obtained and approved. The Contractor shall maintain or cause to be maintained adequate workers' compensation insurance as required under the laws of the State of California, for all labor employed by him or by any subcontractor under him who may come within the protection of such worker's compensation laws of the State of California and shall provide or cause to be provided employer's liability insurance for the benefit of his employees.

Minimum Scope of Insurance: (Check Mark Indicates Required)

Coverage must be *at least as broad as*:

- (X) Insurance Services Office **Commercial General Liability** coverage (occurrence Form CG0001).
- (X) Insurance Services Office Form Number CA 0001 covering **Automobile Liability**, Code 1 (any auto).
- (X) **Workers' Compensation** insurance as required by the State of California and Employer's Liability Insurance.
- (X) **Contractors Pollution Liability and/or Asbestos Pollution Liability and/or Errors & Omissions** applicable to the work being performed, with a limit no less than \$1,000,000 per claim or occurrence and \$2,000,000 aggregate per policy period of one year.

Minimum Limits of Insurance:

Contractor must maintain limits no less than:

1. **General Liability:** \$1,000,000 per occurrence for bodily injury, property damage and (Including operations, personal and advertising injury. If Commercial General Liability products and completed insurance with a general aggregate limit is used, either the general operations, as applicable.) aggregate limit must apply separately to this project/location or the general aggregate limit must be twice the required occurrence limit.
2. **Automobile Liability:** \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation** Statutory
Employer's Liability: \$1,000,000 each accident
\$1,000,000 disease-policy limit
\$1,000,000 disease-each employee

4. **Contractors Pollution Liability and/or Asbestos Pollution Liability and/or Errors & Omissions Pollution Liability** Applicable to the work being performed, with a limit no less than \$1,000,000 per claim or occurrence and \$2,000,000 aggregate per policy period of one year.

If the contractor maintains broader coverage and/or higher limits than the minimums shown above, the Entity requires and shall be entitled to the broader coverage and/or higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity.

Self Insured Retentions

Self-insured retentions must be declared to and approved by the Entity. At the option of the Entity, the Contractor shall provide coverage to reduce or eliminate such self-insured retentions as respects the Entity, its officers, officials, employees, and volunteers; or the Contractor shall provide evidence satisfactory to the Entity guaranteeing payment of losses and related investigations, claim administration, and defense expenses. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Entity.

Other Insurance Provisions

- A. The General Liability, Automobile Liability, Contractors Pollution Liability, and/or Asbestos Pollution policies are to contain, or be endorsed to contain, the following provisions:
1. **The City of Milpitas, its officers, officials, employees, and volunteers are to be covered as additional insureds** with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10, CG 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 forms if later revisions used).
 2. For any claims related to this project, **the Contractor's insurance coverage shall be primary insurance** coverage at least as broad as ISO CG 20 01 04 13 as respects the Entity, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, agents, or volunteers **shall be excess of the Contractor's insurance and shall not contribute with it.**
 3. Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Entity.
- B. The Automobile Liability policy shall be endorsed to include Transportation Pollution Liability insurance, covering materials to be transported by Contractor pursuant to the contract. This coverage may also be provided on the Contractors Pollution Liability policy.
- C. If General Liability, Contractors Pollution Liability and/or Asbestos Pollution Liability and/or Errors & Omissions coverages are written on a claims-made form:
1. The retroactive date must be shown, and must be before the date of the contract or the beginning of contract work.

2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, the Contractor must purchase an extended period coverage for a minimum of five (5) years after completion of contract work.
4. A copy of the claims reporting requirements must be submitted to the Entity for review.
5. If the services involve lead-based paint or asbestos identification / remediation, the Contractors Pollution Liability shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification / remediation, the Contractors Pollution Liability shall not contain a mold exclusion and the definition of "Pollution" shall include microbial matter including mold.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A:VII if admitted in the State of California. If Contractors Pollution Liability, Asbestos Pollution and/or Errors & Omissions coverages are not available from an admitted insurer, the coverage may be written by a non-admitted insurance company. A non-admitted company should have an A.M. Best rating of A:X or higher. Exception may be made for the California State Compensation Insurance Fund if not rated.

Verification of Coverage

Contractor shall furnish the Entity with original certificates and amendatory endorsements, or copies of the applicable insurance language, effecting coverage required by this contract. All certificates and endorsements are to be received and approved by the Entity before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The Entity reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

The Certificate with endorsements and notices shall be mailed to: City of Milpitas, Attention: Purchasing, 455 East Calaveras Boulevard, Milpitas California, 95035-5411.

Waiver of Subrogation

Contractor hereby grants to Entity a waiver of subrogation which any insurer may acquire against Entity, its officers, officials, employees, and volunteers, from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the Entity for all work performed by the Contractor, its employees, agents, and subcontractors.

Subcontractors

Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that Entity is an additional insured on insurance required from subcontractors. For CGL coverage subcontractors shall provide coverage with a format least as broad as CG 20 38 04 13.

Absence of Insurance

If the Contractor allows the insurance to lapse, be cancelled, or be reduced below the limits specified in this article, the Contractor shall cause all work in the Project to cease and any delays or expenses

caused due to stopping of work and change of insurance shall be considered Contractor's delay and shall not be considered to increase cost to the City or increase time in which the Project shall be completed.

Special Risks or Circumstances

Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Contractor agrees that if it does not keep the aforesaid insurance in full force and effect, City may immediately terminate this Agreement

EXHIBIT C

HAZARDOUS WASTE INVENTORY BY LOCATION

City Corporation Yard

1265 N. Milpitas Blvd.

Milpitas, CA 95035-5411

Facilities (Estimated Annual Amount)

<u>Qty.</u>	<u>Unit /Size</u>	<u>Hazardous Material Product Type</u>
22	1 gal.	Latex Paint
32	5 gal.	Latex Paint
24	5 gal.	Traffic paint
15	16 oz.	Aerosol Paint
5	1 gal.	Floor Sealer
5	1 gal.	Oil Base Paint
12	1 gal.	Asphalt Releasing Agent
1	5 gal.	Oil and Fuel Soaked Absorbent
1	5 gal.	Fuel and Oil Soaked Rags

Fire Station No.1 (Actual On Hand)

777 S. Main Street

Milpitas, CA 95035-5411

<u>Qty.</u>	<u>Unit /Size</u>	<u>Hazardous Material Product Type</u>
21	5 gal.	Royal Chemical Water Wetter/Tank Saver
10	5 gal.	Pioneer Products Water Wetter
13	5 gal.	3M Light water AFFF
7	5 gal.	Pioneer Products Hose / Turnout Cleaner
5	5 gal.	Latex Paint
2	5 gal.	Solvent
2	1 gal.	Solvent
23	1 gal.	Latex Paint
½	20 Lbs. Bag	Absorbent, petroleum contaminated
1	55 gal. Drums	Fuel contaminated dirt
1	55 gal. Drum	Fuel contaminated Absorbent

SECTION #1

ENVIRONMENTAL LOGISTICS INC.

QUALIFICATIONS & EXPERIENCE



3200 Depot Road, Hayward, CA 94545
Voice: (510) 670-9901 Fax: (510) 670-9904

9/9/16

Chris Schroeder

City of Milpitas Purchasing

SUBJECT: City of Milpitas Request for Proposal No. 2156, Routine Disposal and Emergency Cleanup of Hazardous Materials

Environmental Logistics Inc. (ELI) appreciates the opportunity to bid on the Milpitas hazardous waste services contract for Routine Disposal and Emergency Cleanup of Hazardous Materials.

Our proposal is organized into 7 sections, outlined in narrative proposal format to attempt to cover all the requested information.

ELI meets all of the requirement contained in RFP # 2156 and accepts the terms and conditions as specified.

We hope this is responsive to your needs. As always if you have any questions or need clarification don't hesitate to give me or Mark Grayson on my staff a call at 510-670-9901

Respectfully,


Marcial Barragan
General Manager

Mark Grayson

Account Manager



STATEMENT OF QUALIFICATIONS & EXPERIENCE

Environmental Logistics Inc., (ELI) is a stable and successful environmental services company that was established as California Corporation # C2857306 on 2/28/2006. ELI has over 130 employees and has offices located in Hayward, Bakersfield, Bloomington and San Diego. We have also expanded out of state with facilities in Texas and Missouri. ELI's Northern California revenues are estimated at \$4MM/year and \$12MM nationally.

ELI is a full service single source environmental services company that specializes in evaluation of unknown chemicals, waste characterization, hazardous waste transportation and disposal and Emergency Response. ELI owns and operates its own transportation fleet. ELI is also has affiliated Treatment Storage and Disposal Facilities (TSDF's) Filter Recycling in Bloomington, California for Non RCRA Hazardous Waste, Non-Hazardous and Universal Waste and Hazmat in Kansas City Missouri for management of RCRA wastes. ELI office locations are:

Northern California

3200 Depot Road, Hayward California 94545

Headquarters

140 W. Monte Avenue, Bloomington, California 92316

Central California

7405 E. Brundage Lane, Bakersfield, California 93307

Southern California

8715 Miramar Place, San Diego, California 92121

The primary contact for the City of Milpitas contract for "Routine Disposal and Emergency Cleanup of Hazardous Materials for RFP #2156 is:

Mark Grayson-Account Manager

510-670-9901 (Office)

510-670-9904 (Fax)

510-962-0620 (Personal Cell)

mgrayson@environmentallogistics.org

ELI Services include but are not limited to:

- Hazardous and Non Hazardous Waste Removal
- Industrial Waste Services
- Universal Waste Management- Tubes, Lamps and Batteries
- E-waste
- Sump Cleaning
- Emergency Response
- Waste Classification and Consolidation
- Lab Packing
- Site Remediation
- Petroleum Contaminated Soils
- Waste Oil and Filter Programs
- Transportation
- Roll Off Services
- Tank Cleaning and Removals
- Oily Water
- Vacuum Tanker Services
- Vactor and Jetter Services
- Abandoned Waste
- Drug Lab Cleanup
- HazCat Identification
- Waste Analysis & Analytical Services
- Residential Collections and Curb Side Pick Up
- Product Destruction
- Waste Manifesting & Transportation Documents
- Confined Space Entry and Site Safety Plans
- OSHA & Safety Training

Environmental Logistics Inc. (ELI) core businesses align directly with the scope of Hazardous Waste Management Services, requested by the City of Milpitas in, REQUEST FOR PROPOSALS No. 2156, Routine Disposal and Emergency Cleanup of Hazardous Materials.

ELI has considerable directly applicable experience in the pick-up, transportation and disposal of hazardous waste. We do this type of work for a number of cities including but not limited to the cities of San Jose, Fremont, San Francisco and Santa Rosa. We are the current Hazardous Waste and Emergency Response contractor for Alameda County. We also have a number of contracts at the state level including Caltrans Districts #1, #3, #4, #5 and #10 and #11. Department of Water Resources Oroville and Delta contracts and Northern and Southern Region Drilling Mud contracts.

We routinely support public agencies and private customers with management of all types of wastes including RCRA Hazardous wastes, Non-RCRA Hazardous Wastes, Non-Hazardous and Universal Wastes, which is demonstrated in our attached references. This includes waste classification, sampling and analysis, waste consolidation, lab packing, waste profiling, manifesting and labeling, waste pickup, transportation and disposal. Recycling is always a priority for management of customer wastes. We are experienced in doing multiple site pickups for a number of customers.

ELI has numerous customers that rely on us for sump cleaning. We do more than 75 sumps on our just our Caltrans Hazardous Waste contracts. We also do sumps for numerous private customers, Santa Cruz Metro, Monterey /Salinas Transit District, City of Fremont and City of Santa Rosa.

ELI is experienced in cleaning industrial tanks, rail cars and silos and has an excellent confined space entry program and Health and Safety record.

ELI is an industry leader in Emergency Response and has considerable experience in cleaning up a wide variety chemicals from freeways, soils, storm drains, creeks and buildings. ELI owns and operates its own vacuators and jetters. ELI has numerous Emergency Response calls for Caltrans in Districts #4 and #5, City of San Jose, San Jose Fire and Alameda County.

We have several contracts that require used oil collection including Department of Water Resources in Oroville and Byron, Santa Cruz Metro and the City of Santa Rosa.

ELI has experience in cleaning up wastes from homeless encampments, crime scenes, is experienced in cleaning up clandestine drug labs and can safely handle and dispose of biological and infectious wastes.

ELI has an excellent safety record and excellent reputation with California Department of Toxic Substances Control.

With respect to references and our levels of Customer Service, feel free to contact any of the references we provided.

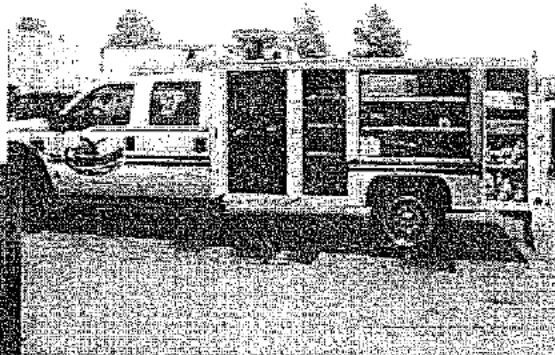
EQUIPMENT

Environmental Logistics, Inc. operates a large fleet available to fulfill the needs of our clients in all areas of operations. Our fleet is maintained by our own full service Fleet Maintenance Department. All transportation units are approved for carriage of hazardous materials and wastes by the California Highway Patrol Motor Carrier Division (CHP) and the US Department of Transportation (DOT). Our fleet carries a satisfactory compliance rating from both the CHP and the DOT.

Our fleet includes, but is not limited to:

Rolling Stock

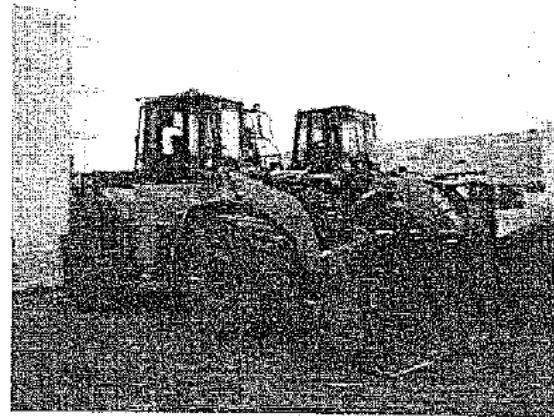
16	-	Utility bed heavy duty pickups
11	-	Pickups and Personnel Transport Vehicles
6	-	Bobtail Box Vans
4	-	Stake Bed Truck
1	-	Pump Truck
21	-	Tractors
1	-	Mobile Disaster Command Center
2	-	Vactor/Guzzler Air Moving Vacuum Trucks
17	-	Vacuum Tankers
	13	- 120-130 bbl Black Iron
	4	- 70 bbl Black Iron (Skid Mounted, DOT Certified)
2	-	37 Foot End Dump Trailers
1	-	Flat bed/Low Boy
5	-	Roll-Off Trucks
10	-	Roll-Off Trailers
350+	-	Roll-Off Boxes (10-40 Yard)
22	-	Dry Van Trailers
	10	- 48 Foot
	5	- 28 Foot
	4	- 24 Foot
	3	- 10 Foot
10	-	20,000 gallon portable storage tanks



Our services are supported by additional equipment including, but not limited to; Pressure Washers, Air Shovel, TTU, Forklifts, Loaders, and Bobcats:

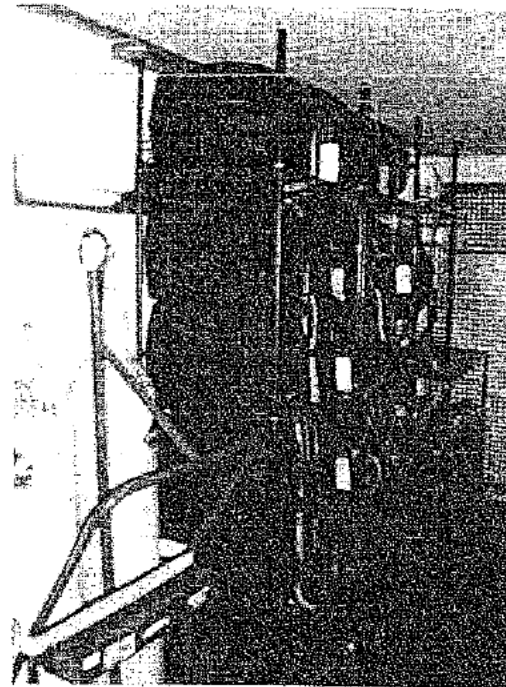
Misc Off-Road/ Heavy Equipment

- 8 Forklifts (4500 to 7000 lbs)
- 8 Pressure Washers (4500 psi, 5.5 gpm)
- 1 Rexworks Grinder
- 1 Kolberg Pug Mill
- 1 Kolberg Bag House
- 1 Street Sweeper
- 2 Telehandlers
- 2 Large Capacity Loaders
- 1 Skid Steer Loader
- 1 Track Loader
- 1 Backhoe
- 1 Loader/Backhoe
- 2 185CFM Air Compressor



Specialty/Technical Equipment

- 5 RKI Eagle 401 Air Monitors
- 2 S-Gas Meters
- 2 Mini Rae 2000 Photo ionization detectors
- 1 Radiation Detector
- 1 Lumex Mercury Analyzer
- 5 Portable Generators
- 2 Portable Drum Scales
- 16 Supplied Air Respirators
- 28 Self Contained Breathing Apparatus
- 20 Level A Fully Encapsulating Suits (2 Flame Resistant)
- 2 35 gpm Skimmers
- 9 Diaphragm Pumps (1 1/2"-3", Chemical and non-chemical)
- 2 Decontamination Containments
- 2 Inflatable Boats
- 2100 Feet of 19" Sea Curtain
- Misc Rescue Equipment
- On-Site Laboratory Equipment



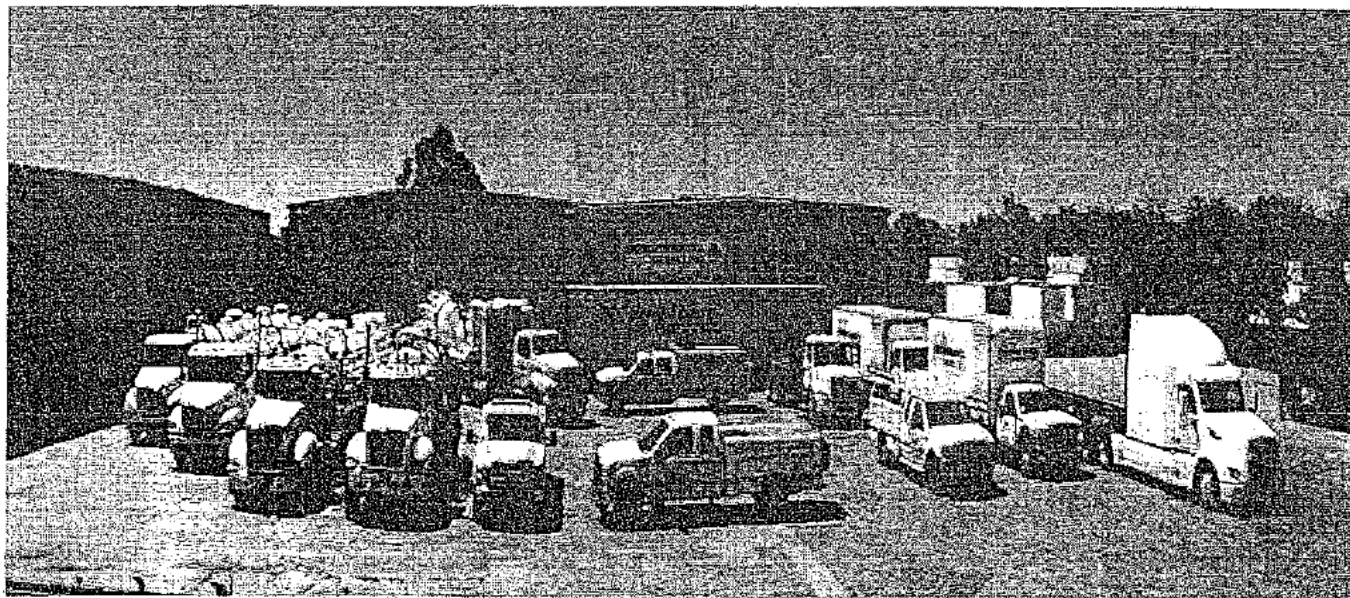
ELI warehouses a large array of field supplies including drums, loose absorbents, absorbent boom and spill pads/socks, spill kits, disinfectant kits, neutralizing agents, etc.

In-Stock Miscellaneous Materials

400	Steel DOT Drums (Various Sizes)
300	Poly DOT Drums (Various Sizes)
1000	Drums (Various Sizes)
225	Recovery Drums (Poly. and Steel)
30	Biohazard Drums
500	Bags of Loose Absorbent
1200	Feet Absorbent Boom
2	Extraction Devices
1	Tank Blower
4	Copus Blowers
200	Feet Ventilation Ducting
	Blocking and Bracing Materials and Equipment
	Level C/D Safety Equipment



Environmental Logistics, Inc. (ELI) has the equipment to perform all services from routine transportation to large scale remedial actions.



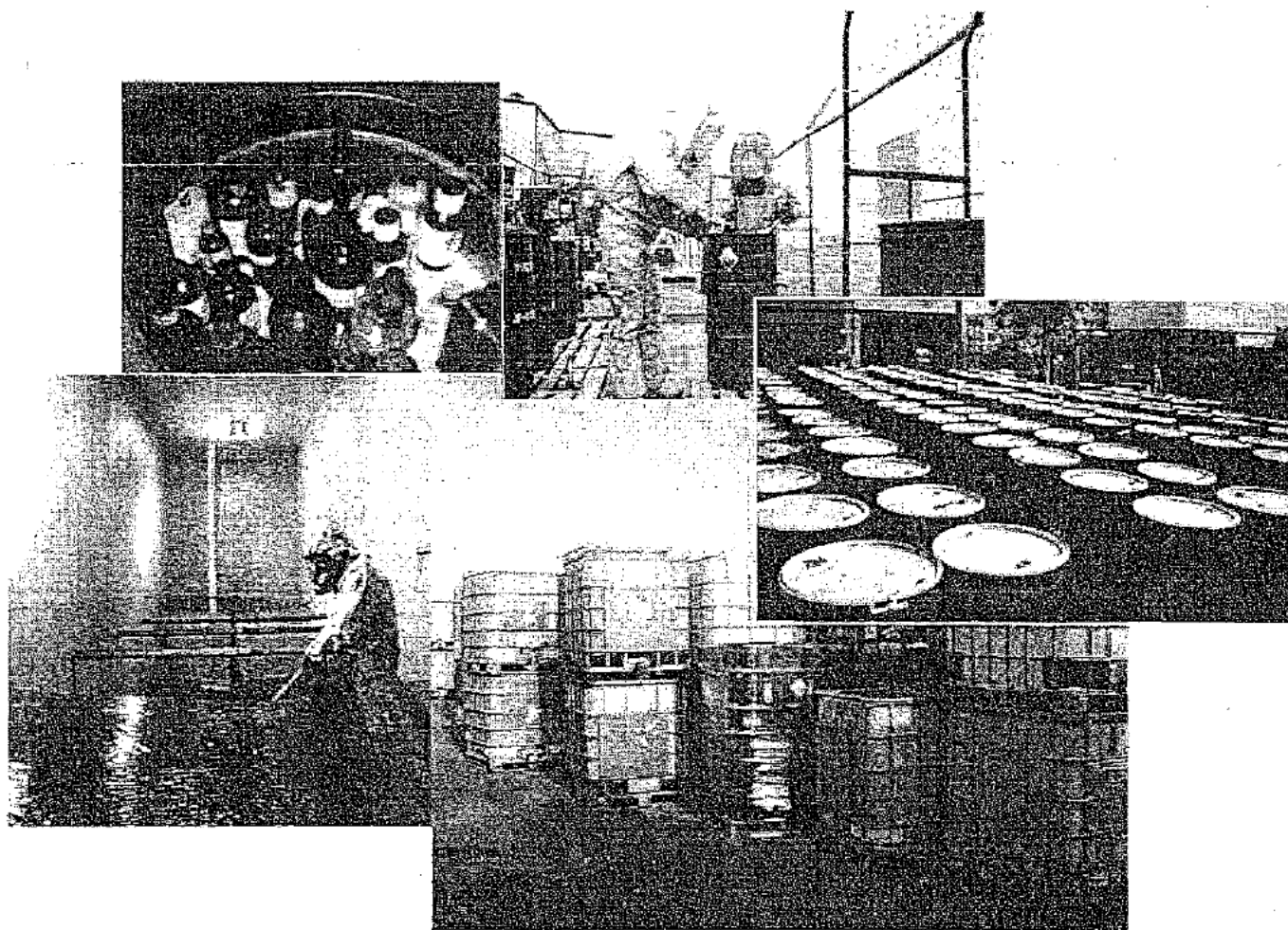
WASTE MANAGEMENT

Environmental Logistics, Inc. provides a wealth of services to assist in all aspects of hazardous waste management. ELI is fully licensed and permitted to handle and transport regulated, Non-RCRA and nonhazardous waste streams. ELI has packaged, documented, profiled, and transported over 130,000 manifested loads of hazardous waste.

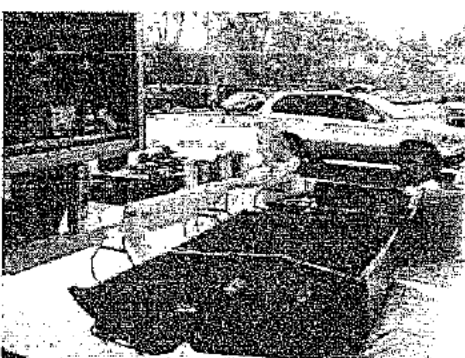
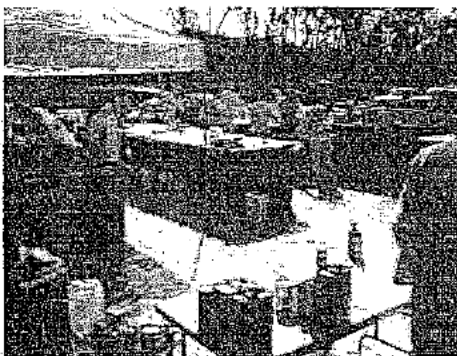
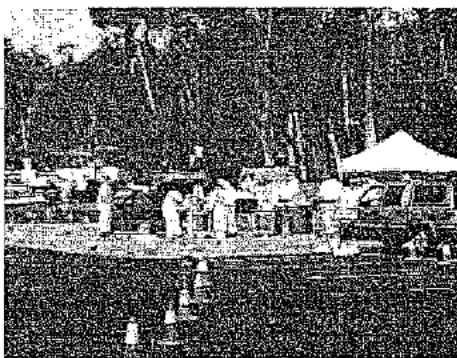
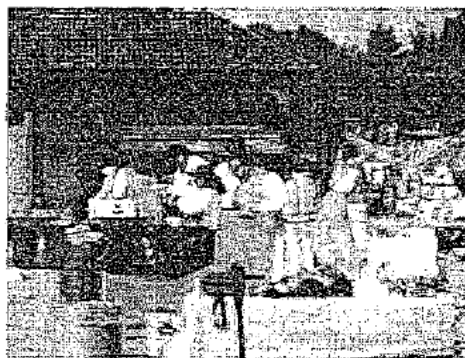
We have daily operations with all major Treatment Storage Disposal Facilities both local and throughout the Country.

Services are provided on any scale, including specialty containers requiring transport variance. ELI is party to a wide variety of D.O.T. Special Permits enabling us to package and transport the most difficult to handle and uncommon chemicals.

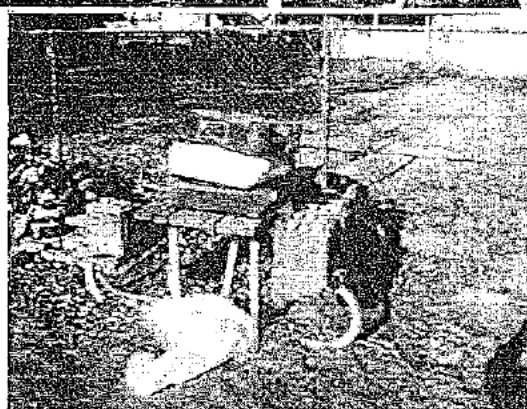
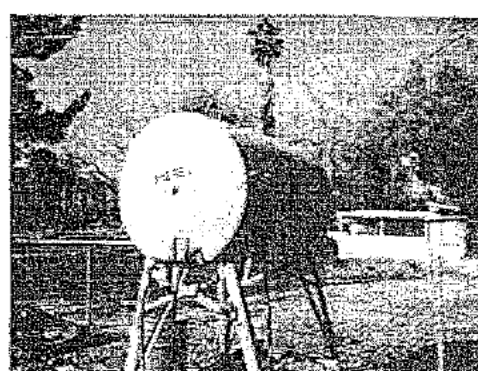
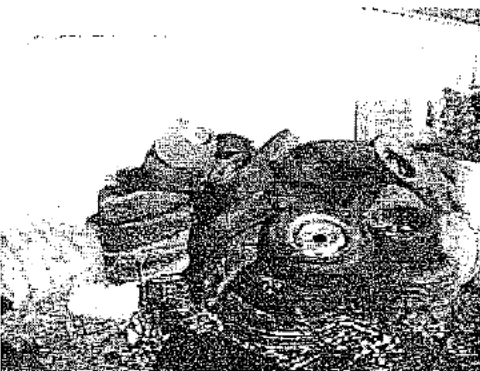
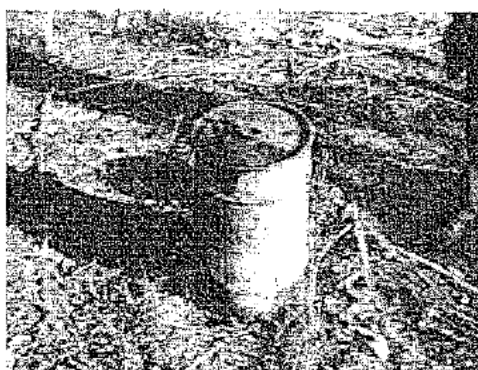
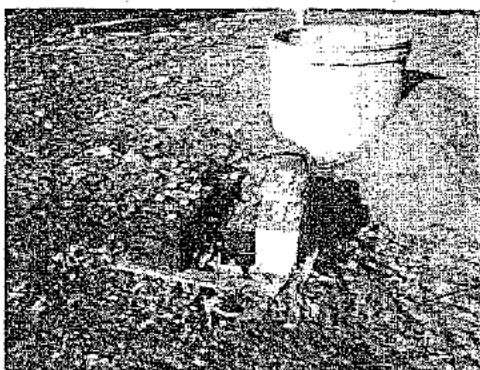
Our professional staff is mobile in minutes to provide emergency service and specialized technical assistance.



Household Hazardous Waste Roundup



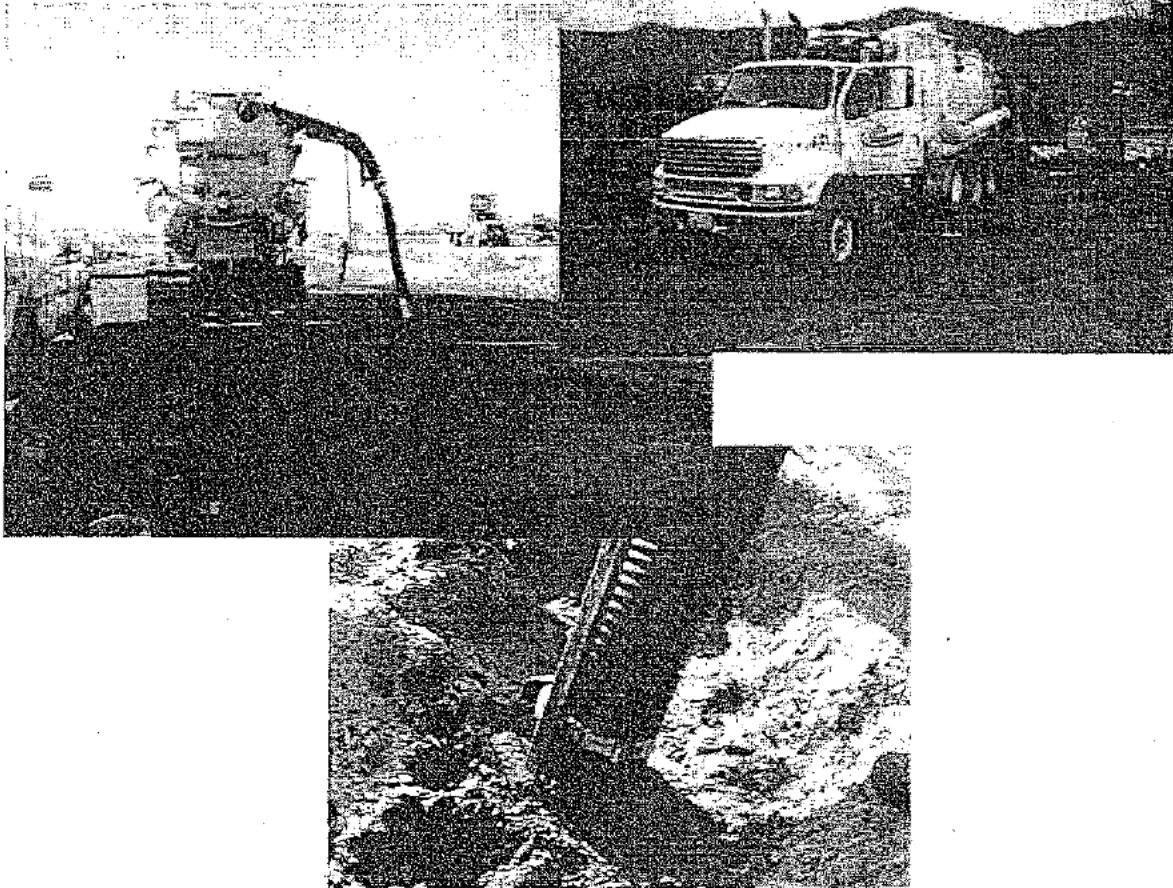
Abandoned Waste



VACTOR SERVICES

Tough Industrial Jobs require maximum performance from Tough Equipment! Our High-Rail Vacuum Trucks "VACTORs" are tough enough for today's industry standards and will efficiently clean up potential pollution problems, and respond quickly on Emergency Situations.

These vehicles are self-contained and use vacuum power to remove Wet/Dry Contaminated and Unwanted Materials from your project areas. Material that is removed is stored in the unit's large collection tank for subsequent treatment, disposal or reuse. Unlike other units, which are configured only for Track Use, our units operate on Both Rail & Road! Within minutes, they can be converted from Track-Ready to Road-Ready.



EMERGENCY SERVICES



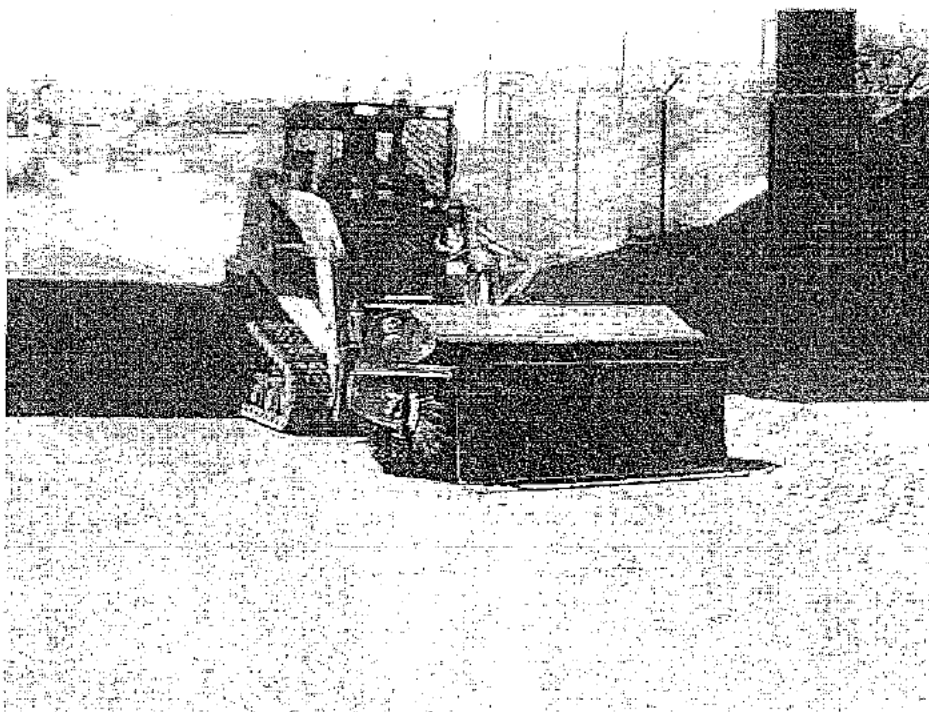
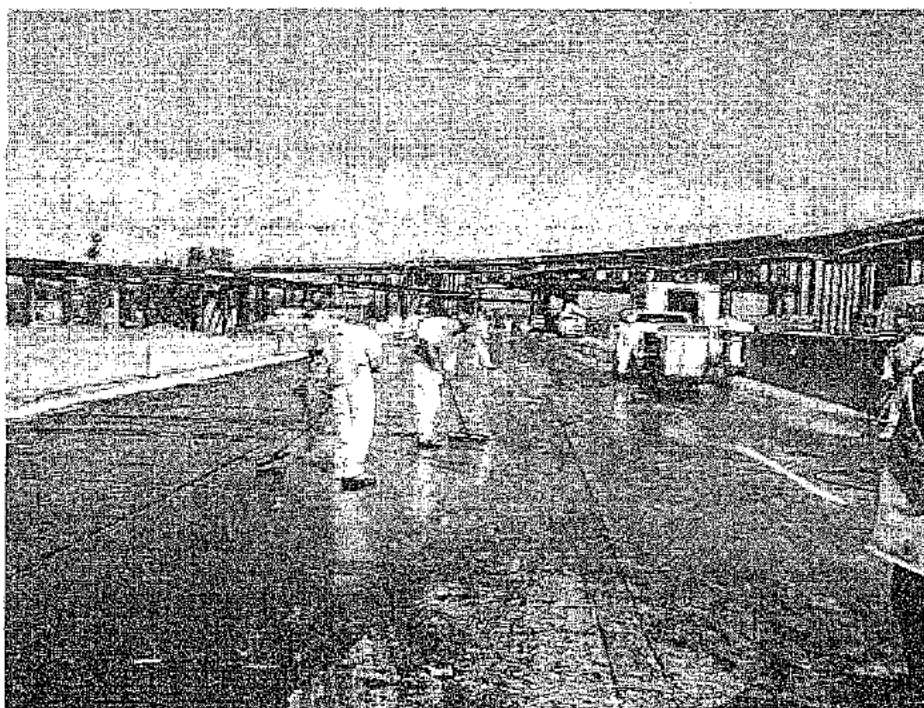
Environmental Logistics, Inc. (ELI) operates emergency response services for handling cleanups resulting from accidental releases and spills. Our 800 line is staffed by live operators 24 hours a day 7 days a week taking emergency calls.

We have responded to over 7,000 emergency response calls over the span of a decade varying in size and nature including jetting of storm drains and pipelines, containment and control of contaminants into waterways, illegal dumping of hazardous materials, fires involving hazardous materials, remediation projects both simple and complex, contaminated cargo coming into the Port(s), etc.

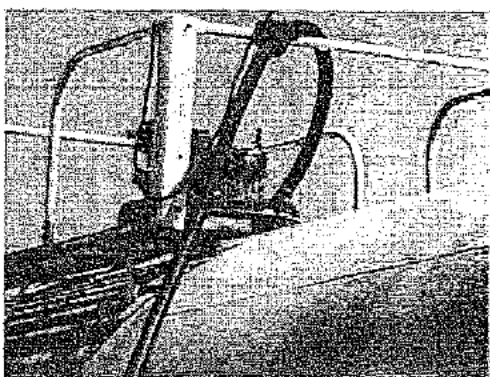
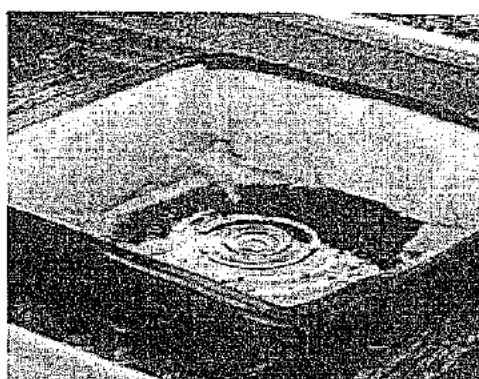
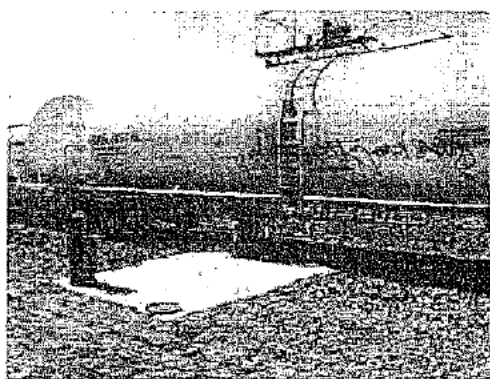
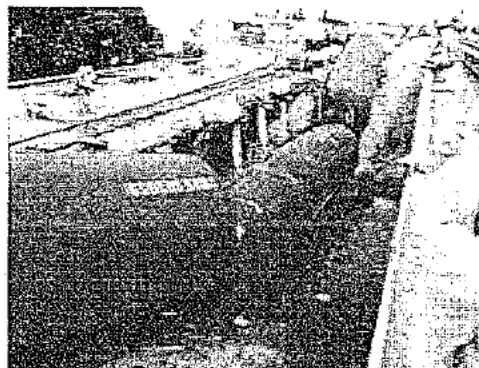
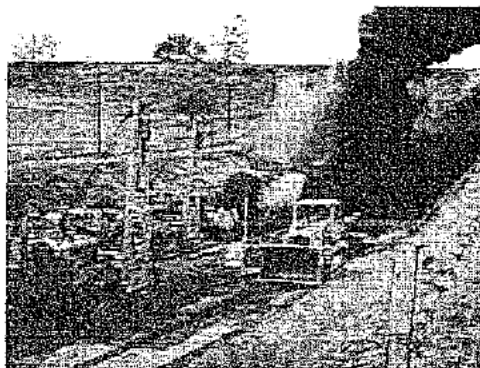
In the course of these emergencies, Environmental Logistics has had the ability to properly identify the contaminants to be removed by field testing, and/or further testing via certified laboratory.

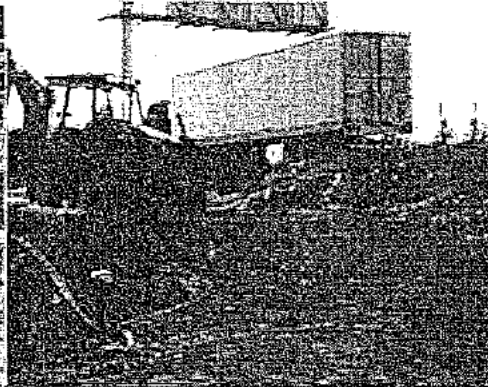
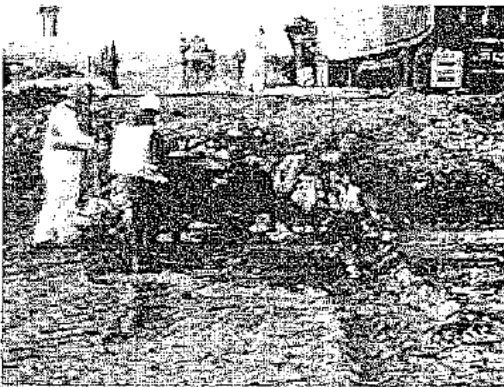
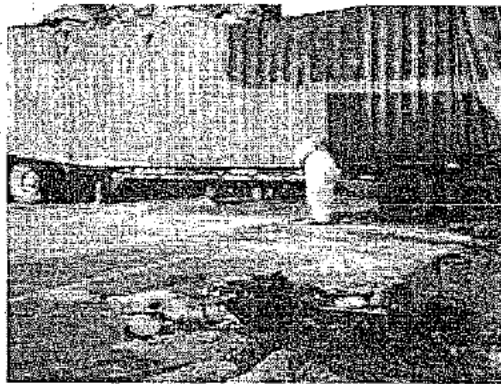
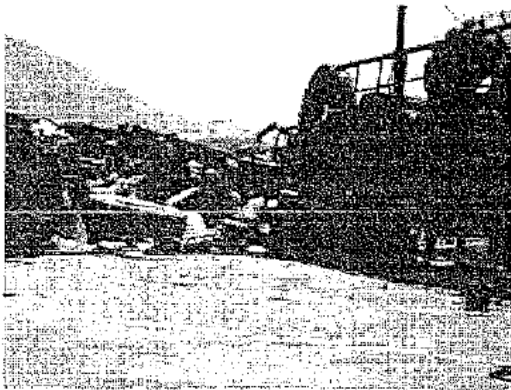
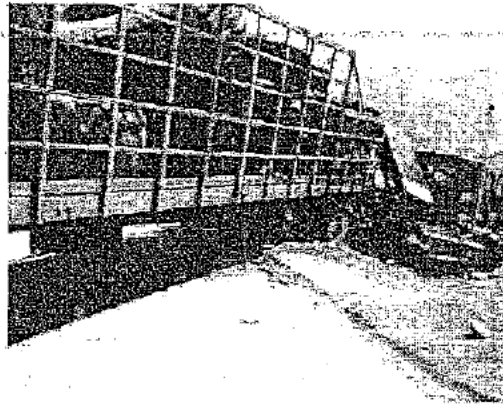
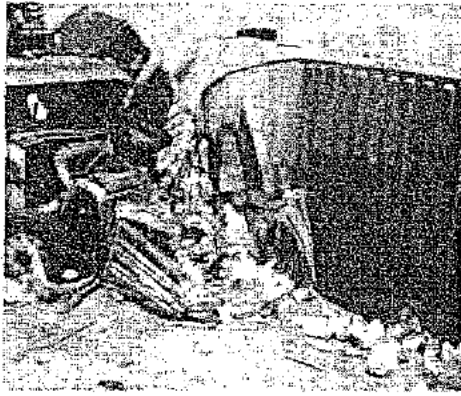
We have worked with and for agencies such as California Fish and Game, USEPA, United States Coast Guard, Regional Water Quality Control Board, US Customs, to name a few. We are familiar with requirements needed by most agencies and strive to work in conjunction to meet cleanup standards as required by State and Federal Laws.

Our team has a diverse background that can serve in the interest of life, property, and the environment. Safety is always our highest priority.



Rail Cleanup





TRAINING AND COMPLIANCE

Environmental Logistics, Inc. has an exemplary safety record. We attribute much of this success to our on-going commitment to training. We focus on taking the classroom into "real life" situations. Our employees are our most valuable asset, and they are encouraged to have a voice in the safety and productivity of the work place.

ELI assists our clients by supporting their training programs as an outside resource. Training participation is provided either at the customer's location or in our Training Center at our Bloomington, California terminal.

Some of the many training programs continued throughout the year include, but are not limited to:

- All level of HAZWOPER
- Respiratory Protection
- D.O.T. Regulation
- Waste Classification
- Fall Protection
- Waste Identification
- Fall Protection
- Confined Space Entry
- Spill Response
- Hazardous Waste Manifesting
- Profiling and Integration with TSD Facilities
- Over-Water Operations
- Waste Packaging
- Decontamination

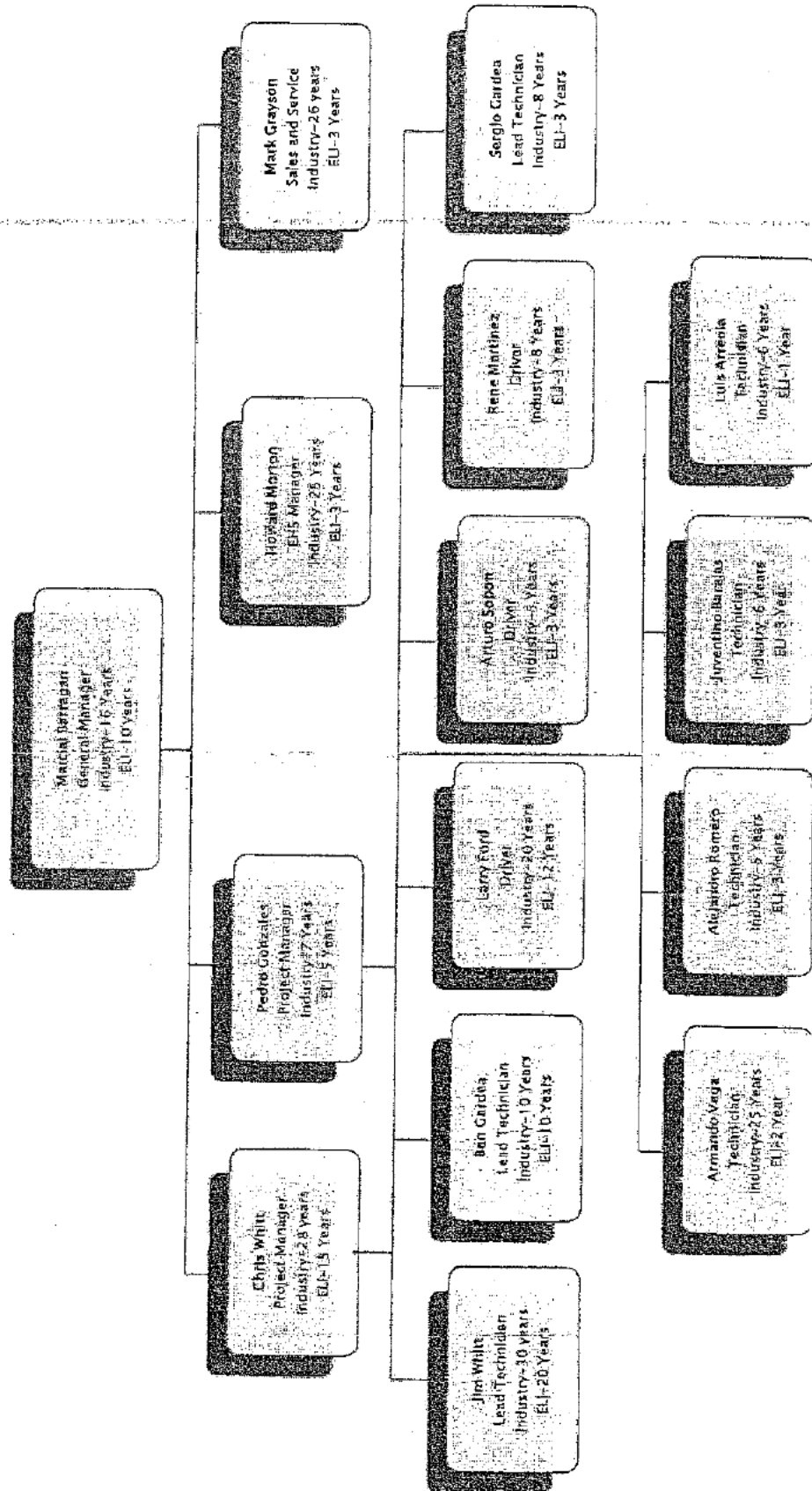
•and Much More...







MILPITAS PROJECT TEAM



Marcial Barragan

General Manager – Hazardous Waste Operations

Mr. Barragan has over 15 years of experience in remediation construction and demolition in Northern California. He has managed well over 800 projects to completion. Mr. Barragan has expertise in equipment operation from loaders, backhoes, vacuum tanker, soil air knife, Guzzler and trucking operations. His project work at Environmental Logistics, Inc. includes over the water transfers for Foss Maritime, Port of San Francisco and The Dutra Group, railroad derailment sites, former UST locations, caustic and fuel spill remediation, drug lab seizures, chemical transfers, tank cleaning, and industrial demolition. Project sites include industrial and commercial facilities, railroads, ports, and airport facilities; refineries, landfills, power plants, farms, schools, hospitals, and utilities.

Professional Experience

- ♦ Professional Class "A" Driver
- ♦ Over the water transfer specialist
- ♦ Cosco Busan Oil spill remediation San Francisco Bay in California.
- ♦ UPRR derailment 30,000 gallon spill cleanup and remediation in Storrie, California.
- ♦ EBMUD sewage release cleanups and remediation.
- ♦ Flint Ink site closure Berkeley, CA.
- ♦ Emergency response remediation of crash sites throughout California.
- ♦ Chemical transfer and industrial tank cleaning at facilities throughout California.
- ♦ UST removal, soil remediation, and site closure at industrial, commercial facilities throughout California.
- ♦ Drug lab remediation and closure.

Training and Certifications

- ♦ 40 Hr. Hazwoper/Emergency Response training Title 29CFR Section 1910.120
- ♦ 8 Hr. OSHA Hazwoper Refresher Training
- ♦ Respiratory Training & Fit Test
- ♦ Confined Space Entry and Rescue Certified
- ♦ Self-Contained Breathing Apparatus (SCBA) Certified
- ♦ Hazardous Communication Standard "Right to Know" Certified
- ♦ D.O.T. Hazardous Materials Regulations and Safety Certified
- ♦ Lockout/Tagout Certified
- ♦ Forklift Operator Training and Certification
- ♦ CPR/First Aid Certified
- ♦ Hazardous Waste Manifest Training Certified
- ♦ Hazardous Waste Characterization Certified



Chris Whitt

Program Manager – Hazardous Waste Operations

Chris Whitt has over 25 years of diverse experience in the hazardous waste industry. From dispatch and safety coordination to hazardous materials TSD supervisor, Mr. Whitt now brings knowledge and experience together for the Northern California transfer facility for Environmental Logistics, Inc.

As the program manager for ELI's Cal Trans contract, Mr. Whitt coordinates the timely handling and transportation of waste materials from generator to the ultimate TSD Facility in accordance with DOT regulations. He is thoroughly familiar with the acceptance criteria of all the major facilities and their disposal technologies.

Mr. Whitt is the supervising services manager for the entire Northern California region on all emergency responses. From highway spills and soil remediation, to Haz-Cat and lab packing and industrial cleaning, Mr. Whitt has provided cost effective project management and earned the respect and trust of local and state agencies.

Professional Experience

- Caustic, Diesel, Oil spill remediation for Alameda County, Caltrans, City of San Jose.
- Aviation fuel spill remediation at CHP maintenance facilities.
- Digester Lid demolition, removal and recycling in Northern and Central California
- Abandon property remediation and restoration for Alameda and Santa Clara Counties
- Emergency Response Remediation of crash sites throughout California.
- Chemical transfer and industrial tank cleaning at facilities throughout California.
- UST Removal, Soil Remediation, and Site Closure at industrial, commercial and agricultural facilities throughout California.
- Drug Lab Remediation and Closure.

Training and Certifications

- Hazardous Materials Manager Training
- HAZWOPER
- Cargo Security
- Blood Borne Pathogens
- Site Safety Supervisor Training
- Railroad Safety Training
- Confined Space Operations Training
- DOT and Dangerous Goods Shipment Training
- Hazardous Materials Regulation and Safety Awareness
- Forklift Safety and Operations Training
- Hazard Communication Training



Howard Morton

Health and Safety Manager – Hazardous Materials Specialist

Environmental Logistics, Inc. service, emergency response and industrial confined space project work has increased each of the last 9 years. Mr. Morton is responsible for keeping our technicians and project managers trained on the latest techniques and equipment used in confined space work throughout Northern California. His experience with the monitoring of environmental conditions in potentially dangerous environments is utilized during emergency responses, chemical transfers, waste assessments, and stand-by rescue services. Mr. Morton is also responsible for preparation of site specific health and safety plans, confined space entry work plans, and other project related work plans for the Northern California region. He is experienced in proper DOT label and manifesting procedures, equipment calibration, and work within intrinsically safe work requirements. His firefighting background provides the expertise and experience to manage emergency response projects in a wide variety of work conditions.

Professional Experience

- ♦ Fire Captain with the San Jose City Fire Department with 18 years of Fire Service and Hazardous Materials Experience.
- ♦ Confined-Space Entry Rescue Team Management and Confined-Space Operations
- ♦ Hazardous Incident Response Team Captain
- ♦ National Registered Paramedic
- ♦ CPR/AED/First Aid instructor
- ♦ PALS, ACLS, ITLS instructor
- ♦ 40 hour Hazardous Waste Operator Training Instructor
- ♦ Hazardous Materials Technician and Specialist Instructor
- ♦ Supervisor for the Hazmat Worker Instructor

Training and Certifications

- ♦ A.S. Fire Science/Emergency Medical Management, Crafton Hills College
- ♦ California State Hazardous Materials Manager, University of Riverside
- ♦ Hydraulics and Hydraulic Systems, CSU-Long Beach
- ♦ 1st Battalion 75th Infantry (Rangers) (Honorable Discharge), U.S. Army
- ♦ Evidence Collection and Scene Preservation, LSU
- ♦ Emergency Medical Technician-1, CPR and AED Card
- ♦ Confined Space Entry and Rescue Technician
- ♦ Trench Entry and Rescue, Rescue Systems 1 & 2, Instructor 1a, 1b, 1c
- ♦ California State Hazmat Manager, Emergency Management 1a, 1b, 1c
- ♦ Firefighter 1, Firefighter 2, Fire Officer Certified



Pedro Gonzalez

Project Manager – Hazardous Materials Operations

Mr. Gonzalez has over 8 years of experience in Hazardous Waste Management and Emergency Response throughout Northern California. He has managed well over 600 projects to completion with ELI. Mr. Gonzalez is an expert in all aspects of hazardous waste management, lab packing, transportation, disposal and site cleanup operations. He has experience in monitoring and assessment of potentially hazardous environments, which is utilized during confined space entry, tank cleaning operations, chemical transfers, waste assessments, and emergency responses. Mr. Gonzalez is experienced in profiling, manifesting and labeling of all types of Hazardous, Non-Hazardous, Universal and Biological wastes. His experience includes caustic and fuel spill remediation, drug lab seizures, chemical transfers, tank cleaning, and industrial demolition. Project sites include industrial and commercial facilities, railroads, ports, and airport facilities; refineries, landfills, power plants, schools, hospitals, and utilities.

Professional Experience

- ✦ Professional Class "A" Driver
- ✦ Berkley Farms 100,000 gal milk spill cleanup and remediation Hayward, CA
- ✦ EBMUD sewage release cleanups and remediation.
- ✦ Sterling Foods Spill Cleanup and remediation Newark, CA.
- ✦ San Jose Airport jet fuel farm, large capacity oil/water separators raw sewage remediation clean-out
- ✦ Caltrans Emergency response remediation of crash sites throughout California.
- ✦ Chemical transfer and industrial tank cleaning at facilities throughout California.
- ✦ UST removal, soil remediation, and site closure at industrial, commercial facilities throughout California.
- ✦ Drug lab remediation and closure.

Training and Certifications

- ✦ 40 Hr. Hazwoper/Emergency Response training Title 29CFR Section 1910.120
- ✦ 8 Hr. OSHA Hazwoper Refresher Training
- ✦ OSHA-10 General Industry Certified
- ✦ Respiratory Training & Fit Test
- ✦ Confined Space Entry and Rescue Certified
- ✦ Self-Contained Breathing Apparatus (SCBA) Certified
- ✦ Hazardous Communication Standard "Right to Know" Certified
- ✦ D.O.T. Hazardous Materials Regulations and Safety Certified
- ✦ Lockout/Tag out Certified
- ✦ Forklift Operator Training and Certification
- ✦ CPR/First Aid Certified
- ✦ Hazardous Waste Manifest Training Certified
- ✦ Hazardous Waste Characterization Certified



Mark Grayson

Account / Contract Manager

Mark Grayson has over 26 years of diversified hazardous waste management experience. He has managed Sales and Customer Service organizations for hazardous waste companies, incinerators, asbestos abatement and demolition companies. He specializes in Contract Management and client interface.

As an Account Manager and Contract Manager he utilizes his technical expertise to coordinate with operations to assure that contract requirements and customer needs are met.

Professional Experience

- Handling transportation and disposal of bulk and drummed RCRA, Non-RCRA, Universal Waste, and Non-Hazardous waste.
- Program Manager for Chemical Waste Management-integrating site assessment, remediation, asbestos abatement as well as transportation and disposal of all wastes.
- Waste Incineration Specialist for Westinghouse Environmental and Rollins Environmental.
- Set up and managed Chemical Waste Management's Less Than Truckload (LTL) hazardous waste management program for Treatment Storage and Disposal Facilities in Azusa, California and Denver, Colorado
- Managed Customer Service and Proposal Preparation Groups
- Project Management Experience
- Inspection and auditing experience as Inspector with the Nuclear Regulatory Commission

Training and Certifications

- 40 Hr. HAZWOPER/Emergency Response training Title 29CFR Section 1910.120
- 8 Hr. HAZWOPER Refresher Training
- OSHA – 10 Hour General Industry Safety and Health
- Blood Borne Pathogens
- Hazardous Communication Training
- CPR/First Aid
- Hazardous Materials Regulation and Safety Awareness



Ben Gardea

Project Manager – Hazardous Materials Specialist

Mr. Gardea manages environmental emergency responses chemical transfers and industrial remediation project for ELI throughout California, Arizona and Texas. Mr. Gardea has over 10 years of experience in the field and is an expert in chemical identification, laboratory packaging, transportation, and sit cleanup operations. Mr. Gardea supervises confined space entry work, water systems work and hospital/health care services provided by ELI. His experience with monitoring of environmental conditions in potentially dangerous environments is utilized during tank cleaning operations, chemical transfers, waste assessments, emergency responses, and stand-by rescue services. Mr. Gardea is experienced in proper DOT label and manifesting procedures, equipment calibration, and work within intrinsically safe work requirements.

Professional Experience

- ♦ Environmental Response and Service work at sites throughout the Dallas Area, Southern California, and throughout the southwest U.S.
- ♦ Water Systems Environmental Services.
- ♦ Hospital Waste Services.
- ♦ Confined Space Entry Rescue Team Management and Confined Space Operations
- ♦ Class A Tanker Operator.
- ♦ Railroad Safety and Environmental Remediation Services throughout the western U.S.

Training and Certifications

- ♦ 40 hour Hazardous Waste Operator Training and 8 hour Recertification
- ♦ Compressed Gas Cylinder Handling Training
- ♦ Confined Space Rescue Technician
- ♦ Forklift Operator Training
- ♦ Hazardous Materials First Responder, Supervisor
- ♦ DOT HazMat
- ♦ Lab Packing
- ♦ Tank Truck Management
- ♦ Railroad Safety Training



James Whitt

Hazardous Materials Management

James Whitt has over 20 years of diverse experience in the hazardous waste industry. From dispatch and hazardous materials TSDF supervision to individual Project Management, Mr. Whitt now brings that knowledge together to manage the needs of individual projects such as the Metropolitan Water District and other commercial customers and public agencies.

Mr. Whitt has extensive experience with DOT, RCRA and DTSC regulations to coordinate the timely handling and transportation of waste materials from generator to the ultimate TSD Facility. He is thoroughly familiar with the acceptance criteria of all the major facilities and their disposal technologies.

Mr. Whitt guides field services staff and our generators through all facets of any routine or emergency situation. His experience with cleanup of highway spills, supervising remediation involving soil, handling and assessment of bulk liquid wastes, and lab packing of small quantity chemicals from laboratories, schools and clandestine drug labs is invaluable.

Professional Experience

- ◆ 40 Hour HAZWOPER Certification
- ◆ First Aid/CPR
- ◆ Emergency response
- ◆ Confined Space Entry
- ◆ Forklift Operator
- ◆ Lockout/Tag out of Hazardous Energies
- ◆ Cargo Security
- ◆ Reasonable Suspicion "Drug Awareness"
- ◆ Hazardous Materials Regulation and Safety Awareness
- ◆ Bloodborne Pathogens
- ◆ Level A Certified HAWOPER Supervisor



SECTION #2

PRICING FEE SCHEDULES

CITY OF MILPITAS STANDARD RATES

CONFIDENTIAL

Description of Service	Container Size	Standard
Disposal		
RCRA Flammable Liquid(s)	5 Gal Lab Pack	\$195
	5 Gal Bulk	\$195
	15 Gal Lab Pack	\$225
	15 Gal Bulk	\$225
	30 Gal Lab Pack	\$350
	30 Gal Bulk	\$300
	55 Gal Lab Pack	\$450
	55 Gal Bulk	\$325
	55 Gal >12 K btu <1% H2O <100 ppm Cl	\$225
	55 Gal <12 K btu >10% H2O <1000 ppm Cl	\$275
	55 Gal <8 K btu >10% H2O >1000 ppm Cl	\$325
RCRA Flammable Solid(s)	Cubic Yard Box	\$975
	5 Gal Lab Pack	\$225
	15 Gal Lab Pack	\$275
	30 Gal Lab Pack	\$325
	55 Gal Lab Pack	\$400
	Cubic Yard Box	\$1,250
Toxic Liquids/ Solids	5 Gal Lab Pack	\$225
	15 Gal Lab Pack	\$300
	30 Gal Lab Pack	\$400
	55 Gal Lab Pack	\$450
	Cubic Yard Box	\$1,575
Corrosive Liquids/ Solids	5 Gal Lab Pack	\$225
	15 Gal Lab Pack	\$250
	15 Gal Bulk	\$300
	30 Gal Lab Pack	\$295
	30 Gal Bulk	\$345
	55 Gal Lab Pack	\$375
	55 Gal Bulk	\$425
	Tote	\$975
	Cubic Yard Box	\$1,312.50
Oxidizer Liquid/Solid	5 Gal Lab Pack	\$225
	15 Gal Lab Pack	\$250
	30 Gal Lab Pack	\$375
	55 Gal Lab Pack	\$490

Reactive Liquids/Basics for Incineration	5 Gal Lab Pack	\$225
	15 Gal Lab Pack	\$275
	30 Gal Lab Pack	\$350
	55 Gal Lab Pack	\$425
Mercury Elemental/Compounds/Debris	5 Gal	\$475
	15 Gal	\$575
	30 Gal	\$1,100
	55 Gal Debris	\$1,250
	55 Gal Elemental	\$2,950
Class 9 Liquid(s)/ Solid(s)	5 Gal	\$225
	15 Gal	\$250
	30 Gal	\$275
	55 Gal	\$325
	Cubic Yard Box	\$1,137.50
PCB's Ballast	5 Gal	\$175
	15 Gal	\$250
	30 Gal	\$300
	55 Gal	\$375
Non PCB's Ballast	5 Gal	\$50
	15 Gal	\$75
	30 Gal	\$100
	55 Gal	\$125
Pesticides	5 Gal	\$225
	15 Gal	\$300
	30 Gal	\$375
	55 Gal	\$475
Combustible Liquid	5 Gal	\$100
	15 Gal	\$150
	30 Gal	\$175
	55 Gal	\$225
	85 Gal	\$275
	Tote	\$575
Gasoline-Water Mix	5 Gal	\$175
	15 Gal	\$225
	30 Gal	\$275
	55 Gal	\$325
	Tote	\$675
Oil Based Paint <3" sludge (Paint Related Material)	5 Gal Lab Pack	\$150
	5 Gal Bulk	\$150
	15 Gal Lab Pack	\$200
	15 Gal Bulk	\$200
	30 Gal Lab Pack	\$275
	30 Gal Bulk	\$275
	55 Gal Lab Pack	\$425
	55 Gal Bulk	\$425
	Cubic Yard Box	\$1,250

Latex Paint	5 Gal c/p	\$100
	5 Gal	\$100
	15 Gal c/p	\$150
	15 Gal	\$150
	30 Gal c/p	\$175
	30 Gal	\$175
	55 Gal c/p	\$225
	55 Gal	\$225
	Cubic Yard Box c/p	\$475
	Pallet	\$475
Aerosols	12 yd Bin	\$1,500
	5 Gal	\$95
	15 Gal	\$125
	30 Gal	\$195
	55 Gal	\$250
Misc Batteries	Cubic Yard Box	\$1,250
	Pound	\$1.75
	5 Gal	(\$100 Min)
Ni-Cad, NIMH Batteries	15 Gal	(\$200 Min)
	Pound	\$6.50
	5 Gal	(\$100 Min)
Lithium Ion Batteries	15 Gal	(\$200 Min)
	Pound	\$6.50
	5 Gal	(\$100 Min)
Lead Acid Batteries	15 Gal	(\$200 Min)
	5 Gal	\$50
	15 Gal	\$75
	30 Gal	\$100
Large Cell Lead Acid Batteries	55 Gal	\$150
Lantern Batteries	Each	\$75
Alkaline, Zinc-Carbonaire Batteries	Pound	\$1.75
	5 Gal	\$100
	15 Gal	\$140
	30 Gal	\$240
Car/ Marine Battery	55 Gal	\$310
Flourescent Tubes	Each	\$35
Flourescent Bulbs	Foot	\$0.20
Flood Lamps	Each	\$1.50
U-Lamps, Circular Lamps	Each	\$1.50
Neon, Ultra-Violet Lamps	Each	\$1.50
High Pressure/ LP Sodium Vapor, Metal Halide, Mercury Vapor (HID's) Lamps	Each	\$5.00
		\$4.50

E-Waste	5 Gal	\$75
	15 Gal	\$100
	30 Gal	\$125
	55 Gal	\$175
	Cubic Yard Box	\$325
	Pallet	\$375
Transformer (No Oil)	Each	\$250
Smoke Detectors	Each	\$50
Exit Signs (If Double Sided \$160)	Each	\$80
Refrigerator Appliance	Each	\$125
Microwave/ Air Conditioner Appliance	Each	\$125
Fire Extinguisher(s)	Each	\$35
Gas Cylinders (Quart Size)	Each	\$10
Gas Cylinders	Each	\$35
Gas Cylinders (2 ft)	Each	\$225
Gas Cylinder (5 ft)	Each	\$275
Car/ Truck Tires	Each	\$10-\$20
Dental Amalgam (\$100 min)	Pound	\$15
Pathological	44 Gal	
Biohazards	44 Gal	\$175
Shavings/Metal Dust (Non-RCRA)	5 Gal	\$100
	15 Gal	\$125
	30 Gal	\$150
	55 Gal	\$175
Empty Containers (Disposal)	5 Gal	\$10
	15 Gal	\$25
	30 Gal	\$35
	55 Gal	\$50
	85 Gal	\$65
Non RCRA and Non Haz Commodity Packs/Lab Pack (lab debris, vials, formalin, animals in formalin 5% or 8%)	5 Gal	\$50
	15 Gal	\$75
	30 Gal	\$125
	55 Gal	\$175
	85 Gal	\$200
	Cubic Yard Box	\$450
Non RCRA Waste Solid/Liquid	5 Gal	\$75
	15 Gal	\$125
	30 Gal	\$150
	55 Gal	\$175
	85 Gal	\$250
	Tote	\$475
	Cubic Yard Box	\$450
Non RCRA Bulk Liquid (*\$300 minimum)	Gal	\$0.95
	Solid Surcharge - Gal	\$2.50
Non RCRA Bulk Solid (\$500 Min.)	Yard/Ton (greater)	\$95.00

Non Hazardous Waste Solid or Liquid	5 Gal	\$65
	15 Gal	\$95
	30 Gal	\$115
	55 Gal	\$125
	85 Gal	\$225
	Tote	\$395
	Cubic Yard Box	\$425
Non Hazardous Bulk Liquid (*\$300 minimum)	Gal	\$0.65
	Solid Surcharge - Gal.	\$2.00
Non Hazardous Bulk Solid	Yard/ Ton (greater)	\$60
Non Hazardous Bulk Solid Debris (\$500 min.)	Yard/ Ton (greater)	\$75
Discrepancy	Profiled in Filter	\$35
	Profiled For RCRA	\$ Varies
Supplies/ Equipment	Per	Standard
Package Group I Container	Each	\$75
5 Gal Carboy	Each	\$23
5 Gal Poly w/ Lid	Each	\$20
15 Gal Poly Drum	Each	\$35
30 Gal Poly Drum	Each	\$45
55 Gal Poly Drum	Each	\$65
15 Gal Fiber Drum	Each	\$35
30 Gal Fiber Drum	Each	\$45
55 Gal Fiber Drum	Each	\$55
15 Gal Steel (Non-DOT)	Each	\$35
30 Gal Steel (non-DOT)	Each	\$45
55 Gal Steel (non-DOT)	Each	\$35
55 Gallon DOT Drum	Each	\$55
55 Gallon 17C PCB Drum	Each	\$175
48 Gal Biohazard Tub	Each	\$45
85 Gal Steel Overpack	Each	\$180
85 Gal Poly Overpack	Each	\$225
4 Ft Light Tube Drum	Each	\$45
8 Ft Light Tube Drum	Each	\$45
Cubic Yard Box w/ kit	Each	\$85
Cubic Yard Box Liners	Each	\$12.50
Roll Off Bin Liners	Each	\$55
End Dump Liners	Each	\$55
Drum Liners	Each	\$10
Drum Liner Roll	Roll	\$100
Visqueen/ Plastic Sheeting Roll (100 ft)	Roll	\$100
Asbestos Liners	Each	\$10
Shrink Wrap Roll	Roll	\$45
Bung Caps	Each	\$5
Drum Lids	Each	\$25
Drum Ring & Bolt	Each	\$25

Totes	Each	\$150
Pallet (Wood)	Each	\$35
Pallet jack	Per Day, Per Job	\$25
Drum Grabber/ Rotator	Per Day, Per Job	\$205
Drum Sling	Per Day, Per Job	\$15
Drum Dolly	Per Day, Per Job	\$25
Drum Funnel	Per Day, Per Job	\$78
Bung Wrench	Per Day, Per Job	\$20
Speed Wrench	Per Day, Per Job	\$20
Squeeges	Each	\$38
Scrapers	Each	\$38
Pickaxe	Each	\$38
Shovels	Each	\$38
Brooms	Each	\$38
Tool Usage (Broom Use etc...)	Per Day, Per Job	\$8
Misc Tools	Requirement	Open
Rope	Each	\$35
Ladder	Per Day, Per Job	\$35
Sawzall	Per Day, Per Job	\$100
Skill Saw	Per Day, Per Job	\$100
Chainsaw	Per Day, Per Job	\$250
Rivet Buster	Per Day, Per Job	\$200
Air Compressor	Per Day, Per Job	\$250
Power Generator	Per Day, Per Job	\$175
Portable Light Stands	Per Day, Per Job	\$175
Flood Light	Per Day, Per Job	\$45
Banding Machine	Per Day, Per Job	\$45
30" Flat Surface Concrete Cleaner	Per Day, Per Job	\$250
Drum Vacuum Wet/ Dry	Per Day, Per Job	\$150
Mercury Hepa Vacuum	Per Day, Per Job	\$750
Electric Stinger Pump	Per Day, Per Job	\$150
Diaphragm Pump	Per Day, Per Job	\$175
Electric/ Commercial Fan	Per Day, Per Job	\$50
Hand Pump (Disposable)	Each	\$50
ColiWasa Tubes 6FT	Each	\$45.00
ColiWasa Tubes 9FT	Each	\$90.00
Guzzler Flex Hose 6"	Feet	\$5
Guzzler Filters Set	Each	\$1,250
Boom/ Socks (8" x 10')	Per ft	\$5
Absorbent Pads	Bundle	\$150
Rags	Bundle	\$70
Vermiculite	Each	\$20
Absorbent	Each	\$23
Sand Bags	Each	\$20
Caustic Soda, Lye (Sodium Hydroxide)	Each	\$100
Soda Ash (Sodium Carbonate)	Each	\$65
10 lb Baking Soda (Sodium Bicarbonate)	Each	\$35

Boric Acid	Each	\$75
Sample Jars	Each	\$10
Hudson Sprayer	Each	\$35
Small Hand Sprayer	Each	\$5
Drinking Water (5 Gal)	Each	\$11
Drinking Water (16 oz)	Each	\$3
Simple Green	Gallon	\$10
Bleach	Gallon	\$10
Gold Crew	Gallon	\$40
Power Wash Cleaner	Gallon	\$50
F9 Barc Acid Stain Remover	Gallon	\$65
Cooking Oil	Gallon	\$15
Vinegar	Gallon	\$15
Dry Ice	Lbs	\$1.25
Epoxy Plug Putty	Each	\$20
Caution Tape	Each	\$47
Duct Tape	Each	\$8
Digital Camera	Day	\$35
Cell Phone	Day	\$50
PH Strips	Each	\$24
Adhesive Spray	Each	\$10
Sampling Processing, Packaging & Shipping	Day	\$140
Initial Waste Streams	Day	\$85
Hazardous Labels	Each	\$3
Manifest	Each	\$4
Bill of Lading	Each	\$4
Chain of Custody	Each	\$4
Emergency Profile	Each	\$185
Digital Report	Per Job	\$250
Lock Out Tag Out	Day	\$50
Confined Space Air Blower	Day	\$175
Confined Space Tripod	Day	\$250
Confined Space Extraction Pod	Day	\$500
Confined Space Entry Permit	Per Job (8 Hrs)	\$200
Confined Space Rescue Equipment	Day	\$200
Safety Harness	Day	\$45
Life Line (100')	Day	\$25
Intrinsic Communication Radios	Day	\$250
LEL Meter	Per Day, Per Job	\$275
Mercury Meter	Per Day, Per Job	\$1,850
Mercury Vapor Analyzer	Per Day, Per Job	\$500
Organic Vapor Analyzer, PID, HNU Meter	Per Day, Per Job	\$275
Radiation Detector	Per Day, Per Job	\$45
Haz Cat Kit	Day	\$450
Draeger Pump	Day	\$65
Draeger Tubes	Each	\$10
Portable Spill Containment	Day	\$1,200

Decon Pool	Day	\$45
Portable Eye Wash Station	Day	\$105
Chemical Transfer Trailer	Day	\$1,500
Breathing Air Trailer	Day	\$5,000
Breathing Air (224 Cubic Ft Cylinder)	Each	\$75
SCBA/ Standby	Each	\$45
Air Injection Unit W/ Hoses	Day	\$150
Level A Personal Protective Equipment	Per Day, Per Man	\$1,000
Level B Personal Protective Equipment	Per Day, Per Man	\$175
Level C Personal Protective Equipment	Per Day, Per Man	\$50
Level D Personal Protective Equipment	Per Day, Per Man	\$35
OV/ AG Respirator Cartridges	Each	\$40
Saranex	Each	\$100
Tyvek (Yellow Poly)	Each	\$50
Tyvek	Each	\$35
Dust Mask	Each	\$6
Black PVC Gloves	Each	\$5
Leather Gloves	Each	\$5
Latex Gloves	Pack	\$35
Safety Glasses	Each	\$10
Ear Plugs	Each	\$4
Waders	Each	\$100
Tanker Washout	Each	\$400
Stainless Tanker Washout (Chemical)	Each	\$750
Trailer Door Seal	Each	\$2
Plywood Heat Treated (4x8)	Each	\$30
Dunnage Wood ISPM 15 (2x6x8)	Each	\$12
Barricades/ Traffic Cones	Each, Per Day	\$12
Temporary Fence	Total	Cost + 30%
Small Bin Rental (3-1/2 Cubic Yards)	Month	\$50
Large Bin Rental (10/20/30/40 Cubic Yards)	Day	\$15
Large Bin Rental (10/20/30/40 Cubic Yards)	Month	\$400

CONFIDENTIAL



Customer Information

NAME	City Of Milpitas	EMERGENCY RESPONSE SERVICES
ADDRESS	455 E. Calveras Blvd	NORTHERN CALIFORNIA
CITY	Milpitas	
STATE	CA	
ZIP CODE	95035-5411	
PHONE	408-586-3161	Date: September 10, 2016
FAX		Job Date:
CONTACT	Chris Schroeder	Site:
P.O #		Total Fees \$0.00
INVOICE #		Terms:

Labor

Qty.	Hours	Type of Labor	Hourly Rate	Cost
		EMERGENCY RESPONSE COORDINATOR	\$110.00	\$0.00
		PROJECT MANAGER	\$90.00	\$0.00
		EQUIPMENT OPERATOR	\$60.00	\$0.00
		LEAD TECHNICIAN	\$75.00	\$0.00
		FIELD TECHNICIAN	\$60.00	\$0.00
		FIELD ADMINISTRATION CLERK	\$35.00	\$0.00
		HEALTH & SAFETY OFFICER	\$95.00	\$0.00
		CERTIFIED INDUSTRIAL HYGIENIST	\$190.00	\$0.00
		CHEMIST	\$110.00	\$0.00
		GEOLOGIST	\$110.00	\$0.00
		LODGING PER PERSON	\$85.00	\$0.00
		PER DIEM PER PERSON	\$40.00	\$0.00
		TECHNICAL SUPPORT	\$55.00	\$0.00
		LABORER	\$50.00	\$0.00
		LABOR SUBTOTAL		\$0.00

FOUR HOUR MINIMUM ON PERSONNEL & VEHICLES

MONDAY THRU FRIDAY (4:30PM - 8:00AM).....1.5 TIMES NORMAL RATE*

SATURDAY.....1.5 TIMES NORMAL RATE*

SUNDAY, HOLIDAYS AND HOLIDAY WEEKENDS.....2 TIMES NORMAL RATE

PREVAILING WAGE SURCHARGE.....40% OF LABOR RATES ONLY

*Double time applies after 4 hours of overtime

PER DIEM:

***FOOD.....\$40.00/MAN PER DAY

***LODGING.....\$155.00/MAN PER DAY

***This rate is for "normal" subsistence only. Any unusual cost, such as, airfares or peak hotel rates will be billed at an additional cost plus 10%.

Equipment All Equipment Subject to Delivery Fees				
Qty.	Hours	Item	Hourly Rate	Cost
		40-FOOT TRACTOR AND TRAILER	\$105.00	\$0.00
		40-FOOT FLATBED TRAILER AND TRACTOR	\$105.00	\$0.00
		24-FOOT BOBTAIL W/LIFT GATE	\$75.00	\$0.00
		50-BBL VACUUM TRUCK	\$105.00	\$0.00
		70-BBL VACUUM TRUCK (STAINLESS)	\$105.00	\$0.00
		120-130 BBL VACUUM TRUCK (BLACKIRON)	\$105.00	\$0.00
		120-130 BBL VACUUM TRUCK (STAINLESS)	\$105.00	\$0.00
		STEAM CLEANER / PRESSURE WASHER	\$56.00	\$0.00
		PICK-UP TRUCK	\$45.00	
		EMERGENCY RESPONSE UNIT	\$250.00	\$0.00
		ER PROJECT MANAGER UNIT	\$85.00	\$0.00
		FRONT LOADER / BACKHOE	\$185.00	\$0.00
		SKIDSTEER	\$150.00	\$0.00
		VACTOR SUPPORT VEHICLE	\$56.00	\$0.00
		SUPER SUCKER GUZZLER	\$275.00	\$0.00
		JETTER/AIR SHOVEL	\$400.00	\$0.00
		EXCAVATOR WITH THUMB ATTACH 70k LB	\$210.00	\$0.00
		WATER TRUCK	\$110.00	\$0.00
		END DUMP 8000 LBS GVW	\$85.00	\$0.00
		16FT TOW TRAILER	\$25.00	\$0.00
		BLOCKING AND BRACING SUPPORT TRLR	\$750.00	\$0.00

EQUIPMENT (DAILY)				
Qty		Item	Daily Rate	Cost
		COMPRESSOR	\$250.00	\$0.00
		5K WATT GENERATOR	\$175.00	\$0.00
		INDUSTRIAL VACUUM WET-DRY 55 GAL	\$150.00	\$0.00
		PORTABLE LIGHT STANDARDS	\$175.00	\$0.00
		DIAPHRAM PUMP	\$175.00	\$0.00
		RIVET BUSTER	\$135.00	\$0.00
		FLOOD LIGHT	\$45.00	\$0.00
		GAS POWERED CUTOFF SAW	\$35.00	\$0.00
		SAWZALL	\$35.00	\$0.00
		DRUM ROTATOR / GRABBER	\$205.00	\$0.00
		DRUM SLING	\$15.00	\$0.00
		TRIPOD EXTRACTION DEVICE	\$250.00	\$0.00
		AIR INJECTION UNIT W/ HOSES	\$250.00	\$0.00
		PALLET JACK	\$25.00	\$0.00
		RIVET BUSTER	\$200.00	\$0.00
		SKILL SAW	\$25.00	\$0.00
		30" FLAT SURFACE CONCRETE CLEANER	\$250.00	\$0.00
		PORTABLE SPILL CONTAINMENT**	\$1,200.00	\$0.00
		ROLL OFF BOX	\$14.00	\$0.00
		BANDING MACHINE	\$45.00	\$0.00
		CHEMICAL TRANSFER TRAILER (DAY)	\$1,500.00	\$0.00
		DRUM VACUUM	\$150.00	\$0.00
		Sub Total Equipment		\$0.00

**Equipment/Materials unable to be decontaminated, broken, or otherwise damaged or unsafe will be billed at full replacement cost plus 20%.

Safety Equipment (Daily/Each)

Qty	Item	Rate	Cost
	LEVEL (A) PERSONAL PROTECTIVE**	\$1,000.00	\$0.00
	LEVEL (B) PPE (CHANGE \$150)	\$175.00	\$0.00
	LEVEL (C) PPE (CHANGE \$35)	\$50.00	\$0.00
	LEVEL (D) PPE (CHANGE \$20)	\$35.00	\$0.00
	BREATHING AIR (224 CUBIC FT CYLINDER)	\$75.00	\$0.00
	SCBA/STANDBY	\$45.00	\$0.00
	TYVEK	\$25.00	\$0.00
	POLY COATED TYVEK (YLW)	\$35.00	\$0.00
	SARANEX	\$45.00	\$0.00
	DISPOSABLE DUST MASK	\$5.50	\$0.00
	EAR PLUGS	\$4.00	\$0.00
	SAFETY GLASSES	\$10.00	\$0.00
	LATEX GLOVES PER PACK	\$35.00	\$0.00
	OVAG RESP. CARTRIDGES	\$20.00	\$0.00
	BLK PVC GLOVES (EACH)	\$4.50	\$0.00
	LEATHER GLOVES (EACH)	\$4.50	\$0.00
	PORTABLE EYEWASH STATION	\$105.00	\$0.00
	DRINKING WATER (5 GALLON)	\$10.50	\$0.00
	DRINKING WATER (16 oz)	\$2.50	\$0.00
	LIFE LINE (100')	\$25.00	\$0.00
	SAFETY HARNESS	\$45.00	\$0.00
	DECON POOL	\$45.00	\$0.00
	LOCK OUT TAG OUT	\$50.00	\$0.00
	CONFINED SPACE RESCUE EQUIPMENT	\$1,000.00	\$0.00
	BREATHING AIR TRAILER (DAY)	\$5,000.00	\$0.00
	CONFINED SPACE ENTRY PERMIT	\$250.00	\$0.00
	Sub Total Safety Equipment		\$0.00

**THIS PRICE IS FOR THE DAILY USAGE OF EACH LEVEL A SUIT, HOWEVER ANY DAMAGE TO LEVEL A SUIT WILL BE BILLED AT FULL REPLACEMENT COST.

Instrument List (Daily/Each)

Qty	Item	Rate	Cost
	COMBUSTIBLE GAS INDICATOR - LEL	\$175.00	\$0.00
	ORGANIC VAPOR ANALYZER, PID, HNU.	\$275.00	\$0.00
	MERCURY VAPOR ANALYZER (HOUR)	\$295.00	\$0.00
	MERCURY HEPA VACUUM	\$750.00	\$0.00
	DRAGER PUMP	\$65.00	\$0.00
	DRAGER TUBES	\$10.00	\$0.00
	RADIATION DETECTOR	\$45.00	\$0.00
	HAZ CAT KIT (PER DAY)	\$450.00	\$0.00
	Sub Total Instrument List		\$0.00

Materials (Each)

Qty	Item	Rate	Cost
	VERMICULITE (4-CUBIC FOOT BAGS)	\$18.00	\$0.00
	CLAY ABSORBENT (33-LBS BAGS)	\$15.00	\$0.00
	CAUSTIC SODA (50-LBS BAGS)	\$50.00	\$0.00
	BORIC ACID (50-LBS BAGS)	\$75.00	\$0.00
	SUCK IT UP ABSORBENT (3 CUBIC FOOT)	\$23.00	\$0.00
	ABSORBENT PADS (PER BUNDLE)	\$150.00	\$0.00

	ABSORBENT BOOMS (8 INCH X 10 FT)	\$150.00	\$0.00
	55-GALLON D.O.T. STEEL DRUMS (OPEN	\$55.00	\$0.00
	55-GALLON D.O.T. STEEL DRUMS (CLOSED	\$55.00	\$0.00
	55-GALLON D.O.T. POLY DRUMS (OPEN TOP)	\$80.00	\$0.00
	55-GALLON D.O.T. POLY DRUMS (CLOSED	\$80.00	\$0.00
	55-GALLON PCB DRUM, 17-C	\$175.00	\$0.00
	30-GALLON D.O.T. METAL PAIL	\$45.00	\$0.00
	30-GALLON D.O.T. PLASTIC PAIL	\$60.00	\$0.00
	14-GALLON D.O.T. METAL PAIL	\$45.00	\$0.00
	14-GALLON D.O.T. PLASTIC PAIL	\$45.00	\$0.00
	5-GALLON METAL PAIL	\$23.50	\$0.00
	5-GALLON PLASTIC PAIL	\$23.50	\$0.00
	CARDBOARD DRUM (LIGHT TUBE) 4' OR 8'	\$45.00	\$0.00
	RECOVERY DRUM, 85-GALLON STEEL	\$180.00	\$0.00
	RECOVERY DRUM, 85-GALLON POLY SCREW	\$225.00	\$0.00
	TRI-WALL HAZARDOUS WASTE CONTAINERS	\$150.00	\$0.00
	PALLETS (WOOD)	\$35.00	\$0.00
	BIOHAZARD CONTAINER, (1QT)	\$52.00	\$0.00
	DRUM LINERS (55-GALLON)	\$6.50	\$0.00
	DRUM LINERS (35-GALLON)	\$6.50	\$0.00
	DRUM RING AND BOLT, FOR 55-GALLON	\$25.00	\$0.00
	BAGS, 6-MIL ASBESTOS	\$5.50	\$0.00
	HAZARDOUS WASTE LABELS	\$3.00	\$0.00
	HAZARDOUS \ CAUTION TAPE	\$47.00	\$0.00
	SHRINK WRAP (ROLL)	\$45.00	\$0.00
	PLASTIC SHEET (VISQUEEN) 100FT ROLL	\$100.00	\$0.00
	HAZARDOUS & NON-HAZARDOUS MANIFEST	\$4.00	\$0.00
	DRUM FUNNEL	\$78.00	\$0.00
	DISPOSABLE HAND PUMP	\$20.00	\$0.00
	BARRICADES / TRAFFIC CONES (EACH/DAY)	\$12.00	\$0.00
	TEMPORARY FENCE (COST PLUS 30%)		\$0.00
	DISPOSABLE COLIWASA	\$22.50	\$0.00
	BILL OF LADING	\$4.00	\$0.00
	INDUSTRIAL DEGREASER 1GAL BOL SG	\$45.00	\$0.00
	INDUSTRIAL DEGREASER 1 GAL - GC	\$125.00	\$0.00
	DIGITAL CAMERA	\$35.00	\$0.00
	CELL PHONE	\$50.00	\$0.00
	END DUMP LINER	\$55.00	\$0.00
	DIGITAL REPORT	\$250.00	\$0.00
	ROLL OFF BOX LINER	\$50.00	\$0.00
	GOLD CREW (P2 and Vapor Lock PER GALLON)	\$125.00	\$0.00
	AIR INJECTION UNIT W/HOSES (DAY)	\$150.00	\$0.00
	HUDSON SPRAYER	\$35.00	\$0.00
	20' EXTENSION LADDER (DAY)	\$35.00	\$0.00
	SQUEEGEE 24"	\$38.00	\$0.00
	STEEL SHOVEL	\$38.00	\$0.00
	PICK	\$38.00	\$0.00
	PUSH BROOM 24"	\$38.00	\$0.00
	PLASTIC VACTOR HOSE (PER FOOT)	\$2.25	\$0.00
	PLYWOOD (4X8) HEAT TREATED	\$30.00	\$0.00
	DUNNAGE WOOD (2X6X8) ISPM 15	\$12.00	\$0.00
	TRAILER DOOR SEAL	\$2.00	\$0.00
	DUNNAGE AIR BAGS	\$0.00	\$0.00
	RAGS (BUNDLE)	\$70.00	\$0.00
	Sub Total Materials		\$0.00

Sampling

Qty	Item	Rate	Cost
	PROCESSING, PACKAGING, SHIPPING	\$140.00	\$0.00
	PROFILE FEES	\$85.00	\$0.00
	EMERGENCY PROFILE FEES	\$185.00	\$0.00
	INITIAL WASTE STREAMS	\$85.00	\$0.00
	PH TEST STRIPS, pH 0-14 (box)	\$23.50	\$0.00
	CHAIN OF CUSTODY	\$4.00	\$0.00
	SPEED WRENCH	\$20.00	\$0.00
	BUNG WRENCH	\$20.00	\$0.00
	HAND AUGER	\$35.00	\$0.00
	DRUM DOLLY	\$25.00	\$0.00
	DISPOSABLE BAILERS	\$25.00	\$0.00
	VOA VIALS & WATER SAMPLE BOTTLES	\$8.50	\$0.00
	SOIL AND SOLIDS SAMPLE JARS	\$8.50	\$0.00
	Sub Total Sampling		\$0.00

Disposal

Qty	Item	Rate	Cost
	NON-HAZ SOLID (BULK) PER YARD*	\$65.00	\$0.00
	NON-HAZ SOLID (55 GALLON DRUM)	\$145.00	\$0.00
	NON-HAZ LIQUID (55 GALLON DRUM)	\$145.00	\$0.00
	NON-RCRA LIQUID (BULK)**	\$0.95	\$0.00
	NON-HAZ LIQUID (BULK)**	\$0.65	\$0.00
	NON-RCRA SOLID (BULK) PER YARD*	\$95.00	\$0.00
	NON-RCRA SOLID (55 GALLON DRUM)	\$195.00	\$0.00
	NON-RCRA LIQUID (55 GALLON DRUM)	\$195.00	\$0.00
	TANKER WASHOUT	\$350.00	\$0.00
	Sub Total Disposal		\$0.00

RCRA Waste and difficult to handle waste quoted on a case by case basis

*Per Yard or Ton Whichever is Greater (10 cubic yard minimum) ** Minimum 300 Gallons

SUB TOTAL COST

	Sub Total Labor		\$0.00
	Sub Total Equipment		\$0.00
	Sub Total Safety Equipment		\$0.00
	Sub Total Instrument List		\$0.00
	Sub Total Materials		\$0.00
	Sub Total Sampling		\$0.00
	Sub Total Disposal		\$0.00
	OTHER COST/ SAVINGS		
	ALL THIRD PARTY ITEMS WILL BE BILLED	COST + 20%	
15.00%	ENVIRONMENTAL ENERGY SURCHARGE		\$0.00
	Grand Total		\$0.00

Equipment/Materials unable to decontaminate, broken, unsafe, or damaged will be billed at cost or per contract rate, which ever is greater.

Any items not included on this list can be quoted separately. Please call our Customer Service Department at 909.546-1354 for more information.

SECTION #3

COMPLETED SUMMARY OF PROPOSER'S WASTE MANAGEMENT PROCESSES

THIS FORM MUST BE PRINTED OUT, COMPLETED AND UPLOADED BACK INTO THE PUBLIC PURCHASE SYSTEM

SUMMARY OF PROPOSER'S WASTE MANAGEMENT PROCESSES FORM

Waste Description	Management Method*	Packing Method**	Transporter	TSD Facility
RG Waste Flammable Liquids (contains acetone and petroleum distillates)	Fuels Blending	L/P & Bulk	Environmental Logistics	HAZMAT
Non-RCRA Hazardous Waste Liquids (oil/absorbent)	Recycle/Landfill	Bulk	Environmental Logistics	Filter Recycling
Non-RCRA Hazardous Waste Liquids (latex paint)	Recycle	L/P & Bulk	Environmental Logistics	Filter Recycling
Non-RCRA Hazardous Waste Liquid (oil and water)	Recycle	Bulk	Environmental Logistics	Filter Recycling
Oil Contaminated Soil	Landfill	Bulk	Environmental Logistics	Filter Recycling
Aerosols, Flammable, Empty Containers	Recycle	L/P & Bulk	Environmental Logistics	Filter Recycling

*i.e., incineration, recycle, landfill, etc. **i.e., bulk, etc.

SECTION #4

FIRM QUALIFICATIONS

SECTION #4 Firm Qualifications

ELI qualifications regarding emergency response and routine handling of hazardous materials are demonstrated throughout our proposal and extensively documented in our references.

Emergency response services and equipment are dispatched out of our Hayward facility located at 3200 Depot located at 3200 Depot Road in Hayward. Because of our close proximity to Milpitas we can respond to emergencies in less than an hour. We have stocked emergency response vehicles that are dispatched 24 hours a day 365 days a year.

ELI's waste handling procedures are in accordance with 40 CFR Part 172.101. Classification of wastes is based on generator knowledge of the wastes, Safety Data Sheets (SDS), certified lab testing and testing in the field for unknowns.

ELI uses the Heinz method of hazardous waste categorization of wastes including PH, flash testing, solubility and oxidizer testing. Once the waste is identified, it is prepared for transportation and disposal by hazard classification. ELI's lab packing is to segregate and package by hazard class. Corrosive acids, corrosive basics, flammables, toxic, non-RCRA liquids and solids are all segregated and packaged in accordance with DOT requirements.

ELI has an excellent safety and compliance record and has no violations of regulatory requirements at the local or state level.

SECTION #5

ADDITIONAL REQUIREMENTS

LICENSES & PERMITS

SECTION #5

Additional Requirements

List of TSDf's to be utilized to manage City generated wastes

Filter Recycling Services 909-873-4141

2230 S. Riverside Avenue

Bloomington, CA 92316

EPA I.D. # CAD982444481

Non-hazardous, Non-RCRA and Universal Wastes

HAZMAT Inc. 816-924-5884

6300 Stadium Drive

Kansas City, MO 64129

EPA I.D. # MOD981123391

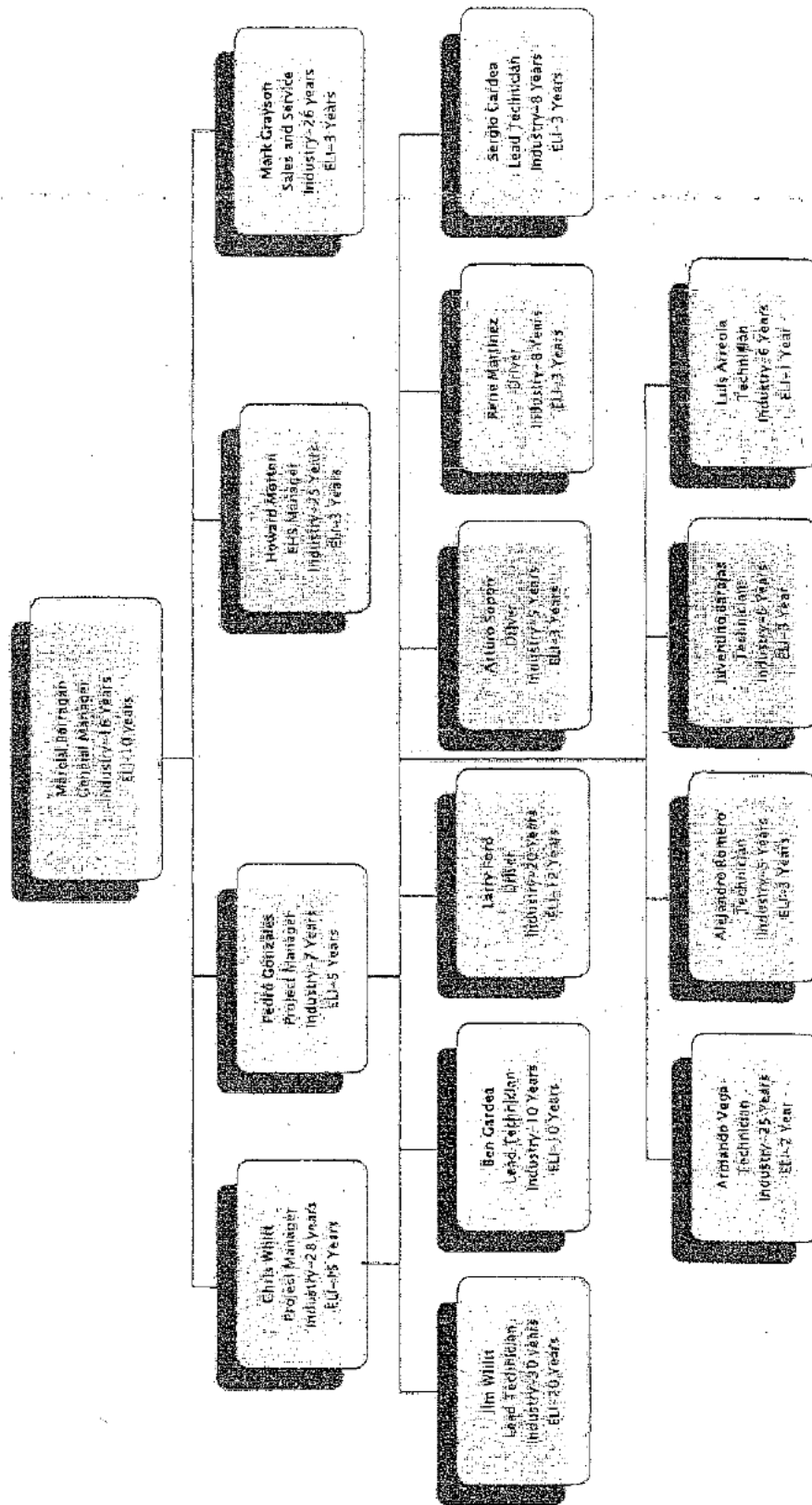
RCRA wastes

Hazard classes that we cannot handle in the event of an incident include explosive and radiological.

The highest level of Personnel Protective Equipment that employees are trained on and can use in a response is Level A



MILPITAS PROJECT TEAM



ENVIRONMENTAL LOGISTICS



3200 Depot Road, Hayward, CA 94545
Voice: (510) 670-9901 Fax: (510) 670-9904

TRAINING REQUIREMENTS

Supervisor/Project Manager

The supervisor will organize and oversee all aspects of the collection. Namely, the screening, unloading, sorting, and processing of the waste. He/She will also supervise the set-up and removal of equipment from the site. A site specific safety meeting will be held by the Supervisor before the site is open. He/She serves as the ultimate authority on waste classification and safety on site.

In the event of an emergency, the site supervisor is responsible for assessing the situation and determining the proper actions to be taken. This includes, but is not limited to:

1. Immediate notification of the emergency to the appropriate Agencies.
2. Immediate delegation of responsibilities to assistant site supervisor and other personnel including but not limited to:
 - a. Continued operation or evaluation of site to assistant site supervisor and other personnel including, but not limited to:
 - b. Direct handling/management of problem materials/situation to Filter Recycling personnel.
3. Notification of neighboring properties.
4. Coordinating with emergency response agencies throughout the incident.

The Site Supervisor shall coordinate these activities with the help of the assistant site supervisor. In most cases, the site supervisor will work directly with the emergency response teams and regulators, while the assistant site supervisor handles the operations and safety of personnel involved in the actual cleanup of the incident.

Training Requirements/Certifications

40 Hr Hazwoper/Emergency Response training Title 29CFR Section 1910.120 8
Hr OSHA Hazwoper Refresher Training (Annually)
Respiratory Training & Fit Test (Annually) Confined
Space Entry Certified
Self-Contained Breathing Apparatus (SCBA) Certified Hazardous
Communication Standard "Right to Know" Certified
D.O.T. Hazardous Materials Regulations and Safety Certified

Lockout/Tagout Certified

Forklift Operator Training and Certification (Annually) CPR/First Aid Certified

Hazardous Waste Manifest Training Certified (Annually)

Hazardous Waste Characterization Certified (Annually)

Reasonable Suspicion "Drug Awareness" Certified Incident

Commander Certified

Registered Environmental Assessor (REA)

Employee training is in compliance with 29 CFR 1910.120, Title 22, California Code of Regulations.

All involved employees have a minimum of Forty (40) hours off-site hazardous waste operations/emergency responder training. Additionally, they will meet the training requirements of 49 CFR 172.700. All employees will have written certification of their training and experience on site.

If an employee's work experience and/or training has resulted in initial training equivalent to that required in the above paragraph, submissions of written documentation of that experience and/or training and its acceptance by the Corporate Safety and Health Manager will satisfy this portion of the training requirements.

1. Project introduction.
2. Characterization and potential hazards of the chemicals on site.
3. PPE-function, care and limitations.
4. Decontamination procedures.
5. Location of safety and first aid equipment.
6. Emergency evacuation plan.
7. General safety concepts.

Chemist/Field Chemist

The Chemist is responsible for lab packing the area where all hazardous chemicals are packaged. All packages should be marked and packaged according to proper D.O.T. hazard classifications for safe shipment back to Environmental Logistics, Inc., Inc. where they will be consolidated for shipment to its designated disposal facility.

The Chemist is also responsible for hazcarting, labpacking, fingerprinting, analyzing, and stabilizing unknown chemicals.

1. Visually inspect the container to screen for possible unstable or shock-sensitive material. If found, follow the established procedures for handling explosive materials.
2. Visually inspect the container for the type of product contained. Many unlabeled containers are visually identifiable as herbicides.
3. Open the container and run a pH strip. Record the reading on the container.
4. Run an oxidizer test using potassium-iodide paper. Record the results of this test on the container as OX - (negative test) or OX + (positive test).
5. If warranted, run an organic peroxide test using organic peroxide test strips. Record the results of the test on the container as OP- or OP+. This test is usually run at the discretion of the labpack chemist depending on the size and type of the container and the container and the nature of the material.

Training Requirements

40 Hr Hazwoper/Emergency Response training Title 29CFR Section 1910.120 8

Hr OSHA Hazwoper Refresher Training (Annually)

Respiratory Training & Fit Test (Annually)

Confined Space Entry Certified

Self-Contained Breathing Apparatus (SCBA) Certified

Hazardous Communication Standard "Right to Know" Certified

D.O.T. Hazardous Materials Regulations and Safety Certified

Lockout/Tagout Certified

Forklift Operator Training and Certification (Annually)

CPR/First Aid Certified

Hazardous Waste Manifest Training Certified (Annually)

Hazardous Waste Characterization Certified (Annually)

All Chemist must have a minimum of B.S. in chemistry, three years experience in the environmental field, a working knowledge of HHW roundups.

Employee training in compliance with 29 CFR 1910.120, Title 22, California Code of Regulations.

All involved Chemist have a minimum of Forty (40) hours off-site hazardous waste operations training. Additionally, they will meet the training requirements of 49 CFR operations training. All employees will have written certification of their training and experience on site.

If an employee's work experience and/or training has resulted in initial training equivalent (Field Chemist) to that required in the above paragraph, submission of written documentation of that experience and/or training and its acceptance by the Corporate Safety and Health Manager will satisfy this portion of the training requirements.

Technicians/Laborer

All Technicians/Laborers have a minimum of Forty (40) hrs of hazardous waste health and safety training, as well as field operation experience. Technicians/Laborer's will provide technical support for site operation. They report to the Site Supervisor and are to perform safe work practice.

All Technicians/Laborer's will deal directly with these accepted wastes in one or more of the following needs:

1. Inspecting and unloading accepted waste from participant vehicles.
2. Providing secondary containment if necessary.
3. Unloading and transferring waste from vehicles to final sorting tables.
4. Waste identification, final sorting, classification, and inventory.
5. Waste packaging to include bulking, loose-packing, or labpacking.

All above activities will be carried out in order per applicable DOT/EPA/CA Regulations for classifying, packing, and transporting of these materials.

Training Requirements

40 Hr HAZOPER/Emergency Response training Title 29CFR Section 1910.120 8

Hr OSHA HAZWOPER Refresher Training (Annually)

Respiratory Training & Fit Test (Annually)
Confined Space Entry Certified
Self-Contained Breathing Apparatus (SCBA)
Certified Hazardous Communication Standard "Right to Know"
D.O.T. Hazardous Materials Regulations and Safety
Certified Lockout/Tagout
Forklift Operator Training and Certification (Annually)
CPR/First Aid Certified
Hazardous Waste Manifest Training Certified (Annually)
Hazardous Waste Characterization Certified (Annually)

Employee training to be in compliance with 29 CFR 1910.120, Title 22, California Code of Regulations.

All involved employees have a minimum of Forty (40) hours off-site hazardous waste operations training. Additionally, they will meet the training requirements of 49 CFR 172.700. All employees will have written certification of their training and experience on site.

If an employee's work experience and/or training has resulted in initial training equivalent to that required in the above paragraph, submission of written documentation of that experience and/or training and its acceptance by the Corporate Safety and Health Manager will satisfy this portion of the training requirements.

1. Project introduction.
2. Characterization and potential hazards of the chemicals on site.
3. PPE - Function, care and limitations.
4. Decontamination procedures.
5. Location of safety and first aid equipment
6. Emergency evacuation plan
7. General safety concepts.

Transportation Drivers

Transportation Drivers have a minimum of Forty (40) hours of off-site hazardous waste operations/emergency responder training. Additionally, they will meet the training requirements of 49 CFR 172.700. All Drivers will have written certification of their training experience onsite.

Training Requirements

40 Hr Hazwoper/Emergency Response training Title 29CFR Section 1910.120
8 Hr OSHA HAZWOPPER Refresher Training (Annually)
Respiratory Training & Fit Test (Annually)
Confined Space Entry Certified
Self-Contained Breathing Apparatus (SCBA) Certified
Hazardous Communication Standard "Right to Know" Certified
D.O.T. Hazardous Materials Regulations and Safety
Certified Lockout/Tagout
Forklift Operator Training and Certification (Annually)
CPR/First Aid Certified

Hazardous Waste Manifest Training Certified (Annually)
Hazardous Waste Characterization Certified (Annually)

Employee training is in compliance with 29 CFR 1910.120, Title 22, California Code of Regulations.

Medical Surveillance Monitoring Program

Environmental Logistics, Inc., Inc. Medical Surveillance Monitoring Program consist of Physical Examinations and Drug Screens. Each field technician is given an annual physical exam consisting of Hearing and Respiratory testing. Drug screenings are given randomly and when an accident or injury occurs. All treatment is performed at U.S. Health Works Medical Group.

State of California
Secretary of State
CERTIFICATE OF STATUS

ENTITY NAME:

ENVIRONMENTAL LOGISTICS, INC.

FILE NUMBER: C2857306
FORMATION DATE: 02/28/2006
TYPE: DOMESTIC CORPORATION
JURISDICTION: CALIFORNIA
STATUS: ACTIVE (GOOD STANDING)

I, ALEX PADILLA, Secretary of State of the State of California,
hereby certify:

The records of this office indicate the entity is authorized to
exercise all of its powers, rights and privileges in the State of
California.

No information is available from this office regarding the financial
condition, business activities or practices of the entity.



IN WITNESS WHEREOF, I execute this certificate
and affix the Great Seal of the State of
California this day of February 13, 2015.

ALEX PADILLA
Secretary of State

RJB

PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

PERMIT NO. HMP-20636

Vehicles 5

ENVIRONMENTAL LOGISTICS, INC.
140 West Monte Avenue
Bloomington, CA 92316

In compliance with the provisions of Section 42-20-202(b), C.R.S., the commission does grant authority to transport hazardous materials subject to the limitations and provisions mentioned below.

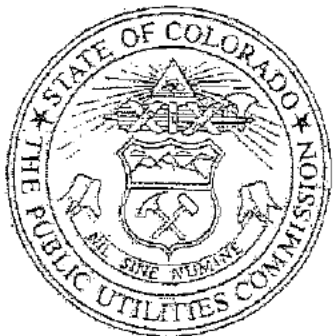
1. A copy of the shipping papers as required by 49 C.F.R. 172.200 must be carried in the transporting motor vehicle.
2. This permit must be carried in the transporting motor vehicle.
3. The above named carrier has paid the required amount and is authorized to make copies for the number of vehicles listed herein on the permit.

This permit does not authorize for-hire transportation requiring specific authority under Title 40, Articles 13 & 16, C.R.S.

Full compliance with the laws of the State of Colorado and with the Rules and Regulations of the Department of Public Safety is required under this permit.

This permit is valid from April 1, 2016 through April 1, 2017.

Dated at Denver, Colorado, March 4, 2016.



WITNESS MY HAND AND THE SEAL OF
THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Doug Dean

DOUG DEAN
DIRECTOR

Effective 04/01/2016

Alliance for Uniform Hazmat Transportation Procedures Uniform Program Credentials

ENVIRONMENTAL LOGISTICS, INC.
140 W MONTE AVENUE
BLOOMINGTON, CA 92316



ALLIANCE
FOR UNIFORM
HAZMAT
TRANSPORTATION
PROCEDURES

USDOT Census #: 1552681

MC #: 648117

EPA Transporter ID #: CAR000172460

PHMSA #: 060313600009VX

Telephone number to call in case of accident or emergency: 909-721-2038

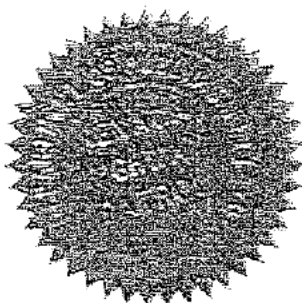
Uniform Program #: UPW-1552681-NV

Certified by: *Sarena Nichols*

Registration Issued: October 01, 2016 Registration Expiration: September 30th, 2017

Issuing Agency: Nevada Highway Patrol

Agency Telephone Number: 775-684-4622



Effective 10/1/2016

New Mexico Taxation & Revenue Department, Motor Vehicle Division



Weight Distance Permit Confirmation



ACCOUNT INFORMATION:

FEIN: **--6206

WDT Number: 07-113539-00-1

USDOT: 1552681

Company Name: ENVIROMENTAL LOGISTICS, INC

PERMITS:

Permit Year: 2016

Amount Paid: \$38.50

VEHICLE INFORMATION:

Unit	VIN	State	Plate	Make	Model	Year	Declared GVW
4116	1XPHD40X8BD124116	CA	VP80859	Peterbilt	386	2011	80000
7485	1XPVD78X7CD167485	CA	WP00728	Peterbilt	384	2012	80000
6282	1FVJA6CK57LX56282	CA	WP31580	Freightliner	Columbia 120	2007	80000
3925	1XPHD49X4DD163925	CA	VP83292	Peterbilt	386	2013	80000
7812	1XPBDP9X9FD257812	CA	NA	Peterbilt	375	2015	80000
3839	1XPBD48XXDD183839	CA	WP05122	Peterbilt	375	2015	80000
7553	1XPVD78X9CD167553	CA	WP00727	Peterbilt	364	2012	80000

Note: Permits are considered to be active with the Port of Entry once payment is made. Final determination is made after confirmation from the bank, which can take up to five (5) days.

State of Kansas
Kansas Department of Health and Environment



**2016 Hazardous Waste Transporter
Registration Certificate**
(A hazardous waste transporter may also transport used oil)

This certificate acknowledges that the company named below is registered with the Kansas Department of Health and Environment, Bureau of Waste Management, as a hazardous waste transporter.

ENVIRONMENTAL LOGISTICS INC
140 W MONTE AVENUE
BLOOMINGTON, CA

EPA ID Number: CAR000172460

A copy of this certificate must be carried in each company vehicle that transports hazardous waste or used oil in the State of Kansas and must be made available for review upon request.

This registration is valid from January 1, 2016 through December 31, 2016.

A handwritten signature in cursive script, appearing to read "Candy Williamson".

Issued: November 16, 2015

Candy Williamson
Bureau of Waste Management
Regulations and Data Unit

Effective 1/1/2016



Missouri Department of Transportation

Motor Carrier Services

830 MoDOT Drive, P.O. Box 270
 Jefferson City, MO 65102-0270
 (866)831-6277, or (573)751-7100

HAZARDOUS WASTE TRANSPORTER LICENSE CERTIFICATE

File No:	USDOT 1552681	License No:	16E20003000
Name:	ENVIRONMENTAL LOGISTICS INC		
D/B/A:			
City:	BLOOMINGTON	Expiration Date:	June 01, 2017
State:	CA	Effective Date:	June 02, 2016

In accordance with Section 260.395 of the "Missouri Hazardous Waste Management Law", the Missouri Department of Transportation approves the application of the above-named transporter. Beginning on the effective date shown above, until the expiration date, this transporter may transport hazardous waste within this state. This permit is not transferable, and does not apply to other environmentally regulated areas.

All equipment used for the transport of hazardous waste shall meet and be operated in accordance with the provisions of the Missouri Hazardous Waste Management Law (Section 260.350 to 260.430, RSMo) and rules made under its authority. The Department does not inspect each vehicle to be used for hauling waste, and the issuance of this permit does not imply approval of that equipment.

The Department may suspend, revoke, or modify this permit if it finds that the hauler is in violation of the chapter, rules, or any terms or conditions thereof, or has created a public nuisance, or posed a threat to the health of humans or other living organisms.

This license must be carried in the vehicle at all times when transporting hazardous waste. The license must be shown to representatives of the Department, Officers of Missouri Highway Patrol and other law enforcement officials on demand.

Issued at 830 MoDOT Drive
 Post Office Box 270
 Jefferson City, MO 65102-0270
 On May 20, 2016

Scott Marion

Director of Motor Carrier Services

MISSOURI DEPARTMENT OF TRANSPORTATION LICENSE NUMBER 1003673

Effective 6/1/2016

03/23/2012

909566

ENVIRONMENTAL LOGISTICS

*** TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ***
Notice of Registration
Industrial and Hazardous Waste

Page: 1
Date: 03/23/2012

Solid Waste Registration Number: 90956 EPA ID: CA8060172490
Company Name: ENVIRONMENTAL LOGISTICS INCORPORATED
Site Name: ENVIRONMENTAL LOGISTICS
Site Location: 140 MONTE AVE BLOOMINGTON CA 92316 USA
Primary Contact: REORDERING WADE
Mailing Address: 140 MONTE AVE
BLOOMINGTON, CA 92316-2947

Region: County: Private
Land Type: Title: REGULATORY COMPLIANCE
Site Street Address: 140 MONTE AVE
BLOOMINGTON, CA 92316

Initial Registration Date: 03/06/2012
Last Amendment Date: 03/06/2012
Last Date FOR Computer Update: 03/21/2012
Phone: 909-546-1334

Registration Status: Active
Registration Type: Transporter
Generator Type:
Receiver Type:
Transporter Type: FOR HIRE
Transport Wtr Class: 1 H

Hazardous Waste Generation Status:
Reporting Method: PAPER

Business Description:
NAICS Code: 48346206
Tax Identification #: 48346206
Hazardous Status:

Operator Information
Name: ENVIRONMENTAL LOGISTICS INCORPORATED
Phone: 909-546-1334
Address: 140 MONTE AVE
BLOOMINGTON, CA 92316-2947

Owner Information
Name: ENVIRONMENTAL LOGISTICS INCORPORATED
Phone: 909-546-1334
Address: 140 MONTE AVE
BLOOMINGTON, CA 92316-2947

Other Contact: Manager, Environmental
Mailing Address: 140 MONTE AVE
BLOOMINGTON, CA 92316-2917

Role: JHW: Owner Contact Phone: 909-546-1334

As of 03/06/2012 - the next assigned sequence number for WASTES is 9001 and
the next unassigned sequence number for UHITS is 001

**** WASTE INFORMATION ****

Waste Code	Waste Class	Status	Date of Manifest	Managed Onsite	Radioactive	TEQ Audit Complete
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** No Longer Generated Wastes **

As of 03/06/2012, the next Unassigned sequence number for WASTES is 9001

Effective 1/1/2016

*** TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ***
 Notice of Registration
 Industrial and Hazardous Waste

Page: 2
 Date: 03/23/2012

90956

ENVIRONMENTAL LOGISTICS

*** UNITS AT THIS SITE MANAGING WASTE ***

Unit Number	Unit Type	Unit Status	Date of Status	Class of Waste Managed in Unit Onsite / Offsite	Unit Permit Number	Unit's on Permit	Regulatory Status	Dead Reckoning Needed/Date
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As of 03/06/2012, the next unassigned sequence number for UNITS is 901

Effective 1/1/2016

Environmental Logistics, Inc. operating authority includes:

Permit/License/Certification Name:	Issued By	Identification No.
Notification of Hazardous Waste Activity	US EPA	CAR000172460
Notification of PCB Activity	US EPA	CAR000172460
Hazardous Materials Registration	US DOT	081307 700 001PR
Motor Carrier Registration	Federal Motor Carrier Safety Administration	1552681
Hazardous Waste Transporter w/ Consolidated Transporter	California Department of Toxic Substances Control	5508
Motor Carrier Permit	California Department of Motor Vehicles	0340844
Hazardous Materials Transportation License	Department of California Highway Patrol	137235
Certificate of Standard Carrier Alpha Code	National Motor Freight Traffic Association	ENVL
Special Permit DOT-SP-13182	US Department of Transportation Pipeline And Hazardous Materials Administration	Authorized
Special Permit DOT-SP-13179	US Department of Transportation Pipeline And Hazardous Materials Administration	Authorized
Special Permit DOT-SP-13796	US Department of Transportation Pipeline and Hazardous Materials Administration	Authorized
Special Permit DOT-SP-13552	US Department of Transportation Pipeline and Hazardous Materials Administration	Authorized
Special Permit DOT-SP-11624	US Department of Transportation Pipeline and Hazardous Materials Administration	Authorized
International Fuel Tax Agreement (IFTA)	California Board Of Equalization	CA204546106
Tire Program Identification	California Integrated Waste	1610541-01

**ENVIRONMENTAL
LOGISTICS**



	Management Board	
Small Business Certification	California Department of General Services	50832
Medical Waste Transporter	California Department of Health Services	5508 MW-151
Trauma Scene Waste Management Practitioner	California Department of Public Health	278
Business License Tax Certificate	City of Colton	49695
Contractor License-A	California State Contractors License Board	927360
Hazardous Substance Removal		
Rule 1166 Soil Mitigation	South Coast Air Quality Management District	155208
Tax Registration Certificate	City of Los Angeles	2539096-0001-1
Mobile Facility Response Plan	California Department of Fish and Game/Oil Spill Prevention and Response	F5-20-2350





Department of Toxic Substances Control

Matthew Rodriguez
Secretary for
Environmental Protection

Barbara A. Lee, Director
1001 "I" Street
P.O. Box 806
Sacramento, California 95812-0806

Edmund G. Brown Jr.
Governor

HAZARDOUS WASTE TRANSPORTER REGISTRATION
HAZARDOUS WASTE OF CONCERN TRANSPORTER
WITH CONSOLIDATED TRANSPORTER NOTIFICATION

NAME AND ADDRESS OF REGISTERED TRANSPORTER:

ENVIRONMENTAL LOGISTICS, INC.
140 W. MONTE AVENUE
BLOOMINGTON, CA. 92316

TRANSPORTER REGISTRATION NO: 5508

EXPIRATION DATE: DECEMBER 31, 2016

THIS IS TO CERTIFY THAT THE FIRM NAMED ABOVE IS DULY REGISTERED TO
TRANSPORT HAZARDOUS WASTE IN THE STATE OF CALIFORNIA IN
ACCORDANCE WITH THE PROVISIONS OF CHAPTER 6.5, DIVISION 20 OF THE
HEALTH AND SAFETY CODE AND TITLE 22 OF THE CALIFORNIA CODE OF
REGULATIONS, DIVISION 4.5.

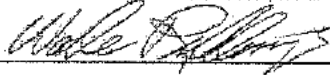
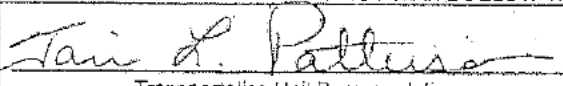
THIS REGISTRATION CERTIFICATE MUST BE CARRIED WITH EACH SHIPMENT
OF HAZARDOUS WASTE.

FOR REGISTRATION INFORMATION, PLEASE CALL (916) 440-7145.

Tam L. Patterson
(AUTHORIZED SIGNATURE)

December 22, 2015
(DATE)

CONSOLIDATED TRANSPORTER NOTIFICATION

1. Business Name (Show d.b.a. name, show name exactly as it will appear on registration; same name or trademark is required on all vehicles): Environmental Logistics, Inc.		2. Transporter Registration Number 5 5 0 8	
3. Business Address Number/Street 140 W. Monte Avenue	City Bloomington	County/Province San Bernardino	State/Country CA
4. Mailing Address (if different) P.O. Box/Street -SAME-	City	County/Province	State/Country
5a. Telephone Number (Ext. Number) (909) 546-1854	6. Identification Numbers. If your company transports hazardous wastes, operates the designated facility, and intends to submit only the facility copy of the consolidated manifests pursuant to Health and Safety Code Section 25160(b)(5)(A), you must provide all the transporter and facility identification numbers (12 characters) used by your company on these manifests. If necessary, list additional identification numbers on a separate sheet.		
5b. Fax Number (909) 546-1546	CAR000172460	CAR000217513	
5c. E-mail Address wade_riddering@environmentallogistics.org			
7. I intend to transport the following hazardous wastestream under the consolidated manifesting procedure, as described in Health and Safety Code, Section 25160.2. [Check all applicable box(es)]:			
☒ A. Used oil ☒ B. Contents of an oil/water separator ☒ C. Solids contaminated with used oil ☒ D. Brake fluid ☒ E. Antifreeze ☒ F. Antifreeze sludge ☒ G. Parts cleaning solvents, including aqueous cleaning solvents ☒ H. Hydroxide sludge contaminated solely with metals from a wastewater treatment process ☒ I. "Paint-related" wastes, including paints, thinners, fillers, and sludges ☐ J. Spent photographic solutions ☐ K. Dry cleaning solvents (including perchloroethylene, naphtha, and silicone based solvents) ☐ L. Filters, lint, and sludges contaminated with dry cleaning solvent ☐ M. Asbestos and asbestos-containing materials ☐ N. Inks from the printing industry ☐ O. Chemicals and laboratory peaks collected from K-12 schools ☐ P. Absorbents contaminated with other wastes listed in Health and Safety Code Section 25160.2(c) ☐ Q. Filters from dispensing pumps for diesel and gasoline fuels			
8. Name and Title of Authorized Representative (print or type): Wade Riddering			
		10/29/2015	
Signature of Authorized Representative		Date	
Use blue or other non-black ink			
Note: Keep this Consolidated Transporter Notification, signed by DTSC, with the valid Transporter Registration Certificate in the vehicle at all times during the transportation of hazardous waste. Transportation of wastestream(s) listed above, under the consolidated manifesting procedure, without notifying DTSC is a violation of Health and Safety Code (HSC) Section 25165(a), and may be subject to significant penalties. Consolidated transporters are also required to submit quarterly reports pursuant to HSC Section 25160.2(d).			
DO NOT WRITE BELOW THIS LINE (FOR DTSC USE ONLY)			
		November 10, 2015	
Transportation Unit Representative		Received date	
TAMI L. PATTERSON		December 31, 2016	
(Print or type name)		Expiration date	
		December 22, 2015	
		DTSC acknowledgment date	

www.cba.ca.gov



STATE OF CALIFORNIA
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

**HAZARDOUS MATERIALS
TRANSPORTATION LICENSE**

GHP 380H (REV. 1/00) OPI 032

LICENSEE NAME AND PHYSICAL ADDRESS (only if different from below)

ENVIRONMENTAL LOGISTICS, INC.

LICENSEE NAME AND MAILING ADDRESS

ENVIRONMENTAL LOGISTICS, INC.

140 W. MONTE AVENUE
BLOOMINGTON CA 92316

ATTENTION: WADE RIDDERING

CONTROL NUMBER 212710	LICENSE NUMBER 187235	ISSUE DATE 10/22/2014	RENEWAL DATE 12/31/2015
CHP CARRIER NUMBER CA 340844	LOCATION 11 Duplicable 11 Initial	11 Replacement 11 Renewal	

PROPERTY OF THE CALIFORNIA HIGHWAY PATROL (CHP)

The original valid license must be kept at the licensee's place of business as indicated on the license and a legible copy must be carried in any vehicle or combination transporting hazardous materials and must be presented to any CHP officer upon request. This license is NON-TRANSFERABLE and must be surrendered to the CHP upon demand as required by law. A majority change in ownership or control of the licensed activity shall require a new license. This license may be renewed by submitting an application and appropriate fee to the CHP. Persons whose licenses have expired or are otherwise no longer valid must immediately cease the activity requiring a license. THERE IS NO GRACE PERIOD. For licensing information contact CHP, Commercial Vehicle Section at (916) 643-3400.

This carrier is on the special route/stoppage stopping place mailing list as indicated below:

- ☐ (HMX) Explosives subject to Division 14, California Vehicle Code (CVC).
- ☐ (HHPH) Poison Inhalation Hazard materials in bulk packaging subject to Division 14.3, CVC.
- ☐ (HRCQ) Highway Route Controlled Quantity radioactive materials subject to Division 14.5, CVC.

Any person who transports, stores, or handles the release of infectious materials or hazardous waste upon any highway shall immediately notify the CHP or the agency having jurisdiction to that highway. The minimum fine for failure to make the appropriate notification is \$2,000.00 (CVC Section 26112.5)

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION



HAZARDOUS MATERIALS
CERTIFICATE OF REGISTRATION
FOR REGISTRATION YEAR(S) 2016-2019

Registrant: ENVIRONMENTAL LOGISTICS INC
Attn: WADE RIDDERING
140 W MONTE AVENUE
BLOOMINGTON, CA 92316

This certifies that the registrant is registered with the U.S. Department of Transportation as required by 49 CFR Part 167, Subpart G.

This certificate is issued under the authority of 49 U.S.C. 5108. It is unlawful to alter or falsify this document.

Reg. No: 052816 001 002YA Effective: 7/1/2016 Expires: 06/30/2019
HM Company ID: 094991

Record Keeping Requirements for the Registration Program

The following must be maintained at the principal place of business for a period of three years from the date of issuance of this Certificate of Registration:

- (1) A copy of the registration statement filed with PHMSA; and
- (2) This Certificate of Registration

Each person subject to the registration requirement must furnish that person's Certificate of Registration (or a copy) and all other records and information pertaining to the information contained in the registration statement to an authorized representative or special agent of the U. S. Department of Transportation upon request.

Each motor carrier (private or for-hire) and each vessel operator subject to the registration requirement must keep a copy of the current Certificate of Registration or another document bearing the registration number identified as the "U.S. DOT Hazmat Reg. No." in each truck and truck tractor or vessel (trailers and semi-trailers not included) used to transport hazardous materials subject to the registration requirement. The Certificate of Registration or document bearing the registration number must be made available, upon request, to enforcement personnel.

For information, contact the Hazardous Materials Registration Manager, PHH-52, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Washington, DC 20590, telephone (202) 366-4109.

STATE OF CALIFORNIA, DEPARTMENT OF MOTOR VEHICLES AND HIGHWAY PATROL

DEPARTMENT OF MOTOR VEHICLES
MOTOR CARRIER SERVICES BRANCH 600 CITY
P.O. BOX 923160 Sacramento, CA 95832-0700
(916) 867-8183



10/05/2008

ENVIRONMENTAL LOGISTICS INC
140 W MONTE AVE
BLOOMINGTON, CA 92316

 NON-EXPIRING MOTOR CARRIER PERMIT Combined Carrier			
DEPARTMENT OF MOTOR VEHICLES Motor Carrier Services Branch P.O. BOX 923160 Sacramento, CA 95832-0700		Valid From: 12/01/2008 CAR: 6340644	Valid Through: Non-Expiring
ENVIRONMENTAL LOGISTICS INC 140 W MONTE AVE BLOOMINGTON, CA 92316		The carrier named on this permit is subject to the Unified Carrier Registration Act (UCRA) of 2005, and is granted a non-expiring period of the following classification: Corporation	
Permit Code: NUL	Class. In: CM	Not Valid for Intrastate Only Operations	
Applicant ID: 000132	Trust ID: 00		
Registration P: SHRM	Asset Pkgt: No Fee		

IMPORTANT REMINDERS:

1. This non-expiring Motor Carrier Permit (MCP) will remain valid as long as you continue to conduct interstate operations. The Unified Carrier Registration Act (UCRA) of 2005 exempts combined carriers (carriers who operate both interstate and intrastate) from MCP requirements.
2. Federal Motor Carrier Safety Administration insurance requirements must be maintained.
3. If you commence intrastate only operations, you must renew your MCP.

California Relay Telephone Service for the deaf or hearing impaired from TDD Phone: 1-800-735-2929; Even Voice Phone: 1-800-735-2922

DMV 1200 MCP 10/05/2008

A Public Service Agency



United States Environmental Protection Agency
Region 9
75 Hawthorne Street, (WST-8)
San Francisco, CA 94105

Acknowledgment Letter

April 26, 2011

WADE RIDDERING
140 WEST MONTE AVE
BLOOMINGTON, CA 92316

By obtaining a United States Environmental Protection Agency (EPA) identification (ID) Number, you have notified EPA of your planned hazardous waste activities that are regulated under the Resource Conservation and Recovery Act (RCRA) Subtitle C Regulations. The assigned EPA ID Number was based on the information that was provided on the EPA Form 8700-12, Notification of RCRA Subtitle C Activity, which was received on 04/08/2011. Your EPA ID Number (also referred to as RCRA ID Number) below is specific to the location indicated on the RCRA Site Location, and cannot be reused at, or transferred to another location.

EPA (RCRA) ID #: CA2000572513
RCRA Site Name: ENVIRONMENTAL LOGISTICS INC
RCRA Site Location: 3200 DEPT RD
KATY, TX 77451

The EPA ID Number is to be used on transport manifests and any other hazardous waste management documentation required under the RCRA Subtitle C Regulations.

EPA has listed your hazardous waste activities status as:

Not a Generator
Transfer Facility Activity
Intermediary Activity
Used Oil Transporter

Your EPA ID Number does not expire. However, if any of the information required in the form changes (e.g., RCRA Site Name, hazardous waste activity status, contact information, etc.), you may be required to notify EPA by resubmitting a Form 8700-12 (see the instructions accompanying Form 8700-12 at <http://www.epa.gov/epaoswer/hazwaste/docs/8700-12.pdf>). If you plan to cease or have ceased operation at the RCRA Site Location, you must notify EPA as well. For this, you could send a letter to EPA requesting to deactivate the EPA ID Number. A letter will be sent to the contact person indicating the change(s) based on the submitted documentation.

Please keep in mind that if you have the hazardous waste activity status of a "Large Quantity Generator", there is a required Biennial Reporting that must be filed with your appropriate state or region. For more information, please visit <http://www.epa.gov/epaoswer/hazwaste/docs/8700-12.pdf> to find the contacts for States and EPA Regions. If you have any RCRA Notification (EPA ID Number) questions, please call 1-800-895-8995. This RCRA Notification service telephone line is operated by EPA Region 9's Consultant, Tech Tech EM, Inc.

United States Environmental Protection Agency
Region 9
75 Hawthorne Street, (WST-6)
San Francisco, CA 94105

May 5, 2006

WADE RIDDERING
ENVIRONMENTAL LOGISTICS INC
146 W MONTE AVE
BLOOMINGTON, CA 92316

The US Environmental Protection Agency (EPA) has assigned an EPA Identification (ID) number to your location. EPA has assigned this ID number in response to the RCRA Subtitle C Site Identification Form (E700-12) received from your RCRA Subtitle C Site on March 29, 2006.

By Submitting the Form E700-12, your RCRA Subtitle C Site has notified the EPA of the Resource Conservation and Recovery Act (RCRA) regulated waste activities shown below in accordance with Section 3010 of RCRA. The EPA ID number for this location is also referred to as a "RCRA ID number" and is to be used on transport manifests and any other hazardous waste management documents required under Subtitle C of RCRA.

RCRA ID number: CARD00172460
is assigned to: ENVIRONMENTAL LOGISTICS INC
146 W MONTE AVE
BLOOMINGTON, CA 92316

EPA has listed your status as:
Not a Generator, Verified
Transporter
Used Oil Transporter

For assistance regarding RCRA regulation, access the following websites:
<http://www.epa.gov/oswf> or <http://epa.gov/region9>
or if you need a current version of the Subtitle C Identification Form (E700-12), access:
<http://www.epa.gov/oswf/hazwaste/forms/E70012.pdf>

For assistance with any other RCRA Notification questions please call the Notification Information Line listed below.

U.S. EPA Region 9
RCRA Notifications
75 Hawthorne Street
(WST-6/Tele Tech)
San Francisco, CA 94105

Notification Line (415) 495-8295

Revised 12/82

State of California

California Integrated Waste Management Board

The Program Identification Number

1610541-01

Environmental Logistics, Inc.
140 West Main Avenue
Bloomington, CA 92310

SITE ADDRESS:
140 West Main Avenue
Bloomington, CA 92310

Do not alter or remove
this identification plate
EPA 560/5-82-001



State of California
Department of Resources Recycling and Recovery
Tire Program Identification Number

1667352-01

Environmental Logistics, Inc.
3200 Depot Rd
Hayward, CA 94545

Do not reuse or resell
Print this certificate in a non-recycling place

SITE ADDRESS:
3200 Depot Rd
Hayward, CA 94545



100% RECYCLED PAPER



U.S. Department of Transportation
Federal Motor Carrier Safety Administration

1200 New Jersey Ave., S.E.
Washington, DC 20368

SERVICE DATE
July 25, 2008

CERTIFICATE
MC-48177-C
ENVIRONMENTAL LOGISTICS INC
BLOOMINGTON, CA

This Certificate is evidence of the carrier's authority to engage in transportation as a common carrier of property (except household goods) by motor vehicle interstate or foreign commerce.

This authority will be effective as long as the carrier maintains compliance with the requirements pertaining to insurance coverage for the protection of the public (49 CFR 387) and the designation of agents upon whom process may be served (49 CFR 388). The carrier shall also render reasonably continuous and adequate service to the public. Failure to maintain compliance will constitute sufficient grounds for revocation of this authority.

Kelly Warner, Chief
Information Systems Division

NOTE: Withdrawn as a result of noncompliance with applicable safety fitness regulations as evidenced by a DOT safety fitness rating of "Unsafe/Deficient" or by other evidence, except as in a proceeding requiring the holder of this certificate or permit to show cause why this authority should not be suspended or revoked.

CMO



RON CHAPMAN, MD, MPH
Director & State Health Officer

State of California—Health and Human Services Agency
California Department of Public Health



EDMUND G. BROWN JR.
Governor

MEDICAL WASTE TRANSFER STATION
PERMIT

PERMIT NUMBER: TS - 113

NAME OF FACILITY: Environmental Logistics, Inc.
3200 Depot Rd
Hayward, CA 94545

APPLICANT: Environmental Logistics, Inc.
3200 Depot Rd
Hayward, CA 94545

EFFECTIVE DATE: May 21, 2014

EXPIRATION DATE: May 20, 2019

Pursuant to §§ 118130, 118165, and 118190 of the California Health and Safety Code (HSC), the Medical Waste Transfer Permit is issued for the above-named facility. The issuance of this permit is subject to the conditions set forth on the following pages.

Alison F. Dabney, Chief
Medical Waste Management Program



Department of
General Services
BUILDING GREEN BUYING GREEN WORKING GREEN

ENVIRONMENTAL LOGISTICS INC - #50832

SUPPLIER PROFILE	
Legal Business Name	ENVIRONMENTAL LOGISTICS INC
Doing Business As	ENVIRONMENTAL LOGISTICS INC
Address	P.O. Box 806 COLTON, CA 92324
Phone	(909) 721-2038
FAX	(909) 546-1546
Email	ton_bennett@environmentallogistics.org
Web Page	http://www.environmentallogistics.org
Business Types	Service
Service Areas	Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen, Los Angeles, Madera, Martin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Orange, Placer, Plumas, Riverside, Sacramento, San Benito, San Bernardino, San Diego, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Ventura, Yolo, Yuba,
Keywords	PROCESS, PHYSICAL DISTRIBUTION, LOGISTICS CONSULTING SERVICES, HAZARDOUS WASTE, REMEDIATION, ENVIRONMENTAL, WASTE MANAGEMENT
Classifications	761016 - Hazardous material decontamination 761316 - Toxic spill cleanup 761317 - Oil spill cleanup

Active Certifications

TYPE	STATUS	FROM	TO
SB	Approved	Aug 16, 2013	Aug 31, 2014

Certification History

TYPE	STATUS	FROM	TO
SB (Micro)	Expired	Dec 1, 2009	Dec 31, 2011
SB (Micro)	Expired	Dec 12, 2008	Dec 31, 2009
SB	Expired	Nov 28, 2007	Nov 30, 2008

SECTION #6

REFERENCES

REFERENCES

County of Alameda

1401 Lakeside Drive, #907

Oakland, California 94612

Contact: John Buchar 510-208-9602

Scope: Waste characterization, profiling, manifesting and labeling. Industrial cleaning, hazardous waste disposal, transportation, abandoned waste and emergency response.

Project dates: 2009-to Present

Revenue: Approximately \$300,000/year

Department of Water Resources

460 Glen Drive

Oroville, CA 95966

Contact: Barbera Holbrook 530-534-2385

Scope: Waste sampling, and analysis. Waste profiling, manifesting and labeling. Hazardous waste lab packing, transportation and disposal, drummed and bulk hazardous wastes, sump cleaning and emergency response. Bulk oil transportation and disposal.

Project dates: 2012 to Present

Revenue: \$750,000

California Department of Transportation-District #3 Maintenance Facilities

3940 Rosin Court

Sacramento, California 95834

Contact: George Avila 916-709-2056

Scope: Waste sampling and analysis. Waste profiling, manifesting and labeling. Hazardous waste drum pickup, Universal Wastes, lab packing, sump cleaning and bulk transportation and disposal of tires and treated wood wastes at 39 facilities throughout Region #3.

Project Dates: 2012 to Present

Revenue: \$962,000

Caltrans-Northern Region Drilling Waste Disposal Services

5900 Folsom Boulevard

Sacramento, California 95819

Contact: David Orlandi 916-227-5432

Scope: Transportation and disposal of hazardous and non-hazardous drilling wastes, including waste profiling, manifesting and labeling.

Project Dates: 2012 to Present

Revenue: \$460,000

California Department of Transportation-District 5, On-Call Pick-up/Removal & Cleanup/ Disposal of Hazardous Wastes

50 Higuera Street

San Luis Obispo, California 93401

Contact: Chris Chalk 805-441-2899

Scope: Waste characterization and analysis, Hazardous waste transportation and disposal, Universal Wastes, Lab Packing, Sump Cleaning and Emergency Response.

Project Dates: 2012 to Present

Revenue: \$225,000

City of Fremont

42551 Osgood Road

Fremont, California 94539

Contact: Kathleen Shonk 510-979-5715

Scope: Waste characterization, profiling, and labeling. Hazardous, Non-hazardous and Universal Waste manifesting, transportation and disposal. Emergency Response and industrial cleaning services.

Project dates: 2010-2012

Revenue: Approximately \$75,000

City of San Jose

1661 Senter Road, Bldg. A, Suite 300

San Jose, California 95112

Contact: Behilma Magday, Safety Manager

Scope: Public Works- Waste characterization, Hazcat and analysis. Profiling, manifesting and labeling. Transportation and Disposal of Hazardous and Biomedical wastes.

Project dates: 2011 to present

Revenues: Approximately \$246,000/year

City of San Jose Fire Department

199 Innovation Way

San Jose, California 95134

Contact: Captain Howard Morton 408-277-4629

Scope: Emergency Response, Hazardous Waste Disposal, Abandoned Waste

Project Dates: 2011 to Present

Revenues: \$600,000/year

City and County of San Francisco

Port of San Francisco-Pier 1

San Francisco, California 94111

Contact: Tim Felton 415-274-0582

Scope: Hazardous and Universal Waste pickup, transportation and disposal. Abandoned waste, lab packing, bulk oil pickups, vacuum tankers, sumps and grease traps.

Project Dates: 2009 to Present

Revenues: \$100,000/year

City of Santa Rosa

635 First Street

Santa Rosa, California 95404

Contact: Valerie Shatto

Scope: Sampling and analysis, waste profiling, manifesting and labeling. Waste pick-up, transportation and disposal of Hazardous, Non-Hazardous and Universal Waste. Sump cleaning, vacuum tanker services and roll-offs.

Project Dates: 2014 to present

Revenue: \$100,000

Santa Cruz Metro

110 Vernon Street

Santa Cruz, California 95060

Scope: Waste sampling, analysis, profiling, labeling and manifesting. Hazardous, Non-hazardous and Universal Waste packaging, pick-up, transportation and disposal. Sump cleaning, bulk oil pick-ups and Emergency Response.

Project Dates: 2014 to present

Revenue: \$65,000

California Department of Transportation-District #1 Maintenance Facilities

1200 N. Main Street

Fort Bragg, CA 95437

Contact: Danny Figueiredo 707-964-3005

Scope: Hazardous waste management services including sampling and testing, roll-offs, transportation, management of hazardous wastes, bio-hazardous waste cleanup, treated wood waste, tires and sump cleaning. Profiling, manifesting and labeling.

Project Dates: 2014 to Present

Revenue: \$267,000

City of Brisbane

Public Works Department

50 Park Place

Brisbane, California 94005

Scope: Sampling and analysis of unknowns, profiling, manifesting and labeling of abandoned wastes. Hazardous waste transportation and disposal. Storm drain cleanout with vacuum tankers, vacuums, jetting and video documentation.

Project Dates: 2014 to Present

Revenue: \$50,000

California Department of Transportation-District #4, Hazardous Waste Management Services

P.O. Box 23660

Oakland, CA 94623

Contact: Chris Nesmith 510-286-4492

Scope: Hazardous waste management, sampling and testing, lab packing, drum wastes pickup transportation and disposal, sump cleaning and Emergency Response. Profiling, manifesting and labeling.

Project Dates: January 2016 to Present

Revenue: \$567,193

California Department of Transportation, Drilling Department

1727 30th Street, MS-67

Sacramento, CA 95816

Contact: Jim Silva 916-849-0989

Scope: Provide waste pick-up, transportation and disposal of hazardous and non-hazardous drummed drilling wastes throughout Southern California.

Project Dates: 2014 to Present

Revenues: \$225,000

City of Riverside Public Works

3900 Main Street

Riverside, CA 92522

Contact: Cindie Doke 951-826-5341

Scope: Removal of waste, emergency response, lab packing, vacuum tanker services, transportation, manifesting, profiling and disposal of hazardous and non-hazardous wastes.

Project dates: 2004 to-Present

Revenues: \$5,000 annually

Berkeley Farms

25500 Clawiter Road

Hayward, CA 94545

Contact: Art Schermerhorn 510-376-4727

Scope: Emergency response to a spill into a creek, which flowed into San Francisco Bay. Project involved city, county and state personnel including the Department of Fish and Game. Generated 100,000 gallons of contaminated material from jetter operations and remedial activities. Materials were stored onsite in 21,000 gallon frac tanks. Material was processed onsite with approval from regulators.

Project Dates: 2011

Revenue: \$80,000

California Department of Transportation-District #10 Maintenance Facilities

1976 East Dr. Martin Luther King Blvd.

Stockton, CA 95201

Contact: Scott Waller 209-948-3723

Scope: Hazardous, Non-hazardous and Universal Waste management, sampling and testing, lab packing, sump cleaning, transportation, roll-offs, vacuum tankers and disposal. Profiling, manifesting and labeling.

Project Dates: 2015 to Present

Revenue: \$167,000

CITY COUNCIL MEETING

03/21/2017

SUMMARY OF ACTIONS

Item

Staff

- *10. ADOPT A RESOLUTION AUTHORIZING THE SOLE SOURCE PURCHASE OF ONE BERGKAMP INC. FP5 FLAMELESS POTHOLE PATCHER FOR THE PUBLIC WORKS DEPARTMENT FOR THE NOT-TO-EXCEED AMOUNT OF \$225,000

Chris Schroeder and
Robert Hill

Adopted Resolution No. 8649 authorizing the sole source purchase of one Bergkamp FP5 Flameless Pothole Patcher from Bergkamp, Inc. for the not-to-exceed amount of \$225,000.00.
VOTE: 5-0

- *11. AWARD THE BID AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE CONTRACT WITH ENVIRONMENTAL LOGISTICS FOR ROUTINE DISPOSAL AND EMERGENCY CLEANUP OF HAZARDOUS MATERIALS WITH AN INITIAL NOT-TO-EXCEED AMOUNT OF \$40,000 AND APPROVE A BUDGET APPROPRIATION IN THE AMOUNT OF \$40,000 FROM THE GENERAL FUND TO THE FIRE DEPARTMENT'S OPERATING BUDGET

Albert Zamora and
Chris Schroeder

1. Awarded bid and authorized City Manager to execute the contract with Environmental Logistics for the Routine Disposal and Emergency Cleanup of Hazardous Materials in the initial not-to-exceed amount of \$40,000.
2. Authorized Purchasing Agent to extend the term of the agreement annually for each of the four option years with annual price increases per the terms of the agreement and without further City Council action, except for appropriation of funds.
3. Approved budget appropriation in the amount of \$40,000 from the General Fund into Fire Department's operating budget.
VOTE: 5-0

12. AUTHORIZE THE PURCHASE OF A REPLACEMENT PATROL VEHICLE FROM THE NATIONAL AUTO FLEET GROUP THROUGH A COOPERATIVE PROCUREMENT CONTRACT

Chris Schroeder

Item was removed from consent, but not heard. Continued to next regular meeting agenda.

- *13. APPROVE AN AMENDMENT NO. 1 TO THE CONSULTING SERVICES AGREEMENT WITH HYDROSCIENCE ENGINEERS, INC. IN THE AMOUNT OF \$75,000 TO CONTINUE STAFF AUGMENTATION SERVICES FOR THE UTILITY ENGINEERING

Greg Chung

Approved Amendment No.1 to the consulting services Agreement with HydroScience Engineers, Inc. in the amount of \$75,000 to continue staff augmentation services for Utility Engineering.
VOTE: 5-0

14. APPROVE AMENDMENT NO. 1 TO AGREEMENT WITH WASTE MANAGEMENT FOR DISPOSAL OF SOLID WASTE, AND APPROVE AMENDMENT NO. 1 TO AGREEMENT WITH GARDEN CITY (DOING BUSINESS AS MILPITAS SANITATION, INC.) FOR COLLECTION OF SOLID WASTE AND COLLECTION AND PROCESSING OF RECYCLABLE MATERIALS AND ORGANIC MATERIALS, FOR ALL DISPOSAL OF WASTE TO OCCUR AT KIRBY CANYON LANDFILL

Tom Williams and
Chris Diaz

Approved Amendment No. 1 to the Agreement with Waste Management for Disposal of Solid Waste, and approved Amendment No. 1 to the Agreement with Garden City for Collection of Solid Waste and Collection and Processing of Recyclable Materials and Organic Materials, for all disposal of waste to occur at Kirby Canyon landfill.
VOTE: 5-0

XVII. RESOLUTION

- * 10. **Adopt a Resolution Authorizing the Sole Source Purchase of One Bergkamp Inc. FP5 Flameless Pothole Patcher for the Public Works Department for the Not-To-Exceed Amount of \$225,000 (Contacts: Chris Schroeder, 408-586-3161 and Robert Hill, 408-586-2626)**

Background: There are currently over 123 centerline miles of streets owned and maintained by the City of Milpitas. As the pavement surfaces age coupled with the extremely wet rainy season, staff has seen a dramatic increase in potholes. Potholes pose a significant safety hazard for motorists and pedestrians, as well as a liability for the City. Additionally, unresolved potholes can become steadily worse and negatively impact the City's Pavement Condition Index (PCI).

Currently pothole and roadway repairs are performed using a method called cold patching, where a bituminous mixture of sand and aggregate are placed in the failed pavement area. This method is considered to be short term with a life span of a few months at best, requiring considerable staff time to maintain. With the purchase of the Bergkamp FP5 Pothole Patcher City staff will be able to employ a hot patch method, where asphalt concrete is placed in the pavement failure area and compacted. This method is considered to be a long term repair lasting the life time of the roadway. Purchase of the Bergkamp Inc. FPS Flameless Pothole Patcher will increase staff productivity by reducing the time spent on each pavement failure repair.

The Purchasing Agent has determined that Bergkamp Inc. is the sole manufacturer and distributor of the FP5 Flameless Pothole Patcher, which is the only brand of all electric pothole patcher equipped with a GPS based telematics system, patented Swing Auger System, and backup camera with night vision. These last two key features also greatly reduce risk to injury while performing pavement repairs. \$225,000 includes the basic unit, the attachments and a five year extended warranty.

Fiscal Impact: None. Sufficient funding is in CIP No. 4284 for this purchase.

Recommendation: Adopt a resolution authorizing the sole source purchase of one Bergkamp FP5 Flameless Pothole Patcher from Bergkamp, Inc. for the not-to-exceed amount of \$225,000.00.

Attachments:

- a) Resolution
- b) Bergkamp Inc. Quote

XVIII. AGREEMENTS & BID

- *11. **Award the Bid and Authorize the City Manager to Execute the Contract with Environmental Logistics for Routine Disposal and Emergency Cleanup of Hazardous Materials with an Initial Not-to-Exceed Amount of \$40,000 and Approve a Budget Appropriation in the amount of \$40,000 from the General Fund to the Fire Department's Operating Budget (Staff Contacts: Albert Zamora, 408-586-3371 and Chris Schroeder, 408-586-3161)**

Background: On August 19, 2016, the City of Milpitas issued a Request for Proposal for Routine Disposal and Emergency Cleanup of Hazardous Materials. Purchasing worked closely with Fire Inspection to develop the specification and bid package for the RFP. The RFP was advertised on the City website, on Public Purchase and in the local newspaper. Services under the Routine Disposal section of the bid include a variety of hazardous materials such as discarded paint, solvents, and oil mixed with water to name a few. Services under the Emergency Cleanup section of the bid include any materials and/or liquids that are dropped on city streets and/or wind up on the city streets as a result of traffic accidents and typically include such things as gas and diesel fuel, anti-freeze and oil.

Ten vendors accessed the bid and one proposal was received in response to the RFP. The proposal was reviewed by the Purchasing Agent and the Deputy Fire Chief. The proposal pricing was based on two scenarios. Scenario One was the disposal of 185 gallons of old paint, oily water, and acetone; typical of what can accumulate at different City sites. The cost for Scenario One, based on standard commercial rates, was \$1,625; this would be considered a typical pickup for the City and is estimated to occur approximately four times per year.

Scenario Two was based on the emergency cleanup lasting five hours of 30 gallons of diesel fuel spilled on a city street. Taking into consideration all labor, materials, equipment, tools, packaging, transportation, staff time and supervision and disposal fees, the cost for the cleanup, based on standard commercial rates, came to \$6,555. When spills of this type occur the City allows the responsible party to provide the cleanup service. If they do not have anyone on contract the City would use its contractor to clean up the spill and proceed against the responsible party for cost recovery. There is no past data for spills of this type but staff estimates it could occur four to five times a year. Based on these two scenarios staff recommends a contract value of up to \$40,000 per year. Environmental Logistics is well respected in the industry and currently performs similar services for Caltrans, the City of San Jose and the City and County of San Francisco to name a few. Environmental Logistics met all of the requirements of the RFP and its references were all positive.

Because the City did not have sufficient budget appropriated for the contract for Routine Disposal and Emergency Cleanup of Hazardous Materials, a contract was not immediately awarded following evaluation of the proposal received from Environmental Logistics. The most recent budget appropriation now includes sufficient funds to execute the contract. While vendors are ordinarily obligated to honor their proposal for a period of 90 days following opening of proposals, City staff, in accordance with Milpitas Municipal Code section 3.06-4, requested and Environmental Logistics agreed to honor its proposal notwithstanding.

The new contract for Routine Disposal and Emergency Cleanup of Hazardous Materials includes an initial one-year period in the amount of \$40,000 commencing 3/22/17 through 3/21/18. The proposed contract includes four 1-year options for renewal. Renewal years contain a compensation adjustment clause based on the Consumer Price Index (CPI) for All Urban Consumers All items not seasonally adjusted for San Francisco-Oakland-San Jose to a maximum of 5%, whichever is less. Four annual renewal options total an amount not-to-exceed \$160,000, resulting in a total not-to-exceed five year contract of \$200,000, excluding CPI compensation adjustments.

Fiscal Impact: A budget appropriation of \$40,000 from the General Fund to the Fire Department operating budget is necessary to fund the first year of this contract.

→ **Recommendations:**

1. Award the bid and authorize the City Manager to execute the contract with Environmental Logistics for the Routine Disposal and Emergency Cleanup of Hazardous Materials in the initial not-to-exceed amount of \$40,000.
2. Authorize the Purchasing Agent to extend the term of the agreement annually for each of the four option years with annual price increases per the terms of the agreement and without further City Council action, except for appropriation of funds.
3. Approve a budget appropriation in the amount of \$40,000 from the General Fund to the Fire department's operating budget.

Attachment: Budget Change Form

- *12. Authorize the Purchase of a Replacement Patrol Vehicle from the National Auto Fleet Group Through a Cooperative Procurement Contract and Approve a Budget Appropriation From the Equipment Fund for \$49,231.20 (Staff Contacts: Chris Schroeder, 408-586-3161 and Sean Heneghan, 408-586-2435)



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve and Authorize the City Manager to Execute a Professional Services Agreement with Silicon Valley Independent Living Center and Approve a related Budget Amendment
Category:	Consent Calendar-Community Development
Meeting Date:	9/1/2020
Staff Contacts:	Sharon Goei, 408-586-3260
Recommendations:	1. Approve and authorize the City Manager to execute a Professional Services Agreement with Silicon Valley Independent Living Center for the management of the EFSP grant for the Rent Relief Program. 2. Approve a budget amendment to appropriate \$12,600 from the Affordable Housing Fund to the FY 2020-21 Building Safety and Housing Operating Budget.

Background:

The Santa Clara County Emergency Food and Shelter Program (EFSP) is a federal grant opportunity that is administered by the United Way Bay Area's Safety Net program. Prior to the pandemic, Santa Clara County received \$100,000 of federal allocation for EFSP funds. In response to the COVID-19 pandemic and the resulting economic emergency, an additional \$1.1 million was received from the Coronavirus Aid, Relief, and Economic Security (CARES) Act, creating a total pool of \$1.2 million for the Santa Clara County Emergency Food and Shelter Program.

The City submitted an application on behalf of Silicon Valley Independent Living Center (SVILC) for rent relief program funding. SVILC, the administrator of the City's Rent Relief Program, received a grant award of \$70,000 for the program. This is the first competitive grant award secured for the City's Rent Relief Program, signaling that the City has developed a strong program worthy of additional competitive grants.

Grant awards from the Santa Clara County Emergency Food and Shelter Program are designed to address emergency needs and to supplement and extend current resources of social safety net programs. Under the program criteria, the funds may only be used to pay one-month of rent for qualifying Milpitas residents, and grant funds must be used by May 31, 2021. There is no administrative allowance for the grant.

Securing this competitive grant award also means the City and Silicon Valley Independent Living Center will implement best practices associated with program evaluation to assist in assessing the intermediate-term impacts of the Rent Relief Program. Adopting outcome-based evaluation will provide the City with information to demonstrate to future funders how the Rent Relief Program is working to keep Milpitas residents housed.

Analysis:

Since there is no administrative allowance for the EFSP funds, staff recommends that the City provide funding for the administration of the grant award for rent relief. The EFSP program has a new requirement for Silicon Valley Independent Living Center for using the funds for rent relief: use of EFSP's Rental Verification Form with all landlords.

As it is a new reporting requirement, EFSP will provide training to Silicon Valley Independent Living Center. Service time by Silicon Valley Independent Living Center will be required in preparing and compiling the required forms and conducting survey. Implementing outcome-based evaluation will also require service time by Silicon Valley Independent Living Center, but the efforts will assist the City in better assessing the impacts

of the rent relief. An administration fee of \$12,600 has been proposed by Silicon Valley Independent Living Center, representing an administrative fee of 18%. This figure is consistent with the average administrative fee for the administration of the Rent Relief Program. Staff believes the amount is reasonable to address the services described above.

An appropriation of \$12,600 from the Affordable Housing Fund is being requested for Silicon Valley Independent Living Center to administer the grant award for rent relief. The \$70,000 grant award itself will be allocated from EFSP to Silicon Valley Independent Living Center to provide direct emergency rent relief.

Fiscal Impact:

If the City Council approves the recommendation of appropriating \$12,600 from the Affordable Housing Fund for Silicon Valley Independent Living Center to administer the Santa Clara County Emergency Food and Shelter Program grant for the Rent Relief Program, the fiscal impact would be a \$12,600 reduction to the Affordable Housing Fund ending fund balance.

California Environmental Quality Act:

The action being considered has no potential for causing a significant effect on the environment and is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3).

Recommendations:

1. Approve and authorize the City Manager to execute a Professional Services Agreement with Silicon Valley Independent Living Center for the management of the EFSP grant for the Rent Relief Program.
2. Approve a budget amendment to appropriate \$12,600 from the Affordable Housing Fund to the FY 2020-21 Building Safety and Housing Operating Budget.

Attachment:

Budget Change Form

City of Milpitas, California

BUDGET CHANGE FORM

Type of Change	From*		To*	
	Account	Amount	Account	Amount
Check one: ☒ Budget Appropriation ☐ Budget Transfer	216-2909	\$12,600	216-5364237	\$12,600

Authorize the City Manager to Execute a Professional Services Agreement with Silicon Valley Independent Living Center and Approve a related Budget Amendment

Background:

The Santa Clara County Emergency Food and Shelter Program (EFSP) is a federal grant opportunity that is administered by the United Way Bay Area's Safety Net program. Prior to the pandemic, Santa Clara County received \$100,000 of federal allocation for EFSP funds. In response to the COVID-19 pandemic and the resulting economic emergency, an additional \$1.1 million was received from the Coronavirus Aid, Relief, and Economic Security (CARES) Act, creating a total pool of \$1.2 million for the Santa Clara County Emergency Food and Shelter Program.

The City submitted an application on behalf of Silicon Valley Independent Living Center (SVILC) for rent relief program funding. SVILC, the administrator of the City's Rent Relief Program, received a grant award of \$70,000 for the program. This is the first competitive grant award secured for the City's Rent Relief Program, signaling that the City has developed a strong program worthy of additional competitive grants.

Grant awards from the Santa Clara County Emergency Food and Shelter Program are designed to address emergency needs and to supplement and extend current resources of social safety net programs. Under the program criteria, the funds may only be used to pay one-month of rent for qualifying Milpitas residents, and grant funds must be used by May 31, 2021. There is no administrative allowance for the grant.

Securing this competitive grant award also means the City and Silicon Valley Independent Living Center will implement best practices associated with program evaluation to assist in assessing the intermediate-term impacts of the Rent Relief Program. Adopting outcome-based evaluation will provide the City with information to demonstrate to future funders how the Rent Relief Program is working to keep Milpitas residents housed.

Analysis:

Since there is no administrative allowance for the EFSP funds, the staff recommends that the City provide funding for the administration of the grant award for rent relief. The EFSP program has two new requirements for Silicon Valley Independent Living Center for using the funds for rent relief: Use of EFSP's Rental Verification Form with all landlords; and enter all client data into the Homeless Management Information System (HMIS) to prevent potential duplication of services.

As both are new reporting requirements, EFSP will provide training to Silicon Valley Independent Living Center. Service time by Silicon Valley Independent Living Center will be required in preparing and compiling the required forms, conducting survey and entering client data into HMIS. Implementing outcome-based evaluation will also require service time by Silicon Valley Independent Living Center, but the efforts will

assist the City in better assessing the impacts of the rent relief. An administration fee of \$12,600 has been proposed by Silicon Valley Independent Living Center, representing an administrative fee of 18%. This figure is consistent with the average administrative fee for the administration of the Rent Relief Program. Staff believes the amount is reasonable to address the services described above.

An appropriation of \$12,600 from the Affordable Housing Fund is being requested for Silicon Valley Independent Living Center to administer the grant award for rent relief. The \$70,000 grant award itself will be allocated from EFSP to Silicon Valley Independent Living Center to provide direct emergency rent relief.

Policy Alternatives:

N/A

Fiscal Impact:

If the City Council approves the recommendation of appropriating \$12,600 from the Affordable Housing Fund for Silicon Valley Independent Living Center to administer the Santa Clara County Emergency Food and Shelter Program (EFSP) grant for the Rent Relief Program, the fiscal impact would be a \$12,600 reduction to the Affordable Housing Fund ending fund balance.

California Environmental Quality Act: N/A

The action being considered has no potential for causing a significant effect on the environment and is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3).

Recommendations:

1. Authorize the City Manager to prepare and execute a Professional Services Agreement with Silicon Valley Independent Living Center for the management of the EFSP grant for the Rent Relief Program.
2. Approve a budget amendment to appropriate \$12,600 from the Affordable Housing Fund to the FY 2020-21 Building Safety and Housing Operating Budget

Attachments:

Budget Change Form

☐ Check if City Council Approval required.

Meeting Date: September 01, 2020

Requested by:	Department Head: Sharon Goei	Date: September 01, 2020
Reviewed by:	Finance Director: Walter C. Rossmann	Date: September 01, 2020
Date approved by City Council, if required:		Confirmed by:



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Consider Mayor's Recommendation to Appoint Two New Alternate Members on the Science, Technology and Innovation Commission (Contact: Mayor Tran, 408-586-3029)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	9/1/2020
Contact:	Mayor Rich Tran, 408-586-3029
Recommendation:	Receive Mayor Tran's recommendation, and move to appoint two residents to the Science, Technology and Innovation Commission: 1. Ms. Rajani Nair as Alternate Member No. 1 to a term that will expire in January 2021. 2. Mr. Kevin Le as Alternate Member No. 2 to a term that will expire in January of 2023.

Background:

Terms of service on the Milpitas Science Technology and Innovation Commission (STIC) last for three years, according to the by-laws. Currently both Alternate Member seats on this Commission are vacant. Mayor Tran now recommends two new members, Milpitas residents, to fill those vacancies through the length of the existing term. Four applications were on file in the City Clerk's office, and the Mayor reviewed the applicants to make his recommendation to the full City Council for its vote to confirm his selection for appointment.

Commission terms are static, for a length of three years. When a new appointment is made by the Mayor and Council, new members can be appointed into a Commission seat that is half- or partly expired. Thus, Alternate No. 1 has a term with expiration of January 2021 and Alternate No. 2 has a term with expiration of January 2023. Alternate Members appointed at this City Council meeting on September 1 will be eligible to attend their first regular STIC meeting on Monday, September 21 (when scheduled, via zoom webinar).

Recommendation:

Receive Mayor Tran's recommendation, and move to appoint two residents to the Science, Technology and Innovation Commission:

- (i) Ms. Rajani Nair as Alternate Member No. 1 to a term that will expire in January 2021.
- (ii) Mr. Kevin Le as Alternate Member No. 2 to a term that will expire in January of 2023.

Attachment:

4 Current Commission applications on file with City Clerk

COMMISSION APPLYING FOR:

Science, Technology and Innovation Commission

Title

Mr.

Name

Albert Alcorn

Address Type

Residence

Address**City****Postal/Zip Code****E-Mail Address**

City Clerk's Office
MAY 28 2020
RECEIVED

Present Employer

Inphi

Occupation

Test & Validation Engineer

Education: If Youth Advisory Commission applicant, indicate your grade/school:

BSEE

College, Professional, Vocational, or other schools attended

Cal Poly San Luis Obispo

Major Subject

Electrical Engineering

Degree

BSEE

List community organizations to which you belong or have belonged (additional information may be attached).**Name of Organization**

Telecommunications Commission

If application is for Veterans Commission, indicate branch and service in any U.S. military organization (retired or active duty).**Briefly describe the personal qualifications you possess which you believe would be an asset (additional information may be attached):**

I currently work in the networking semiconductor industry as a test & validation engineer.

Date

May 28, 2020

I have sufficient time to devote to this responsibility and will attend the required meetings if I am appointed to fill a future vacancy. I hereby certify that all statements contained in this application are true.

Albert Alcorn

Appointments to Commissions or Committees are made by the Mayor with the concurrence of the City Council. Applications not acted upon will expire after one year from the date submitted unless renewed by the applicant. Once submitted, your application will be submitted to the City Clerk.

NOTE: ALL COMMISSION APPLICATIONS ARE PUBLIC RECORD

COMMISSION APPLYING FOR:

Science, Technology and Innovation Commission

Title

Mr.

Name

Kevin Viet Le

Address Type

Residence

Address**City****Postal/Zip Code****Mobile Number****E-Mail Address**

City Clerk's Office

FEB 13 2020

RECEIVED

Present Employer

Office of the Director of National Intelligence

Other Phone

(703) 733-8600

Business Address (Optional)

1500 Tysons McLean Dr.

City

McLean

Postal / Zip code

22102

Occupation

VSFS Intern (Remote Role)

College, Professional, Vocational, or other schools attended

University of California, Santa Cruz

Major Subject

Computer Science

Degree

Bachelors

List community organizations to which you belong or have belonged (additional information may be attached).**Name of Organization**

Selective Service System

Member

Appointed Board Member

Name of Organization

Kiwanis International

Member

Member

Name of Organization

MATHeasy & Read, Write, and Discover

Member

Math, English, and Writing Volunteer Tutor

If application is for Veterans Commission, indicate branch and service in any U.S. military organization (retired or active duty).**Briefly describe the personal qualifications you possess which you believe would be an asset (additional information may be attached):**

I became extremely interested in public service when I learned about my grandpa's experience during the Vietnam War. He fought for South Vietnam in the Army of the Republic of Vietnam. He worked closely with the U.S. Army as a liaison. Without his affiliation and work with the United States, my family would not have been able to come over here.

Ever since finding that out, I have been on a path to give back and contribute to the betterment of the United States, which has given my family so much. I have been living in Milpitas for the past two decades, attending all public schools from Pomeroy Elementary to Russell Middle School, Milpitas High School, and ultimately UC Santa Cruz.

I have experience directly relatable to your commission.

- Working on technology implementation at a corporate level (ServiceNow).

- Experience with information security governance and risk management including adherence to corporate and government grade frameworks like NIST CSF, ISO 27000, CIS Security Controls, COBIT 5, and concepts from SANS (Symantec).

- Providing information technology advisory at a federal level (Office of the Director of National Intelligence).

Milpitas.

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My passion has led to many various experiences with the American government.

1) I will be joining Lockheed Martin Space Systems in Sunnyvale this summer working as a Systems Engineering Intern with a security clearance.

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2) I am currently a Board Member for the Selective Service System, representing Santa Clara County. The Selective Service System (Est. 1917) is an independent agency of the United States government. It provides the Department of Defense personnel in the event of a national emergency such as a war time draft.

Board Members are impartial; using federal guidelines, to decide which men ages 18-25 receive an exemption from mandatory military service.

I am one of five board members appointed by Selective Service Director Donald M. Benton. I was recommended by former California Governor Jerry Brown and William (Bill) O'Donnell, Lieutenant Colonel of the US Air Force Reserve. I have served for 2 years and 4 months so far. I am planning to serve for a full term of 20 years.

Our team is responsible for Santa Clara County, the largest county in Northern California with a population of 1.9 million people.

This includes the cities of Campbell, Cupertino, Gilroy, Los Altos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga, Sunnyvale, and Los Gatos.

Board member identification information available upon request.

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3) I am currently a VSFS Intern (Remote) with the Office of the Director of National Intelligence. Established in 2005, the ODNI (dni.gov) effectively integrates foreign, military and domestic intelligence in defense of the homeland and United States interests abroad with a budget of \$81 billion. I am in the Office of Transformation & Innovation (2018 - present) and Office of IC Net Assessment (2018 - 2019). Part of the Strategy and Engagement Directorate.

2019-2020:

- Conducting technical and legal due diligence on domestic & international companies that applied to [redacted].
- Produced informative material on every member of the Senate Select Committee on Intelligence (SSCI) and the Senate Appropriations Committee on Defense (SAC-D). This work helped the ODNI Legislative Affairs Office to strategically prepare for upcoming congressional engagements (press releases, meetings/briefings, etc.) in 2020.

2018-2020:

- Conducted an open-source intelligence analysis on [redacted]. I gained critical thinking skills as an analyst by creating and interpreting case studies of malicious influence operations by [redacted] using internal analysis methodologies. We assessed how these countries are involved in these events and how effective they are in that regard.
- Assessed [redacted] on their vulnerabilities to malicious influenced by foreign entities. Took into account their openness to malign discourse, the cohesion of social relations, and resilience of economic relations.
- Analyzed a 3rd party data management tool feasibility for use at the ODNI. My strong advice against its use diverted my directorate from spending \$15,000 in licensing costs for its 200 employees.
- Researched and analyzed Facebook's human rights challenge in Myanmar in regards to Rohingya persecution. Wrote a report for the IC to know why this is important and how it affects our global influence & national security.
- Advised IC on hackathon planning and implementation to further innovation and creativity. I compiled a comprehensive report based on my one on one interviews with hackathon leaders and attendees. My interview results helped me build a framework for a comprehensive guide on event planning which is currently being used by the IC to host effective and engaging events.
- Advised IC on differentiating between failing at mission execution and failing at innovation. I compiled a report based on my interviews with experienced engineers which helped give the IC further insight into large tech companies' operational cultures and how they approach failure and improve from there.
- Studied and wrote recommendations on entrepreneurship and technology leadership and strategy practices that apply to the ODNI's

workflow.

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3) I was a Data Analyst VSFS Intern (Remote) for the U.S. Department of Education in the Awareness & Outreach Team in the Customer Experience Group under the Office of Federal Student Aid (FAFSA). From March 2018 to May 2018.

I analyzed webinar survey data on Federal Student Aid Loan Repayments from Fiscal Year 2017 and advised to further improve the customer experience of families looking to use FAFSA for their children.

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4) I was a Mobile Applications VSFS Intern (Remote) for the U.S. Department of Veterans Affairs working to improve a mobile app for veterans dealing with PTSD. From September 2016 to May 2017.

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5) I was a Volunteer Intern with the City of Milpitas from July 2017 to March 2018 where I worked directly with Mayor Rich Tran. I was able to secure conference tickets for the City of Milpitas for which I or Rich and I attended, representing the city to facilitate potential partnerships between technology companies and the city.

- Introduced partnerships between the Mayor's office and Silicon Valley-based organizations & events like Hustle Con 2017 (won), August Capital Party by TechCrunch 2017 (won), 1517 Assembly 2017 (won), and VRDC 2017 (won). Won meaning I convinced conference organizers to send us tickets at no cost as they generally cost tens to hundreds of dollars each.

- Attended Innovate Your State 2017 (government innovation conference) in SJ on behalf of the mayor.

See attached images.

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6) Volunteer Tech Intern for the American Corners in Lusaka & Kitwe in Zambia.

Worked with a U.S. Embassy employee and helped raise \$3,000 in new funding for the center to promote American experience and perspectives for Zambians.

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Apart from these government experiences, I am a Fellow at Kairos, a venture capital firm founded in 2008 with a 100 million dollar fund. Kairos fellow founded companies have raised billions in funding and now have a collective \$10+ billion valuation. These companies include OYO, Casper, Periscope, Digital Genius, FiscalNote, and more.

I formerly worked at Symantec as a Cyber Governance Intern, ServiceNow as an Information Systems Intern, Google (via contract), Microsoft (via contract), and many other companies, research labs, and initiatives.

Former Student Board Advisor at Adobe (2 years).

Former Ambassador at Hackster.io, a technology projects platform (2 years).

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I am heavily involved in volunteering. I've been volunteering since 2015 for a wide range of NGO's. Most notably a Tunisian based non-profit called Mobdiun - Creative Youth where I managed their website for 3 years. <https://www.catchafire.org/profiles/110310/>

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Links: <https://www.linkedin.com/in/kevinvle/>

Upload a File

[Kevin City of Milpitas Intern.pdf](#)

[SSS Certificate.pdf](#)

[Kevin Viet Le Milpitas Commission Alternative Resume February 2020.pdf](#)

[Kevin Viet Le Milpitas Commission Resume February 2020.pdf](#)

[Milpitas Commission Kevin's Links 2020.pdf](#)

Date

Feb 10, 2020

I have sufficient time to devote to this responsibility and will attend the required meetings if I am appointed to fill a future vacancy. I hereby certify that all statements contained in

this application are true.

Kevin Viet Le

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NOTE: ALL COMMISSION APPLICATIONS ARE PUBLIC RECORD

Kevin's Alternative Resume

CULTURAL EXPERIENCE

Collaboration:

- Since 2015, I've worked in person and remotely with over 350 colleagues from 50 states and 9 countries (Bangladesh, Canada, Germany, India, Japan, Malta, Netherlands, Tunisia, and Zambia).

Travel:

- Countries: Canada, Mexico, New Zealand, South Korea, Thailand, and Vietnam.
- States: Alaska, Arizona, Colorado, Connecticut, Georgia, Illinois, Michigan, Nevada, Oregon, Texas, and Washington.

IN MY FREE TIME

Favorite Books I've Read:

- "How to Win Friends and Influence People" – Dale Carnegie
- "Crush It" and "The Thank You Economy" – Gary Vaynerchuk
- "The Challenger Sale" – Matthew Dixon & Brent Adamson
- "Steve Jobs" – Walter Isaacson
- "Elon Musk: Tesla, SpaceX, and the Quest for a Fantastic Future" – Ashlee Vance
- "The Secret" – Rhonda Byrne
- "No Dream is Too High" – Buzz Aldrin
- "An Astronaut's Guide to Life on Earth" – Chris Hadfield
- "Swipe to Unlock" – Mehta, Agashe, Detroja

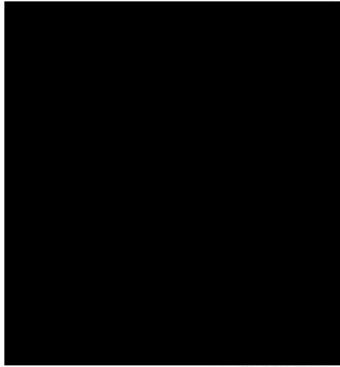
Physical & Mental Health:

- Hiking in places like the Rocky Mountains, Joshua Tree, Sequoia, Yosemite, and Grand Canyon.
 - The hardest hike I've accomplished is 12 miles in 13.5 hours in 90+ degree weather with 3,000 ft descent/climb (Plateau Point Trail – Grand Canyon).
- 1st Degree Black Belt certified by the World Taekwondo Federation. Mountain Biking.
- Written 300+ pages in personal journal filled with key lessons and advice over the years.

Learning from Others (1 on 1 meeting):

- Oliver Jacob – Senior Intelligence Advisor at NSC in the White House Situation Room. 2020.
- Amy Cappellanti-Wolf – Chief Human Resources Officer at Symantec. 2019.
- Sheila Jordan – Chief Information Officer at Symantec. 2019.
- John Donahoe – CEO at Nike, Former CEO at ServiceNow, eBay. Chairman at PayPal. 2018.
- Lyndon Rive – Former Co-Founder & CEO at SolarCity. Elon Musk's Cousin. 2018.
- CJ Desai – Chief Product Officer at ServiceNow. Former President at Dell EMC. 2018.
- Toby Corey – Former President of Global Sales & Customer Experience at Tesla. 2018.
- Pat Wadors – Chief Talent Officer at ServiceNow, Former SVP at LinkedIn. 2018.

Kevin Viet Le



SKILLS

- Python + Web2Py (Intermediate)
- C (Intermediate)
- HTML & CSS (Intermediate)
- Excel (Intermediate – VLOOKUP, PivotTable/chart, Dashboards, etc.)
- CMS – WordPress, Squarespace, Drupal (Intermediate)
- Tableau (Intermediate)
- ServiceNow (Intermediate)
- Networking: Kali Linux, Nmap, Wireshark, Mininet + OpenFlow, Cisco Packet Tracer, and knowledge of TCP/IP (two networking classes)
- AWS & GCP Solutions Architecting (Limited + Certificates – self-taught)
- Atlassian Products – Jira, Confluence, Bitbucket, Trello (Intermediate)
- Git (Intermediate)
- Frameworks: NIST CSF, ISO 27000, COBIT 5, CIS Security Controls, SANS Concepts (via Symantec internship)

CERTIFICATES

- Architecting with Google Compute Engine 5 Course Specialization - Google
- AI For Everyone - Coursera
- Cloud Development - Google
- GCP Essentials - Google

EDUCATION

Bachelor's in Computer Science
University of California, Santa Cruz
Dec 2020 | GPA: 3.08

Systems Engineering Intern | [Redacted] Security Clearance | [Redacted]
[Redacted Team]

Lockheed Martin Space Systems | Sunnyvale, CA | Incoming June '20 – September '20 (3 months)

- Programming implementation, analytical model development, simulations utilizing C programming and MATLAB/Simulink. Participating in the product development life cycle.
- Supporting a system engineering team and performing work on all systems engineering phases including requirements definition, allocation and maintenance. Supporting various system analyses in support of mission planning and execution.

VSFS Intern | [Remote Role] | Strategy & Engagement Directorate (Group)

Office of Transformation & Innovation ('18 – '20) and Office of IC Net Assessment ('18 – '19)

Office of the Director of National Intelligence | McLean, VA | September '18/'19 – May '19/'20 (1.5 Years)

- 2019-2020: Conducting technical and legal due diligence on domestic & international companies that applied to [redacted]. Produced deeply informative material on each senator of the SSCI and SAC-D to help support ODNI Legislative Affairs Office to strategically prepare for upcoming congressional meetings.
- 2018-2019: Conducted an open source intelligence analysis on [redacted]. Gained critical thinking skills as an analyst through building case studies of malicious influence ops by [redacted] using internal analysis methodologies.

Cyber Governance Intern | Governance, Risk, and Compliance Function (Group)

Cyber Governance and Information Risk Management Team under the Global Security Office

Symantec (now known as NortonLifeLock) | Mountain View, CA | June '19 – September '19 (3 months)

- Risk Team: Helped management understand which business units in Symantec have the highest occurrences and levels of security risk from unstandardized data. My team came in to handle hundreds of unstandardized security issue logs exported from Splunk and ServiceNow. I performed data quality reviews to determine which logs needed standardization and created an issue management standard operating procedure (SOP) to ensure all new future logs submitted follow a strict standard.
- My team helped standardize past due security issues so I could analyze trends from our key metrics. I created Key Risk Indicators (KRIs) + methodologies – based on the NIST Cybersecurity Framework (CSF). I created data visualizations for an Excel dashboard – used for presentations with our Chief Information Security Officer giving them insight on the state of all business units and their security risk.
- Governance Team: I created an information security metrics program based on NIST CSF, ISO 27001, COBIT 5, and CIS Security Controls. I developed 14 key metrics along with threshold values and business value justifications. I created data visualizations of our metrics for an Excel dashboard.

Information Systems Intern | IT Infrastructure Group

IT Collaboration Team for 4.5 months -> IT Employee Services for .5 months

ServiceNow, Inc. | Santa Clara, CA | April '18 – September '18 (5 months)

- Liaised with 20 stakeholders to define specifications for an IT solutions deployment project. I configured 150 Solstice Pods and coordinated with vendors to help deploy across our HQ. This solution gave 2,500 employees the ability to wirelessly share their laptop screens onto conference TVs during meetings. It saves 1,800 employee hours for meeting setup & 175 hours of contractor pay annually.

Data Analyst VSFS Intern | [Remote Role] | Customer Experience Group

Awareness & Outreach Team in the Office of Federal Student Aid (FAFSA)

U.S. Department of Education | Washington, DC | March '18 – May '18 (3 months)

- Analyzed 243 rows of client survey Excel data using Tableau to understand the top pain points of webinar attendees. I made recommendations to the team of possible solutions to implement to improve the customer experience to suit all demographics. Link: [Bit.ly/kevafsa](https://bit.ly/kevafsa)

COMMISSION APPLYING FOR:

Science, Technology and Innovation Commission

Title

Ms.

Name

Rajani Nair

Address Type

Residence

Address**City****Postal/Zip Code****Mobile Number****E-Mail Address**

City Clerk's Office

JUN 24 2020

RECEIVED

Present Employer

City of San Jose

Other Phone

(408) 799-7462

Business Address (Optional)

200 East Santa Clara Street

City

San Jose

Postal / Zip code

95113

Occupation

Civil Engineer

Education: If Youth Advisory Commission applicant, indicate your grade/school:

BS and MS in Civil Engineering

College, Professional, Vocational, or other schools attended

Texas A&M University and Columbia University

Major Subject

Civil Engineering

Degree

BS and MS

List community organizations to which you belong or have belonged (additional information may be attached).**Name of Organization**

Bright Futures

Member

Mentor

Name of Organization

ACE Mentor Program

Member

Board Member

If application is for Veterans Commission, indicate branch and service in any U.S. military organization (retired or active duty).**Briefly describe the personal qualifications you possess which you believe would be an asset (additional information may be attached):**

I am a highly motivated person with diverse educational and professional backgrounds, and have over twenty years of solid experience in the civil engineering field in both private and public sectors. I was actively involved with youth programs that focused on exposing students to the field of engineering.

As a dynamic individual, I was fortunate to hold several diverse positions that exposed me to a variety of opportunities that further enhanced my critical thinking, problem solving, and time management skills. In addition, I developed strong communication skills, provided interpersonal and leadership opportunities for my staff, collaborated with outside departments and agencies, Council offices, residents, schools and business, and other permitting agencies to determine effective and positive outcomes.

Currently, I am working in the City Manager's Office, Office of Civic Innovation and Digital Strategy as the Assistant to the City Manager overseeing the Smart City Roadmap that focuses on people, process and technology to help improve the services we provide to our community. My role requires collaboration with potential companies who want to partner with the City of San Jose and department leadership who are responsible to deliver these innovative projects identified on the Smart City Roadmap. In addition, I report updates to City leadership and City Council committee members on the progress of these innovative projects. There are many solutions that City of San Jose have pioneered that I believe as a resident of Milpitas can greatly benefit to provide effective, efficient and equitable

services that our community deserves. .

I would honored and greatly appreciate the opportunity to serve on the Science, Technology and Innovation Commission.

Date

Jun 23, 2020

Appointments to Commissions or Committees are made by the Mayor with the concurrence of the City Council. Applications not acted upon will expire after one year from the date submitted unless renewed by the applicant. Once submitted, your application will be submitted to the City Clerk.

NOTE: ALL COMMISSION APPLICATIONS ARE PUBLIC RECORD

COMMISSION APPLYING FOR:

Science, Technology and Innovation Commission

Name

DINESH POKHREL

Address Type

Residence

Address

City

Postal/Zip Code

Mobile Number

E-Mail Address



City Clerk's Office
JUL 22 2020
RECEIVED

Present Employer

ALBERTSONS COMPANIES

Occupation

SENIOR QA LEAD

Education: If Youth Advisory Commission applicant, indicate your grade/school:

BACHELORS DEGREE

List community organizations to which you belong or have belonged (additional information may be attached).

If application is for Veterans Commission, indicate branch and service in any U.S. military organization (retired or active duty).

Date

Jul 21, 2020

I have sufficient time to devote to this responsibility and will attend the required meetings if I am appointed to fill a future vacancy. I hereby certify that all statements contained in this application are true.

A handwritten signature in black ink, appearing to read 'Dinesh Pokhrel'.

Appointments to Commissions or Committees are made by the Mayor with the concurrence of the City Council. Applications not acted upon will expire after one year from the date submitted unless renewed by the applicant. Once submitted, your application will be submitted to the City Clerk.

NOTE: ALL COMMISSION APPLICATIONS ARE PUBLIC RECORD



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	FY 2019-20 Fourth Quarter Financial Status Report and Related Budget Amendments to Close-out the FY 2019-20 Budget
Category:	Leadership and Support Services
Meeting Date:	9/1/2020
Staff Contact:	Walter C. Rossmann, 408-586-3111
Recommendation:	1. Accept the FY 2019-20 Quarterly Financial Status Report for the Quarter Ending June 30, 2020. 2. Approve Budget appropriation from the Affordable Housing Fund for \$26,419 to the City Attorney's operating budget, from the Hetch-Hetchy Fund for \$258 to the Non-Departmental operating budget, from the 2008 Community Facilities Fund for \$7,933 to the Public Works and Non-Departmental operating budget and from the Vehicle Registration Fee Fund for \$303,331 to CP 3440 Annual Street Light, Signal, and Signage Project.

Background:

On June 11, 2019, the City Council approved the Fiscal Year (FY) 2019-20 Adopted Operating Budget in the amount of \$247.9 million and the General Fund Budget in the amount of \$121.6 million. After adoption of the budget, staff monitored and tracked revenues and expenditures for all funds within an emphasis on the General Fund and Enterprise Funds.

On March 12, in response to the growing Coronavirus threat and the State of California's declaration of a state of emergency, City Manager Steve McHarris declared a local emergency. On March 13, the President of the United States declared a National Emergency concerning the Novel Coronavirus Disease (COVID-19) Outbreak. On Monday, March 16, 2020, the County of Santa Clara, and six of the most populous counties in the region, announced a shelter-in-place (SIP) order in light of the increased number of cases of COVID-19 that have been confirmed in Santa Clara County.

On May 5, 2020, the City Council approved to use of General Fund reserves to offset \$7.1 million in estimated net revenue loss related to the COVID-19 pandemic economic impact.

On June 2, 2020, as part of the adoption of the FY 2020-21 Budget, the City Council approved doubling the target of the General Fund Stabilization Reserve from 8.33% to 16.67% of prior year actual operating expenditures. Additionally, for the Sewer and Water funds, the City Council approved Rate Stabilization Reserves with a target of 16.67% of prior year actual operating expenditures and a Public Employees Retirement (PERS) Rate Stabilization Reserve.

Analysis:

This staff report provides the final quarterly update for FY 2019-20 on budget versus actual expenditures and revenues of the General, Water and Sewer Funds, the City's major operating funds, based on unaudited financial reports as of June 30, 2020. Further, this staff report includes recommendations to close out the FY 2019-20 Budget and implement the Council approved General Fund and Utility Fund reserve policies.

Fourth Quarter Financial Status Report

The summary information below as well as the attachments provide an overview of the financial status for the General, Water, and Sewer funds for FY 2019-20 as of June 30, 2020, a variance analysis of budget versus actual expenditures and revenues for the fourth quarter of FY 2019-20 as well as prior year actual expenditures and revenues for the fourth quarter of FY 2018-19 for comparison purposes. For the General Fund, major revenue sources and expenditures as well as the use of the Unanticipated Expenditures Reserve are discussed below.

General Fund Revenues (Attachment 1)

For the twelve months ending June 30, 2020, the General Fund has received \$105.2 million in revenues, or 94%, of the FY 19-20 amended operating budget of \$112.3 million. In comparison to the Adopted Budget of \$118.8 million, the General Fund received 88.6% of estimated revenues. A final accounting on major revenue sources of unaudited figures is provided below.

- **Property Taxes and Redevelopment Property Tax Trust Fund:** For the twelve months ending June 30, 2020, \$37.7 million, or 103%, of the \$36.6 million of the amended budget has been received. Revenues are 11% higher than last year at the same time.
- **Sales & Use Tax:** For the twelve months ending June 30, 2020, \$25.1 million, or 92%, of the \$27.4 million amended budget has been received. Revenues are 7% less than last year at the same time which is due to the COVID-19 Virus causing sales tax generating businesses to close during the 4th Quarter to comply with the Shelter-in-Place order. However, taking into account the timing change in payments from the California Department of Tax and Fee Administration (CDTFA), which allocated an extra payment, revenues are actually 13% less than last year at the same time.
- **Franchise Fees:** For the twelve months ending June 30, 2020, \$5.2 million, or 97%, of the \$5.3 million amended budget has been received. Revenues are 1% higher than last year at the same time.
- **Hotel/Motel (TOT) Tax:** For the twelve months ending June 30, 2020, \$11.4 million, or 93%, of the \$12.2 million amended budget has been received. Revenues are 22% lower than last year at the same time which is due to the Shelter-in-Place order and substantive reduction of business and leisure travel related to the COVID-19 Virus.
- **License and Permits:** For the twelve months ending June 30, 2020, \$8.7 million, or 68%, of the \$12.7 million amended budget has been received. Revenues are 23% less than last year at the same time which is due to less building permits being issued because of the uncertainty caused by the COVID-19 Virus.
- **Charges for Services:** For the twelve months ending June 30, 2020, \$5.6 million, or 79%, of the \$7.1 million amended budget has been received. Revenues are 20% lower than last year due to refunds being issued for Recreation fees due to the cancellation of classes and activities, which have been offset with reduction in Recreation expenditures.

General Fund Expenditures (Attachment 2)

For the twelve months ending June 30, 2020, the General Fund has utilized \$108.3 million (including encumbrances of \$3.0 million), or 90.0%, of the FY 19-20 amended operating budget of \$120.4 million. The amended budget is comprised of \$115.6 million of the adopted budget, \$2.3 million of carryover encumbrances from the previous fiscal year for goods and services as well as approximately \$2.5 million of increased department appropriations and transfers out as approved by Council during the past twelve months of the fiscal year. At the end of the fourth quarter, total expenditures plus encumbrances are \$12.1 million or 10.0% below the amended budget primarily due to implementation of the managed hiring and expenditure freeze in March 2020 and vacancies throughout the year.

Unanticipated Expenditure Reserve

In accordance with the City Council approved Budget Guidelines, as part of the quarterly financial status reports, staff shall report on the use of the Unanticipated Expenditure Reserve for the 4th quarter.

Description	Amount
COVID-19 related Expenditures (e.g.: PPE, extra daytime disinfecting cleaning, sterilizers, temperature scanners)	\$364,168
City Strategic Planning Services	95,000
Planning Consultant	70,000
Polling for ¼ cent Sales Tax Measure	45,000
Energy Conservation Financial Analysis	33,075
Executive Recruitment	31,900
Labor Negotiations Contract	25,000
TOTAL for the Quarter Ending June 30, 2020	\$664,143

General Fund Reserve Policies Implementation

For the fiscal year ended June 30, 2020, the City's General Fund realized unaudited revenues of \$105.2 million, other financing sources of net \$4.9 million (\$5.6 million net use of reserves and \$0.7 million increase in encumbrances), for total sources of \$110.1 million and expenditures of \$105.3 million. This resulted in one-time General Fund expenditure savings of \$4.8 million. These savings are primarily due to implementation of the managed hiring and expenditure freeze in March 2020 and vacancies throughout the year.

Based on the General Fund unaudited FY 2019-20 operating expenditures in the amount of \$105,317,401, the reserve target for the Contingency Reserve and the Budget Stabilization Reserve (BSR) is set at \$17.56 million or 16.67% of approximately \$105.3 million. Consistent with the General Fund Reserve Policies, staff allocated the FY 2019-20 expenditure savings of \$4.78 million entirely to the BSR, as well as an additional transfer of \$2.74 million from the Contingency Reserve to align the reserve levels with the calculated target per the Council approved Reserve Policies. Additionally, the Council approved a \$2 million reserve target for the Workers Compensation/General Liability Reserve. Therefore, the excess of \$0.8 million is allocated to the Artificial Turf Replacement Reserve (\$0.23 million) to save up enough funds for turf replacement in about four years and to the BSR (\$0.57 million).

The table below shows the Reserve Balances as of May 5, 2020, when the City Council directed staff to rebalance the General Fund Budget due to revenue losses related to COVID-19, the expenditure savings allocations and reserve balance reallocations consistent with Council approved Reserve Policies, the use of reserves as approved with the adoption of the FY 2020-21 budget, and the estimated reserve balances available as of June 30, 2021. Applying Council approved reserve policies results in the BSR being funded at \$15.16 million or 86.3% of the target.

General Fund Reserve Balances

	FY 2019-20 Reserve Balance (as of 5/5/2020)	FY 2019-20 Expenditure Savings Allocation/ Reserve Target Alignment	FY 2019-20 Reserve Balance (as of 6/30/2020)	FY 2020-21 Adopted Budget Use of Reserves	Estimated Reserve Balance (6/30/2021)	Reserve Target per Fiscal Policies
General Fund Unassigned Reserves						
Contingency Reserve	\$20.30	\$(2.74)	\$17.56	\$0.00	\$17.56	\$17.56
Budget Stabilization Reserve	9.45	8.09	17.54	(2.38)	15.16	17.56
Unassigned	2.10	0.00	2.10	(2.10)	0.00	N/A
Total Unassigned Reserve	31.85	5.35	37.20	(4.48)	32.72	
General Fund Committed Reserves						
Artificial Turf Replacement	0.98	0.23	1.21		1.21	2.00
Facilities Replacement Fund	7.00		7.00		7.00	10.00
PERS Stabilization	33.90		33.90		33.90	N/A
Technology Replacement Reserve	2.00		2.00		2.00	5.00
Workers Compensation/ General Liability* Reserve	2.80	(0.80)	2.00		2.00	2.00
Total Committed General Fund Reserves	46.68	(0.57)	46.11		46.11	
Total Unassigned and Assigned Reserves	\$78.53	\$4.78	\$83.31	\$(4.48)	\$78.83	

* Prior to FY 2020-21, this Reserve was not budgeted and only shown in the Comprehensive Annual Financial Report.

Water Maintenance & Operation (M&O) Fund Financial Status (Attachment 3)

Revenues: For the twelve months ending June 30, 2020, \$28.7 million of charges for services, or 97.4%, of the \$29.5 million budgeted has been received. Total revenue received amounts to \$29.4 million, or 97.9%, of the \$30.1 million budgeted.

Expenditures: For the twelve months ending June 30, 2020, \$28.6 million, or 98.1%, of the \$29.1 million amended budgeted has been spent.

Water Fund Expenditure Savings Allocation: For the fiscal year ended June 30, 2020, the Water Fund realized unaudited revenues of \$29,440,460 and expenditures of \$28,572,488. This resulted in a one-time Water Fund expenditure savings of \$867,972.

Based on the Water Operating Fund unaudited FY 2019-20 operating expenditures in the amount of \$28.6 million, the reserve target for the Capital Reserve is set at \$8.57 million or 30% of operating expenditures and the Rate Stabilization Reserve is set at \$4.76 million at 16.67% of operating expenditures. Consistent with the Water Fund Reserve Policies, staff allocated the FY 2019-20 expenditure savings of \$0.87 million to the Capital Reserve until the target was met, and the remainder to the Rate Stabilization Reserve. The table below shows the Reserve Balances as of June 30, 2020, the expenditure savings allocations consistent with Council approved Reserve Policies, and the estimated reserve balances as of June 30, 2021.

	Reserve Balance (as of 6/30/2020) prior to Expenditure Allocation	FY 2019-20 Expenditure Savings Allocation	Estimated Reserve Balance (6/30/2021)	Reserve Target per Fiscal Policies
Capital Reserve	\$8.27	\$0.30	\$8.57	\$8.57
Rate Stabilization Reserve	0.00	0.57	0.57	4.76
Total Reserve	\$8.27	\$0.87	\$9.14	

Sewer Maintenance & Operation (M&O) Fund Financial Status (Attachment 3)

Revenues: For the twelve months ending June 30, 2020, \$19.3 million of charges for services, or 100.9%, of the \$19.1 million budgeted has been received. Total revenue received amounts to \$19.7 million, or 100.1%, of the \$19.7 million budgeted.

Expenditures: For the twelve months ending June 30, 2020, \$12.3 million, or 84.2%, of the \$14.6 million amended budgeted has been spent.

Sewer Fund Expenditure Savings and Excess Revenue Allocation: For the fiscal year ended June 30, 2020, the Sewer Fund realized unaudited revenues of \$19.7 million and expenditures of \$12.3 million. This resulted in a one-time Sewer Fund Expenditure Savings and Excess Revenue of \$7.4 million primarily from assumed excess revenue of \$5.1 million, vacancy savings of \$1.1 million, and treatment plant maintenance and operation savings of \$1.1 million.

Based on the Sewer Operating Fund unaudited FY 2019-20 operating expenditures in the amount of \$12.3 million, the reserve target for the Capital Reserve is set at 25% of operating expenditures or \$3.08 million and the reserve target for the Rate Stabilization Reserve is set at 16.67% of operating expenditures or \$2.05 million. Consistent with the Sewer Fund Reserve Policies, staff allocated the FY 2019-20 expenditure savings and excess revenue of \$7.2 million to the PERS Stabilization Reserve for \$2.64 million, the Infrastructure Replacement Reserve for \$2.0 million, and the Unassigned Reserve for \$4.06 million. The table below shows the Reserve Balances as of June 30, 2020, the reserve target alignment, the reserve allocations consistent with Council approved Reserve Policies, and the reserve balances available as of July 1, 2020.

	Reserve Balance (as of 6/30/2020) prior to Expenditure Savings / Excess Revenue Allocation	FY 2019-20 Expenditure Savings/ Excess Revenue Allocation	Estimated Reserve Balance (6/30/2021)	Reserve Target per Fiscal Policies
Capital Reserve	\$3.08	\$0.00	\$3.08	\$3.08
Rate Stabilization Reserve	0.00	2.05	2.05	2.05
PERS Rate Stabilization Reserve	0.00	2.64	2.64	N/A
Unassigned	0.00	0.51	0.51	N/A
Total Operating Reserve	3.08	5.20	8.28	
Transfer Out to Infrastructure Replacement Fund		2.00		N/A
Total Expenditure Savings / Excess Revenue Allocation		\$7.20		

Budget Amendment Recommendations

Staff recommends approval of five budget amendments to align appropriations to actual expenditures incurred, services rendered, and revenues received.

1. Non-personnel Expenditure Adjustment Recommendations

- a. Increase City Attorney's operating budget from the Affordable Housing Fund Balance for Attorney services for \$26,419 for unanticipated services performed
- b. Increase Non-Departmental operating budget from the Hetch-Hetchy Fund Balance for the Ground Lease Payment for \$258
- c. Increase Non-Departmental operating budget from the 2008 Community Facilities Fund Balance for the administration services for \$201
- d. Increase Public Works operating budget from the 2008 Community Facilities Fund Balance for the increased cost for water utilities in the District for \$7,732

2. Capital Improvement Project Adjustment Recommendation

- a. Increase appropriation in CP 3440 Annual Street Light, Signal, and Signage project for \$303,331 for the additional Vehicle Registration Fee monies available for a citywide sign inventory and sign replacements.

Fiscal Impact:

If Council approves the recommendations outlined in this report, the Affordable Housing fund balance will be reduced by \$26,419 from approximately \$3.03 million to \$3.0 million, the Hetch-Hetchy fund balance will be reduced by \$258 with a remaining fund balance of \$1.6 million, the 2008 Community Facilities fund balance will be reduced by \$7,933 from \$163,150 to \$155,217 and an increased budget appropriation for \$303,331 to CP 3440 Annual Street Light, Signal, and Signage project from newly available Vehicle Registration Fees.

California Environmental Quality Act:

Not applicable.

Recommendation:

1. Accept the FY 2019-20 Quarterly Financial Status Report for the Quarter Ending June 30, 2020.
2. Approve Budget appropriation from the Affordable Housing Fund for \$26,419 to the City Attorney's operating budget, from the Hetch-Hetchy Fund for \$258 to the Non-Departmental operating budget, from the 2008 Community Facilities Fund for \$7,933 to the Public Works and Non-Departmental operating budget and from the Vehicle Registration Fee Fund for \$303,331 to CP 3440 Annual Street Light, Signal, and Signage Project.

Attachments:

1. FY 2019-2020 Revenue Report for Fiscal Year-To-Date June 30, 2020
2. FY 2019-2020 General Fund Expenditures by Department June 30, 2020
3. FY 2019-2020 Water and Sewer Funds Financial Status for Fiscal Year-To-Date June 30, 2020
4. Budget Change Form

CITY OF MILPITAS
General Fund Revenues
For Fiscal Year-To-Date June 30, 2020

General Fund Revenues	FY20 Adopted Budget	FY20 Mid-Year Budget Changes	FY20 Amended Budget	FY20 Revenue As of 6/30/20	FY20 Percentage of Budget	FY19 Revenue As of 6/30/19	Percentage Inc (Dec) FY20 / FY19
Property Taxes	\$ 28,391,781	\$ 1,073,000	\$ 29,464,781	\$ 29,839,394	101.27%	\$ 27,422,274	8.81%
RFTTF Distributions	6,414,919	699,000	7,113,919	7,844,901	110.28%	6,388,736	22.79%
Sales and Use Taxes	27,200,042	175,000	27,375,042	25,058,324 *	91.54%	28,889,785	-13.26%
Other Taxes	1,128,000	-	1,128,000	1,049,047	93.00%	1,128,531	-7.04%
Franchise Fees	4,937,000	400,000	5,337,000	5,173,191	96.93%	5,127,312	0.89%
Hotel/Motel Tax	19,557,639	(7,383,000)	12,174,639	11,376,522	93.44%	14,502,736	-21.56%
License & Permits	14,748,486	(2,064,000)	12,684,486	8,686,121	68.48%	11,332,019	-23.35%
Fines and Forfeitures	501,810	-	501,810	328,163	65.40%	425,097	-22.80%
Interest Income	1,267,000	-	1,267,000	2,077,453	163.97%	2,050,230	1.33%
Intergovernmental	1,445,927	518,151	1,964,078	1,685,303	85.81%	1,614,825	4.36%
Charges for Services	6,960,914	113,000	7,073,914	5,606,437	79.26%	7,011,666	-20.04%
Other Revenue Sources	241,000	-	241,000	442,627	183.66%	326,838	35.43%
Operating Transfers In	5,993,002	26,564	6,019,566	6,019,566	100.00%	6,355,432	-5.28%
Total Operating Revenue	\$118,787,520	\$ (6,442,285)	\$112,345,235	\$105,187,050	93.63%	\$112,575,481	-6.56%
Other Revenue / Financing Sources							
(Increase) Decrease in Current Year Fund Balance	(3,210,533)	8,800,000	5,589,467	5,589,467			
(Increase) Decrease in Carryover Encumbrances		(680,967)	(680,967)	(680,967) **			
Total Other Revenue Sources	-\$3,210,533	\$8,119,033	\$4,908,500	\$4,908,500			
Total General Fund Revenues & Other Financing Sources	\$115,576,987	\$1,676,748	\$117,253,735	\$110,095,550			

* Change in Accounting of payments from the California Department of Tax and Fee Administration. In Fiscal Year 2019-2020, the City received twelve months of Sales Tax revenue, while in Fiscal Year 2018-2019, the City received thirteen months of Sales Tax revenue through the quarter ended June 30th.

** Estimated Carryover Encumbrance was \$2,342,936 in Fiscal Year 2018-19 and is estimated at \$3,023,903 for Fiscal Year 2019-20.

General Fund Expenditures by Department

For Fiscal Year-To-Date June 30, 2020

Percent of Year

Department/Division	FY 2019-20 Adopted Budget	FY 2019-20 Mid-Year Appropriation	FY 2019-20 Carryover Encumbrances	FY 2019-20 Amended Budget	FY 2019-20 Exp. incl. Encumbr. As of 06/30/2020	FY 2019-20 Percent f Amended Budget	FY 2018-19 Exp. incl. Encumbr. As of 06/30/2019	Percent Exp & Enc Inc (dec.) FY20/FY19	
City Council	587,319	-		587,319	333,297	56.75% (a)	829,603	-59.82%	(b)
City Manager	2,332,184	-	21,719	2,353,903	2,016,461	85.66% (c)	1,997,136	0.97%	
City Clerk	626,844	-		626,844	621,658	99.17%	674,037	-7.77%	
Economic Development	939,806	-	166,134	1,105,940	852,193	77.06% (d)	893,133	-4.58%	
Policy Planning	4,486,153	-	187,853	4,674,006	3,823,609	81.81%	4,393,909	-12.98%	
Building Safety & Housing	6,693,391	(498,256)	85,560	6,280,695	5,852,846	93.19%	5,350,287	9.39%	
City Attorney	1,190,364	125,000		1,315,364	1,220,270	92.77%	1,260,893	-3.22%	
Finance	4,367,077	(137,700)	182,503	4,411,880	4,205,413	95.32%	3,773,175	11.46%	
Public Works	9,258,950	(246,411)	255,242	9,267,781	8,849,548	95.49%	7,581,384	16.73%	
Engineering	3,998,574	(225,574)	106,807	3,879,807	3,612,214	93.10%	3,140,475	15.02%	
Planning	1,920,315	(6,579)	78,130	1,991,866	1,991,866	100.00%	1,788,516	11.37%	
Police	36,375,936	(1,073,893)	317,535	35,619,578	34,338,421	96.40%	30,977,868	10.85%	
Fire	26,640,966	764,592	146,167	27,551,725	26,694,459	96.89%	23,798,897	12.17%	
Information Technology	3,549,603	(263,623)	253,780	3,539,760	3,084,280	87.13% (e)	2,974,760	3.68%	
Human Resources	2,045,669	(51,637)	65,129	2,059,161	1,930,342	93.74%	1,485,762	29.92%	
Recreation	6,463,227	(83,240)	190,318	6,570,305	5,247,827	79.87% (f)	5,353,207	-1.97%	
Non-Departmental	7,786,761	2,419,833	473,912	10,680,506	4,940,488	46.26% (g)	4,253,615	16.15%	
Transfers Out	800,000	1,749,721		2,549,721	2,549,721	100.00%	8,171,174	31.20%	
Total	115,576,986	2,472,233	2,342,936	120,392,155	108,341,304	89.99%	104,303,922	3.87%	

(a) Vacancy Savings from Intern positions and lower expenditures for communitiy promotions, supplies and services, and membership, trainings, and conferences

(b) Funding for the County Library was moved from the City Council to the Non-Departmental budget in F19-20.

(c) Vacancy and contractual services savings

(d) Vacancy and contractual services savings

(e) Vacancy savings and lower non-personnel expenditures primarily in repair and maintenance

(f) Vacancy savings and non-personnel expenditure savings

(g) Personnel expenditure savings

City of Milpitas
Water and Sewer Financial Status
For Fiscal Year-To-Date June 30, 2020

Percent of Year	100%						
Revenue	FY 2019-20 Adopted Budget	FY 2019-20 Budget Amendments As of 06/30/2020	FY 2019-20 Amended Budget	FY 2019-20 Revenue As of 06/30/2020	FY 2019-20 Percent of Amended Budget	FY 2018-19 Revenue As of 06/30/2019	Percent Revenue (dec.) FY20/FY19
Water Fund							
Revenue:							
Revenue from Investments	449,000		449,000	552,104	122.96%	776,101	-28.86%
Intergovernmental Revenue	0		0	140,154			
Charges for Services	29,490,848		29,490,848	28,727,512	97.41%	29,307,618	-1.98%
Miscellaneous Revenue	130,000		130,000	17,601	13.54%	38,220	-53.95%
Operating Transfer In	3,089		3,089	3,089	100.00%	13,444	-77.02%
Total Water Fund Revenue	30,072,937	0	0	30,072,937	97.90%	30,135,383	-2.31%

Expense	FY 2019-20 Adopted Budget	FY 2019-20 Budget Amendments As of 06/30/2020	FY 2018-19 Carryover Encumbrances	FY 2019-20 Amended Budget	FY 2019-20 Exp. incl. Encumbr. As of 06/30/2020	FY 2019-20 Percent of Amended Budget	FY 2018-19 Exp. incl. Encumbr. As of 06/30/2019	Percent Exp & Enc Inc (dec.) FY20/FY19
Water Fund								
Expenses:								
Personnel Services	4,027,954			4,027,954	3,685,503	91.50%	3,419,753	7.77%
Services and Supplies	2,654,897		196,615	2,851,512	2,861,588	100.35%	4,001,765	-28.49%
Wholesale Water Purchase	18,860,000			18,860,000	18,612,316	98.69%	17,850,062	4.27%
Capital Outlay	110,000		539,385	649,385	671,230	103.36%	(968,124)	-169.33%
Operating Transfer Out	2,741,851			2,741,851	2,741,851	100.00%	2,106,274	30.18%
Total Water Fund Expenses	28,394,702	0	736,000	29,130,702	28,572,488	98.08%	26,409,730	8.19%

Percent of Year	100%						
Revenue	FY 2019-20 Adopted Budget	FY 2019-20 Budget Amendments As of 06/30/2020	FY 2019-20 Amended Budget	FY 2019-20 Revenue As of 06/30/2020	FY 2019-20 Percent of Amended Budget	FY 2018-19 Revenue As of 06/30/2019	Percent Revenue (dec.) FY20/FY19
Sewer Fund							
Revenue:							
Revenue from Investments	375,000		375,000	285,147	76.04%	419,437	-32.02%
Charges for Services	19,132,127		19,132,127	19,293,825	100.85%	17,521,842	10.11%
Miscellaneous Revenue	60,000		60,000	0	0.00%	11,508	0.00%
Operating Transfer In	119,878		119,878	119,878	100.00%	13,444	791.68%
Total Sewer Fund Revenue	19,687,005	0	0	19,687,005	100.06%	17,966,231	9.64%

Expense	FY 2019-20 Adopted Budget	FY 2019-20 Budget Amendments As of 06/30/2020	FY 2018-19 Carryover Encumbrances	FY 2019-20 Amended Budget	FY 2019-20 Exp. incl. Encumbr. As of 06/30/2020	FY 2019-20 Percent of Amended Budget	FY 2018-19 Exp. incl. Encumbr. As of 06/30/2019	Percent Exp & Enc Inc (dec.) FY20/FY19
Sewer Fund								
Expenses:								
Personnel Services	3,069,935			3,069,935	1,955,343	63.69%	2,513,485	-22.21%
Services and Supplies	1,550,907		309,194	1,860,101	1,697,655	91.27%	4,859,507	-65.07%
Treatment Plant	7,045,200			7,045,200	5,947,282	84.42%	4,680,887	27.05%
Debt Service	1,033,038			1,033,038	1,143,477	110.69%	138,414	826.13%
Capital Outlay	0		47,292	47,292	282	0.60%	(7,674,857)	0.00%
Operating Transfer Out	1,568,485			1,568,485	1,568,485	100.00%	1,659,274	94.53%
Total Sewer Fund Expenses	14,267,565	0	356,486	14,624,051	12,312,524	84.19%	6,176,710	99.34%

City of Milpitas, California

BUDGET CHANGE FORM

Type of Change	From*		To*	
	Account	Amount	Account	Amount
Check one:	216-2909	\$26,419	216-120-4237	\$26,419
☒ Budget Appropriation	211-2909	258	216-910-4242	258
	238-2909	201	238-910-4237	201
☐ Budget Transfer	238-2909	7,732	238-424-4237	7,732
	311-Vehicle Registration Fee	303,331	311-951-3440-8-4800	303,331

Recommendation:

1. Accept the FY 2019-20 Quarterly Financial Status Report for the Quarter Ending June 30, 2020.
2. Approve Budget appropriation from the Affordable Housing Fund for \$26,419 to the City Attorney's operating budget, from the Hetch-Hetchy Fund for \$258 to the Non-Departmental operating budget, from the 2008 Community Facilities Fund for \$7,933 to the Public Works and Non-Departmental operating budget and from the Vehicle Registration Fee Fund for \$303,331 to CP 3440 Annual Street Light, Signal, and Signage Project.

Background:

On June 11, 2019, the City Council approved the Fiscal Year (FY) 2019-20 Adopted Operating Budget in the amount of \$247.9 million and the General Fund Budget in the amount of \$121.6 million. After adoption of the budget, staff monitored and tracked revenues and expenditures for all funds within an emphasis on the General Fund and Enterprise Funds.

On March 12, in response to the growing Coronavirus threat and the State of California's declaration of a state of emergency, City Manager Steve McHarris declared a local emergency. On March 13, the President of the United States declared a National Emergency concerning the Novel Coronavirus Disease (COVID-19) Outbreak. On Monday, March 16, 2020, the County of Santa Clara, and six of the most populous counties in the region, announced a shelter-in-place (SIP) order in light of the increased number of cases of COVID-19 that have been confirmed in Santa Clara County.

On May 5, 2020, the City Council approved to use of reserves to offset \$7.1 million in estimated net revenue loss related to COVID-19 pandemic economic impact.

On June 2, 2020, as part of the adoption of the FY 2020-21 Budget, the City Council approved doubling the target of the General Fund Stabilization Reserve from 8.33% to 16.67% of prior year actual operating expenditures. Additionally, for the Sewer and Water funds, the City Council approved Rate Stabilization Reserves with a target of 16.67% of prior year actual operating expenditures and a Public Employees Retirement (PERS) Rate Stabilization Reserve.

Analysis:

This staff report provides the final quarterly update for FY 2019-20 on budget versus actual expenditures and revenues of the General, Water and Sewer Funds, the City's major operating funds, based on unaudited financial reports as of June 30, 2020. Further, this staff report includes recommendations to close out the FY 2019-20 Budget and implement the Council approved General Fund and Utility Fund reserve policies.

Fourth Quarter Financial Status Report

The summary information below as well as the attachments provide an overview of the financial status for the General, Water, and Sewer funds for FY 2019-20 as of June 30, 2020, a variance analysis of budget versus actual expenditures and revenues for the fourth quarter of FY 2019-20 as well as prior year actual expenditures and revenues for the fourth quarter of FY 2018-19 for comparison purposes. For the General Fund, major revenue sources and expenditures as well as the use of the Unanticipated Expenditures.

Budget Amendment Recommendations

The information below describes by categories the recommended FY 2019-20 Year-End Budget Adjustment Recommendations.

1. Non-personnel Expenditure Adjustment Recommendations
 - a. Increase City Attorney's operating budget from the Affordable Housing Fund Balance for Attorney services for \$26,419 for services performed
 - b. Increase Non-Departmental operating budget from the Hetch-Hetchy Fund Balance for the Ground Lease Payment for \$258
 - c. Increase Non-Departmental operating budget from the 2008 Community Facilities Fund Balance for the administration services for \$201
 - d. Increase Public Works operating budget from the 2008 Community Facilities Fund Balance for the increased cost for water utilities in the District for \$7,732
2. Capital Improvement Project Adjustment Recommendation
 - a. Increase appropriation in CP 3440 Annual Street Light, Signal, and Signage for \$303,331 for the additional Vehicle Registration Fee monies available for a citywide sign inventory and sign replacements.

Fiscal Impact:

If Council approves the recommendations outlined in this report, the Affordable Housing fund balance will be reduced by \$26,419 from approximately \$3.03 million to \$3.0 million, the Hetch-Hetchy fund balance will be reduced by \$258 with a remaining fund balance of \$1.6 million, the 2008 Community Facilities fund balance will be reduced by \$7,933 from \$163,150 to \$155,217 and an increased budget appropriation for \$303,331 to CP 3440 Annual Street Light, Signal, and Signage from newly available Vehicle Registration Fees.

California Environmental Quality Act:

Not applicable.

☐ Check if City Council Approval required.

Meeting Date: September 01, 2020

Requested by:	Department Head: Not applicable	Date: September 01, 2020
Reviewed by:	Finance Director: Walter C. Rossmann	Date: September 01, 2020
Date approved by City Council, if required:		Confirmed by:



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	FY 2021-2030 Ten-Year General Fund Financial Forecast Update
Category:	Leadership and Support Services
Meeting Date:	9/1/2020
Staff Contact:	Walter C. Rossmann, 408-586-3111
<u>Recommendation:</u>	Accept the FY 2021-2030 Ten-Year General Fund Financial Forecast Update

Background:

On March 12, in response to the growing Coronavirus threat and the State of California's declaration of a state of emergency, City Manager Steve McHarris declared a local emergency. On March 13, the President of the United States declared a National Emergency concerning the Novel Coronavirus Disease (COVID-19) Outbreak. On Monday, March 16, 2020, the County of Santa Clara, and six of the most populous counties in the region, announced a shelter-in-place (SIP) order in light of the increased number of cases of COVID-19 that have been confirmed in Santa Clara County.

In response to the economic impact related to the pandemic, on March 27th, the President signed into law the Coronavirus Aid, Relief and Economic Security (CARES) ACT, providing \$2.2 trillion dollars of relief funds for businesses, government agencies, nonprofit organizations, and individual Americans. Additionally, the Federal Reserve implemented several monetary strategies to provide support for the flow of credit to American families and businesses.

On June 2, 2020, the City Council approved the FY 2020-21 Budget and Financial Plan solving a projected \$25 million shortfall over three fiscal years with ongoing expenditure reductions and the use of reserves. The FY 2020-21 Budget and Financial Plan assumed an economic recovery within 18 months based on data available at that time and the unprecedented federal fiscal and monetary economic stimuli injected into the economy.

Since the approval of the FY 2020-21 Budget and Financial Plan, the economic impact related to COVID-19 has worsened with an additional significant impact to the City's FY 2020-21 General Fund revenues and the City's financial outlook.

Analysis:

With the receipt of actual revenues for the quarter ending June 30, 2020, which covers the majority of time since the SIP order from mid-March, and updated revenue projections, which became available after completion of this staff report, staff updated the revenue projections for the FY 2021-2030 Ten-Year General Fund Financial Forecast (Forecast). Additionally, staff will update some expenditure information, which became available after the adoption of the FY 2020-21 Budget. Since the updated property tax information became available after completion of the staff report, the updated Forecast will be presented at the September 1 City Council meeting.

At the Sept. 1, 2020 City Council meeting, staff will present two Forecast scenarios assuming a return to regular activities by the end of Fiscal Year 2020-21 and by the end of Calendar Year 2021. Based on the updated financial Forecast, staff will also discuss potential budget strategies.

Fiscal Impact:

The fiscal impact of the updated FY 2021-2030 Ten-Year General Fund Financial Forecast will be discussed at the Sept. 1, 2020 City Council Meeting.

California Environmental Quality Act:

Not Applicable.

Recommendation:

Accept the FY 2021-2030 Ten-Year General Fund Financial Forecast Update



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Resolution to Approve and Direct the City Manager to Implement the COVID-19 Fiscal Response Strategies and Guidelines
Category:	Leadership and Support Services
Meeting Date:	9/1/2020
Staff Contact:	Walter C. Rossmann, 408-586-3111
Recommendation:	Adopt a Resolution Approving and Directing the City Manager to Implement the COVID-19 Fiscal Response Strategies and Guidelines

Background:

On March 12, in response to the growing Coronavirus threat and the State of California's declaration of a state of emergency, City Manager Steve McHarris declared a local emergency. On March 13, the President of the United States declared a National Emergency concerning the Novel Coronavirus Disease (COVID-19) Outbreak. On Monday, March 16, 2020, the County of Santa Clara, and six of the most populous counties in the region, announced a shelter-in-place (SIP) order in light of the increased number of cases of COVID-19 that have been confirmed in Santa Clara County.

In response to the economic impact related to the pandemic, on March 27th, the President signed into law the Coronavirus Aid, Relief and Economic Security (CARES) ACT, providing \$2.2 trillion dollars of relief funds for businesses, government agencies, nonprofit organizations, and individual Americans. Additionally, the Federal Reserve implemented several monetary strategies to provide support for the flow of credit to American families and businesses.

On June 2, 2020, the City Council approved the FY 2020-21 Budget and Financial Plan solving a projected \$25 million shortfall over three fiscal years with ongoing expenditure reductions and the use of reserves. The FY 2020-21 Budget and Financial Plan assumed an economic recovery within 18 months based on data available at that time and the unprecedented federal fiscal and monetary economic stimuli injected into the economy.

Since the approval of the FY 2020-21 Budget and Financial Plan, the economic impact related to COVID-19 has worsened with an additional significant impact to the City's FY 2020-21 General Fund revenues and the City's financial outlook. Therefore, on August 4, 2020, the City Council placed a ¼ cent Sales Tax Measure on the November 3rd, 2020 ballot for voter consideration in order to maintain the General Fund's financial stability and maintain important City services with a sunset of the tax in eight years and requiring independent audits and a citizens' oversight committee.

On August 18, 2020, the City Council directed staff to return with a resolution for adoption approving Fiscal Strategies and Guidelines in Response to the Economic Crisis and Related Impact on the City's Finances Caused by COVID-19

Analysis:

Based on Council direction, staff is bringing forward the COVID-19 Fiscal Response Strategies and Guidelines to ensure an effective response to the economic crisis and related impact on the City's finances caused by COVID-19 while minimizing service cuts to our community. With the adoption of the attached resolution, the City Manager is directed to implement these fiscal strategies and guidelines. The strategies and guidelines

build on the Council approved Fiscal Policies (see attachment) such as replenishing reserves with a focus on the General Fund Budget Stabilization Reserve and applying for grants. Further, the COVID-19 Fiscal Response Strategies and Guidelines are tailored to address the crisis we are facing by increasing operational efficiency and effectiveness, pursuing additional revenue sources, engaging the community and employees and outlining the next steps to determine the gravity of the additional fiscal impact of COVID-19 with updated revenue projections and bring forward budget balancing solutions for Council consideration.

COVID-19 Fiscal Response Strategies and Guidelines

1. Set aside FY 2019-20 expenditure savings in accordance with the Council approved General Fund Reserve Policies with a focus on meeting the target of the Budget Stabilization Reserve.
2. Bring forward to the Council an updated FY 2021-2030 General Fund Financial Forecast based on newly available data assuming a return to regular activities by the end of Fiscal Year 2020-21 and by the end of 2021 present potential budget balancing strategies.
3. Institute a hiring freeze except for essential positions needed to deliver critical services to the community and to respond to the pandemic and its economic and financial impact.
4. Review existing vacancies for opportunities to reorganize work groups and realize cost savings or to achieve current service level demands through alternative means.
5. Focus on business process redesign to improve employee productivity and the quality, flexibility, and cost effectiveness of service delivery (e.g., streamlining, simplifying, reorganizing functions, and reallocating resources).
6. Identify and bring forward for Council consideration City policy and ordinance changes, as applicable, that would enable/facilitate service delivery improvements or other budget balancing strategies.
7. Analyze non-personnel expenditures for cost savings opportunities.
8. Continue to track and apply for grants to offset expenditures incurred related to COVID-19 and other City services to preserve General Fund dollars.
9. Inform our residents regarding the ¼ cent Sales Tax Measure and its need to maintain financial stability and City services paid by the General Fund. Educate the community through virtual events to establish a forum for dialogue and feedback.
10. Recommend for Council approval the structure and responsibilities of the citizens' oversight committee for the ¼ cent Sales Tax Measure revenue late September/early October.
11. Include employees in department and/or City-wide budget reduction idea development.
12. Provide monthly updates on the financial status of the City's General Fund.

Next Steps

On August 20, staff received the final outstanding actual revenue receipt information for the quarter ending June 30, 2020, which allows staff to bring forward the 4th Quarter Financial Status Report for the September 1, 2020 City Council meeting. This staff report provides actual unaudited revenues and expenditures for the General Fund including allocation of expenditure savings to reserves per the City Council approved Reserve Policies.

With the receipt of actual revenues for the quarter ending June 30, 2020, which covers the majority of time since the SIP order from mid-March, staff will also present an updated FY 2021-2030 Ten-Year General Fund Financial Forecast (Forecast) and potential budget balancing strategies at the Sept. 1, 2020 City Council meeting.

Fiscal Impact:

With the direction to the City Manager to implement the COVID-19 Fiscal Response Strategies and Guidelines, staff anticipates that the financial impact on the General Fund's revenues will be mitigated and therefore minimize service reductions to our community.

California Environmental Quality Act:

Not applicable.

Recommendation:

Adopt a Resolution Approving and Directing the City Manager to Implement the COVID-19 Fiscal Response Strategies and Guidelines

Attachments:

Resolution

Fiscal Policies

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING AND
DIRECTING THE CITY MANAGER TO IMPLEMENT THE COVID-19 FISCAL STRATEGIES
AND GUIDELINES IN RESPONSE TO THE ECONOMIC CRISIS AND RELATED IMPACT
ON THE CITY'S FINANCES CAUSED BY THE PANDEMIC**

WHEREAS, on March 13, 2020, the President of the United States declared a National Emergency concerning the Novel Coronavirus Disease (COVID-19) outbreak; and

WHEREAS, on Monday, March 16, 2020, the County of Santa Clara, and six of the most populous counties in the region, announced a shelter-in-place order in light of the increased number of cases of COVID-19 that have been confirmed in Santa Clara County; and

WHEREAS, the FY 2020-21 Budget and Financial Plan assumed an economic recovery within 18 months based on data available at that time and the unprecedented federal fiscal and monetary economic stimuli injected into the economy; and

WHEREAS, on June 2, 2020, the City Council approved the FY 2020-21 Budget and Financial Plan with the adoption of Resolution No. 8976, solving a projected \$25 million shortfall over three fiscal years with ongoing expenditure reductions and the use of reserves; and

WHEREAS, the General Fund pays for important City services, such as police protection, fire and paramedic services, street operations and maintenance, library services, parks and recreation services and general municipal services to the public; and

WHEREAS, since the approval of the FY 2020-21 Budget and Financial Plan, the economic impact related to COVID-19 has worsened with local businesses still shuttered and hotel rooms remaining vacant; and

WHEREAS, this prolonged downturn has had an additional significant impact to the City's FY 2020-21 General Fund revenues, as estimated, and the City's financial outlook, as projected; and

WHEREAS, on August 4, 2020, the City Council placed a ¼ cent Sales Tax Measure on the November 3, 2020 ballot for voter consideration in order to maintain the General Fund's financial stability and maintain important City services, with a sunset of the tax in eight years requiring independent audits and a citizens' oversight committee; and

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

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City Manager is hereby directed to follow these fiscal strategies and guidelines to ensure an effective response to the economic crisis and related impact on the City's finances caused by COVID-19, while minimizing service cuts to our community:

- i. Set aside FY 2019-20 expenditure savings in accordance with the Council-approved General Fund Reserve Policies with a focus on meeting the target of the Budget Stabilization Reserve.
 - ii. Bring forward to the Council an updated FY 2021-2030 General Fund Financial Forecast based on newly-available data assuming a return to regular activities by the end of Fiscal Year 2020-21 and by the end of 2021 and present potential budget balancing strategies.
 - iii. Institute a hiring freeze except for essential positions needed to deliver critical services to the community and to respond to the pandemic and its economic and financial impact.
 - iv. Review existing vacancies for opportunities to reorganize work groups and realize cost savings or to achieve current service level demands through alternative means.
 - v. Focus on business process redesign to improve employee productivity and the quality, flexibility, and cost effectiveness of service delivery (e.g., streamlining, simplifying, reorganizing functions, and reallocating resources).
 - vi. Identify and bring forward for Council consideration City policy and ordinance changes, as applicable, that would enable/facilitate service delivery improvements or other budget balancing strategies.
 - vii. Analyze non-personnel expenditures for cost savings opportunities.
 - viii. Continue to track and apply for grants to offset expenditures incurred related to COVID-19 and other City services to preserve General Fund dollars.
 - ix. Inform our residents regarding the ¼ cent Sales Tax Measure to maintain financial stability and City services paid by the General Fund. Educate the community through virtual events to establish a forum for dialogue and feedback.
 - x. Recommend for Council approval the structure and responsibilities of the citizens' oversight committee for the ¼ cent Sales Tax Measure revenue by late September/early October.
 - xi. Include employees in department and/or City-wide budget reduction idea development.
 - xii. Provide monthly updates on the financial status of the City's General Fund.
3. The approval of this resolution does not commit the City to any action that would have the potential for causing a significant effect on the environment as this resolution will implement financial reduction strategies with no clear commitment to any future project or elimination of any projects. As a result, there is no potential impact on the environment from this action per the California Environmental Quality Act ("CEQA") Guidelines Section 15061(b)(3). Further, this action is also exempt under CEQA Guidelines Section 15378(b)(4) as other governmental fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

PASSED AND ADOPTED this _____ day of _____ 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Rich Tran, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

Fiscal Policies

General Financial Goals

1. To maintain a financially viable City that can maintain an adequate level of municipal services.
2. To maintain financial flexibility in order to be able to continually adapt to local, regional, and national economic change.
3. To maintain and enhance long-term the sound fiscal condition of the City.

Operating Budget Policies

4. The City will adopt a balanced budget by June 30th of each year.
5. An annual base operating budget will be developed by accurately and realistically projecting revenues and expenditures for the current and forthcoming fiscal year.
6. During the annual budget development process, the existing base budget will be thoroughly examined to assure cost effectiveness of the services or programs provided.
7. Once the City Council adopted the budget, the Administration tracks revenues and expenditures closely and will bring forward budget adjustment recommendations at Mid-Year, as needed.
8. Annual operating budgets will include the cost of operations of capital projects.
9. The City will avoid balancing the current budget at the expense of future budgets, unless the use of reserves is expressly authorized by the City Council.
10. The City's operating budget will be prepared on a basis consistent with generally accepted accounting principles (GAAP) except that encumbrances are considered budgetary expenditures in the year of the commitment to purchase and capital project expenditures are budgeted on a project length basis.

Revenue Policies

11. The City will try to maintain a diversified and stable revenue system to avoid over-reliance on any one revenue source.
12. Revenue estimates are to be accurate and realistic, sensitive to local, regional, and national economic conditions.
13. The City will estimate its annual revenues by an objective, analytical process utilizing trend, judgmental, and statistical analysis, as appropriate.
14. User fees will be reviewed annually for potential adjustments to recover the full cost of services provided, except when the City Council determines that a subsidy is in the public interest. To maintain cost recovery, annually, staff shall bring forward the Master Fee Schedule as part of the budget process with an escalation to reflect increases in staff cost.
15. The City will actively pursue federal, state, and other grant opportunities when deemed appropriate. Before accepting any grant, the City will thoroughly consider the implications in terms of ongoing obligations that will be required in connection with acceptance of said grant.
16. One-time revenues will be used for one-time expenditures only including capital outlay and reserves.

Expenditures Policies

17. The City will maintain levels of service, as approved by the City Council, to provide for the public well-being and safety of the residents of the community.
18. Employee benefits and salaries will be maintained at competitive levels.
19. Fixed assets will be maintained and replaced as necessary, minimizing deferred maintenance.
20. The City will develop and use technology and productivity enhancements that are cost effective in reducing or avoiding increased personnel costs.

Utility Rates and Fees

21. Water and sewer utility customer rates and fees will be reviewed annually as part of the budget process and adjusted as needed to ensure full cost recovery.
22. All utility enterprise funds will be operated in a manner similar to private enterprise. As such, the City will set fees and user charges for each utility fund at a level that fully supports the total direct and indirect cost of the activity, including depreciation of assets, overhead charges, and reserves for unanticipated expenses and capital projects.

Capital Budget Policies

23. The City will develop an annual Five-Year Capital Improvement Program (CIP) with the goal to develop and maintain infrastructure in support of existing residences and businesses and future anticipated development.
24. The CIP will identify the estimated full cost of each project which includes administration, design, development and implementation, and operating costs once the projects are completed.
25. The CIP will identify potential funding sources for each proposed capital project, prior to submitting proposed projects to the City Council for approval. When appropriate, the CIP will seek other funding sources such as State and Federal funds, private funds and leverage these funding sources with public money to help meet the highest priority community needs.
26. The City Council will provide funding for the first year of the Five-Year CIP as a component of the annual operating budget and appropriate funding at the project level. Funding for future projects identified in the Five-Year CIP may not have been secured and/or legally authorized and is therefore subject to change.
27. Each CIP project will be assigned to a project manager whose responsibilities are to monitor all phases of the project to ensure timely completion of the project and compliance with the project budget and all regulations and laws.

Debt Policies

28. The City will limit long-term debt to only those capital improvements or long-term liabilities that cannot be financed from current revenue sources.
29. The City will utilize debt financing for projects which have a useful life that can reasonably be expected to exceed the period of debt service for the project.
30. The City will utilize conservative financing methods and techniques so as to obtain the highest practical credit ratings (if applicable) and the lowest practical borrowing costs.
31. The City may utilize inter-fund loans rather than outside debt to meet short-term cash flow needs.
32. The City will not issue long-term debt to finance operating expenses and routine maintenance expenses

Reserve Policies

33. The City will fund the following reserves as follows with any General Fund audited year end operating surplus after the General Fund Contingency Reserve and General Fund Budget Stabilization Reserve requirements are met.
 - 20% to the PERS Rate Stabilization Reserve (see Policy Statement #36);
 - 20% to the General Government Capital Improvement Fund (see Policy Statement #49);
 - 10% to the Affordable Housing Community Benefit Fund (Fund 216);
 - 10% to Transportation/Transit (Fund 310); and
 - 40% to the Unassigned General Fund Reserve.
34. The City will periodically review and update reserve guidelines, to ensure that the City has sufficient reserve balances to adequately provide for emergencies, economic uncertainties, unforeseen operating or capital needs, economic development opportunities, and cash flow requirements.
35. The City will maintain a Contingency Reserve of at least 16.67% or two months of the annual operating expenditures in the General Fund to be used only in the case of dire need as a result of physical or financial emergencies and disasters as determined by the City Council. Any use of the General Fund Contingency Reserve shall require a majority vote by the City Council through the adoption of the Operating Budget or by appropriation action during the fiscal year. The City Council will set the reserve amount annually after the results of the prior fiscal year's Comprehensive Annual Financial Report (CAFR) are known. The replenishment of this reserve may also be incorporated into the annual Adopted Operating Budget if resources are available to replenish the reserve.
36. The City will maintain a General Fund Budget Stabilization Reserve with a target of 16.67%, or two months, of annual operating expenditures. The purpose of this reserve is to provide budget stability when there are fluctuations that result in lower than projected revenues and/or higher than projected expenditures that cannot be rebalanced within existing budget resources in any given fiscal year. This reserve is intended to provide a buffer, or bridge funding, to protect against reducing service levels when these fluctuations occur. This reserve will be funded only after General Fund Contingency Reserve requirements have been met. Any use of the General Fund Budget Stabilization Reserve shall require a majority vote by the City Council through the adoption of the Operating Budget or by appropriation action during the fiscal year. The City Council will set the reserve amount annually after the results of the prior fiscal year's Comprehensive Annual Financial Report (CAFR) are known. The replenishment of this reserve may also be incorporated into the annual Adopted Operating Budget if resources are available to replenish the reserve.
37. The City will maintain in the General Fund and the Water and Sewer Utility Enterprise Funds or in a Section 115 Trust a Public Employees Retirement (PERS) Rate Stabilization Reserve to be funded by 20% of any General Fund or Enterprise Funds annual operating surpluses. The City's actuary has determined that the General Fund portion of the Unfunded Actuarial Liability for the Miscellaneous Retirement Plan is 84.9% and for the Water and Sewer Utility Enterprise Funds portion of the Unfunded Actuarial Liability for the Miscellaneous Retirement Plan is 8.5% and 6.6%, respectively. The General Fund portion of the contribution to the PERS Rate Stabilization Reserve shall only be funded after General Fund Contingency Reserve and the General Fund Budget Stabilization Reserve requirements have been met. The Utility Funds' portion of the contribution to the PERS Rate Stabilization Reserve shall be consistent with the General Fund contributions and only be funded after the Capital Reserve and Rate Stabilization Reserve (RSR) requirements in the Water and Sewer utility funds have been met. The City may use the PERS Rate Stabilization Reserve to fund either the annual actuarially determined contribution amount in lieu of a contribution amount derived from a percentage of salary, pay down unfunded pension liabilities with CalPERS, or reduce the length of pension cost amortization schedules with CalPERS. Any savings or additional costs resulting from the budgeting methodologies shall benefit or be adjusted from the PERS Rate Stabilization Reserve. This reserve may also be drawn on if the required employer contribution rates exceed previous year's contribution rates by more than 3% of payroll. In this instance, the City Council must approve utilization of this reserve at the time of the budget hearing.

38. Annually, the City will endeavor to transfer \$500,000 from the General Fund to the Storm Drain Fund to replace and repair storm drain infrastructure.
39. The City will maintain a retiree medical benefits account established by an irrevocable trust and fund the annual actuarially determined contribution. Any savings resulting from the budgeting methodologies shall be used to pay off the actuarial unfunded liability.
40. The City will maintain a General Liability and Workers' Compensation Claims Reserve of \$2 million in the General Fund, which will be reviewed for adjustments annually.
41. The City will maintain a Rate Stabilization Reserve (RSR) in the Water and Sewer utility enterprise funds with a goal of at least 16.67% or two months of the respective annual operating expenditures after the Capital Reserve requirements have been met. The RSR shall be used to mitigate the effects of occasional shortfalls in revenue or unanticipated expenditures that cannot be rebalanced within existing budgeted resources in any given fiscal year. Revenue shortfalls may result from a number of events such as weather factors (wet weather or drought events and natural disasters), increased water conservation, and poor regional economic conditions. The Rate Stabilization Reserves should be used to assist in smoothing out revenue variability resulting from these factors and ensure that adequate resources are available during such times that might otherwise require large rate increases to utility customers. The City Council will set the reserve amounts annually after the results of the prior fiscal year's Comprehensive Annual Financial Report (CAFR) are known. The RSR funding will be phased within five years, or sooner, as part of the fiscal year-end closing process. Thereafter, the replenishment of these reserves may also be incorporated into the annual Adopted Operating Budget if resources are available to replenish the reserves.
42. The City will maintain capital reserves in the Water and Sewer utility enterprise funds to provide for future capital projects and unanticipated emergencies, such as water main break repairs, pump station repairs. The City will attempt to maintain a capital reserve of approximately 30% of the annual operating and maintenance expenses for the Water utility fund and 25% of the annual operating and maintenance expenses for the Sewer utility fund. The City Council will set the reserve amounts annually after the results of the prior fiscal year's Comprehensive Annual Financial Report (CAFR) are known.
43. In addition, the City will maintain Infrastructure Replacement Funds for both water and sewer utilities. The goal is to accumulate at least \$2 million a year from each utility fund to set-aside for replacement of infrastructure as the infrastructure reaches the end of its useful life after Capital Reserve, the Rate Stabilization Reserve, and CalPERS Rate Stabilization Reserve requirements have been met.
44. Reserve levels for Debt Service Funds will be established and maintained as prescribed by the bond covenants authorized at the time of debt issuance.
45. The City will maintain a capital reserve in an Equipment Replacement Fund, set up as an internal service fund, to enable the timely replacement of vehicles and depreciable equipment as cost. The City will maintain a minimum fund balance of at least 30% of the replacement costs for equipment accounted for in this fund.
46. Annually, the City will endeavor to transfer \$300,000 from the General Fund to the Technology Replacement Fund set aside in a reserve with a target of \$5 million. This reserve shall be used to accrue funding for technology projects such as the major rehabilitation or replacement of the City's technology infrastructure or new technology initiatives.
47. The City will maintain a capital reserve for Facilities Replacement with a target of \$10 million. This reserve shall be used to accrue funding for major rehabilitation or replacement of City facilities (buildings/ structures). Eligible uses of this reserve may include both the direct funding of public facility improvements and the servicing of related debt. The City Council will set the reserve amount annually after the results of the prior fiscal year's Comprehensive Annual Financial Report (CAFR) are known. The replenishment of this reserve may also be incorporated into the annual Adopted Operating Budget as resources are available to replenish the reserve.

48. The City will maintain a capital reserve for Artificial Turf Replacement with a target of \$2 million and an annual set-aside amount of at least \$230,000 until the target is reached. This reserve shall be used to accrue funding for the normal depreciation expense of the City's artificial turf fields over their useful life. Eligible uses of this reserve may include the replacement of the City's artificial turf fields so as to eliminate large spikes in capital expenses and normalize annual costs. The City Council will set the reserve amount annually after the results of the prior fiscal year's Comprehensive Annual Financial Report (CAFR) are known. The replenishment of this reserve may also be incorporated into the annual Adopted Operating Budget as resources are available to replenish the reserve.
49. The City may direct any loan repayments from the former Redevelopment Agency and residual property tax distributions from the Redevelopment Property Tax Trust Fund to a General Government Capital Improvement Fund to address the funding needs of capital improvement projects.
50. The City may direct 20% of any General Fund audited year end operating surplus after General Fund Contingency and General Fund Budget Stabilization reserve requirements have been met to a General Government Capital Improvement Fund to address the funding needs of capital improvement projects.

Investment Policies

51. The Finance Director/City Treasurer will annually render an investment policy for City Council's review and modification as appropriate. The review will take place at a public meeting and the policy shall be adopted by resolution of the City Council.
52. City funds and investment portfolio will be managed in a prudent and diligent manner with emphasis on safety, liquidity, and yield, in that order.
53. Reports on the City's investment portfolio and cash position shall be developed by the Finance Director/City Treasurer and reviewed by the City Council quarterly.
54. Generally Accepted Accounting Principles require that differences between the costs of the investment portfolio and the fair value of the securities be recognized as income or losses in a government's annual financial report. These variances shall not be considered as budgetary resources or uses of resources unless the securities are sold before maturity or the values of the investments are permanently impaired.

Accounting, Auditing, and Financial Reporting Policies

55. The City's accounting and financial reporting systems will be maintained in conformance with generally accepted accounting principles as they apply to governmental accounting.
56. An annual audit will be performed by an independent public accounting firm with the subsequent issuance of a Comprehensive Annual Financial Report, within six months of the close of the previous fiscal year.
57. Quarterly financial reports and status reports will be submitted to the City Council within six weeks after the end of each Quarter and be made available to the public. The report will provide an analysis of budgeted versus actual revenues and expenditures, on a year-to-date basis. At the minimum, the report shall include the status of the General Fund and Water and Sewer utility fund revenues and expenditures.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve Side Letter No. 4 between the Milpitas Police Officers Association (MPOA) and the City of Milpitas effective Fiscal Year 2020-2021
Category:	Leadership and Support Services
Meeting Date:	9/1/2020
Staff Contact:	Francine Hunt, 408-586-3085
Recommendation:	Approve Side Letter No. 4 between the Milpitas Police Officers Association (MPOA) and the City of Milpitas regarding the MPOA Retiree Dependent Health Care Fund for Fiscal Year 2020-2021

Background:

The recent Agreement between the City and the MPOA regarding the sharing of funds contributed to the MPOA Retiree Dependent Health Care Fund with Police Command Staff expired on June 30, 2020. This Side Letter contained a provision that absent equivalent percentage contributions, the original agreement indicated the program would be inoperable. In an subsequent Side Letter Agreement executed on June 18, 2019, the City and the MPOA (Side Letter No. 3) mutually acknowledged that the percent contributions into the "MPOA Retiree Dependent Health Care Fund" and the "Police Command Staff Retiree Dependent Health Care Fund" differed by 1% of payroll and that the Police Command Staff percent contributions had not increased to the same levels as the MPOA. Although the original agreement conditioned the continuance of the program based on equivalent contributions, the parties agreed to continue the program, thereby waiving the requirement for equivalent contributions. The Side Letter Agreement and the prior sharing of funds arrangement set forth in the prior Side Letter would cease at the end of Fiscal Year 2019-20. Side Letter No. 4 continues that waiver and extends the terms through June 30, 2021.

Analysis:

Side Letter No. 4 acknowledges the Police Command Staff percent contributions have not increased to the same percent contributions as the MPOA in Fiscal Year 2019-2020, but it continues the payroll and benefits contributions, as well as the sharing of funds arrangement between the former "MPOA Retiree Dependent Health Care Fund" and the former "Police Command Staff Retiree Dependent Health Care Fund" and the transfer of existing funds and future contributions into the Trust, regardless of the percentage contribution variance between the MPOA and Police Command Staff. The equitable sharing of funds set forth in the prior Side Letter executed on September 27, 2018 and continued in Side Letter No. 3 executed on June 18, 2019 are being requested to continue again in Fiscal Year 2020-2021 and will sunset June 30, 2021.

Fiscal Impact:

There is no additional fiscal impact for continuing to allow the equitable sharing of the Retiree Dependent Care funds between MPOA and Police Command Staff.

California Environmental Quality Act:

The action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act pursuant to CEQA Guidelines section 15378(b)(5) in that it is a government organizational or administrative activity that will not result in direct or indirect changes in the environment.

Recommendation:

Approve Side Letter No. 4 between the Milpitas Police Officers Association (MPOA) and the City of Milpitas regarding the MPOA Retiree Dependent Health Care Fund for Fiscal Year 2020-2021

Attachment:

Side Letter No. 4 between the Milpitas Police Officers Association (MPOA) and City of Milpitas

Side Letter No. 4

To the Memorandum of Understanding between Milpitas Police Officers Association (MPOA) and City of Milpitas September 1, 2020

Subject to the City of Milpitas City Council's approval, the City of Milpitas ("City") and the Milpitas Police Officers Association ("MPOA"), hereby agree to a modification of the terms and conditions set forth in the Memorandum of Understanding ("MOU") with original term from January 1, 2017 through December 31, 2021. This Side Letter No. 4 augments the current MOU as follows:

1. MPOA and the City have previously agreed to provisions for the funding and administration of an "MPOA Retiree Dependent Health Care Fund." These provisions are contained in Section 24.09 of the MOU.

2. Currently, MOU Section 24.09 is implemented by the City placing the amounts described in MOU Section 24.09.1 into a trust called the Milpitas Police Officers Association Benefits Trust ("Trust") based on Side Letter No. 3 executed on June 18, 2019. The Trust is managed by a Third Party Administrator ("TPA") who administers the operations of the Trust and all Trust-controlled funds under the direction and oversight of the Milpitas Police Officers Association Benefits Trust Board of Trustees.

3. Side Letter No. 3 executed on June 18, 2019 also authorized the City to transfer existing funds in and future contributions to the "Police Command Staff Retiree Dependent Health Care Fund" into the Trust, in order to continue the symbiotic relationship between the former "MPOA Retiree Dependent Health Care Fund" and the former "Police Command Staff Retiree Dependent Health Care Fund."

4. Previously, the City and the MPOA agreed through a prior Side Letter executed on September 27, 2018 that the percent contributions into the "MPOA Retiree Dependent Health Care Fund" and the "Police Command Staff Retiree Dependent Health Care Fund" differed by 1% of payroll. The prior agreement was that if the Police Command Staff percent contributions did not increase to the same percent contributions as the MPOA, the prior Side Letter executed on September 27, 2018 would become inoperable, and the sharing of funds arrangement set forth in the prior Side Letter executed on September 27, 2018 shall cease at the end of the Fiscal Year 2018-2019.

5. Side Letter No. 3 executed on June 18, 2019 acknowledged the Police Command Staff percent contributions had not increased to the same percent contributions as the MPOA in the Fiscal Year 2018-2019, but it continued the payroll and benefits contributions, as well as the sharing of funds arrangement between the former "MPOA Retiree Dependent Health Care Fund" and the former "Police Command

Staff Retiree Dependent Health Care Fund” and the transfer of existing funds and future contributions into the Trust, regardless of the percentage contribution variance between the MPOA and Police Command Staff. The equitable sharing of funds arrangement set forth in the prior Side Letter executed on September 27, 2018 was extended into Fiscal Year 2019-2020 by Side Letter No. 3 executed on June 18, 2019 and was slated to cease effective June 30, 2020.

6. This Side Letter No. 4 acknowledges the Police Command Staff percent contributions have not increased to the same percent contributions as the MPOA in Fiscal Year 2019-2020, but it continues the payroll and benefits contributions, as well as the sharing of funds arrangement between the former “MPOA Retiree Dependent Health Care Fund” and the former “Police Command Staff Retiree Dependent Health Care Fund” and the transfer of existing funds and future contributions into the Trust, regardless of the percentage contribution variance between the MPOA and Police Command Staff. Therefore, the equitable sharing of funds set forth in the prior Side Letter executed on September 27, 2018 and continued in Side Letter No. 3 executed on June 18, 2019 shall continue in Fiscal Year 2020-2021 and will cease effective June 30, 2021.

7. Through a separate, employee-funded deduction and contribution arrangement, MPOA members can elect to contribute post-tax monies to a Reserve Dependent Health Care fund managed by the MPOA. This Side Letter does not impact the Reserve Dependent Health Care fund. City will continue to perform requested deductions for those employees who request them and remit such funds to MPOA in accordance with current procedures.

8. MPOA shall hold the City harmless, and shall fully and promptly reimburse the City for any fees, costs, charges, or penalties incurred in responding to or defending against claims, disputes, challenges which are actually brought against the City or any of its agents in connection with the transfer of funds agreed to in this Side Letter, or in connection with the administration of the former “MPOA Retiree Dependent Health Care Fund” and the former “Police Command Staff Retiree Dependent Health Care Fund,” including the transfer of existing and/or future funds to the Trust.

9. Except as modified above, the terms and conditions of the MOU (including any prior Side Letter) shall remain in effect as provided therein.

Dated: _____
Alex Prince, Milpitas Police Officers Association President

Dated: _____
Armando Corpuz for the Police Command Staff

Dated: _____
Francine Hunt, Employee Relations Officer

Dated: _____
Steve McHarris, City Manager

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

Request No.	Topic	Submitted by:	A, F, or CM	Date requested or Rec'd Form	STATUS and/or DATE scheduled on City Council meeting agenda:
2020					
8	Discussion of MinuteMan as City's image, when City branding comes to City Council	Phan	A	8/18/2020	
7	Resolution on financial status of the City, steps to be taken	Nuñez	A	8/18/2020	Resolution on 9/01/2020 agenda
6	Consider adding state certification NEC for electrical work done in the City (safety)	Dominguez	A	6/30/2020	
5	Establish a Day Worker Program	Montano	A	6/16/2020	
4	Form a Historical Commission	Montano	A	6/2/2020	
3	Consider satellite consular offices	Montano	A	6/2/2020	
2	(possible ban on vaping - no) Restrict smoking in multi-unit bldgs - yes	Montano	A	1/7/2020	Ordinance pending. Discussed 3/03/2020 Affirmed 6/02/2020
2019					
1	Establish Railroad quiet zone	Tran, Montano	F	9/17/2019	8/04/20, Vice Mayor to work with City Manager to schedule this topic

2020	TOPICS SCHEDULED OR COMPLETED				
	Require implicit bias training for City Council, Commissioners & staff	Dominguez	A	6/16/2020	approved 8/18/2020
	Read "Code of Conduct" aloud prior to each City Council meeting	Montano	A	6/2/2020	approved 8/18/2020
	Discussion/staff report on Beautify Milpitas, graffiti abatement, resources	Montano	A	6/30/2020	8/18/20: Directed staff to develop a program requiring min. staff resources & bring back to Council
	Celebrate Mexican Independence Day annually on September 16	Montano	A	6/2/2020	approved on consent 8/18/2020

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

Consider change in term limits for Mayor + Councilmembers	Montano	A	6/16/2020		8/4/2020. Voted 3 -2 to pursue
Discussion of campaign finance reform and/or Open Government Ordinance	Phan	A	6/30/2020		withdrawn @8/4/2020 CC meeting
Community Workforce Agreement	Nuñez	A	2/18/2020		8/4/2020: directed staff to draft agreement, find CIP projects to apply to, then work with Labor org.
Responsible Construction Ordinance	Phan	A	2/4/2020		8/4/2020: City Atty shall return with draft Ord.
List of city charges/costs that could be waived for small businesses	Dominguez	A	6/16/2020		6/30/2020 info memo withdrawn, covered by other govt
Emergency item for next agenda: extend tenant eviction protections	Dominguez	A	6/16/2020		
Discussion on possible tax measures	Tran, Phan	A	4/21/2020		5/15/2020
Support for Laura's Law	Phan	A	2/4/2020		5/19/2020
Resolution in support of elimination of discrimination v. women	Dominguez	A	1/7/2020		5/19/20 Reso. adopted. 8/04/20 CEDAW Ord. adopted
Request for Dumpster Days	Tran	A	1/7/2020		5/12/2020 in FY 2020-21 budget
Adopt Resolution similar to County's re: xenophobia, discrimination	Dominguez	A	4/21/2020		5/5/2020
Support community distribution of masks	Dominguez	A	4/7/2020		4/21/2020
Proclamation and support for face coverings	Montano	A	4/7/2020		4/21/2020. CC directed City Manager to issue regs
Establish Milpitas coronavirus testing site	Phan	A	4/7/2020		done
Consider Community Museum and Park on Main St.	Nuñez, Phan	F	8/20/2019	to Rules 8/23/2019	3/24 and 6/02/2020. Pending
Discuss having 4th of July parade	Nuñez	A	2/18/2020		not under discussion
Parade for MHS Trojans Football	Tran, City Manager	A	1/21/2020		1/28/2020
Report on speed cameras like Fremont (radar displays) - no enforcement	Phan	A	1/7/2020		1/28/2020, 3/24/2020, 4/14/2020
Street/traffic calming update	Nuñez	A	1/7/2020		3/3/2020

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

	Report on parking in The Pines	Nuñez	A	1/7/2020		2/18/2020
	Info. on new SB 50 (housing, transit bill)	Phan	A	1/7/2020		by memo to City Council
2019	TOPICS SCHEDULED OR COMPLETED				To Rules Subcom	
	Have "Dumpster Days"	Tran, Montano	F	9/17/2019	9/20/2019	5/12/2020 in FY 2020-21 budget
	Rename portion of Dixon Landing Rd. as Barack Obama Blvd	Nuñez, Phan	F	8/20/2019	8/23/2019	deferred indefinitely
	Maintain Dagupan, P.I. as a Sister City	Tran, Montano	F	9/17/2019	9/20/2019	12/17/2019
	Add Green Bike Lanes	Tran, Montano	F	9/17/2019	9/20/2019	done - in CIP
	Rename Augustine Park to include "Sunnyhills"	Tran, Montano	F	9/17/2019	9/20/2019	2/4/2020
	Community Theater, perhaps with MUSD	Nuñez, Phan	F	8/20/2019	8/23/2019	5/14/2020 @CIP Study Session
	policy for Proclamations and Commendations	Nuñez, Phan	F	8/20/2019	8/23/2019	withdrawn 6/02/2020
	policy for Social Media	Nuñez, Phan	F	8/20/2019	8/23/2019	withdrawn 6/02/2020

A: @Announcements

F: on a Form

CM: to/from City Manager

PREVIEW LIST OF AGENDA ITEMS

MILPITAS CITY COUNCIL AGENDA

SEPTEMBER 15, 2020

CONSENT CALENDAR

- 1) Receive City Council calendars for September and October 2020 (City Clerk)
- 2) Approve City Council meeting minutes of August 27 and September 1, 2020 (City Clerk)
- 3) Adopt a Resolution Annexing parcels into CFD No. 2008-1, approve Final Map for 551 Lundy, SIA and parcel grant (Kan Xu)
- 4) Adopt a Resolution Granting Acceptance of Skate Park & Concession/Restroom/ Storage Buildings, Projects No. 5111, No. 3424, No. 6133, Authorize City Engineer to File Notice of Completion and Issue Notice of Final Acceptance (Steve Erickson)
- 5) Adopt a Resolution Granting Acceptance of Alviso Adobe Renovation (Phase V – Interior Restoration, Project No. 5055, authorize City Engineer to file NOC and authorize him to issue a Notice of Final Acceptance (Steve Erickson)
- 6) Accept 2019 State Homeland Security Grant; approve a budget appropriation into Police FY 2020-21 operating budget; and Adopt a Resolution authorizing sole source purchase from Delta (John Torrez)
- 7) Authorize City Manager to Execute Release and Settlement Agreements with Valley Water District, Kuskokwim Corp and Suulutaaq, Inc. for Reimbursement for Repairs to LLMD No. 98-1 (Steve Erickson)
- 8) Accept Office of Traffic Safety Grant (Milpitas Police Dept. staff)
- 9) Approve Payment of Invoice to Santa Clara County for Cal-ID (Frank Morales)

COMMUNITY DEVELOPMENT

- 10) Progress Update of Milpitas Metro (TASP) Plan (Ned Thomas)

LEADERSHIP

- 11) Designate Voting Delegate and Alternate(s) for the General Assembly at the annual League of California Cities Conference in October (City Clerk)
- 12) Approve Master Lease Agreements with Verizon and AT&T for 5G technology (Mike Luu)
- 13) Approve Social Media Policy (Ashwini Kantak, Chris Diaz)

REPORT

- 14) Review list of Future Agenda Items Requested by City Councilmembers (Mayor/City Clerk)

COMMISSION REPORT

- 15) From Youth Advisory Commission, recommendation for annual scholarships (Rosana Cacao)

PREVIEW NEXT AGENDA

- 16) Preview list of items for October 6, 2020 (City Clerk)