



**MILPITAS CITY COUNCIL MEETING AGENDA
JANUARY 2, 2007**

**6:00 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)
455 E. CALAVERAS BOULEVARD**

SUMMARY OF CONTENTS

- I. CALL TO ORDER/ROLL CALL (6:00 p.m.)**
- II. ADJOURN TO CLOSED SESSION**
 - (1) CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**
(Pursuant to CA Government Code §54957.6) City Negotiator: Carmen Valdez
Employee Groups: International Association of Fire Fighters (IAFF), Milpitas Employees Association (MEA), Milpitas Supervisors Association (MSA)
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
 - 2) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
(Pursuant to California Government Code 54956.9(a))
City of Milpitas vs. Turner Construction et al, Santa Clara County Superior Court Case No. 103CV815946 Consolidated with Case No. 103CV0084002
- III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Govt. Code Section 54957.1, including the vote on abstention of each member present**
- IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- V. INVOCATION (Councilmember Polanski)**
- VI. APPROVAL OF MINUTES (December 19, 2006)**
- VII. SCHEDULE OF MEETINGS**
- VIII. CITIZENS FORUM**

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

- IX. ANNOUNCEMENTS**
- X. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XI. APPROVAL OF AGENDA**
- XII. CONSENT CALENDAR (Items with Asterisks)**
- XIII. PUBLIC HEARING**
 - 1. Weed Abatement Public Hearing and Adoption of a Resolution Directing Abatement Program (Staff Contact: Patricia Joki, 586-3370)**

XIV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

- RA1. Call to Order by the Chair/Mayor**
- RA2. Roll Call**
- RA3. Approval of Minutes (December 19, 2006)**
- RA4. Approval of Agenda and Consent Calendar**
- *RA5. Approve Contract Change Order: San Jose Blue for Reprographic Services for the New Library, Project No. 8162 (Staff Contact: Mark Rogge, 586-3403)**
- *RA6. Authorize City Manager to Execute Agreement Amendment No. 1, Griffith & Associates, Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals: Ball Park Fence Field Extension, Project No. 5064 (Staff Contact: Greg Armendariz, 586-3317)**
- RA7. Agency Adjournment**

XV. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

City Council

- 2. Report Regarding Status of Milpitas Pre-School (Contact: Mayor Jose Esteves, 586-3029)**
- * 3. Approve Mayor Esteves' Recommendations for Appointments to City Commissions (Contact: Mayor Esteves, 586-3029)**

Arts Commission

- * 4. Approve 2006-07 Cultural Arts Support Program Grant Budget Change for San Khau Viet CALI (Staff Contact: Renee Lorentzen, 586-3286)**

Economic Development Commission

- * 5. Request for Parking Task Force and Analysis (Staff Contact: Diana Whitecar, 586-3059)**

XVI. ORDINANCES

- * 6. Waive Second Reading and Adopt Ordinance No. 38.770, Amending the Zoning Ordinance Text Amendment (ZT2006-6) to Establish an Institutional Zone Designation, and Amend the "C1" and "C2" Zones to Allow a Conditional Use of a Farmers Market (Staff Contact: Cindy Maxwell, 586-3287)**
- * 7. Waive Second Reading and Adopt Traffic Ordinance 43.205: Amendment to the Traffic Code, to Change the Speed Zones Boundaries and Speed Limits on Various Streets (Staff Contact: Jaime Rodriguez, 586-3335)**
- * 8. Waive Second Reading and Adopt Ordinance No. 262.4 (Contacts: Vice Mayor Livengood, 586-3000 and Councilmember Gomez, 586-3031)**

XVII. RESOLUTIONS

- 9. Adopt Resolution Approving Memorandum of Understanding with the Mid-Management and Confidential Unit (Staff Contact: Carmen Valdez, 586-3086)**
- * 10. Adopt Resolution Requesting the Allocation Grant Funding from the Santa Clara Valley Transit Authority Community Design for Transportation Capital Grant Program for the**

Midtown Transportation & Streetscape Improvements Phase I: North Main Street from Weller Lane to Carlo Street Project (Staff Contact: Jaime Rodriguez, 586-3335)

- * 11. **Adopt Resolution Granting Initial Acceptance: Sewer Deficiency and Structural Correction Program (Open Cut), Project No. 6073 (Staff Contact: Greg Armendariz, 586-3317)**

XVIII. BIDS AND CONTRACTS

- * 12. **Authorize City Manager to Execute Cooperative Agreement between the City and Valley Transportation Authority for the Landscaping of Route 237/I-880 Interchange and McCarthy Blvd Median at I-880 (Staff Contact: Greg Armendariz, 586-3317)**
- * 13. **Approve Agreement with Beck's Trucking Consolidated for a Debris Box (Staff Contact: Marilyn Nickel, 586-3347)**
- * 14. **Approve Encroachment Agreement with Union Pacific Railroad Company, a Delaware Corporation, for installation of Two Streetlights Foundations within the Railroad Company's right-of-way (Staff contact: Mehdi Khaila, 586-3328)**
- * 15. **Approve Right-of-Way Agreement with Santa Clara Valley Water District and KB Home South Bay, Inc. for Project No. 3160 (Staff Contact: Mehdi Khaila, 586-3328)**
- * 16. **Approve a Contract Extension to the agreement with CSG Consultants, Inc. for an Amount Not-To-Exceed \$15,000 for Fire Department Inspection Services (Staff Contact: Patricia Joki, 586-3370)**
- * 17. **Approve a Consulting Services Agreement Between the City of Milpitas and the Milpitas Unified School District (Staff Contact: Chris Schroeder, 586-3161)**

XIX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, JANUARY 16, 2007, AT 7:00 P.M.**

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, boards, councils and other agencies of the City exist to conduct the people's business.

This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN

GOVERNMENT ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE,

CONTACT THE OPEN GOVERNMENT COMMISSION

at the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035

E-mail: rpioroda@ci.milpitas.ca.gov / Fax: 408-586-3030 / Phone: 408-586-3040

A free copy of the Open Government Ordinance is available from the City Clerk's Office or by visiting the City's website www.ci.milpitas.ca.gov, select Open Government Ordinance under News Features.

BECOME A CITY COMMISSIONER!

Currently, there are openings on the following Commissions:

Citizens Emergency Preparedness Advisory Commission

Economic Development Commission (rep. for Hotel Industry)

Mobile Home park Rental Review Board

Recycling and Source Reduction Advisory Commission (alternate)

Sister Cities Commission (alternate)

Applications are available online at www.ci.milpitas.ca.gov or outside the City Council Chambers.

Contact the City Clerk's Office (586-3003) for more information.

AGENDA REPORTS

XIII. PUBLIC HEARING

1. Weed Abatement Public Hearing and Adoption of a Resolution Directing Abatement Program (Staff Contact: Patricia Joki, 586-3370)

Background:

At its meeting of December 5, 2006, the Council adopted Resolution Number 7642 declaring weeds on certain described properties to be a public nuisance, and set a public hearing for January 2, 2007 to hear objections. A copy of the resolution was forwarded to the Santa Clara County Agricultural Commissioner. A notice for the public hearing was published and property owners mailed a notice of the proposed abatement by the County. The purpose of the public hearing is for property owners who object to the removal of the weeds to state their objections before the weeds are removed and the costs made a lien upon the property. A list of properties to be abated is included in the Council's agenda packet along with a resolution directing the County Agricultural Commissioner to abate the weeds.

Recommendation:

1. Open Public Hearing for testimony, and close the Public Hearing.
2. Adopt a resolution directing the County Agricultural Commissioner to abate the nuisance, keep an account of the cost, and embody such account in a report and assessment list to the City Council in accordance with the Milpitas Municipal Code.

XIV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor

RA2. Roll Call

RA3. Approval of Minutes (December 19, 2006)

RA4. Approval of Agenda and Consent Calendar

***RA5. Approve Contract Change Order: San Jose Blue for Reprographic Services for the New Library, Project No. 8162 (Staff Contact: Mark Rogge, 586-3403)**

Background:

On October 17th, the City Council/RDA Board awarded the reprographic services contract for the Library project to San Jose Blue. The contract for printing services during the Library monetary bid process was estimated in the amount of \$27,000.

During the bidding process, the actual quantity of printing exceeded the estimated amount, due to the large number of subcontractors who purchased plans at a discounted fixed fee price of \$100 per plan set, and delivery costs of addenda that were not included in the original estimate. Staff recommends approval of a change order for the extension of printing services in an amount of \$43,000.00. This provides printing services during the construction process that will also be necessary. There are sufficient funds in the project budget and cost plan for this purpose.

Recommendation: Authorize staff to approve a contract change order in the amount of \$43,000.00 to San Jose Blue for Reprographic Services for the New Library Project, No. 8162.

***RA6. Authorize City Manager to Execute Agreement Amendment No. 1, Griffith & Associates, Approve Plans and Specifications and Authorize the Advertisement for**

Bid Proposals: Ball Park Fence Field Extension, Project No. 5064 (Staff Contact: Greg Armendariz, 586-3317)

Background:

On September 29, 1999, the City Council awarded a consultant contract to Arbegast, Newton and Griffith (currently known as Griffith & Associates) for the design of the Ball Park Fence Field Extension Project. Staff recommends that Griffith Associates revise the design to accommodate the current fence height requirements of Association of Bay Area Government. An agreement amendment is proposed for these additional services not to exceed \$5,410.00, which is considered reasonable for the work. There are sufficient funds in the project budget.

Plans and specifications for the subject project have been completed in accordance with the approved five-year Capital Improvement Program (CIP). The project provides for extension of fence height at the Sports Center ball fields to meet ABAG height recommendations. The project also provides for fan protective covers at the California Landing Park ball fields.

The Engineer's Estimate for the work is approximately \$205,000, and funds are available in the project budget. A copy of the project plan title sheet is included in the Council's agenda packets. Complete plans and specifications are available for review in the office of the City Engineer.

Recommendations:

1. Authorize City Manager to Execute Agreement Amendment with Griffith & Associates, in the amount of \$5,410.00, subject to approval as to form by the City Attorney.
2. Approve plans and specifications
3. Authorize advertising project for bid proposals.

RA7. Agency Adjournment

XV. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

City Council

2. Report Regarding Status of Milpitas Pre-School (Contact: Mayor Jose Esteves, 586-3029)

Background: Mayor Esteves requested an update on the status of the Milpitas Pre-school, and a review of issues brought forward by staff at the last two Council meetings.

Recommendation: Hear report of Mayor Esteves.

*** 3. Approve Mayor Esteves' Recommendations for Appointments to City Commissions (Contact: Mayor Esteves, 586-3029)**

Background: Mayor Esteves recommends the following Milpitas residents be appointed/re-appointed as noted below:

Citizens Emergency Preparedness Advisory Commission

Appoint Lori Bersabe (current Alternate No. 1) as a regular member to a term that expires in June 2007.

Appoint Jaime Odena (current Alternate No. 2) to Alternate No. 1 to a term that expires in June 2007.

Appoint Michelle Celones as Alternate No. 2 to a term that expires in June 2007.

Senior Advisory Commission

Re-appoint Bernice Wrinkle as Alternate No. 2 to a term that expires in December 2008.

Planning Commission

Appoint Gurdev Sandhu to a term that expires in December 2009.

Appoint Bill Ferguson to a term that expires in December 2009.

Appoint Tim Chang as Alternate to a term that expires in December 2009.

Telecommunications Commission:

Re-appoint William Lam to a term that expires in January 2009.

Re-appoint Satish Bansal to a term that expires in January 2009.

Re-appoint Roger Shaw as Alternate #1 to a term that expires in January 2009.

Recommendation: Move to approve the Mayor's recommended Commissions appointments/re-appointments.

Arts Commission

- * 4. **Approve 2006-07 Cultural Arts Support Program Grant Budget Change for San Khau Viet CALI (Staff Contact: Renee Lorentzen, 586-3286)**

Background:

At the August 1, 2006, City Council meeting, the City Council approved San Khau Viet CALI's Cultural Arts Support Program (CASP) Grant Proposal in the amount of \$1,380.00, for performance space rental fees and other expenses for two performances of their original play. On November 7, 2006, San Khau Viet CALI informed staff that they would be making the following changes to their grant project:

- Change performance location from Calaveras Repertory Theater to the Milpitas Community Center.
- Reducing their performances from two performances to one.

Per the CASP Grant guidelines, the proposed grant changes required City Council approval. The Commission reviewed San Khau Viet CALI's grant program changes at their December 11, 2006, meeting, and recommended deleting monies for the indicated \$300.00 "Performance Space Rental" from San Khau Viet CALI's budget, making their new CASP Grant Budget \$1,080.00.

Recommendation: Approve San Khau Viet CALI's revised CASP Grant Budget in the amount of \$1,080.00.

Economic Development Commission

- * 5. **Request for Parking Task Force and Analysis (Staff Contact: Diana Whitecar, 586-3059)**

Background: The Economic Development Commission (EDC) created four subcommittees to ensure the implementation of the Economic Strategic Action Plan approved by the Council in February 2006. The Business Development Subcommittee is responsible for the Goals to Retain and Support Existing and New Businesses and Diversify Milpitas' Economic Base. One of the specific actions to address the goals is to evaluate the City's existing zoning ordinance to identify policies that conflict with maintaining a healthy business community such as parking standards.

At the meeting on November 13, 2006 the EDC discussed parking standards and some of the challenges associated with implementing the City's zoning ordinance as it relates to business retention, expansion and the City's image. The Commission identified several aspects of the implementation of the current parking standards that creates conflicts for businesses, residents and customers.

1. **Design Criteria:** Application of existing parking standards does not allow design flexibility to account for irregular shaped lots or small lots. As building uses change to reflect market

conditions, existing parking conditions are impacted, even when there is enough parking on paper to meet the business demands. Commercial businesses cannot use compact parking spaces to meet parking demand. Together with more stringent landscaping requirements the parking ordinance has inadvertently created punitive restrictions for businesses on small and irregular sized properties.

2. Use Analysis: The Council recently considered the impacts of parking from a new use on existing businesses with the parking challenges created when King Crab requested a dance floor. This type of parking over absorption occurs in other commercial districts in the city. For example, some retail business owners along Main Street have had to hire private security to protect parking spaces for their customers when the religious services are held during business hours. Businesses are impacted when other uses become heavily utilized and may not have enough parking for their attendees.
3. Town home and Condominium Parking: The Commission is concerned that the current ordinance does not reflect the residential parking impacts in the new town home and condominium constructions. In particular, Commissioners have found that the tandem parking provided in some complexes cannot accommodate larger sedans, that residents tend to use visitor parking rather than the tandem spaces for two cars and that the visual impact of the on-street congestion in the smaller, private streets does not enhance the City's image as a safe family-oriented community.

The Commission requests that the City Council appoint a Task Force to review and update the City's parking ordinance and that the review consider the issues addressed in this recommendation. The Commission believes that general land use categories may minimize the true amount of parking generated by the actual use on the true capacity of a particular building. As part of the study, the Commission request that a survey of other cities' parking standards be completed and evaluated against known use conditions and capacity allowances. The Commission also requests that the Council identify a time frame for the Task Force to report back to them.

Recommendation: Appoint a Task Force to review the City's Parking Ordinance and to make recommendations to amend the ordinance to be more flexible and reflective of the infill challenges facing the Milpitas business community development.

XVI. ORDINANCES

- * 6. **Waive Second Reading and Adopt Ordinance No. 38.770, Amending the Zoning Ordinance Text Amendment (ZT2006-6) to Establish an Institutional Zone Designation, and Amend the "C1" and "C2" Zones to Allow a Conditional Use of a Farmers Market (Staff Contact: Cindy Maxwell, 586-3287)**

Background:

On December 19, 2006, the City Council waived the first reading beyond the title and introduced Ordinance 38.770 to amend the Zoning Ordinance to create a new "I" Institutional zoning district and specifically list "Farmers' Markets" as an allowable land use subject to a conditional Use Permit in the "C1" Neighborhood Commercial, "C2" General Commercial and "I" Institutional zoning districts. At the December meeting the Council also approved General Plan Amendment No. GP2006-6 to provide an Institutional land use classification in the General Plan.

Recommendation: Waive the second reading and adopt Ordinance No. 38.770 for Zoning Ordinance Text Amendment No. ZT2006-6.

- * 7. **Waive Second Reading and Adopt Traffic Ordinance 43.205: Amendment to the Traffic Code, to Change the Speed Zones Boundaries and Speed Limits on Various Streets (Staff Contact: Jaime Rodriguez,, 586-3335)**

Background:

Traffic Ordinance No. 43.205 was initiated by staff upon completion of traffic studies on various streets to determine the appropriate posted speed limits. The purpose of the ordinance is to change and document the posted speed limits on the streets listed below to make them more consistent with existing traffic patterns.

Proposed Street	Existing Speed Zone Segment	Proposed Speed Zone Segment	Speed Limit
N Park Victoria Dr.	Jacklin Rd to Carson Way	30-MPH	35-MPH
Great Mall Pkwy	Entire Section	40-MPH	40-MPH
Ranch Dr	Entire Section	30-MPH	30-MPH

The first reading of the new ordinance occurred during the December 19th, 2006 council meeting.

Recommendation: Waive the second reading and adopt Ordinance No. 43.205 for speed limit changes.

- * **8. Waive Second Reading and Adopt Ordinance No. 262.4 (Contacts: Vice Mayor Livengood, 586-3000 and Councilmember Gomez, 586-3031)**

Background: The Council’s Open Government Subcommittee met on December 6th and discussed Ordinance No. 262.2, which called for the subcommittee to exist only until December 31, 2006. The Ordinance was introduced at the December 19 City Council meeting.

The Subcommittee recommends to the City Council that it continue permanently. Council members directed the City Attorney to prepare an Ordinance to extend permanently the Open Government Subcommittee. The ordinance is included with the agenda packet.

Recommendation: Waive the second and Adopt Ordinance No. 262.4, amending provisions for the Open Government Subcommittee.

XVII. RESOLUTIONS

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

Background:

The most recent Memorandum of Understanding with the Mid-Management and Confidential Unit expired on December 31, 2005. City representatives and representatives from Mid-Management and Confidential Unit met and conferred in good faith to negotiate a new contract. Agreement has been reached with a new successor Memorandum of Understanding with effective dates of January 1, 2006 to December 31, 2008, which is included in the Council’s agenda packet.

Recommendation: Adopt a resolution approving the Memorandum of Understanding with the Mid-Management and Confidential Unit covering the period of January 1, 2006 through December 31, 2008.

- * **10. Adopt Resolution Requesting the Allocation Grant Funding from the Santa Clara Valley Transit Authority Community Design for Transportation Capital Grant Program for the Midtown Transportation & Streetscape Improvements Phase I: North Main Street from Weller Lane to Carlo Street Project (Staff Contact: Jaime Rodriguez, 586-3335)**

Background:

Milpitas submitted a grant proposal for \$1,500,000 to the Valley Transportation Authority (VTA) in response to it’s call-for-projects for the Community Design for Transportation (CDT) – Capital Grant Program. The proposal was selected for funding by the VTA Board of Directors on December 14, 2006.

The grant will fund the Midtown Transportation & Streetscape Improvements Phase I project on N Main Street between Weller Lane and Carlo Street. The project includes roadway infrastructure and bicycle/pedestrian-focused streetscape enhancements geared towards promoting pedestrian and transit access to new community facilities including the public library, county medial facility, and private residential development.

Recommendation: Approve Resolution Requesting the Allocation of Grant Funding from the Santa Clara VTA CDT Capital Grant Program for the Midtown Transportation & Streetscape Improvements Phase I: N Main Street between Weller Lane and Carlo Street project.

* 11. **Adopt Resolution Granting Initial Acceptance: Sewer Deficiency and Structural Correction Program (Open Cut), Project No. 6073 (Staff Contact: Greg Armendariz, 586-3317)**

Background: This project provides for the replacement of 2,234 lineal feet of sewer line at several locations throughout the City. This work was necessary due to structural deficiencies and differential settlement as confirmed by the City's video inspection program. The City Council awarded the project to Pacific Underground Construction, Inc. on August 1, 2006. The project has been successfully completed, and staff recommends that Council grant an initial acceptance and authorize the reduction of the contractor's faithful performance bond to 10% of the contract amount or \$65,666.

Recommendation: Adopt a resolution granting initial acceptance of Project No. 6073, subject to the one-year warranty period and reduction of the faithful performance bond to \$65,666.

XVIII. BIDS AND CONTRACTS

* 12. **Authorize City Manager to Execute Cooperative Agreement between the City and Valley Transportation Authority for the Landscaping of Route 237/I-880 Interchange and McCarthy Blvd Median at I-880 (Staff Contact: Greg Armendariz, 586-3317)**

Background: On October 18, 2005, Santa Clara Valley Transportation Authority ("VTA") and City staff presented the City Council a funding concept to leverage two partially funded highway and light rail projects. Currently there are two major transportation projects in the City of Milpitas that are in need of landscaping work. The first project is the landscape work under the light rail viaduct (LRT) in the median of Great Mall Parkway, from Abel Street to San Jose City limits. This project is estimated at \$3,750,000 and is to be cost shared between VTA and Milpitas. The second landscape project is the 237/I-880 Interchange project and is estimated at \$3.5 million. These two projects are important because one is in the MidTown Specific Plan area and the other is a major gateway into the City of Milpitas.

Existing Funding Availability:

LRT/Great Mall Parkway median Landscape: VTA has provided the City with \$1.5 million and the City's commitment is to fund the remaining \$1.5 million from RDA, which will be programmed for 2009/2010.

237/I880 Interchange: This project is set up as a cooperative effort between VTA, Caltrans and the City. Due to the state's budgetary problems, state project funding will not become available until 2009/10.

Funding Concept:

Caltrans, VTA and City staff have discussed a funding concept, which combines the available partial funding of the LRT median landscape project and partial funding for the 237/I880 interchange, to fully fund the 237/I880 interchange in the current fiscal year. The LRT funding would be replenished in 2009 with the STIP funding designated for 237/I880. VTA may be

agreeable to the use of the \$1.5 million designated to the LRT project, if the City Council is interested in prioritizing 237/I880 over LRT Landscaping.

VTA will not proceed with work past final design and permit stage without an executed cooperative agreement between the City and Caltrans (a separate agreement which provide the City with \$2.0 million for construction of the project and City authorization by Caltrans to maintain the completed project improvements.)

Recommendation: Authorize the City Manager to Execute a Cooperative Agreement between the City of Milpitas and the Valley Transportation Authority for landscaping of the Route 237/I-880 Interchange and the McCarthy Boulevard median at I-880.

- * **13. Approve Agreement with Beck's Trucking Consolidated for a Debris Box (Staff Contact: Marilyn Nickel, 586-3347)**

Background: In accordance with Title V, Chapter 200 of the Milpitas Municipal Code, debris box haulers are required to apply for an agreement authorizing the hauler to engage in the business of collecting and disposing of non-organic solid waste and/or construction and demolition debris produced, kept or accumulated within the city limits of Milpitas. The haulers are required to pay the City a compensatory fee equal to 12% of the total gross receipts actually collected or received. Staff has reviewed the most recently submitted application and recommends approval of the agreement.

Recommendation: Authorize the City Manager to approve an agreement for a debris box with Beck's Trucking, subject to approval as to form by the City Attorney.

- * **14. Approve Encroachment Agreement with Union Pacific Railroad Company, a Delaware Corporation, for installation of two streetlights foundations within the Railroad Company's right-of-way (Staff contact: Mehdi Khaila, 586-3328)**

Background:

On August 3, 2004, the City Council approved public improvement plans and subdivision improvement agreement for Parc Place residential development. During potholing for installation of two streetlight's foundations on Hammond Way near to the Union Pacific Railroad Company's (UPRR) right of way, the contractor discovered a conflict with an existing fiber optic line. To avoid the existing fiber optic line, it is necessary to install the streetlight foundations within the UPRR right of way. The developer (Western Pacific Housing, Inc.) has agreed to pay a one-time License Fee of Five Thousand Five Hundred dollars (\$5,500.00) to UPRR for this Encroachment.

Recommendation:

Approve Encroachment Agreement and authorize the City Manager to execute the same, subject to City Attorney's approval as to form.

- * **15. Approve Right-of-Way Agreement with Santa Clara Valley Water District and KB Home South Bay, Inc. for Project No. 3160 (Staff Contact: Mehdi Khaila, 586-3328)**

Background:

As part of the KB Home residential project, KB Home is required to construct a new bridge over Lower Penitencia Creek. This new bridge in conjunction with an existing bridge north of Elmwood facility will provide access to the residential and auto dealership development from Abel Street.

The Santa Clara Valley Water District (SCVWD) wishes to enter into an agreement with the City of Milpitas and KB Home South Bay, Inc. for granting the right-of-way for these two bridges to the City. The monetary compensation requested by SCVWD for these two parcels (approximately 9,000 sq. ft.) is \$10,000, which will be paid by KB Home.

Recommendation: Authorize the City Manager to execute the right-of-way agreement with Santa Clara Valley Water District and KB Home South Bay, Inc., subject to the approval of the City Attorney as to form.

- * 16. **Approve a Contract Extension to the agreement with CSG Consultants, Inc. for an Amount Not-To-Exceed \$15,000 for Fire Department Inspection Services (Staff Contact: Patricia Joki, 586-3370)**

Background:

The Fire Prevention Division has two budgeted Fire Prevention Inspector positions completing life-safety inspections for State mandated and locally permitted occupancies. Due to budget constraints, only one position is funded. Cross training and use of division staff partially filled this gap in 2006; however, a part-time contract inspector was also needed to fully meet the City's inspection obligations. The Division will again maintain an unfunded Fire Prevention Inspector position for the remaining budget year, and thus requests to extend the contract for inspection work to assist with the annual inspection workload. Sufficient resources exist within the Fire Department's budget to fund this request.

Recommendation: Approve extension of the contract for fire inspection services between the City of Milpitas and CSG Consultants, Inc., for an amount not-to-exceed \$15,000, subject to approval as to form by the City Attorney.

- * 17. **Approve a Consulting Services Agreement Between the City of Milpitas and the Milpitas Unified School District (Staff Contact: Chris Schroeder, 586-3161)**

In accordance with Ordinance No. 23.10 of the Municipal Code, Purchasing has prepared the following purchasing request over \$20,000.00 for approval.

1. \$26,812.83 to the Milpitas Unified School District for the City's 50% share of the cost of secretarial services for the Youth Services Bureau. This is a self-renewing annual contract with the school district.

(Funds are available from the Police Department operating budget for this service).

Recommendation: Authorize the City manager to award the contract for the not-to-exceed amount of \$26, 812.83 to the Milpitas Unified School District, subject to approval by the City Attorney.

XIX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, JANUARY 16, 2007, AT 7:00 P.M.**