



**MILPITAS CITY COUNCIL AGENDA  
TUESDAY, MAY 7, 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**

Pursuant to Govt. Code Section 54956.9  
Existing Litigation: Sacramento County Superior Court, case no. 34-2013-80001436,  
County of Santa Clara, Vinod K. Sharma, et al., vs. Milpitas Economic Development Corporation,  
City of Milpitas, et al.
  - 2. CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**

Pursuant to California Government Code §54957.6, City Negotiator: Carmen Valdez  
Employee Groups: Milpitas Employees Association (MEA), Milpitas Police Officers Association  
(MPOA), International Association of Fire Fighters (IAFF), and Milpitas Association of Battalion  
Chiefs. 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 (Mayor Esteves)**
- VI. APPROVAL OF COUNCIL MEETING MINUTES – April 16, 2013**
- VII. SCHEDULE OF MEETINGS – COUNCIL CALENDAR – May 2013**
- VIII. PRESENTATIONS**
  - Proclaim *Older Americans Month* for May 2013
  - Proclaim *Wildfire Awareness Week* – May 5-11, 2013
- IX. PUBLIC FORUM**

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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.

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

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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.

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#### **XIV. PUBLIC HEARINGS**

- 1. Hold a Public Hearing on Fire Fees and Adopt a Resolution for Fire Department Fee Adjustments (Staff Contact: Albert Zamora, 408-586-3371)**
- 2. Consider the Milpitas Climate Action Plan and Adopt a Resolution Approving the Project's Negative Declaration (Staff Contact: Sheldon Ah Sing, 408-586-3278)**
- 3. Hold Public Hearing on Residential Development Project, then Consider Actions for Ordinance No. 38.808 for Zoning Code Text Amendment Adding "Live-Work" units and Adopt a Resolution Approving Lots 1 and 2 Project (375 Los Coches) and the Mitigated Negative Declaration (Staff Contact: Tiffany Brown, 408-586-3283)**

#### **XV. UNFINISHED BUSINESS**

- \* 4. Receive the April 2013 Odor Control Reports (Staff Contact: Kathleen Phalen, 408-586-3345)**

#### **XVI. REPORT OF MAYOR**

- \* 5. Consider Recommendation from Mayor for Re-Appointment of Councilmember Gomez to Bay Area Water Supply and Conservation Agency (Staff Contact: Mary Lavelle, 408-586-3001)**

#### **XVII. NEW BUSINESS**

- \* 6. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended March 31, 2013 (Staff Contact: Emma Karlen, 408-586-3145)**

#### **XVIII. RESOLUTIONS**

- \* 7. Adopt a Resolution Directing Preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch, Project No. 9492 (Staff Contact: Kathleen Phalen, 408-586-3345)**
- \* 8. Adopt a Resolution Directing Preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon, Project No. 9493 (Staff Contact: Kathleen Phalen, 408-586-3345)**
- \* 9. Adopt a Resolution Requesting that the Metropolitan Transportation Commission Allocate Transportation Development Act Article 3 Funds to the City for the Street Resurfacing 2014, Projects No. 4254 and No. 4268 (Staff Contact: Steve Chan, 408-586-3324)**
- \* 10. Adopt Resolution of Intention to Amend Nitrogen Gas Ordinances for Air Products and Praxair License Agreements (Staff Contact: Keyvan Irannejad, 408-586-3244)**

#### **XIX. CONTRACTS**

- \* 11. Approve Amendment No. 2 to the Agreement with Harris & Associates and Approve a Budget Appropriation (Staff Contact: Keyvan Irannejad, 408-586-3244)**

- \* 12. **Authorize the City Manager to Execute Amendment No. 1 to the Agreement with JDH Corrosion Consultants, Inc. for the Cathodic Protection Improvements, Project No. 7115 (Staff Contact: Steve Erickson, 408-586-3301)**
- \* 13. **Authorize the City Manager to Execute an Agreement with Gates & Associates Landscape Architecture for McCarthy Blvd. Landscape & Lighting Improvements Project No. 3402 (Staff Contact: Steve Erickson, 408-586-3301)**
- \* 14. **Approve Plans and Specifications for Street Resurfacing 2014, and Authorize the Advertisement for Bid Proposals, Projects No. 4254 and No. 4268 (Staff Contact: Steve Chan, 408-586-3324)**

**XX. ADJOURNMENT**

**SPECIAL CITY COUNCIL MEETING – BUDGET HEARING  
TUESDAY, MAY 14, 2013 AT 6:00 P.M.**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, MAY 21, 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](mailto: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](http://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, 3<sup>rd</sup> 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](http://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 (alternate)  
Parks, Recreation, and Cultural Resources Commission*

Commission application forms are available online at [www.ci.milpitas.ca.gov](http://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](mailto: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. PUBLIC HEARINGS

#### 1. **Hold a Public Hearing on Fire Fees and Adopt a Resolution for Fire Department Fee Adjustments (Staff Contact: Albert Zamora, 408-586-3371)**

**Background:** Fees for service are periodically adjusted to stay current with costs for service. Most fire agencies adjust their fees on either a cyclical or annual basis. The Milpitas Fire Department's most recent adjustment occurred back in 2007. Based on the Finance Department's revised hourly rate, Fire Dept. staff will use this rate in calculating the proposed fee adjustment which is at mid-range with respect to the compared jurisdictions.

**Fiscal Impact:** With the adoption of the revised fee schedule, there will be an increase in revenue proportional to the cost recovery for the service provided.

**Attachments:**

- A. Draft Resolution with proposed new fees
- B. Fire Marshal's Memorandum to City Council dated 4/25/13 with attachments

**Recommendations:**

1. Open the public hearing, and following any comments, move to close the public hearing.
2. Adopt a resolution for Fire Department Fee Adjustments effective July 1, 2013.

#### 2. **Consider the Milpitas Climate Action Plan and Adopt a Resolution Approving the Project's Negative Declaration (Staff Contact: Sheldon Ah Sing, 408-586-3278)**

**Background:** In 2006, the State of California legislature passed Assembly Bill 32, the Global Warming Solutions Act of 2006 (AB32). The legislation committed the state to reducing greenhouse gas emissions to a level equivalent to 1990 emissions by 2020. AB32 also requires municipalities creating new General Plans to evaluate and mitigate for greenhouse gas emissions in its planning areas to a level consistent with AB32. Furthermore, Senate Bill 375 (SB375) places requirements on municipalities regarding the reduction of greenhouse gas emissions through land use patterns, enhanced transit services and reduction of vehicle miles traveled (VMT).

In order to comply with AB32 and SB375, the Bay Area Air Quality Management District adopted new thresholds regarding development projects and greenhouse gas emissions to coincide with the environmental review of a project. The development of strategies to reduce greenhouse emissions through a formal document such as a Climate Action Plan (CAP) streamlines the planning process for projects, while demonstrating overall compliance with State law. The Milpitas CAP contains:

- An inventory of greenhouse gas emissions from all community and municipal sources;
- A public outreach component to receive input from the community and stakeholders;
- A greenhouse gas mitigation plan composed of strategies to reduce greenhouse gas emissions to a level consistent with the requirements of AB32 and SB375 throughout the project area; and
- A monitoring program for greenhouse gas emissions into the future.

The CAP was significantly funded through a grant from Santa Clara Valley Transportation Authority (VTA) and redevelopment money, so the city's General Fund was not impacted. The CAP identifies a target reduction of 16.2% below the 2005 baseline, which exceeds the minimum of 15% below the 2005 baseline. A General Plan Text Amendment is proposed for the Land Use Element to reference the CAP and the proposed target. Because General Plan amendments are

limited by state law, it is proposed to bring forward the adoption of the amendment at the same time as another development project is currently being reviewed by staff.

The Air District provided comments regarding the draft CAP. The Air District requested that emissions from the wastewater and landfill facilities be included in the City's forecasts. The City acknowledges that these facilities are not within our jurisdictional control. In addition, the Air District suggested additional measures be included. Staff is not recommending additional measures at this time.

**Fiscal Impact:** None.

**Attachments:**

- A. Resolution
- B. Climate Action Plan
- C. Errata sheets
- D. Planning Commission Report (April 10, 2013)
- E. Planning Commission meeting minutes (March 20 & April 10, 2013)
- F. Comment Letters

**Recommendations:**

1. Open the public hearing, and following any comments, move to close the public hearing.
  2. Adopt a resolution adopting the Milpitas Climate Action Plan and adopt the project Negative Declaration.
3. **Hold Public Hearing on Residential Development Project, then Consider Actions for Ordinance No. 38.808 for a Zoning Code Text Amendment Adding “Live-Work” units and Adopt a Resolution Approving Lots 1 and 2 Project (375 Los Coches) and the Mitigated Negative Declaration (Staff Contact: Tiffany Brown, 408-586-3283)**

**Background:** In December of 2011, Doyle Heaton with DRG Builders submitted a Preliminary Application for a request to demolish an existing 19,600 square foot building with associated parking and construct 33 new single family residential homes on approximately 2.7 acres at 375 Los Coches, within the Town Center Zoning District. Staff identified specific concerns with single-family residential abutting South Milpitas Boulevard. In response, the applicant incorporated four live-work units with commercial store fronts, totaling 2,000 square feet of commercial, along South Milpitas Boulevard.

**Zoning Text Amendment (ZA13-0002):**

The Town Center Zoning District does not currently include live-work units as a permitted or conditionally permitted use. As a part of the project proposal, DRG Builders is requesting to amend the text within the Zoning Code to incorporate “live-work” units as a conditionally permitted use within the Town Center Zoning District; to introduce “live-work” specifications under Section 13 “Special Uses”; to add “live-work” parking requirements; and to further define “live-work” units in Section 2 “Definitions.” A draft ordinance is included in the agenda packet for the requested amendment.

**Lots 1 and 2 Residential Project:**

The residential project includes an application for a Major Tentative Map (MT12-0002) for the subdivision of 32 lots with new residential streets and park, a Site Development Permit (SD12-0003) for architectural review, a Conditional Use Permit (UP12-0016) for the residential and live-work use and an Environmental Impact Assessment (EA 12-0005) for the construction of 28 new single family residential units and with four live-work units.

**Planning Commission Recommendation:**

On March 27, 2013, the Planning Commission held a public hearing with considerable discussion on the appropriateness of single-family residential with less than 5% of the site to be utilized for

commercial use. The outcome of the discussion was a three (3) to two (2) vote recommending approval of the project with a condition that a corresponding zoning text amendment be prepared for Planning Commission review and recommendation prior to forwarding the development project to the City Council for consideration. On April 10, 2013, the Planning Commission held a public hearing for the Zoning Text Amendment and the outcome of that meeting was a three (3) to two (2) vote recommending approval of the amendment.

**Fiscal Impact:** None

**Attachments:**

- A. Planning Commission Staff Report, April 10, 2013 (Zoning Text Amendment)
- B. April 10, 2013 PC Meeting Minutes
- C. Planning Commission Staff Report, March 27, 2013 (Residential Project)
- D. March 27, 2013 PC Meeting Minutes
- E. Site plans
- F. Letter from School District
- G. Environmental Impact Assessment
- H. Phase I Environmental Site Assessment
- I. Traffic Study
- J. Noise Study
- K. Risk Assessment
- L. Greenhouse Gas/Air Quality
- M. Council's Transportation and Land Use Subcommittee Meeting Minutes January 24, 2012
- N. Council's Transportation and Land Use Subcommittee Meeting Minutes April 18, 2012
- O. Proposed Ordinance No. 38.808
- P. Resolution

**Recommendations:**

- 1. Open the public hearing, and following any comments, move to close the public hearing.
- 2. Waive the first reading beyond the title of Ordinance No. 38.808 for the Zoning Text Amendment regarding the addition of "live-work" units.
- 3. Move to introduce Ordinance No. 38.808.
- 4. Adopt a Resolution approving the Lots 1 and 2 (375 Los Coches) Residential Project and the Mitigated Negative Declaration.

**XV. UNFINISHED BUSINESS**

- \* **4. Receive the April 2013 Odor Control Report (Staff Contact: Kathleen Phalen, 408-586-3345)**

**Background:** From March 19 through April 21, 2013, the Bay Area Air Quality Management District (BAAQMD) received seventeen odor complaints originating in Milpitas. Nine complaints identified a garbage-related odor, one identified a sewage-related odor and seven did not identify an odor source. As of the last Council update, the City's odor reporting website received forty-seven reported complaints.

**Recommendation:** Receive the April 2013 odor report.

**XVI. REPORT OF MAYOR**

- \* **5. Consider Recommendation from Mayor for Re-Appointment of Councilmember Gomez to Bay Area Water Supply and Conservation Agency (Staff Contact: Mary Lavelle, 408-586-3001)**

**Background:** Councilmember Armando Gomez presently serves as the City's appointed member on the Board of Directors for the regional body, the Bay Area Water Supply and

Conservation Agency (BAWSCA) and also the Bay Area Regional Water System Financing Authority (RFA). Mayor Esteves received a letter from BAWSCA on March 29, 2013 regarding the approaching end of Mr. Gomez' current term of appointment. His current term of service on this board will expire in June, and the agency requests the Council to make an appointment for the next four-year term. Mayor Esteves recommends re-appointment of Councilmember Gomez to represent City of Milpitas on this body.

**Recommendation:** Receive Mayor's recommendation and move to re-appoint Councilmember Gomez to BAWSCA and RFA for another term.

## XVII. NEW BUSINESS

### \* 6. **Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended March 31, 2013 (Staff Contact: Emma Karlen, 408-586-3145)**

**Background:** In compliance with the State of California Government Code and the City's Investment policy, the City of Milpitas Investment Report for the quarter ended March 31, 2013 is submitted for review and acceptance.

The Portfolio Summary Report (included in the Council's packet) provides a summary of the City's investments by type. It lists the par value, market value, book value, percentage of portfolio, term, days to maturity and the equivalent yields for each type of investment. The Portfolio Details Report provides the same information for each individual investment in the City's portfolio as of March 31, 2013.

As of March 31, 2013, the principal cost and market value of the City's investment portfolio was \$164,856,114 and \$165,520,443 respectively. When market interest rates increase after an investment is purchased, the market value of that investment decreases. Conversely, when market interest rates decline after an investment is purchased, the market value of that investment increases. If the investments are not sold prior to the maturity date, there is no market risk. Therefore, in accordance with the City's investment policy, all investments are held until maturity to ensure the return of all invested principal.

The City's effective rate of return for the period ended March 31, 2013 was 0.60%. The comparative benchmarks for the same period were 0.28% for LAIF (Local Agency Investment Fund) and 0.25% for the 12-month average yield of the 2 year Treasury Note. The weighted average maturity of the portfolio was 421 days.

The investment portfolio is in compliance with the City's investment policy. A combination of securities maturing, new revenues, and tax receipts will adequately cover the anticipated cash flow needs for the next six months. Cash flow requirements are continually monitored and are considered paramount in the selection of maturity dates of securities.

Market values of the securities were provided by BNY Mellon, the safekeeping bank of the City's securities. All the securities owned by the City are held in the trust department of BNY Mellon under the terms of a custody agreement.

Three charts are included with the agenda packet that show investment by maturity levels, comparison of the City's portfolio yields to other benchmark yields as well as a trend of the type of securities in the City's portfolio, weighted average maturity and average yield.

**Fiscal Impact:** None

**Recommendation:** Receive the investment report for the quarter ended March 31, 2013.

## XVIII. RESOLUTIONS

- \* 7. **Adopt a Resolution Directing Preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch, Project No. 9492 (Staff Contact: Kathleen Phalen, 408-586-3345)**

**Background:** Landscaping and Lighting Maintenance Assessment District No. 95-1 (LLMD 95-1) provides for improving and maintaining the public landscaping and pedestrian lighting along North McCarthy Boulevard and the Ranch Drive gateway. Proposed improvements included in the draft 2013-2018 Capital Improvement Program are renovation of the District's landscaping and irrigation system. The Landscaping and Lighting Act of 1972 requires adoption of the subject resolution directing preparation of an annual engineer's report evaluating the District's maintenance and improvement costs. At subsequent meetings, Council will be asked to approve the completed engineer's report and schedule a public hearing for the proposed assessment on June 4, 2013. Upon Council's approval, the assessment for the maintenance and improvement work will be added to the 2013-14 property tax bills of the property owners within the boundaries of the District.

**Fiscal Impact:** None

**Recommendation:** Adopt a resolution directing the preparation of the Annual Engineer's Report for LLMD No. 95-1 at McCarthy Ranch.

- \* 8. **Adopt a Resolution Directing Preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon, Project No. 9493 (Staff Contact: Kathleen Phalen, 408-586-3345)**

**Background:** Landscaping and Lighting Maintenance Assessment District No. 98-1 (LLMD 98-1) provides for improving and maintaining the public landscaping and additional lighting along Sinclair Frontage Road, Los Coches Creek and Berryessa Creek abutting the Sinclair Horizon residential subdivision. Proposed improvements included in the draft 2013-2018 Capital Improvement Program are renovation of the District's lighting, landscaping and irrigation system. The Landscaping and Lighting Act of 1972 requires adoption of the subject resolution directing preparation of an annual engineer's report evaluating the District's maintenance and improvement costs. At subsequent meetings, Council will be asked to approve the completed engineer's report and schedule a public hearing for the proposed assessment on June 4, 2013. Upon Council's approval, the assessment for the maintenance and improvement work will be added to the 2013-14 property tax bills of the property owners within the boundaries of the District.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution directing the preparation of the Annual Engineer's Report for LLMD No. 98-1 at Sinclair Horizon.

- \* 9. **Adopt a Resolution Requesting that the Metropolitan Transportation Commission Allocate Transportation Development Act Article 3 Funds to the City for the Street Resurfacing 2014, Projects No. 4254 and No. 4268 (Staff Contact: Steve Chan, 408-586-3324)**

**Background:** The Metropolitan Transportation Commission (MTC) annually apportions Transportation Development Act (TDA), Article 3 funding to Bay Area cities for pedestrian and bicycle improvement projects. For fiscal year 2013-14, MTC has apportioned \$84,506 to the City of Milpitas based on its population. To obtain this funding, staff needs to submit a grant proposal containing a resolution from the City Council declaring the City's eligibility for the TDA funding. Staff has proposed programming this funding into the Street Resurfacing 2014 Capital Improvement Program project for installation of pedestrian ramps that will comply with

the Americans with Disabilities Act requirements. The locations of these pedestrian ramp improvements will be determined during the project design phase.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution requesting that the Metropolitan Transportation Commission allocate Transportation Development Act Article 3 Funds to the City for the Street Resurfacing 2014, Projects No. 4254 and No. 4268.

**\* 10. Adopt Resolution of Intention to Amend Nitrogen Gas Ordinances for Air Products and Praxair License Agreements (Staff Contact: Keyvan Irannejad, 408-586-3244)**

**Background:** The current license agreements for Air Products (Ordinance No. 222) and Praxair (Ordinance No. 223) have expired. There are approximately four miles of nitrogen pipelines in the City. Staff negotiated new terms for amendments, as follows:

\$4,039 per mile (currently \$3,775 per mile) plus \$777 per inch diameter of laterals (currently \$726 per inch diameter of laterals), annually. There will be 7% annual increase of the fees. The new agreements will expire in 15 years (2028).

Franchised revenues are estimated to increase from currently \$45,000 to \$48,000 for 2013.

The City Council is recommended to proceed with the ordinances to execute the agreements.

Anticipated actions are:

1. Adopt Resolution of intent to amend.
2. Set the Council meeting for a public hearing and introduction of Ordinance No. 220.2, No. 222.1 and No. 223.2.
3. At the adoption of the ordinances, authorize City Manager to execute the license agreements.

**Fiscal Impact:** None.

**Recommendations:**

1. Adopt a Resolution of intent to amend ordinances and license agreements with nitrogen gas companies.
2. Set June 4, 2013 as the date for a public hearing at the City Council meeting and to introduce the ordinances.

## **XIX. CONTRACTS**

**\* 11. Approve Amendment No. 2 to the Agreement with Harris & Associates and Approve a Budget Appropriation (Staff Contact: Keyvan Irannejad, 408-586-3244)**

**Background:** Due to current peak work load of private development projects, and encroachment permits activities as it relates to the Bay Area Rapid Transit extension project and in order to meet schedules of current and anticipated projects, staff is recommending additional consultant services to augment staff resources. Harris & Associates services will be used on as needed basis, which are fully reimbursable from developer and Santa Clara Valley Transportation Authority (VTA) funds.

Harris & Associates was selected based on recent and past performances and through the City's consultant selection process. Based on the anticipated work load, staff estimated a fee not to exceed \$275,000. Included in the Council's packet is the budget change form. The term of this agreement will cover anticipated work through June 30, 2014.

**Fiscal Impact:** None. The consultant fee for these services is reimbursable through the private project accounts and VTA funds.

**Recommendations:**

1. Approve and authorize the City Manager to execute Amendment No. 2 to the consultant agreement with Harris & Associates in the amount of \$275,000, subject to approval as to form by the City Attorney.
2. Approve a budget appropriation in the amount of \$57,500 to increase Land Development Engineering expenditure budget for the remaining of the fiscal year that will be reimbursed by private development.

- \* 12. **Authorize the City Manager to Execute Amendment No. 1 to the Agreement with JDH Corrosion Consultants, Inc. for the Cathodic Protection Improvements, Project No. 7115 (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** On June 19, 2012, the City entered into a consultant agreement with JDH Corrosion Consultants, Inc. in the amount of \$75,000 to provide an evaluation of the City's existing cathodic protection systems which are installed on buried metal pipelines to protect the pipelines from corrosion. The evaluation was performed to determine how well the City's system is operating and if replacement, upgrade, retrofit or repairs are needed. Staff now recommends that JDH Corrosion Consultants, Inc. perform additional design and construction support services for the needed improvements that were identified during the evaluation process. Amendment No. 1 to the JDH Corrosion Consultants, Inc. agreement is proposed for these additional services.

City of Milpitas staff negotiated a fee for these services not to exceed \$100,000, which is considered reasonable for the work. Approval of this agreement amendment brings the total agreement amount to \$175,000.

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

**Recommendation:** Authorize the City Manager to execute Amendment No. 1 to the agreement with JDH Corrosion Consultants, Inc. in the amount of \$100,000, Project No. 7115, subject to approval as to form by the City Attorney.

- \* 13. **Authorize the City Manager to Execute an Agreement with Gates & Associates Landscape Architecture for McCarthy Blvd. Landscape & Lighting Improvements Project No. 3402 (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** McCarthy Blvd. Landscape & Lighting Improvements, Project No. 3402, is included in the approved Capital Improvement Program. The work involves generating plans, specifications, and contract documents for the improvements to renovate portions of the lighting and landscaping included within the McCarthy Ranch Lighting and Landscaping Maintenance District 95-1. The improvements include rehabilitating portions of the irrigation and lighting systems, landscaping, and correcting deficiencies to comply with current regulations. Through the City's consultant selection process, Gates & Associates Landscape Architecture has been selected to provide the design services. Staff negotiated a scope and fee for these services not to exceed \$65,000, which is considered reasonable for the work.

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

**Recommendation:** Authorize the City Manager to execute an agreement with Gates & Associates Landscape Architecture for the McCarthy Boulevard Landscape & Lighting Improvement, Project No. 3402, subject to approval as to form by the City Attorney.

- \* 14. **Approve Plans and Specifications for Street Resurfacing 2014, and Authorize the Advertisement for Bid Proposals, Projects No. 4254 and No. 4268 (Staff Contact: Steve Chan, 408-586-3324)**

**Background:** Staff prepared plans and specifications for Street Resurfacing Project 2014, Projects No. 4254 and No. 4268. To extend street pavement life, this project will apply various pavement surface treatments including asphalt rubber cape seals and slurry seals, and will remove and replace sections of failed pavement. The project will also replace the roadway markings on the repaved or sealed streets. The Engineer's Estimate for the project is \$2,000,000. A copy of the title sheet of the project plans showing the streets to be resurfaced is included in the Council's agenda packet. The complete set of plans and specifications is available for review in the office of the City Engineer.

**Fiscal Impact:** None.

**Recommendation:** Approve plans and specifications for Street Resurfacing 2014, Projects No. 4254 and No. 4268, and authorize the advertisement for bid proposals.

**XX. ADJOURNMENT**

**SPECIAL CITY COUNCIL MEETING – BUDGET HEARING  
TUESDAY, MAY 14, 2013 AT 6:00 P.M.**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, MAY 21, 2013 AT 7:00 P.M.**