



**MILPITAS CITY COUNCIL MEETING AGENDA
TUESDAY, AUGUST 21, 2012**

**455 EAST CALAVERAS BLVD, MILPITAS, CA
6:00 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)**

SUMMARY OF CONTENTS

- I. CALL TO ORDER/ROLL CALL by the Mayor (6:00 p.m.)**
- II. ADJOURN TO CLOSED SESSION**
 - 1. CONFERENCE WITH NEGOTIATOR--COLLECTIVE BARGAINING**
Per CA Government Code §54957.6. City's negotiator: Carmen Valdez
LIUNA representing: Milpitas Supervisors Association, Milpitas Employees Association, Milpitas Professional and Technical Group. Anticipated Issues under negotiation: LIUNA Pension Fund
 - 2. CONFERENCE WITH LEGAL COUNSEL**
Per CA Government Code §54856.9 - discussion of Anticipated Litigation with the City as plaintiff or defendant
- III. CLOSED SESSION ANNOUNCEMENTS:** Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote or abstention of each member present
- IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- V. INVOCATION (Councilmember Gomez)**
- VI. APPROVAL OF COUNCIL MEETING MINUTES – August 7, 2012**
- VII. SCHEDULE OF MEETINGS – COUNCIL CALENDARS for August and September 2012**
- VIII. PRESENTATION – Commendation to Library Advisory Commissioner Marilyn Hay**
- IX. PUBLIC FORUM**

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an 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.

- X. ANNOUNCEMENTS**
- XI. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XII. APPROVAL OF AGENDA**
- XIII. CONSENT CALENDAR (Items with asterisks*)**

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

XIV. UNFINISHED BUSINESS

- 1. Report on Analysis of Issues Related to Ordinance No. 38.804, a Re-Zoning Moratorium and Suggestion of General Plan Policy Updates (Staff Contact: Sheldon Ah Sing, 586-3278)**

XV. REPORTS OF OFFICERS

- * 2. Consider Mayor's Recommendations for Appointments and Re-appointments to two Milpitas Commissions (Contact: Mayor Esteves, 586-3029)**
- 3. Discussion and Consideration of Laborers' International Union of North America (LIUNA) Pension Fund (Staff Contact: Tom Williams, 586-3050)**

XVI. NEW BUSINESS

- * 4. Accept Assistance to Firefighters Grant for the Purchase of New Mobile Data Computers and the Implementation of a New Wellness and Fitness Program for the Fire Department (Staff Contact: Geoff Maloon, 831-277-2198)**

XVII. ORDINANCE

- * 5. Waive the Second Reading and Adopt Ordinance No. 38.805 Regarding Amendments for South Bay Tech Center (Staff Contact: Cindy Hom, 586-3284)**

XVIII. RESOLUTIONS

- * 6. Adopt a Resolution Authorizing the Chief of Police to Execute the Agreement with the County of Santa Clara for the 2012 "Avoid the 13" Grant Program (Staff Contact: Henry Kwong, 586-2419)**
- * 7. Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for, the Police Department Evidence Room Improvements, Project No. 9003 (Staff Contact: Steve Erickson, 586-3301)**
- * 8. Adopt a Resolution Granting Initial Acceptance of, and Reducing Performance Bond for, Street Slurry Seal 2011, Project No. 4255 (Staff Contact: Steve Chan, 586-3324)**

XIX. BIDS AND CONTRACTS

- * 9. Receive and Review Request for Proposals for Police Services (Staff Contact: Steve Pangelinan, 586-2426)**
- * 10. Consider Approval of Acquisition and Reimbursement Agreement for Public Facilities for Sewer Lines 11A and 11B within the Transit Area Specific Plan (Staff Contact: Thomas Williams, 586 3051)**
- * 11. Approve Amendment No. 1 to the Agreement with Consolidated Engineering Laboratories for On-call Material Testing Services for Various Capital Improvement Program Projects (Staff Contact: Steve Erickson, 586-3301)**
- * 12. Approve Agreement with Michael J. Ogaz for Employment as City Attorney (Staff Contact: Michael Ogaz, 586-3041)**

- * 13. **Authorize the City Manager to Execute Amendment No. 4 to the Agreement with CSG for an additional \$78,400 Annually for Fire Department Plan Review and Inspection Services (Staff Contact: Albert Zamora, 586-3371)**
- * 14. **Approve Amendment No. 2 to the Gachina Landscape Management Contract for the Civic Center, Library Landscape Maintenance Service and Increase the Contract Amount for a Total Not-To-Exceed Amount of \$10,682 for Additional Irrigation Services (Staff Contact: Chris Schroeder, 586-3161)**
- * 15. **Award the Bid for Motorola XPR 6550 Radios and Accessories to RFC Wireless for Milpitas Police Department for the Not-To-Exceed Amount of \$35,952 (Staff Contact: Chris Schroeder, 586-3161)**
- * 16. **Authorize the City Manager to Execute Amendment No. 4 to the Master Agreement with the Santa Clara Valley Transportation Authority (VTA) Relating to the Silicon Valley Rapid Transit Program Berryessa Extension Project (GT-1063) and Approve Budget Appropriation (Staff Contact: Kathleen Phalen, 586-3345)**

XX. DEMAND

- * 17. **Receive Report of Emergency Repair of the La Crosse Drive Water Main, Approve a Budget Appropriation from the Water Fund, and Authorize Staff to Pay Repair Work Invoices in an Amount Not to Exceed \$30,000 (Staff Contact: Kathleen Phalen, 586-3345)**

XXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, SEPTEMBER 4, 2012 AT 7:00 P.M.**

NOTE: This City Council meeting will be followed immediately by a meeting of the Milpitas Economic Development Corporation in the Council Chambers.

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, and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review.

For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035
e-mail: mogaz@ci.milpitas.ca.gov / Fax: 408-586-3056 / Phone: 408-586-3040

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

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3rd floor 455 E. Calaveras Blvd., Milpitas and on the City website.

All City Council agendas and related materials can be viewed online here:
www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp (select meeting date)

APPLY TO BECOME A CITY COMMISSIONER!

Current vacancies exist on the:

*Public Art Committee (Alliance for the Arts member)
Community Advisory Commission
Economic Development Commission (hotel representative)
Parks, Recreation and Cultural Resources Commission
Youth Advisory Commission*

Commission application forms are available online at www.ci.milpitas.ca.gov or at Milpitas City Hall. Contact the City Clerk's office (586-3003) for more information.

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, call the City Clerk at (408) 586-3001 or send an e-mail to mlavelle@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the Council Chambers for all meetings.

AGENDA REPORTS

XIV. UNFINISHED BUSINESS

1. Report on Analysis of Issues Related to Ordinance No. 38.804, a Re-Zoning Moratorium and Suggestion of General Plan Policy Updates (Staff Contact: Sheldon Ah Sing, 586-3278)

Background: The City has recently seen a significant interest among property owners and developers seeking the rezone of areas currently designated for industrial or commercial uses in the Milpitas Zoning Code to residential uses. Such interest comes after several significant conversions that were already approved by the City Council, such as Fairfield residential project on Murphy Ranch Road, the Landmark Tower project at the former Billings Chevrolet site, and the Los Coches Avenue Rezone on the north side of Los Coches from Sinclair Frontage Road to Topaz Street.

In response to this issue, the City Council adopted a temporary moratorium on February 7, 2012. The moratorium allowed staff to begin assessing and inventorying infrastructure and utility supplies available in the event of continued rezoning, review the projected jobs to housing balance, fiscal and economic impacts, school impacts, and to also prepare, if necessary, amendments to the Zoning Code, the General Plan, and/or Specific Plans. The moratorium is necessary to study unwarranted impacts upon public health and safety, such as the placement of housing adjacent to potential exposure to vibration, noise, toxic and chemical releases associated with day to day operations of industrial uses; the potential to have inadequate emergency response access and access to basic commercial services. The study needed to address the affects of a potentially weakened job to housing balance and its affects on attracting quality job generating companies to the City.

The City Council adopted Urgency Ordinance No. 38.804 extending the moratorium on certain land use conversions for four months and 15 days, which expired on August 5, 2012.

Staff concluded analysis on “Utilities and Solid Waste Capacity,” “Traffic,” “Fiscal/Economic Impacts,” “Land Use Compatibility,” “Schools,” and “General Plan Update Fee.” A memo included in the agenda packet provides detail of this analysis on all of the issues and provides recommendations to ensure that these issues are taken into consideration when any land use changes are proposed.

The Council’s Transportation and Land Use Subcommittee received a report on the proposed General Plan amendment policies and the work plan on August 14, 2012 and recommended moving forward with the proposed work plan.

Fiscal Impact: None.

Recommendation: Direct staff to complete work plan.

XV. REPORTS OF OFFICERS

* 2. Consider Mayor’s Recommendations for Appointments and Re-appointments to two Milpitas Commissions (Contact: Mayor Esteves, 586-3029)

Background: Mayor Esteves recommends the following residents be appointed or re-appointed to Milpitas Commissions as follows:

Community Advisory Commission:

Appoint Thelma Batilo (current Alternate No. 1) as voting member to a term that expires in January 2016.

Appoint Mayvid Maclay (current Alternate No. 2) as Alternate No. 1 to a term that expires in January 2013.

Appoint Eva Ferguson (current Alternate No. 3) as Alternate No. 2 to a term that expires in January 2013.

Appoint Eusebio Espitia as (current Alternate No. 4) as Alternate No. 3 to a term that expires in January 2014.

Newly appoint Oscar Leon as Alternate No. 4 to a term that expires in January 2014.

Bicycle Pedestrian Advisory Commission:

Re-appoint Rene Briones to a term that will expire in August 2015.

Recommendation: Receive Mayor's recommendations and move to approve six Milpitas residents for Commission appointments and re-appointments to two Commissions.

3. Discussion and Consideration of Laborers' International Union of North America (LIUNA) Pension Fund (Staff Contact: Tom Williams, 586-3050)

Background: Representatives from the United Public Employees of California (UPEC) who represent the City's non-public safety local unions made a request of the City Council to discuss the status of their supplemental pension fund. This supplemental pension fund is not in any way associated with the employees' primary retirement pension program under PERS.

Three bargaining groups of the City of Milpitas (MSA, MEA and Protech) participate in a supplemental pension fund program known as the LIUNA National (Industrial) Pension Fund. Participation in the fund was agreed to in 1999 and negotiated as part of the Memorandum of Understanding with each bargaining unit. In summary, the City of Milpitas agreed to contribute the following amount per hour up to forty (40) hours per member employee:

Milpitas Employee Association (MEA)	-	\$1.00/hour
Milpitas Supervisors Association (MSA)	-	\$2.50/hour
Professional Technical Group (Protech)	-	\$0.56/hour

In circa 2009, the LIUNA pension fund went bankrupt. In an effort to bail out the fund, LIUNA enacted a Pension Funding Rehabilitation Plan charging participants an additional 10% surcharge to bring the fund solvent. Most employers throughout the country charged the employee the additional amount. LIUNA is a very large national union with a majority of its members in the private sector. LIUNA protested the employers charging the employee the surcharge. As such, Congress adopted the National Pension Reform Act requiring employers to pay the surcharge unless the employer and employee group had a negotiated agreement. The City of Milpitas and the employee groups did indeed have an agreement pursuant to the adopted MOUs and the City of Milpitas was not obligated to pay the premium surcharge.

The Pension Funding Rehabilitation Plan program includes two levels. The first is a premium level for those participants choosing to pay the additional cost. The second level is referred to as the default schedule for those not desiring to pay the premium surcharge. The City was approached by the unions to pay the premium surcharge but the City did not agree to the payment. Without payment of the additional surcharge, employee benefits would be reduced from the premium level (100% benefit) to the default level which would be a benefit return of 65%. As a result, the employee participants decided to pay the surcharge working directly with LIUNA to maintain their premium benefit.

The issue at hand is LIUNA appears now to require the City to agree to become a preferred provider for the employees to maintain their 100% benefit rather than the reduced 65% benefit level. By agreeing to become a preferred provider, the City would obligate itself to ensuring the employee participants receive their 100% return without regard to the performance of the investment and management of the LIUNA pension fund. Although the employee benefit for their supplemental pension fund is reduced to the 65% at retirement as a result of the poor

financial performance of the pension fund during the recession, the City should not obligate itself to the risk and unknown costs associated with the fund.

Recommendation: Maintain the current status of the LIUNA National (Industrial) Pension Fund with no changes.

XVI. NEW BUSINESS

* 4. **Accept Assistance to Firefighters Grant for the Purchase of New Mobile Data Computers and the Implementation of a New Wellness and Fitness Program for the Fire Department (Staff Contact: Geoff Maloon, 831-277-2198)**

Background: The Fire Department submitted an “Assistance to Firefighters” grant application in September 2011 requesting funding for new mobile data computers and the implementation of a wellness/fitness program. The Department of Homeland Security awarded the grant in January 2012. The Assistance to Firefighters Grant provides funding directly to fire departments to enhance operational response capabilities and firefighter safety.

Wellness/Fitness Component

- Tuition and personnel costs for 6 peer fitness trainers - \$18,000
- Fitness equipment to include: 4 treadmills at \$6,008.75 each - \$24,035
- Medical evaluation examinations, immunization boosters and titers for all personnel - \$78,401
- Mental Wellness Component - \$21,280

Implementation will comply with the detailed plans contained in the IAFF/IAFC wellness fitness initiative. The program will be non-punitive, mandatory and have incentives to encourage and ensure compliance.

The implementation plan includes the formation of a selection committee, the formulation of specifications, the issuance of an RFP, a formal and extensive evaluation process and the selection of our vendor. After the units are received the training officer will formulate a training plan, a lesson plan will be developed and all members will receive extensive formal training in the use of the equipment, the need for vaccines and physicals and the details regarding fit for duty status, fitness plans and peer fitness trainers. The overall implementation will be channeled through the existing physical fitness committee.

Communications Component

This purchase will allow for increased compliance with the overall communications infrastructure and end-user implement interoperability plan formulated by the Bay Area SUASI.

Requirements identified for a next generation radio system include:

- Replacement of obsolete equipment and compliance with the FCC narrow- banding requirement. Also, compliance with a national standard (“Project 25”, or “P 25”) for performance and interoperability of public safety radio equipment.
- Enhanced channel capacity.
- Improved interoperability among County agencies and with outside agencies.
- Improved coverage in specified areas.
- Improved reliability and connectivity

The City will purchase mobile data terminals at a cost of \$5,462.50 per unit including installation and software with a total cost of \$87,400.

The implementation plan includes the formation of a selection committee, the formulation of specifications, the issuance of an RFP, a formal and extensive evaluation process and the selection of our vendor. After the units are received the training officer will formulate a training

plan, a lesson plan will be developed and all members will receive extensive formal training in the use of the communications equipment. The in-service of the units will be coordinated among all agencies and shifts and will take place on the same day.

Fiscal Impact: The 2010 Assistance to Firefighters Grant is an 80/20 grant with a total project cost of \$229,116, of which \$183,293 is Federal dollars and \$45,823 is the local cost match which is available in the 2012-13 Fire Department and Information Services operating budgets.

Recommendation: Accept the grant from the Department of Homeland Security and appropriate funding totaling \$183,293 (federal share) for the purchase of 16 mobile data computers and the implementation of a comprehensive wellness/fitness program.

XVII. ORDINANCE

- * **5. Waive the Second Reading and Adopt Ordinance No. 38.805 Regarding Amendments for South Bay Tech Center (Staff Contact: Cindy Hom, 586-3284)**

Background: On August 7, 2012 the City Council introduced Ordinance 38.805 amending the zoning map for South Bay Tech Center located at 1603 - 1787 S. Main Street (APN 86-21-073). Ordinance 38.805 is now ready for a second reading and adoption.

Fiscal Impact: None.

Recommendations:

1. Waive the second reading of Ordinance 38.805.
2. Adopt Ordinance 38.805 for the South Bay Tech Center (Zoning Amendment ZA12-0002).

XVIII. RESOLUTIONS

- * **6. Adopt a Resolution Authorizing the Chief of Police to Execute the Agreement with the County of Santa Clara for the 2012 "Avoid the 13" Grant Program (Staff Contact: Henry Kwong, 586-2419)**

Background: The County of Santa Clara is administering the 2012 Avoid the 13 grant program that offers grant funds from the California Office of Traffic Safety to reimburse law enforcement agencies for overtime expenditures specifically directed towards Driving Under the Influence (DUI) enforcement. The goals of the program are to apprehend drunk drivers and to reduce the number of people killed or injured in alcohol-related collisions. The City of Milpitas has been approved for a grant of \$9,500 to conduct a sobriety checkpoint on an overtime basis in Milpitas during the Labor Day weekend in conjunction with the countywide Avoid the 13 holiday campaigns between December 15, 2011 and September 30, 2012.

Fiscal Impact: None. Overtime expenditures will be reimbursed by the grant.

Recommendations:

1. Adopt a resolution authorizing the Chief of Police to execute the agreement with the County of Santa Clara for the 2012 Avoid the 13 grant program.
 2. Approve a budget appropriation in the amount of \$9,500 to the Police Department overtime budget as a result of the 2012 Avoid the 13 grant program.
- * **7. Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for, the Police Department Evidence Room Improvements, Project No. 9003 (Staff Contact: Steve Erickson, 586-3301)**

Background: The Milpitas Economic Development Corporation awarded and undertook management of this construction project for improvements to the Police Department evidence

room at its January 17, 2012 meeting. The construction contract was awarded to CRW Industries. The project provided new floor covering, wall painting, separation of work space from evidence storage, and improvement of the heating ventilation and air conditioning system. The project was successfully completed on-time and under budget and is ready for acceptance by the City. Staff recommends the Council adopt a resolution granting initial acceptance of the project, and authorize the reduction of the contractor's faithful performance bond to \$5,658, which is 10% of the final contract value.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting initial acceptance of the Police Department Evidence Room Improvements, Project No. 9003, subject to a one year warranty period and reduction of the faithful performance bond to \$5,658.

- * **8. Adopt a Resolution Granting Initial Acceptance of, and Reducing Performance Bond for, Street Slurry Seal 2011, Project No. 4255 (Staff Contact: Steve Chan, 586-3324)**

Background: The Council awarded the Street Slurry Seal Project 2011 to Intermountain Slurry Seal Inc. on June 21, 2011. The project provides rubberized emulsion slurry seal roadway surfacing and new roadway marking treatments on eleven City streets. The project was successfully completed on time and under budget. Staff recommends that the Council adopt a resolution granting initial acceptance of the project and authorize the reduction of the contractor's faithful performance bond to \$68,111, which is 10% of the final contract value.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting initial acceptance of Street Slurry Seal Project 2011, Project No. 4255, subject to a one-year warranty period and reduction of the faithful performance bond to \$68,111.

XIX. BIDS AND CONTRACTS

- * **9. Receive and Review Request for Proposals for Police Services (Staff Contact: Steve Pangelinan, 586-2426)**

Background: On August 7, 2012, the City Council directed the Police Department to present the Request for Proposals (RFP) document for outsourcing police services to the Council for review and discussion. The draft RFP is included in the Council's agenda packet.

Fiscal Impact: None.

Recommendation: Receive the Request for Proposals outsourcing police services and provide direction to staff accordingly.

- * **10. Consider Approval of Acquisition and Reimbursement Agreement for Public Facilities for Sewer Lines 11A and 11B within the Transit Area Specific Plan (Staff Contact: Thomas Williams, 586 3051)**

Background: Chapter 4 of Title VIII of the Milpitas Municipal Code (Fees for New Development) establishes the procedures for the collection of developer impact fees and funds for the construction of public infrastructure necessitated by new development. These provisions further authorize the City to enter into reimbursement agreements to give credits to defray a developer's costs in "oversizing" facilities (i.e., constructing facilities of supplemental size, length or capacity over that caused by a particular development when such construction is necessary to ensure efficient and timely construction of the facilities network).

D.R. Horton Bay, Inc., the developer of the Harmony project located at 1615 McCandless Street in the Transit Area, is requesting a Transit Area Impact Fee and capital sewer connection fee credit for its construction of portions of facilities known as the Sewer Line 11A and 11B projects beyond its proportionate share of such facilities.

The proposed acquisition and reimbursement agreement memorializes the grant of such fee credits and direct reimbursement payments. Under the agreement, D.R. Horton Bay, Inc. would be entitled to a total not to exceed reimbursement and in lieu credit of up to \$2,546,576.15 in actual construction and design costs, subject to the approval of the City Engineer. Of this amount, \$1,378,053.24 would come in the form of developer impact fee credits from the Transit Area Specific Plan Impact Fee Fund. A \$254,117.76 deduction from otherwise owed Transit Area Specific Plan fees would be granted for D.R. Horton Bay, Inc.'s in lieu construction of the sewer facilities. The remaining not to exceed \$914,405.15 amount would come in the form of a direct reimbursement payment from the Sewer Fund, which has already allocated \$5,000,000 for this project and other sewer projects.

Fiscal Impact: None. The Transit Area Specific Plan Impact Fee Fund and the Sewer Fund have sufficient funds.

Recommendation:

1. Approve the Acquisition and Reimbursement Agreement for Public Facilities pursuant to Sewer Lines 11A and 11B within the Transit Area Specific Plan.
2. Approve the payment of up to \$914,405.15 from the Sewer Fund in direct payment to the developer.

- * **11. Approve Amendment No. 1 to the Agreement with Consolidated Engineering Laboratories for On-call Material Testing Services for Various Capital Improvement Program Projects (Staff Contact: Steve Erickson, 586-3301)**

Background: On August 4, 2009, the City entered into a consultant agreement with Consolidated Engineering Laboratories (CEL) in the amount of \$750,000 to provide for on-call construction materials testing services for various capital improvement program projects. Staff now recommends that the term of CEL's agreement be extended for one additional year at no additional cost. Amendment No. 1 with CEL is proposed for these services, there is sufficient monies left in the agreement and an additional fee is not necessary.

Fiscal Impact: None. Sufficient funds are encumbered in the project budgets for these services.

Recommendation: Approve Amendment No. 1 to the agreement with Consolidated Engineering Laboratories to extend the agreement one year for various capital improvement program projects.

- * **12. Approve Agreement with Michael J. Ogaz for Employment as City Attorney (Staff Contact: Michael Ogaz, 586-3041)**

Background: On August 7, 2012, the City Council in closed session considered an amendment to the terms of the City Attorney's employment, as provided on the current Agreement (a copy is included in the Council's agenda packet).

Recommendation: Move to approve employment agreement with the Milpitas City Attorney Michael J. Ogaz.

- * **13. Authorize the City Manager to Execute Amendment No. 4 to the Agreement with CSG for an additional \$78,400 Annually for Fire Department Plan Review and Inspection Services (Staff Contact: Albert Zamora, 586-3371)**

Background: On May 8, 2012, the City Council approved the City's Final Budget for Fiscal Year 2012-13, which includes \$122,400 for Fire Prevention Contractual Services. CSG Consultants, Inc. currently provides fire plan review and inspection services for the City of Milpitas with an annual amount not-to-exceed \$44,000. Due to the increase demand for both plan review and inspection services, this proposed contract amendment will facilitate the additional workload by increasing the annual amount not-to-exceed to \$122,400.

Fiscal Impact: None. Contractual services were approved as part of the FY 2012-13 adopted budget. Sufficient funding is available in the Fire Department operating budget.

Recommendation: Authorize the City Manager to execute amendment No. 4 to the agreement with CSG for fire inspection and plan review services for an increase of \$78,400 and a total amount-not-to-exceed \$122,400 annually, including the original contract amount of \$44,000.

- * 14. **Approve Amendment No. 2 to the Gachina Landscape Management Contract for the Civic Center, Library Landscape Maintenance Service and Increase the Contract Amount for a Total Not-To-Exceed Amount of \$10,682 for Additional Irrigation Services (Staff Contact: Chris Schroeder, 586-3161)**

Background: On September 20, 2011, after winning the competitive bid, Gachina Landscape Management entered into a two year contract with the City with three additional one year options to provide Civic Center and Library landscape services. This amendment expands the scope of the contract to cover monthly irrigation inspection and adjustment services that were not contemplated in the original agreement. The additional annual expenditure, per the quote from Gachina Landscape Management dated July 20, 2012, will increase the contract amount by \$218 per month for the remaining 49 months of the contract beginning September 1, 2012. Total cost for the remaining 49 months is \$10,682. A copy of the quote is included in the agenda packet.

Fiscal Impact: None. This is a programmed expense approved in the Public Works Facilities Operating Budget for FY 2012-13.

Recommendation: Approve amendment No. 2 to the Gachina Landscape Management contract with the City of Milpitas for Civic Center, Library landscape maintenance service and increase the contract amount for a total not-to-exceed amount of \$10,682 for additional irrigation services.

- * 15. **Award the Bid for Motorola XPR 6550 Radios and Accessories to RFC Wireless for Milpitas Police Department for the Not-To-Exceed Amount of \$35,952 (Staff Contact: Chris Schroeder, 586-3161)**

Background: On January 17, 2012, the City Council accepted the 2012 Citizen Options for Public Safety (COPS) grant in the amount of \$128,048 and authorized appropriation in that amount to the Police Department budget. \$36,000 was allocated to equip officers with portable radios that meet current technological needs. The Milpitas Police Department identified the Motorola XPR6550 hand held radio as the only radio that can communicate on the current Milpitas radio infrastructure and can also communicate on a local private vendor's infrastructure when necessary. This radio also meets the minimum requirements of having an alpha numeric display, MDC1200 Signaling and a minimum 48 channel capacity. Staff also requested and City Council authorized the standardization of the Motorola XPR6550 Radio pursuant to Municipal Code Section I-2-3.13 Standardization.

The current bid was advertised on the City website, in the local newspaper, and on Public Purchase. Seven bids were received and are summarized below.

<u>Bidder</u>	<u>30 Motorola XPR6550 Radios and Accessories</u>
RFC Wireless	\$30,022.57
Vision Communications	\$34,761.68
Day Wireless	\$31,883.58
Responsive Communication Services Inc.	\$30,690.71
BearCom	\$30,944.84
Telepath	\$32,158.95
Emergency Access Controls	\$32,676.25

The price includes the Milpitas Police Department taking advantage of a Motorola trade-in rebate plan that will save the city \$100.00 per device traded-in or a total of \$3,000. For the trade-ins, Police staff will hand over old unusable hand held radios and Nextel phones. The bid was awarded on the basis of 30 radios and accessories. However, because the bid came in lower than expected, there is room in the budget for additional radios and accessories. Final quote from RFC Wireless is for 36 radios and accessories for \$35,952.14.

Fiscal Impact: None. The COPS 2012 grant of \$36,000 will cover the cost of the proposed purchase of the portable radios and accessories.

Recommendation: Award the bid for Motorola XPR6550 Radios and Accessories to RFC Wireless, San Ramon, for the not-to-exceed amount of \$35,952.14.

- * 16. **Authorize the City Manager to Execute Amendment No. 4 to the Master Agreement with the Santa Clara Valley Transportation Authority (VTA) Relating to the Silicon Valley Berryessa Extension Project (GT-1063) and Approve a Budget Appropriation (Staff Contact: Kathleen Phalen, 586-3345)**

Background: The extension of the Bay Area Rapid Transit (BART) system into Santa Clara County is being implemented by VTA's Silicon Valley Rapid Transit Program. The initial segment, from Fremont through Milpitas to the San Jose Berryessa Station, is identified as the Silicon Valley Berryessa Extension (SVBX) Project.

On September 10, 2010, the City and VTA executed a Master Agreement, which requires VTA's reimbursement of City expenses for a variety of coordination efforts, including but not limited to: design approval and inspection for City facilities, encroachment permit oversight, easements, utility maintenance operations, and resolution of construction issues. Amendment No. 1 to the Master Agreement included a work plan which described the City's support effort and estimated costs through June 30, 2012. City expenses are charged against the two funding deposits of \$700,000 and \$790,000 provided by VTA. Amendment No. 2 addressed the relocation of existing and new utilities and final reconstruction and roadway improvements under separate contracts. It also included provisions requiring VTA to maintain and/or restore the City's roadway easement rights, as VTA negotiates with Union Pacific Railroad. Amendment No. 3 extended the term of the work plan through September 30, 2012.

Staff negotiated a work plan extension with VTA to provide the following services during the next twelve month interval: review preliminary plans, review constructions plans, issue permits, inspect City public improvements, and attend coordination meetings for several subprojects. Staff recommends increasing the Master Agreement value in the amount of \$1,450,000 for the additional work and extending the term to September 30, 2013, as shown in Amendment 4.

Fiscal Impact: The Master Agreement requires VTA to establish a deposit account with the City to fund the City's work on the SVBX Project. This amendment provides augmenting this deposit by \$1,450,000 in accordance with the Master Agreement.

Recommendations:

1. Authorize the City Manager to execute Amendment No. 4 to the Master Agreement with the Santa Clara Valley Transportation Authority relating to the Silicon Valley Berryessa Extension Project.
2. Approve a budget appropriation of a total amount not to exceed \$943,500 to Project No. 4265, and a total amount not to exceed \$506,500 to GT-1063 upon receipt of \$1,450,000 deposit from VTA for Master Agreement Amendment No. 4 work plan.

XX. DEMAND

- * **17. Receive Report of Emergency Repair of the La Crosse Drive Water Main, Approve a Budget Appropriation from the Water Fund, and Authorize Staff to Pay Repair Work Invoices in an Amount Not to Exceed \$30,000 (Staff Contact: Kathleen Phalen, 586-3345)**

Background: Pursuant to state public contracting law and City of Milpitas Resolution No. 7779, the Director of Public Works must report all emergency public works repairs to the City Council. On the evening of August 1, 2012, an eight-inch diameter water main, located in La Crosse Drive between Findley Drive and Ellwell Drive, ruptured causing street flooding and damage to the street pavement and sidewalk, and to private property fences and side yards of two residences. A Public Works crew isolated the failed pipe section and set up temporary water by-passes that evening. Due to the size of the repair and the need to restore permanent water supply to the neighborhood, the Director of Public Works authorized Preston Pipeline to make emergency repairs. Preston and City crews worked to restore the permanent water supply on August 4 and completed the remaining restoration work the following week. In accordance with state law, the City Council is asked to receive this report describing the reasons for the emergency action. Preston had not yet submitted an invoice for this work, but based on their known deployment of workers and equipment, the cost should not exceed \$30,000.

Fiscal Impact: An appropriation from the Water Fund in the amount of \$30,000 is needed because there is not sufficient funding in the Public Works operating budget for this emergency water line repair work.

Recommendations:

1. Receive this report of emergency repair work from the acting Director of Public Works.
2. Approve a budget appropriation from the Water Fund in the amount of \$30,000.
3. Authorize staff to pay Preston Pipeline invoices for the emergency repair of the La Crosse Drive water main in an amount not to exceed \$30,000.

XXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, SEPTEMBER 4, 2012 AT 7:00 P.M.**

NOTE: This City Council meeting will be followed immediately by a meeting of the Milpitas Economic Development Corporation in the Council Chambers.