



**MILPITAS CITY COUNCIL AND
MILPITAS HOUSING AUTHORITY AND
SUCCESSOR AGENCY TO FORMER REDEVELOPMENT AGENCY
JOINT MEETING AGENDA**

TUESDAY, FEBRUARY 19, 2013

**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 LEGAL COUNSEL – ANTICIPATED LITIGATION**
Pursuant to California Government Code §54956.9(b), (c)
City of Milpitas as Plaintiff or Defendant
 - 2. CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**
Pursuant to California Government Code §54957.6, City Negotiator: Tom Williams
Employee Groups: Milpitas Employees Association (MEA), Milpitas Police Officers Association (MPOA), International Association of Fire Fighters (IAFF)
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
- 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 Giordano)**
- VI. APPROVAL OF COUNCIL MEETING MINUTES – January 15, 2013**
- VII. SCHEDULE OF MEETINGS – COUNCIL CALENDARS – February and March 2013**
- VIII. 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.

- IX. ANNOUNCEMENTS**
- X. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XI. APPROVAL OF AGENDA**

XII. 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.

XIII. JOINT MILPITAS HOUSING AUTHORITY AND CITY COUNCIL MEETING

HA1. Call to Order/Roll Call by the Mayor/Chair

HA2. Adopt Resolution Approving Amendments to the Affordable Housing Regulatory Agreement Releasing 37 Moderate-Income Housing Units at Coyote Creek Project for In-Lieu Housing Fee (Staff Contact: Felix Reliford, 408-586-3071)

HA3. Authority Adjournment

XIV. REPORTS OF MAYOR AND COMMISSIONS

- * **1. Consider Mayor's Recommendations for Appointments and Reappointments to Three City of Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**
- * **2. Approve Parks, Recreation and Cultural Resources Commission 2013 Work Plan (Staff Contact: Jaime Chew, 408-586-3234)**
- * **3. Approve Youth Advisory Commission Scholarship Program and Application (Staff Contact: Samu Tiimalu, 408-586-3222)**

XV. NEW BUSINESS

- * **4. Accept a Regional Assistance to Firefighters Grant to be Allocated for Fire Department Portable Radios (Staff Contact: Brian Sturdivant, 408-586-2811)**

XVI. RESOLUTIONS

- 5. Adopt a Resolution Delegating Public Works Director Authority To Take Emergency Action for Demolition of City-Owned Buildings at 1650-1690 and 1740-1830 McCandless Drive for Health and Safety Reasons (Staff Contact: Felix Reliford, 408-586-3071)**
- * **6. Adopt a Resolution Approving New Memorandum of Understanding with the Mid-Management and Confidential Employee Bargaining Unit (Staff Contact: Michael Ogaz, 408-586-3040)**
- * **7. Adopt a Resolution Approving New Memorandum of Understanding with the Milpitas Professional and Technical Employee Bargaining Unit (Staff Contact: Michael Ogaz, 408-586-3040)**
- * **8. Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for Street Resurfacing Project 2013, Project No. 4268 (Staff Contact: Steve Chan, 408-586-3324)**
- * **9. Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for Ayer Reservoir & Pump Station Emergency Repairs, Project No. 7102 (Staff Contact: Steve Erickson, 408-586-3301)**

- * 10. **Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for Wrigley Ford Creek Maintenance Project, Project No. 9002 (Staff Contact: Steve Erickson, 408-586-3301)**
- * 11. **Adopt a Resolution Authorizing the City Manager to Execute a Contract with Summit Uniforms by Piggybacking on the City of Sunnyvale Contract for the Annual Not-to-Exceed Amount of \$17,000 (Staff Contact: Chris Schroeder, 408-586-3161)**
- * 12. **Adopt a Resolution Authorizing the City Manager to Execute a Contract for Document Imaging by Piggybacking the City of Dublin Contract with Peelle Technologies for the Annual Not-to-Exceed amount of \$85,000.00 (Staff Contact: Chris Schroeder, 408-586-3161)**

XVII. BID AND CONTRACTS

- 13. **Receive a Progress Report on the Alviso Adobe Renovation Project, Phase IV Site Improvements, Approve Additional Spanish/Mexican Displays and Signage, and Authorize the City Manager to Execute an Agreement with Page & Turnbull, Project No. 5055 (Staff Contact: Kathleen Phalen, 408-586-3345)**
- * 14. **Award the Bid for a 2013 Ford Taurus Police Interceptor to Frontier Ford for the Not-To-Exceed Amount of \$30,357.25 (Staff Contact: Chris Schroeder, 408-586-3161)**
- * 15. **Approve and Authorize the City Manager to Execute an Agreement with H. T. Harvey & Associates, for Storm Drain System Deficiency Program Project No. 3700 (Staff Contact: Steve Erickson, 408-586-3301)**
- * 16. **Authorize the City Manager to Execute the Fifth Amendment to the Contract with CSG Consultants, Inc. for an Additional \$120,360 Annually for Fire Department Plan Review and Inspection Services (Staff Contact: Albert Zamora, 408-586-3371)**
- * 17. **Authorize the City Attorney to Execute Agreement with Renne Sloan for Attorney Services (Staff Contact: Michael Ogaz, 408-586-3040)**
- * 18. **Authorize the City Manager/Executive Officer to Execute a Stand Still Agreement with the Milpitas Oversight Board (Staff Contact: Michael Ogaz, 408-586-3040)**

XVIII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, MARCH 5, 2013 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, 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:

- Arts Commission (alternate member)*
- Public Art Committee (Alliance for the Arts member)*
- Community Advisory Commission (alternates)*
- Economic Development Commission (alternate)*
- Library Advisory Commission (alternate)*

Commission application forms are available online at www.ci.milpitas.ca.gov or at Milpitas City Hall. Contact the City Clerk's office (408-586-3003) for more information.

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

AGENDA REPORTS

XIII. JOINT MILPITAS HOUSING AUTHORITY AND CITY COUNCIL MEETING

HA2. Adopt Resolution Approving Amendments to the Affordable Housing Regulatory Agreement Releasing 37 Moderate-Income Housing Units at Coyote Creek Project for In-Lieu Housing Fee (Staff Contact: Felix Reliford, 408-586-3071)

Background: The former Milpitas Redevelopment Agency entered into Affordable Housing Regulatory Agreements (August 2009) with Fairview Murphy Road, LLC to provide the following affordable housing units:

- Cerano Apartments: 88 affordable housing units of a total of 374
- Coyote Creek (for sale): 44 affordable housing units of a total of 285. The 44 units would include 7 low-income and 37 moderate-income units.

Since the execution of the Regulatory Agreement (for-sale units), Fairview Murphy Road, LLC has sold the project - Coyote Creek - to Williams Lyons Homes, Inc. Over the past several months, City staff met with representatives of William Lyons Homes to execute the regulatory agreement requirements (dispersement of units, marketing plan, affordability requirements, etc.).

ISSUES: Upon completion of Lyons' marketing plan for the market-rate and affordable housing units, the market rate sale price is an average of \$23,000 or five percent (5%) higher than the required affordable list price for sixty-eight percent (68%) of the 37 restricted units. The average market list price for all 37 homes is another two and-a-half percent (2.5%) higher than the required affordable list price. The chart below illustrates the difference between the sale price of the market-rate and affordable housing units:

Product Plan Type	# Units	Affordable List Price	Market Rate List Price	Pricing Difference
Row Town - Plan A	7	\$447,900	\$484,990	(\$37,090)
Row Town - Plan B	7	\$489,900	\$504,990	(\$15,090)
Row Town - Plan D	11	\$489,900	\$519,990	(\$30,090)
Motor Court - Plan A	4	\$447,900	\$504,990	(\$57,090)
Motor Court - Plan C	8	\$447,900	\$524,990	(\$77,090)

As indicted in the chart, moderate-income units established by the Regulatory Agreement are priced between \$447,000-\$489,000, while, by comparison, the market-rate units' sale price for the same home is \$484,990-\$524,990. Given the downturn in the housing market the past several years, the disparity between market-rate and moderate-income affordable has narrowed significantly. The narrowing of this disparity has caused the following problems regarding the sale of moderate-income units:

- Homebuyers would be willing to pay the difference between market-rate and moderate-income units for less government restrictions, such as long-term affordability for 45 years and limited equity on resale.
- Historically low interest rates have made it much easier for moderate-income homebuyers to obtain greater credit to purchase market-rate homes without government restrictions.
- Given the downturn of sale prices in the housing market over the past several years, there appears to be no current market at this time for restricted moderate-income affordable housing for-sale units. This fact was demonstrated approximately two years ago when KB Homes could not sale its moderate-income units and the former Milpitas Redevelopment Agency agreed to an in-lieu housing fee (\$37,000/per unit).

Once the housing market corrects itself in the future and market-rate housing prices increase, the market for moderate-income affordable units will return.

PROPOSAL FROM WILLIAM LYONS, LLC-IN-LIEU HOUSING FEE

Because of the concerns and inability to sale the 37 moderate-income units, William Lyons Home, LLC submitted a proposal to City of Milpitas/Housing Authority to pay an in-lieu housing fee for the release of the affordable housing units. The in-lieu housing fee would be in the amount of \$1,480,000 (\$40,000/per unit). Seven low-income units would still be required to be provided and this proposal does not affect the 88 affordable apartment units at Cerano.

The City Council and Housing Authority are recommended to accept the in-lieu housing fee proposal for the following reasons:

- The proposed in-lieu housing fee of approximately \$1.5 million would allow the Housing Authority to leverage its funds and provide financial assistance to a non-profit and/or affordable housing developer which would exceed the 37 affordable housing units being released.
- Since the former Milpitas Redevelopment Agency did not provide any financial assistance to the developer/project, the proposed in-lieu housing fee of approximately \$1.5 million would be a surplus for the Housing Authority.
- Given the current housing market, it is unknown when disparity between market-rate and moderate-income housing prices will be corrected. The 37 moderate-income units could remain vacant for a long period of time which would not benefit the Housing Authority.

If approved by City of Milpitas/Housing Authority, the existing Regulatory Agreement would have to be revised to reflect the 7 low-income affordable units and deletion of the 37 moderate-income units. Included in the Council/Housing Authority agenda packet is a copy of the letter submitted by William Lyon Homes, LLC providing additional information regarding their proposal and resolution approving the release of the affordable unit subject to the payment of the in-lieu housing fee.

Fiscal Impact: None. The former Milpitas Redevelopment Agency did not provide any financial assistance to the developer/project. The \$1,480,000 would be a surplus for Milpitas Housing Authority.

Recommendation: Adopt a resolution approving amendments to the Regulatory Agreement for the Coyote Creek residential development project, releasing 37 moderate-income housing units for an in-lieu housing fee of \$1,480,000.

XIV. REPORTS OF MAYOR AND COMMISSIONS

- * 1. **Consider Mayor's Recommendations for Appointments and Reappointments to Three City of Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**

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

Community Advisory Commission:

Newly appoint Van Lan Truong as Alternate No. 3 to a term that will expire in January 2014.

Senior Advisory Commission:

Re-appoint Bal Daquigan to a term that will expire in December 2014.

Re-appoint Amanda Santos to a term that will expire in December 2014.

Telecommunications Commission:

Re-appoint Debra Whitlock Lax to a term that will expire in January 2015.

Recommendation: Receive Mayor's recommendations and move to approve appointments and reappointments to three City of Milpitas Commissions.

- * 2. **Approve Parks, Recreation and Cultural Resources Commission 2013 Work Plan (Staff Contact: Jaime Chew, 408-586-3234)**

Background: On February 4, 2013, the Parks, Recreation and Cultural Resources Commissioners met and approved their 2013 Work Plan. The Commission's 2013 Work Plan identifies the Commission's goals, projects and ongoing tasks. The work plan is submitted to the City Council with a recommendation for approval.

Fiscal Impact: None.

Recommendation: Approve the Work Plan for the Parks, Recreation and Cultural Resources Commission for 2013.

- * 3. **Approve Youth Advisory Commission Scholarship Program and Application (Staff Contact: Samu Tiimalu, 408-586-3222)**

Background: The Youth Advisory Commission (YAC) would like to create an annual scholarship program for graduating seniors. The purpose of the scholarship program is to encourage students to attend college and provide financial assistance to students who wish to continue their education. Those students who meet the criteria set by the Youth Advisory Commission could be awarded the \$500 scholarship.

The scholarship money would be generated through the various events offered by the YAC (i.e. proceeds from the Milpitas' Got Talent show, donations, etc). Last year's Milpitas' Got Talent event generated \$649 in admissions and donations.

The YAC is seeking approval to offer the scholarship each year to award a deserving graduating senior. In addition, Commissioners would like to present the scholarship at a May/June City Council meeting with the City Council's assistance.

Fiscal Impact: None. Scholarship money will be generated through YAC events and donations.

Recommendation: Approve the annual Youth Advisory Commission scholarship program and application.

XV. NEW BUSINESS

- * 4. **Accept a Regional Assistance to Firefighters Grant to be Allocated for Fire Department Portable Radios (Staff Contact: Brian Sturdivant, 408-586-2811)**

Background: In September of 2011, the Sunnyvale Department of Public Safety submitted an Assistance to Firefighters Grant (AFG) application requesting funds for new portable radios for fire departments throughout Santa Clara County. The grant request was approved in January 2012 and the radios were procured by the City of Sunnyvale through a competitive bid process.

This purchase will allow for increased compliance with the overall communications infrastructure and end-user implementation of the interoperability plan formulated by the Bay Area Super Urban Area Security Initiative (SUASI). Requirements identified for the next generation radio system include:

- Replacement of obsolete equipment and compliance with FCC narrow-banding requirements and national standard (Project 25 or P25) for performance and interoperability of public safety radio equipment

- Enhanced channel capacity
- Improved interoperability among County agencies and outside agencies
- Improved coverage in specified areas
- Improved reliability and connectivity

Milpitas Fire will purchase 25 portable radios at a cost of \$1,141.79 per unit (list price \$6,000 each) and radio programming by Motorola at a cost of \$6,051.50 for a total cost of \$34,596.25. The Fire Department is now prepared to purchase the equipment.

Fiscal Impact: The 2011 Assistance to Firefighters Grant is an 80/20 grant. 80% of the cost will be covered by FEMA by grant funds and the 20% cost match for the Milpitas radios will be invoiced by the City of Sunnyvale directly to the City of Milpitas. The total cost of this project to the City of Milpitas is \$34,596.25.

Recommendation: Accept the regional Assistance to Firefighters Grant toward the cost to purchase portable radios for the Fire Department, and authorize the expenditure of \$34,596.25 (City of Milpitas portion of the cost).

XVI. RESOLUTIONS

5. **Adopt a Resolution Delegating Public Works Director Authority To Take Emergency Action for Demolition of City-Owned Buildings at 1650-1690 and 1740-1830 McCandless Drive for Health and Safety Reasons (Staff Contact: Felix Reliford, 408-586-3071)**

Background: Over the past several months, three City buildings on McCandless Drive (designated as the location of a future school site and park) have become a haven for vandalism, graffiti, homeless encampment, burglary, public dumping ground, and other public nuisances. This activity has become detrimental to the health, safety and public welfare of the community and thus requires immediate action by the City. Specific public nuisances include:

- Major dumping and disposal of furniture, garbage, equipment, auto parts, bags from landscaping and gardening, etc.
- Graffiti on various walls along the exterior of the buildings and walls along property lines.
- Breaking into the buildings to steal cooper, plumbing, bathroom faucets, wiring, and other materials that can be sold.
- Homeless encampments with shopping carts, make-shift beds, cans of foods, and a small camp fire. Enclosed service delivery areas at the rear of the buildings have been used for shelter.

Since these incidents were brought to staff's attention, the City Manager has directed police officers to patrol the area more frequently and required routine inspections. However, despite best efforts, these conditions have continued to deteriorate. Additional action is needed in response to health, safety and general public welfare. Staff recommends City Council adopt a resolution delegating the Public Works Director to take emergency action to demolish the three buildings. A presentation including photographs of the site will be provided at the Council meeting. A copy of the draft resolution for adoption and photographs are included in the Council's agenda packet.

Fiscal Impact: None.

Recommendation: Adopt a resolution by urgent action for the demolition of three City-owned buildings, located at 1650-1690 and 1740-1830 McCandless Drive, based on health and safety reasons.

- * 6. **Adopt a Resolution Approving New Memorandum of Understanding with the Mid-Management and Confidential Employee Bargaining Unit (Staff Contact: Michael Ogaz, 408-586-3040)**

Background: On December 31, 2012, the Memorandum of Understanding (MOU) with the Mid-Management and Confidential employee bargaining unit expired. At the end of last year (2012) continuing into this year (2013), representatives of both management and the employee group have met regarding adoption of a new contract. Due to past significant budget shortcomings, primarily due to the state's elimination of Redevelopment Agency funding, the Mid-Con employee group agreed in the previous MOU to pay 14.8% of PERSable salary toward the employer PERS contribution rate on a pretax basis. With a guardedly improved local economy predicted by the Finance Department, management determined that a 2.5% roll-back of that 14.8% payment by this group would be affordable. This change would be effective the first full pay period following adoption of the accompanying Resolution. No other changes to the MOU were agreed to and therefore the new MOU incorporates all other provisions of the old MOU and will terminate on December 31, 2013.

Fiscal Impact: Approximately \$84,000 in additional cost annually.

Recommendation: Adopt a resolution approving the Memorandum of Understanding between the United Public Employees of California (UPEC Local 792, AFL-CIO) for the Mid-Management and Confidential bargaining unit for the period January 1 through December 31, 2013.

- * 7. **Adopt a Resolution Approving New Memorandum of Understanding with the Milpitas Professional and Technical Employee Bargaining Unit (Staff Contact: Michael Ogaz, 408-586-3040)**

Background: On December 31, 2012, the Memorandum of Understanding (MOU) with the Milpitas Professional and Technical Group (Protech) employee bargaining unit expired. At the end of last year (2012) continuing into this year (2013), representatives of both management and the employee group have met regarding adoption of a new contract. Due to past significant budget shortcomings, primarily due to the State's elimination of Redevelopment funding, this employee group had agreed in the old MOU to pay 15.4% of PERSable salary toward the employer PERS contribution rate on a pretax basis. With a guardedly improved local economy predicted by the Finance Department, management determined that a 2.5% roll-back of that 15.4% payment by this group would be affordable. This change would be effective the first full pay period following adoption of the accompanying Resolution. No other changes to the MOU were agreed to and therefore the new MOU incorporates all other provisions of the old MOU and terminates on December 31, 2013.

Fiscal Impact: Approximately \$120,000 in additional cost annually.

Recommendation: Adopt a resolution approving the Memorandum of Understanding between the Milpitas Professional and Technical Group (Protech) and the City of Milpitas for the period of January 1 through December 31, 2013.

- * 8. **Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for Street Resurfacing Project 2013, Project No. 4268 (Staff Contact: Steve Chan, 408-586-3324)**

Background: The Council awarded the Street Resurfacing Project 2013 to O'Grady Paving, Inc. on June 19, 2012. The project provides for the repair of base failures, remove and replace failed asphalt concrete pavement, miscellaneous concrete work, placing asphalt rubber cape seal, slurry seal and new roadway marking treatments on City streets. The project was successfully completed on time and within budget. Staff recommends that Council adopt a resolution granting

initial acceptance of the project and authorize the reduction of the contractor's faithful performance bond to \$84,183, which is 10% of the final contract value.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting initial acceptance of Street Resurfacing Project 2013, Project No. 4268, subject to a one year warranty period and reduction of the faithful performance bond to \$84,183.

- * **9. Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for Ayer Reservoir & Pump Station Emergency Repairs, Project No. 7102 (Staff Contact: Steve Erickson, 408-586-3301)**

Background: The Council awarded the Emergency Repairs to Ayer Reservoir & Pump Station Improvements to Anderson Pacific Engineering Construction Inc. on March 1, 2011. The project provided for the replacement of: three Variable Frequency Drive (VFD), install three new 200 horse-power electric motors, and completely rebuilt three shaft driven pumps. The project was successfully completed within budget. Staff recommends that Council adopt a resolution granting initial acceptance of the project and authorize the reduction of the contractor's faithful performance bond to \$50,091, which is 10% of the final contract value.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting initial acceptance of Ayer Reservoir & Pump Station Emergency Repairs, Project No. 7102, subject to a one year warranty period and reduction of the faithful performance bond to \$50,091.

- * **10. Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for Wrigley Ford Creek Maintenance Project, Project No. 9002 (Staff Contact: Steve Erickson, 408-586-3301)**

Background: The Milpitas Economic Development Corporation awarded the Wrigley Ford Creek Maintenance Project to Preston Pipelines, Inc. at its January 17, 2012 meeting. The project provides for Wrigley Ford Creek improvements and maintenance work consisting of clearing of debris, sediments, vegetation and trees and pruning of trees at strategic locations to restore the storm water conveyance of the channel. Work also included creek slope and bank restoration, environmental mitigation work consisting of new planting and irrigation (for plant establishment) along the creek. Phases I and II which included sediment, debris and vegetation removal and restoration planting were successfully completed on time and within budget. Staff recommends that Council adopt a resolution granting initial acceptance of the project and authorize the reduction of the contractor's faithful performance bond to \$30,343.33, which is 10% of the final contract value.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting initial acceptance of Wrigley Ford Creek Maintenance, Project No. 9002, subject to a one year warranty period and reduction of the faithful performance bond to \$30,343.33.

- * **11. Adopt a Resolution Authorizing the City Manager to Execute a Contract with Summit Uniforms by Piggybacking on the City of Sunnyvale Contract for the Annual Not-to-Exceed Amount of \$17,000 (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: The Police Department regularly purchases uniforms and supplies from Summit Uniforms. The estimated annual purchase costs amounted to \$17,000. Summit Uniform is located in San Jose, making it convenient for fittings and alterations. On August 8, 2011 the City of

Sunnyvale went out with a Invitation for Bid for uniforms and supplies. The contract is worth \$324,000 over a three year period was awarded to Summit Uniforms. Due to the City of Sunnyvale's significant contract amount, the City of Milpitas can take advantage of the economies of scale not otherwise available to the City.

The practice of, and requirements for, utilizing a contract bid by another agency are defined and sanctioned under Municipal Code Section I-2-3.07 "Piggyback Procurement." The current recommendation to piggyback onto the City of Sunnyvale's contract with Summit Uniforms is in full compliance with those requirements. The new contract with Summit Uniforms will be for one year with a one year renewal option remaining.

Fiscal Impact: None.

Recommendation: Adopt a resolution authorizing the City Manager to execute a separate contract with the vendor Summit Uniforms for Police Department uniforms, selected by the originating agency, the City of Sunnyvale, and incorporate by reference the original solicitation, terms, conditions, and pricing for the annual not-to-exceed amount of \$17,000.

- * 12. **Adopt a Resolution Authorizing the City Manager to Execute a Contract for Document Imaging by Piggybacking the City of Dublin Contract with Peelle Technologies for the Annual Not-to-Exceed amount of \$85,000.00 (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: In 2004 the city staff evaluated document imaging software and hardware from a variety of different companies. Peelle Technologies was determined to have the best price and service. Since then the City has also purchased Peelle's Kofax Ascent Capture software and four Fujitsu scanners to support the internal document imaging work performed by staff. On April 25, 2008 the Peelle was granted a "Sole Source" designation in accordance with Municipal Code Section I-2-3.09 "Sole Source Procurement," that designation is still in effect for one more year. In March of 2009 the City piggybacked the City of Sunnyvale contract with Peelle Technologies. The City of Sunnyvale contract with Peelle Technologies expired in March of 2012. However, the City of Dublin has a current contract with Peelle, which was competitively bid on May 7, 2012, the City of Milpitas can piggyback on the City of Dublin contract and still maintain very similar rates.

The practice of, and requirements for, utilizing a contract bid by another agency are defined and sanctioned under Municipal Code Section I-2-3.07 "Piggyback Procurement." Staff's recommendation to piggyback on the City of Dublin's contract with Peelle Technologies is in full compliance with those requirements. The new contract with Peelle will be for one year with a one year renewal option remaining.

Fiscal Impact: None.

Recommendation: Adopt a resolution authorizing the City Manager to execute a separate contract with the vendor Peelle Technologies, selected by the originating agency, the City of Dublin, and incorporate by reference the original solicitation, terms, conditions, and pricing for the annual not-to-exceed amount of \$85,000.

XVII. BID AND CONTRACTS

13. **Receive a Progress Report on the Alviso Adobe Renovation Project, Phase IV Site Improvements, Approve Additional Spanish/Mexican Displays and Signage, and Authorize the City Manager to Execute an Agreement with Page & Turnbull, Project No. 5055 (Staff Contact: Kathleen Phalen, 408-586-3345)**

Background: In 1996, the City obtained the historic Alviso Adobe property, located at 2087 Alviso Adobe Court off Piedmont Road, to improve for public use. The adobe has a long history of active use. Jose Maria Alviso built the original one-story adobe residence at this site in 1837, at a time when California was a territory of Mexico. The adobe was extensively remodeled by Alviso in 1850 when a second story was added, converting it to the “Monterey Style” with the addition of the wood balconies, French doors, multi paned windows, and hipped shingle roof, which you can still see today. The adobe was later purchased by the Cuciz family in 1922 and the building was restored and remodeled again removing a lean-to kitchen and adding a 1920’s era kitchen to the rear of the adobe.

The City is completing improvements in phases as funding becomes available. The Phase III exterior structural improvements to the adobe building have been completed, and the Phase IV improvements of the grounds into a public park are nearly complete. The new park features an apricot orchard, reconstructed cutting shed, water tower and garage garden, and other landscaping elements to replicate a historic 1920’s farm setting. It also provides pathways, lighting, picnic areas, park benches, and a public restroom. The park opening ceremony will be on March 16, 2013.

The future Phase V of the project calls for renovation of the interior of the Alviso Adobe, including adding displays of historic artifacts and educational information that would speak to the early Spanish/Mexican Rancho era (1830-1860). Unfortunately, funding is not expected to be available in the near term to complete this work, estimated at well over \$1.0 million. Therefore, Councilmember Montano has requested that the City Council consider approving additional historic displays and signage in the park to describe the early Spanish/Mexican Rancho era.

Upon completion of Phase IV, there will be approximately \$300,000 remaining in the project budget. The cost to research, fabricate, and install early Spanish/Mexican displays and signage on the park grounds is estimated at \$150,000. If Council approves this additional work, staff recommends contracting with the historic preservation firm of Page & Turnbull, a sub-consultant for the Phase IV renovation, to provide these services.

A brief presentation on progress to date, project budget, schedule, and other project-related information will be provided at the Council meeting.

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

Recommendations:

1. Receive an oral progress report at the meeting, and provide any comments to staff.
2. Approve the request by Councilmember Montano for installation of Spanish/Mexican displays and signs on the park grounds.
3. Approve and authorize the City Manager to execute an agreement with Page & Turnbull, in the not to exceed amount of \$150,000 for Spanish/Mexican era park displays and signage, Project No. 5055, subject to approval as to form by the City Attorney.

- * 14. **Award the Bid for a 2013 Ford Taurus Police Interceptor to Frontier Ford for the Not-To-Exceed Amount of \$30,357.25 (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: The Purchasing Agent worked with Fleet Maintenance and the Police Department to develop a specification for a 2013 Ford Taurus Police Interceptor. The Invitation for Bid was released on January 10, 2013. One bid was received on January 25, 2013 from Frontier Ford for \$30,375.25.

Fiscal Impact: None. Sufficient funding is available in the Equipment Replacement Fund for the purchase of this vehicle.

Recommendation: Award the bid for a 2013 Ford Taurus police interceptor Frontier Ford for the not-to-exceed amount of \$30,375.25.

- * 15. **Approve and Authorize the City Manager to Execute an Agreement with H. T. Harvey & Associates, for Storm Drain System Deficiency Program Project No. 3700 (Staff Contact: Steve Erickson, 408-586-3301)**

Background: The Storm Drain System Deficiency Program, Project No.3700, is included in the approved Capital Improvement Program. The City has successfully completed the creek improvements along Wrigley Ford Creek which included clearing of debris, sediments, vegetation and trees and pruning of trees to restore the storm water conveyance of the channel creek slope and bank restoration, and environmental mitigation work consisting of new planting and irrigation. As part of project closeout and for compliance with the permits issued by the Regional Water Quality Control Board (RWQCB), U.S. Department of the Army Corps of Engineers (ACOE), and the Department of Fish & Game, the City is required to provide ecological monitoring and reporting for a period of ten years from completion of the improvements. Through the City's consultant selection process, H. T. Harvey & Associates has been selected to provide the ecological monitoring and reporting services for the Wrigley Ford Creek Maintenance Project. A scope and fee for these services was negotiated not to exceed \$97,000, which is considered reasonable for the work.

Fiscal Impact: None. There are sufficient funds in the project budget.

Recommendation: Approve and Authorize the City Manager to execute an agreement with HT Harvey & Associates in the not to exceed amount of \$97,000, Project No. 3700, subject to approval as to form by the City Attorney.

- * 16. **Authorize the City Manager to Execute the Fifth Amendment to the Contract with CSG Consultants, Inc. for an Additional \$120,360 Annually for Fire Department Plan Review and Inspection Services (Staff Contact: Albert Zamora, 408-586-3371)**

Background: CSG Consultants, Inc. currently provides contract fire plan review and inspection services for the City of Milpitas with an annual amount not-to-exceed \$122,400. Due to the increase demand for both plan review and inspection services with respect to the major development projects approved by the City, this proposed contract amendment will facilitate the additional workload by increasing the annual amount not-to-exceed to \$242,760.

Fiscal Impact: None. The additional requested amount will be offset by fire permit fees that are directly paid by the developers.

Recommendation: Authorize the City Manager to execute the fifth amendment to the contract with CSG Consultants Inc. for fire inspection and plan review services for an increase of \$120,360 and a total amount-not-to-exceed \$242,760 annually (which includes the original contract amount of \$122,400).

- * 17. **Authorize City Attorney to Execute Agreement with Renne Sloan for Attorney Services (Staff Contact: Michael Ogaz, 408-586-3040)**

Background: This law firm provides general advice to and representation of the City, mainly focusing on personnel related issues. At this time, City Attorney staff is down to one attorney and there is insufficient capacity to handle all matters in this area. This contract for \$50,000 will afford needed coverage while staffing is down and pending the hiring of an Assistant City Attorney. Salary savings from absence of an Assistant City Attorney from December through March will assist in offsetting this cost.

Fiscal Impact: None.

Recommendation: Authorize the City Attorney to execute the contract for Attorney Services with the law firm of Renne Sloan Holtzman Sakai LLP, in the amount of \$50,000.

- * 18. **Authorize the City Manager/Executive Officer to Execute a Stand Still Agreement with the Milpitas Oversight Board (Staff Contact: Michael Ogaz, 408-586-3040)**

Background: The wind down of the former Redevelopment Agency (RDA) is supervised by the Oversight Board for the City of Milpitas according to State Law. Distribution of former RDA assets is a component of the Oversight Board duties. The State of California has claimed that assets of the Economic Development Corporation should be transferred by the EDC so that those funds can be distributed to the County and other taxing entities. The City and EDC disagree with that view, claiming that the EDC, as a separate non-profit public benefit corporation, is fully entitled to retain its assets because they were legally acquired at the time of transfer in 2011.

In light of the opposing viewpoints, it was suggested by Counsel of the Oversight Board that the City, the EDC and the City as Successor Agency to the former Redevelopment Agency enter into an agreement with the Oversight Board to suspend new EDC expenditures until a decision is made by the courts or other decision maker as to whether the EDC is entitled to keep the assets it now possesses. Alternatively, the Oversight Board has threatened to seek an injunction prohibiting the EDC from depleting its assets.

Staff recommends approval of the Stand Still Agreement as a compromise, avoiding the expense of litigation. Many court decisions, including one that will result from a lawsuit filed by Morgan Hill regarding the validity of its EDC, will provide judicial determinations on the validity of ABX1-26 and AB1484. Those laws include questionable provisions which make transfers to the EDC that were legal at the time they were made, retroactively illegal.

Fiscal Impact: None.

Recommendation: Authorize the City Manager to execute a Stand Still Agreement on behalf of the City, and that the Board of the Successor Agency to the former Redevelopment Agency move to authorize its Executive Officer to execute the Stand Still Agreement on behalf of the Successor Agency (to the former Milpitas Redevelopment Agency).

XVIII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, MARCH 5, 2013 AT 7:00 P.M.**