



**MILPITAS CITY COUNCIL AGENDA
TUESDAY, JUNE 4, 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 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
 - 2. CONFERENCE WITH LEGAL COUNSEL**

Existing Litigation
Per Government Code Section 54956.9
City of Milpitas v. City of San Jose, Santa Clara County Superior Court case no. 112CV233069
- 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 – May 21, 2013**
- VII. SCHEDULE OF MEETINGS – COUNCIL CALENDAR – June 2013**
- VIII. PRESENTATION – *Presenting the 2013 Youth Advisory Commission Scholarship to Cindy Wu***
- 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. PUBLIC HEARINGS

- 1. Hold a Public Hearing and Adopt a Resolution Approving the Traverse Residential Project Located at 569-625 Trade Zone Blvd. (Staff Contact: Cindy Hom, 408-586-3284)**
- 2. Hold a Public Hearing and Introduce Nitrogen Gas Ordinances for Air Products and Praxair Franchise License Agreements (Staff Contact: Keyvan Irannejad, 408-586-3244)**
- 3. Hold a Public Hearing and Adopt a Resolution Approving the Annual Engineer's Report and the Levying of Assessment for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon (Staff Contact: Steve Erickson, 408-586-3301)**
- 4. Hold a Public Hearing and Adopt a Resolution Approving the Annual Engineer's Report and the Levying of Assessment for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch (Staff Contact: Steve Erickson, 408-586-3301)**

XV. UNFINISHED BUSINESS

- 5. Receive Overview of Strategic Planning Process from City Manager (Staff Contact: Tom Williams, 408-586-3050)**
- * 6. Receive the May 2013 Odor Control Report (Staff Contact: Jeff Moneda, 408-586-3345)**

XVI. REPORT OF PARKS, RECREATION & CULTURAL RESOURCES COMMISSION

- * 7. Approve Park and Recreation Donation of Trees and Park Bench at Murphy Park by the Kang Family (Staff Contact: Jaime Chew, 408-586-3234)**

XVII. NEW BUSINESS

- * 8. Approve an Appropriation of \$101,600 into the Police Department's Operating Budget for Purchase of Computer Aided Dispatch Software, Reimbursed through Urban Area Security Initiative Grant (Staff Contact: Armando Corpuz, 408-586-2534)**
- * 9. Consider Request from Alcoholics Anonymous to Waive Rental Fee for its Annual "Unity Day" Event at Milpitas Community Center (Staff Contact: Mary Lavelle, 408-586-3001)**
- * 10. Receive Financial Status Report for the Nine Months Ended March 31, 2013 (Staff Contact: Emma Karlen, 408-586-3145)**

XVIII. RESOLUTIONS

- * 11. Adopt a Resolution to Release Unclaimed Checks per Standard Operating Procedure No. 26-1 (Staff Contact: Dante Ong, 408-586-3132)**
- * 12. Adopt a Resolution Adopting the Appropriations Limit for the Fiscal Year 2013-14 (Staff Contact: Emma Karlen, 408-586-3145)**

XIX. BID AND CONTRACTS

- * 13. Approve Adopt-a-Spot Agreement with the Milpitas Executive Lions Club for the Alviso Adobe Park (Staff Contact: Rosana Cacao, 408-586-3207)**
- * 14. Authorize the City Manager to Execute Amendment No. 1 to the Agreement with RMC Water and Environment, Inc. for Utility Engineering Support by Increasing Compensation by \$88,000 (Staff Contact: Jeff Moneda, 408-586-3345)**

- * 15. **Approve Amendment No. 3 to the Non-Exclusive Collection, Transportation, and Recycling Agreement with Premier Recycle to Extend the Term from August 6, 2013 to August 5, 2016 (Staff Contact: Jeff Moneda, 408-586-3345)**
- * 16. **Authorize the City Manager to Execute Amendment No. 1 to the Agreement with West Yost & Associates for Technical Support Services for Bay Area Rapid Transit Construction Project by Increasing Compensation by \$20,000 for Projects No. 4265 and No. 7100 (Staff Contact: Jeff Moneda, 408-586-3345)**
- * 17. **Award the Bid for Recreation Services Activity Guide Printing to Fricke-Parks Press for One Year with an Annual Renewal Option for Four More Years in the Annual Not-To-Exceed Amount of \$7,595 (Staff Contact: Chris Schroeder, 408-586-3161)**

XX. DEMAND

- * 18. **Approve the Purchase of Assorted Badger Automatic Reporting Water Meters and Equipment from National Meter and Automation for the Not-To-Exceed Amount of \$27,953.32 (Staff Contact: Chris Schroeder, 408-586-3161)**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, JUNE 18, 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:

*Public Art Committee (Alliance for the Arts member and General member)
Community Advisory Commission (alternate)
Parks, Recreation, and Cultural Resources Commission*

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

XIV. PUBLIC HEARINGS

1. **Hold a Public Hearing and Adopt a Resolution Approving the Traverse Residential Project Located at 569-625 Trade Zone Blvd. (Staff Contact: Cindy Hom, 408-586-3284)**

Background: The Traverse Residential Project consists of a request for a Major Tentative Map Amendment (MT13-0004), a Site Development Permit Amendment (SD13-0008), and a Conditional Use Permit (UP13-0005) that allows for the construction of 206 residential units and associated site improvements on 12.51 acre site. The application request includes two exceptions that would allow for reduced landscaping widths on the Trade Zone Street frontage and an allowance for on-street parking on both sides of Momentum Drive (new public street) that is currently being constructed as part of an adjacent residential project to the west. The project includes 3.5 acres of public land dedication for construction of new streets and a 0.78- acre portion of a 5.1 acre planned public park site. The proposed project is located within the Trade Zone/Montague Sub-District of the Transit Area Specific Plan.

The Traverse Residential Project proposes 98 attached townhomes and 108 condominium units that consist of contemporary Italianate architecture. The home design and plan options provide a variety of housing types, including 2-bedroom, 3-bedroom and 4-bedroom residences. A detailed description of the project can be found in the Planning Commission staff report included in the Council's agenda packet as Attachment O.

Three comment letters were received in response to the Initial Study regarding the traffic and circulation analysis. City Planning staff reviewed the comments in great detail and concur with the findings and recommendations of the Traffic Impact Assessment prepared by Hexagon. The project is consistent with the Transit Area Program Environmental Impact Report and development standards. Planning Commissioners recommended approval of the project on a 7 to 0 vote at their May 8, 2013 meeting.

Fiscal Impact: None.

Attachments:

- A. Resolution
- B. Project Plans
- C. Project Description
- D. Environmental Impact Assessment
- E. Phase I/ Phase II Site Assessment
- F. Stormwater Control Plan
- G. Traffic Study
- H. Noise Study
- I. Greenhouse Gas/Air Quality Study
- J. Preliminary Arborist Report
- K. Trash Management Plan
- L. Planning Commission Study Session Minutes January 23, 2013
- M. Letter of Density Transfer Intent January 15, 2013
- N. Comment Letters
- O. Planning Commission Staff Report, Meeting Minutes, and Memo

Recommendations:

- 1. Hold a public hearing to receive comments, and move to close the public hearing.
- 2. Adopt a Resolution approving the Traverse Residential Project.

2. Hold a Public Hearing and Introduce Nitrogen Gas Ordinances for Air Products and Praxair Franchise License Agreements (Staff Contact: Keyvan Irannejad, 408-586-3244)

Background: On May 7, 2013, the City Council set June 4 as the date for a public hearing and adopted a Resolution of Intent to amend Ordinances No. 220, No. 222, and No. 223 to reflect new terms of the agreements with Air Products and Praxair (originally Union Carbide) for nitrogen gas. These companies are required to have franchises with the City allowing them to build and maintain nitrogen gas pipelines beneath City streets. The public hearing was noticed in the local newspaper on May 10, 2013, as required.

New terms include: a 7% increase in the fee calculation and an annual 7% increase for each year after that with a 15 year initial term and future renewable 15 year terms as authorized by agreement of the parties. The proposed terms have been negotiated with the nitrogen gas providers and are consistent with charges imposed by neighboring cities. City law provides that any person interested in the granting of these nitrogen gas franchises may object to the granting of the franchises by making written objection at any time prior to the hour set for the hearing. The City Clerk shall read the protests and the Council shall hear and pass on the protests. Action by a majority of the Council approving introduction of the Gas Franchise Ordinances shall be deemed rejection of the protests and such determination shall be final and conclusive, subject to the right of referendum of the people.

Fiscal Impact: Increased revenue due to increase in franchise fees.

Attachments:

- A. Ordinance No. 220.2
- B. Ordinance No. 222.1
- C. Ordinance No. 223.2
- D. Franchise License Agreement with Praxair
- E. Franchise License Agreement with Air Products

Recommendations:

- 1. Open the public hearing, and following any comments, move to close the public hearing.
- 2. Ask the City Clerk to report if any written protests were received regarding grant of the proposed franchises. Clerk shall read the protests, if any.
- 3. City Attorney shall read aloud titles of Ordinances No. 220.2, No. 222.1 and No. 223.2.
- 4. Move to waive the reading beyond the titles of the three Ordinances.
- 5. Introduce Ordinances No. 220.2, No. 222.1, and No. 223.2.
- 6. Set June 18, 2013, as the date for adopting the ordinances and approval of the franchise License Agreements with Air Products and Praxair.

3. Hold a Public Hearing and Adopt a Resolution Approving the Annual Engineer's Report and the Levying of Assessment for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon (Staff Contact: Steve Erickson, 408-586-3301)

Background: On May 21, 2013, the City Council adopted Resolution of Intention No. 8255 to levy annual assessments for the Landscaping and Lighting Maintenance Assessment District No. 98-1. The District provides for servicing and maintaining the public landscaping along Sinclair Frontage Road, Los Coches Creek, and Berryessa Creek abutting the Sinclair Horizon residential subdivision. An annual public hearing is necessary to adopt the Annual Engineer's Report to provide funds for the district.

The total assessment for the district in the Annual Engineer's Report is \$36,591.00 for FY 2013-2014. The assessment for FY 2013-2014 is within the previously approved range of assessments.

Fiscal Impact: None.

Attachments:

- A. Resolution
- B. Reports

Recommendations:

1. Open the public hearing, receive any written protests, and hear testimony.
 2. Move to close the public hearing.
 3. Adopt a Resolution approving the Annual Engineer's Report, confirming diagram and assessment, and ordering levy of assessments for FY 2013-14, for Landscaping and Lighting Maintenance Assessment District No. 98-1.
- 4. Hold a Public Hearing and Adopt a Resolution Approving the Annual Engineer's Report and the Levying of Assessment for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch (Staff Contact: Steve Erickson, 408-586-3301)**

Background: On May 21, 2013, the City Council adopted Resolution of Intention No. 8254 to levy annual assessments for the Landscaping and Lighting Maintenance Assessment District No. 95-1. The District provides for servicing and maintaining the public landscaping and additional lighting along North McCarthy Boulevard and the gateway features on Ranch Drive. An annual public hearing is necessary to adopt the Annual Engineer's Report to provide funds for the district.

The total assessment for the district in the Annual Engineer's Report is \$276,676 for the FY 2013-2014. The assessment for FY 2013-2014 is within the previously approved range of assessments.

Fiscal Impact: None.

Attachments:

- A. Resolution
- B. Reports

Recommendations:

1. Open the public hearing, receive any written protests, and hear testimony.
2. Move to close the public hearing.
3. Adopt a Resolution approving the annual Engineer's Report, confirming diagram and assessment and ordering levy of assessments for FY 2013-14 for Landscaping and Lighting Maintenance Assessment District No. 95-1.

XV. UNFINISHED BUSINESS

- 5. Receive Overview of Strategic Planning Process from City Manager (Staff Contact: Tom Williams, 408-586-3050)**

Background: The Milpitas City Manager will provide a briefing for the Mayor and City Council on the upcoming process to initiate a new strategic plan for the City. He will provide the scope of the plan, and efforts toward strategic planning and actions taken to date.

The City of Milpitas is coming out of the economic downturn, having weathered the most challenging aspects of the recession. As a result of reorganizing and cost cutting and now realizing a slowly improving economy, the City is moving closer to actually balancing expenditures with revenue. As the economy continues to improve and with City operational costs contained, the City is in a prime position to redefine itself by undertaking a strategic planning process to chart a new path forward.

The City has retained the services of Shawn Spano, PhD, to help design and facilitate the city-wide strategic planning process. Shawn is President and Senior Consultant with the Public Dialogue Consortium (www.publicdialogue.org) and a faculty member at San Jose State University.

At the June 4 meeting, Shawn will discuss the proposed design of the strategic planning process with City Council, receive comments and feedback, and elicit recommendations for engaging community groups, organizations and individuals as part of the planning process. Shawn will conclude the segment by outlining the immediate next steps in the process.

Fiscal Impact: None for this item.

Recommendation: Hear report of City Manager on the strategic planning process for the City, and provide comments.

* **6. Receive the May 2013 Odor Control Report (Staff Contact: Jeff Moneda, 408-586-3345)**

Background: From April 22 through May 19, 2013, the Bay Area Air Quality Management District (BAAQMD) received twenty-two odor complaints originating in Milpitas. Ten complaints identified a garbage-related odor, three identified a sewage-related odor and nine did not identify an odor source. As of the last Council update, the City's odor reporting website received fifty reported complaints.

Fiscal Impact: None.

Recommendation: Receive the May 2013 odor report.

XVI. REPORT OF PARKS, RECREATION & CULTURAL RESOURCES COMMISSION

* **7. Approve Park and Recreation Donation of Trees and Park Bench at Murphy Park by the Kang Family (Staff Contact: Jaime Chew, 408-586-3234)**

Background: On August 1, 2012, Mr. Dhaliwal submitted a letter to the City of Milpitas requesting, on behalf of the Kang family, to donate trees and benches to Murphy Park in honor of Kanwarjit Kang. The request was forwarded to the Parks, Recreation, and Cultural Resources Commission for consideration. On March 19, 2013, City Council approved the Donation Policy to Parks and Recreation Programs as recommended by Parks, Recreation, and Cultural Resources Commission (PRCRC). On May 6, 2013, PRCRC approved to recommend the Park and Recreation Donation Application by H.S. Kang to City Council for final consideration and approval. As part of PRCRC's recommendation, Commissioners highlight that Kanwarjit Kang:

1. Actively participated in the City of Milpitas Volunteer Adult Education program and assisted adults in learning educational skills at the Milpitas Library.
2. Worked with John Smith to increase traffic safety in the residential areas of the City of Milpitas. She accomplished this by contributing to the program of laying speed bumps on Carnegie Drive near the children educational centers and schools.
3. Assisted residents of the City of Milpitas who required help, including assistance to disabled children as well.

Fiscal Impact: None. The Kang family accepted all financial responsibility of the donation which includes: the purchase of the trees, benches, and plaque and installation at Murphy Park.

Recommendation: To approve the Parks and Recreation Donation of trees and a park bench at Murphy Park in honor of Kanwarjit Kang.

XVII. NEW BUSINESS

- * 8. **Approve an Appropriation of \$101,600 into the Police Department’s Operating Budget for Purchase of Computer Aided Dispatch Software, Reimbursed through Urban Area Security Initiative Grant (Staff Contact: Armando Corpuz, 408-586-2534)**

Background: The City of Milpitas’ 9-1-1 Communications Center is responsible for dispatching Milpitas police and fire units to incidents within the City of Milpitas. The Milpitas 9-1-1 center will at times receive emergency calls for emergency and non-emergency incidents that occur in other jurisdictions, and other jurisdictions will at times receive emergency and non-emergency calls regarding incidents occurring within Milpitas. Calls received for incidents occurring in other jurisdictions delay dispatch times and response times.

The Silicon Valley Interoperability Authority (SVRIA) has been tasked with creating a data exchange hub that will interface 9-1-1 CAD systems of separate jurisdictions to reduce call-taking and dispatch times, which will reduce incident response times. The data exchange will allow the electronic transfer of information to minimize the redundancy in the collection of information during call-taking.

The City of San Jose, CalFire, and the County of Santa Clara will be participating in this data exchange project. The project is being funded through an Urban Area Security Initiative (UASI) grant and funds through the County of Santa Clara.

The cost for the CAD software purchase is \$101,600 and the County of Santa Clara, on behalf of the SVRIA, will reimburse the entire expense. There is no requirement for matching funds.

Fiscal Impact: None. The County of Santa Clara will reimburse the City of Milpitas the software purchase in the amount of \$101,600.

Recommendation: Approve an appropriation in the amount of \$101,600 into the Police Department’s operating budget for the purchase of Computer Aided Dispatch (CAD) software, the entire cost of which will be reimbursed through Urban Area Security Initiative Grant.

- * 9. **Consider Request from Alcoholics Anonymous to Waive Rental Fee for its Annual “Unity Day” Event at Milpitas Community Center (Staff Contact: Mary Lavelle, 408-586-3001)**

Background: The Intergroup Central Office of Santa Clara County, Inc., a non-profit organization which sponsors AA meetings in Milpitas, submitted a request letter in August of 2012 and a Fee Waiver Request Application to the City Council on May 3, 2013, seeking a waiver of the fees for rental of the City’s Community Center. The group hosts an annual “AA Unity Day” event in the Community Center Auditorium for its participants, informing members of the service opportunities within Alcoholics Anonymous. This year, the event is scheduled on August 18, 2013. The City Council has a recent history of waiving the fee for several years for AA Unity Day. The event would benefit the Milpitas community, but because the group members maintain anonymity, an exact number or percent was not provided.

Fiscal Impact: \$1,500 from the City Council Unallocated line item in the FY 2013-14 budget. While the request form seeks a waiver of the \$1,741.50 total rental amount, \$1,500 is the maximum allowed under the Council’s recently adopted policy.

Recommendation: Approve a fee waiver request in the amount of \$1,500 to Intergroup Central Office of Santa Clara County for its AA Unity Day event in Milpitas on August 18, 2013.

- * 10. **Receive Financial Status Report for the Nine Months Ended March 31, 2013 (Staff Contact: Emma Karlen, 408-586-3145)**

Background: In FY 2012-13, staff projected the total General Fund revenue to be \$56.4 million. Based on the revenues received to date, new information and revenue trend analysis, staff revised the General Fund revenue to be approximately \$2.8 million above the original budget projection. The total revised revenue is estimated to be \$59.2 million. The primary reasons for the increase are improved sales tax revenue, Transient Occupancy Tax (TOT) revenue and building permits and inspection fees.

Property tax revenue, excluding the redevelopment property tax distributions, was on track with budget. Although the housing market has recovered significantly in the past few months, the assessed valuation was determined much earlier by the County Assessor based on the assessed values as of January 2012. Consequently, there is a lag between housing recovery and property tax revenues. In addition, unless the assessed values of a property was previously successfully appealed by the owner and lowered by the County Assessor, the increased assessed value each year is limited to a growth rate of 2% or consumer price index, whichever is lower. Many of the residential units that are currently being developed in the City will result in increased property tax revenue only when the housing units are built, occupied and enrolled on the tax roll.

Sales tax revenue was revised to \$20.5 million, approximately \$1.3 million above budget. The increase is due to increased sales tax revenue generated from the auto sales, retail, restaurants and electronic equipment economic segments. Transient Occupancy Tax revenue is projected to be \$380,000 above budget. The increase in TOT revenue indicates that local business activities have stabilized, especially in the high tech industry.

Permit and inspection fees generated by the Building and Fire departments were revised to \$4 million and \$1.1 million respectively, and are projected to be \$767,000 and \$70,000 above budget. The primary reason for the increase is due to increased residential developments citywide, specifically in the Transit Area. Both Building and Fire departments collected fees for plan check review and inspection services.

The General Fund expenditures at the end of March were at 73.1% of the budget appropriations, and appear to be on track with the budget. Staff projected that personnel costs will exceed budget by about \$0.72 million for the fiscal year due to increased overtime in the Fire Department. However, staff also projected that overage in personnel costs will be offset by savings from non personnel costs. The revised revenue and expenditure projections indicate that General Fund will balance its budget at year end and will not require the use of any Equipment Replacement fund as originally planned.

At the FY 2013-14 Budget Hearing, the City Council adopted a fiscal policy to allocate any excess General Fund revenue not required to balance the General Fund expenditures to a Capital Improvement Project Fund to address funding deficiency of the Five Year Capital Improvement Plan. As of March 31, 2013, staff expected \$120,000 of the General Fund revenue will be available for such purposes. The amount may change or increase by year end. Staff will closely monitor any excess revenue not needed to balance the General Fund budget and report to the City Council at year end.

The Redevelopment Agency property tax distribution is projected to be \$3.98 million, a combination of \$2.4 million on-going residual distributions and one-time distributions of \$1.58 million. The one-time distribution comprised of \$1 million City's share of the unencumbered Housing Fund from the former RDA and \$580,000 property tax administration fee settlement from the County of Santa Clara due to a recent court ruling on a lawsuit in Los Angeles County. As directed by the City Council, distributions related to Redevelopment Agency property tax are also allocated to a Capital Improvement Project fund to address funding deficiency of the Five Year Capital Improvement Plan.

Both the water service charges and sewer service charges are on target with the budget and no revision is necessary. Water service charge is slightly above projection.

Fiscal Impact: None.

Recommendation: Receive the financial status report for the nine months ended March 31, 2013.

XVIII. RESOLUTIONS

- * 11. **Adopt a Resolution to Release Unclaimed Checks per Standard Operating Procedure No. 26-1 (Staff Contact: Dante Ong, 408-586-3132)**

Background: According to City of Milpitas' Standard Operating Procedure No. 26-1, which conforms with California Government Code Section 50055, unclaimed checks of less than \$15, or any amount if the depositor's name is unknown, which remain unclaimed for more than one year may be transferred to the General Fund by authorization of the City Council. A list of unclaimed checks of less than \$15, which remain unclaimed for more than one year, is included in the Council's agenda packet.

Fiscal Impact: The recommended action will increase General Fund revenues by \$254.28.

Recommendation: Adopt a resolution transferring a total of \$254.28 unclaimed checks, per the list of checks generated by the City's Finance Department, to the General Fund in accordance with Standard Operating Procedure No. 26-1.

- * 12. **Adopt a Resolution Adopting the Appropriations Limit for the Fiscal Year 2013-14 (Staff Contact: Emma Karlen, 408-586-3145)**

Background: Article XIII B of the California State Constitution requires that any state and local governmental agencies that receive tax revenue to adopt by resolution, an Appropriations Limit (also known as "Gann Limit") for the following fiscal year. If an agency receives more tax revenue than the Appropriations Limit, the excess revenue must be returned to the taxpayers through a tax reduction or refund within the next two years. Alternatively, the agency can increase its Appropriations Limit through voters' approval. The annual Appropriations Limit shall not exceed the appropriations limit of the City for the prior year adjusted for change in the cost of living and population. The appropriations limit for fiscal year 2013-14 was calculated as \$77,489,247 using the population growth of the County and the California Per Capita Personal Income change. The projected tax revenue for the City in FY 2013-14 is approximately \$52.0 million, well below the Appropriations Limit. The documentation used in determining the appropriations limit was made available to the public for a period of more than 15 days prior to City Council consideration of this resolution.

Fiscal Impact: None.

Recommendation: Adopt a resolution of the City of Milpitas adopting the appropriations limit for the Fiscal Year 2013-14.

XIX. BID AND CONTRACTS

- * 13. **Approve Adopt-a-Spot Agreement with the Milpitas Executive Lions Club for the Alviso Adobe Park (Staff Contact: Rosana Cacao, 408-586-3207)**

Background: The Adopt-a-Spot Program was adopted and approved by City Council on May 18, 1993. The purpose was to encourage volunteerism in the community and to develop a sense of community pride and ownership in Milpitas' image (i.e. parks, private yards, fence, roadways and sidewalks). The Adopt-a-Spot Program would help the designated areas be free from litter,

debris and weeds to enhance the conditions and usability of Milpitas' parks and to further enhance the community landscape in an effort to beautify the community.

The proposed agreement with Lions Club is for one year, commencing on June 1, 2013 through May 31, 2014.

The City will coordinate appropriate projects and volunteer services with the group and provide technical assistance to the group on projects such as planting arrangements and other park improvements. The City will also provide appropriate recognition for Lions' efforts. The group will submit a work plan to be approved by City staff that will include: trash pick up, inspection of picnic area and park for safety hazards or graffiti, removal of charcoal and ashes from barbeque pits, provide a presence in the park on a regular basis to be on the lookout for potential problems such as criminal activities, vandalism, and maintenance concerns, check fountain for possible leaks, sweep center picnic area, wipe down and remove dust from park sign and two art exhibits. All activities and hours shall be reported to City staff on a bi-weekly basis.

Fiscal Impact: None

Recommendation: Authorize the City Manager to execute the Adopt-a-Spot Agreement with the Milpitas Executive Lions Club to adopt the Alviso Adobe Park for one year from June 1, 2013 to May 31, 2014.

- * **14. Authorize the City Manager to Execute Amendment No. 1 to the Agreement with RMC Water and Environment, Inc. for Utility Engineering Support by Increasing Compensation by \$88,000 (Staff Contact: Jeff Moneda, 408-586-3345)**

Background: On February 5, 2013, the City entered into an agreement with RMC Water and Environment, Inc. for support services due to City staff vacancies in the Utility Engineering Section for water/recycled water distribution and wastewater collection systems through June 30, 2013. Staff recommends increasing the agreement in the amount of \$88,000 for continued support anticipated to be needed through December 2013. This will bring the total value of the agreement to \$176,000. The cost will be fully offset by staff vacancy savings. A copy of the proposed Amendment No. 1 is in the Council agenda packet.

Fiscal Impact: None. Funds are available in the Utility Engineering FY 2013-14 budget.

Recommendation: Authorize the City Manager to execute Amendment No. 1 to the consultant services agreement with RMC Water and Environment, Inc. for Utility Engineering support by increasing the compensation in the amount of \$88,000 for a total contract not-to-exceed amount of \$176,000.

- * **15. Approve Amendment No. 3 to the Non-Exclusive Collection, Transportation, and Recycling Agreement with Premier Recycle to Extend the Term from August 6, 2013 to August 5, 2016 (Staff Contact: Jeff Moneda, 408-586-3345)**

Background: In accordance with Title V, Chapter 200 of the Milpitas Municipal Code and the City's solid waste franchise agreement with Republic Services, solid waste collectors may enter into non-exclusive agreements with the City to collect and dispose of certain non-organic solid waste and/or construction and demolition debris from Milpitas businesses that are not covered by the Republic Services Commercial Recycling Program.

On August 7, 2007, the City entered into a non-exclusive agreement with Premier Recycle whose three-year term ended on August 6, 2010. The first amendment incorporated contract language to make it uniform with other hauling agreements. The next amendment executed the first of two, three-year extensions, which extended the contract from August 6, 2010 to August 5, 2013.

This third amendment is the last of two possible contract extensions and will extend the contract from August 6, 2013 until August 5, 2016.

Fiscal Impact: None.

Recommendation: Authorize the City Manager to execute Amendment No. 3 to the Non-Exclusive Collection, Transportation, and Recycling of Debris Agreement with Premier Recycle.

- * 16. **Authorize the City Manager to Execute Amendment No. 1 to the Agreement with West Yost & Associates for Technical Support Services for Bay Area Rapid Transit Construction Project by Increasing Compensation by \$20,000 for Projects No. 4265 and No. 7100 (Staff Contact: Jeff Moneda, 408-586-3345)**

Background: On February 5, 2013, the City entered into an agreement with West Yost & Associates for technical support services for both Santa Clara Valley Transportation Authority-Bay Area Rapid Transit construction and for the Seismic Program through February 8, 2015. Staff recommends increasing the agreement in the amount of \$20,000 for continued support anticipated to be needed for the duration of the agreement. This will bring the total value of the agreement to \$38,000. The proposed Amendment No. 1 is in the Council agenda packet.

Fiscal Impact: None. Sufficient funds are available in the Capital Projects.

Recommendation: Authorize the City Manager to execute Amendment No. 1 to the consultant services agreement with West Yost & Associates for technical support services for the Santa Clara Valley Transportation Authority-Bay Area Rapid Transit construction project by increasing compensation in the amount of \$20,000, for a total contract not-to-exceed amount of \$38,000 for Projects No. 4265 and No. 7100.

- * 17. **Award the Bid for Recreation Services Activity Guide Printing to Fricke-Parks Press for One Year with an Annual Renewal Option for Four More Years in the Annual Not-To-Exceed Amount of \$7,595 (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: City Purchasing staff worked with Recreation Services staff to develop the specification for the annual Milpitas Recreation Services Activity Guide, and sent out the bid on April 29, 2013. The activity guide informs residents of classes and activities offered by the City's Recreation Services. This publication is printed three times each year for a total of up to 12,000 annual copies. The proposed contract is for one year with four one year renewal options at City's discretion. The maximum annual amount of the contract is \$7,595.00 including tax, for a total contract value of \$37,975 over five years. The proposed contract contains a price increase clause for the four option years. Requests for increase must be fully documented by the contractor and will be considered by the City only if the contractor demonstrates to the satisfaction of the City that the price increase is justified. Any increase shall not exceed 5% annually. The bid was advertised in the local newspaper, on the City website, and on Public Purchase. Eight bids were received and are summarized below.

<u>Bidder</u>	<u>Total Bid</u>
Fricke-Parks Press, Inc.	<u>\$7,595.00</u>
Casey Printing, Inc.	\$9,048.49
Folger Graphics	\$9,910.00
Black Tie Productions	\$11,287.00
Western Web & Graphics	\$15,350.00
M4 Media LLC	\$18,448.20
Medius Corporation	\$28,837.23
JP Graphics	\$39,974.00

Fiscal Impact: None. Funds are available for this service from the Recreation Services Operating budget.

Recommendation:

1. Award the bid for activity guide printing to Fricke-Parks Press for one year with an annual option to renew for four more years for the annual not-to-exceed amount of \$7,595. Total contract value is \$37,975 if the options are exercised.
2. Authorize the City Manager to execute the contract and exercise annual renewal options with up to 5% price increases pursuant to the contract without further City Council approval, subject to appropriation of funds in the option years.

XX. DEMAND

- * 18. **Approve the Purchase of Assorted Badger Automatic Reporting Water Meters and Equipment from National Meter and Automation for the Not-To-Exceed Amount of \$27,953.32 (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: On May 15, 2007, per Milpitas Municipal Code I-2-3.13 Standardization, the City Council approved Badger meters as the standard brand of water meter for the City of Milpitas. Also on February 2, 2013, per Milpitas Municipal Code I-2-3.09, Council approved National Meter and Automation as the sole source distributor for Badger water meters. The current purchase of automatic reporting meters is to replace conventional meters located in areas that are difficult to assess by the meter readers.

Fiscal Impact: The purchase is a programmed expense approved in the FY 2012-13 budget from the Water Fund.

Recommendation: Approve the purchase of assorted Badger automatic reporting water meters and equipment from National Meter and Automation for the not-to-exceed amount of \$27,953.32.

XXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, JUNE 18, 2013 AT 7:00 P.M.**