



MILPITAS CITY COUNCIL AGENDA
TUESDAY, MAY 6, 2014
455 EAST CALAVERAS BOULEVARD, 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 Section 54957.6
City Negotiators: Tom Williams, Carmen Valdez
Employee Groups: International Association of Fire Fighters Local 1699, Milpitas Employees Association (MEA), Mid-management and Confidential Unit (Mid-Con), and Professional and Technical Group (ProTech)
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
 - 2. CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**

Pursuant to California Government Code Section 54956.9(a)
County of Santa Clara, et al., v. Milpitas Economic Development Corporation, et al., Sacramento County Superior Court case no. 34-2013-80001436, and
Successor Agency to the Milpitas Redevelopment Agency, et al. v. John Chiang, et al., Sacramento County Superior Court case no. 34-2013-80001508
- 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 Montano)**
- VI. APPROVAL OF COUNCIL MEETING MINUTES – April 15, 2014**
- VII. SCHEDULE OF MEETINGS – COUNCIL CALENDAR – May 2014**
- VIII. PRESENTATIONS**
 - Proclaim “*Building Safety Month*” for May 2014
 - Proclaim “*Older Americans Month*” for May 2014
 - Recognition of 12 Milpitas Public Library Essay Contest Winners
- 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 item not listed on the agenda, 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 place the item on a future meeting agenda.

- X. ANNOUNCEMENTS**

XI. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

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 HEARING

- 1. Public Hearing to Consider Approval of Community Development Block Grant Funding Allocations for FY 2014-15, Adopt the One-Year Action Plan and Amendments to CDBG Citizen Participation Plan (Staff Contact: Felix Reliford, 408-586-3071)**

XV. UNFINISHED BUSINESS

- * 2. Receive Odor Control Update Report (Staff Contact: Jeff Moneda, 408-586-3345)**

XVI. REPORT OF MAYOR

- * 3. Consider Mayor's Recommendation for Appointments to the Bicycle Pedestrian Advisory Commission (Contact: Mayor Esteves, 408-586-3029)**

XVII. NEW BUSINESS

- * 4. Receive Financial Status Report for the Nine Months Ended March 31, 2014 (Staff Contact: Emma Karlen, 408-586-3145)**
- * 5. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended March 31, 2014 (Staff Contact: Emma Karlen, 408-586-3145)**
- * 6. Authorize Recreation Services to Transfer \$12,500 from Center Stage Theater Program to the Recreation Services Operating Budget (Staff Contact: Dale Flunoy, 408-586-3228)**
- * 7. Consider Request from Our Lady of Guadalupe Club to Waive Rental Fee for Senior Center Community Room for Pre-Mother's Day Event on Saturday, May 10, 2014 (Staff Contact: Mary Lavelle, 408-586-3001)**

XVIII. ORDINANCE

- 8. Waive the First Reading and Introduce Ordinance No. 271.1 to Merge the Public Art Committee with the Arts Commission (Staff Contact: Mike Ogaz, 408-586-3041 and Renee Lorentzen, 408-586-3409)**

XIX. RESOLUTIONS

- * 9. 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: Jeff Moneda, 408-586-3345)**
- * 10. 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: Jeff Moneda, 408-586-3345)**

- * 11. **Adopt a Resolution Authorizing Purchase of Ford F-150 Regular Cab Truck from the National Auto Fleet Group for Not-To-Exceed \$20,576.63 Through a Cooperative Procurement Contract (Staff Contact: Chris Schroeder, 408-586-3161)**
- * 12. **Adopt a Resolution Approving an Agreement with Oracle America Inc. for Software Technical Support for a Five Year Term and Total Not-to-Exceed \$58,878 (Staff Contact: Chris Schroeder, 586-3161)**

XX. AGREEMENTS

- * 13. **Approve Amendment No. 1 to the Agreement with Ye-Ming Wu, DDS of Agape Mobile Dental Services to Continue Provision of Free Monthly Dental Services at the Barbara Lee Senior Center (Staff Contact: Stephanie Douglas, 408-586-3226)**
- * 14. **Approve an Agreement with D. R. Horton Bay, Inc. for the Demolition of City Buildings at 1650-1690 and 1740-1830 McCandless Drive for \$707,741.29 and Appropriate the Amount from the Transit Area Specific Plan Development Impact Fee Fund (Staff Contact: Felix Reliford, 408-586-3071)**
- * 15. **Approve Second Amendment to the Agreement with County of Santa Clara for Countywide Household Hazardous Waste Collection Program (Staff Contact: Steven Machida, 408-586-3355)**

XXI. DEMAND

- * 16. **Receive Report of Emergency Repair of the Police/Public Works Building, and Authorize Staff to Pay Invoices for Project No. 3410 (Staff Contact: Jeff Moneda, 408-586-3317)**

XXII. ADJOURNMENT

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 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 / 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 SERVE ON A CITY COMMISSION

Current vacancy on: Senior Advisory Commission

Commission application forms are available online at www.ci.milpitas.ca.gov or at Milpitas City Hall. Contact the City Clerk's office at 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 City Council Chambers for all meetings.

AGENDA REPORTS

XIV. PUBLIC HEARING

1. **Public Hearing to Consider Approval of Community Development Block Grant Funding Allocations for FY 2014-15, Adopt the One-Year Action Plan and Amendments to CDBG Citizen Participation Plan (Staff Contact: Felix Reliford, 408-586-3071)**

Background: The U.S. Department of Housing and Urban Development (HUD) provides annual grants through the Community Development Block Grant (CDBG) Program to Local Governments to assist in providing decent housing, a suitable living environment, and expand economic opportunities for low to moderate-income persons. The purpose of the public hearing is to set funding allocations for CDBG funds provided to the City of Milpitas for FY 2014-15, to consider adoption of the One Year Action Plan, and to approve amendments pursuant to the CDBG Citizen Participation Plan.

During the month of January 2014, the City advertised (in the local newspaper, the City's website, local cable television and a notice to service providers) during the 30-day time period by which to submit CDBG funding applications and sent out notices to past service providers. The Community Advisory Commission held a public hearing on March 5, 2014 to review the 15 applications received and provide funding recommendations to the City Council. CAC funding recommendations are based on an unconfirmed allocation of \$375,646. Since the CAC meeting, the City was informed that the final CDBG funding allocated for FY 2014-15 had been increased by \$19,810 to \$395,456.

Based on the additional \$19,810, funding has been allocated pursuant to CDBG federal requirements:

- Public Services-\$2,971.40
- Non Public Services-\$12,876.40
- Program Administration-\$3,962.20

Therefore, the overall CDBG Grant allocation for FY 2014-2015 will be \$395,456.

- Public Services-\$59,318.40 (15%)
- Non Public Services- \$257,046.40 (65%)
- Program Administration-\$79,091.20 (20%)

Staff recommends additional funding be allocated to Milpitas Food Pantry (\$2,971.40), Terrace Gardens (\$6,438.20) and Rebuilding Together (\$6,438.20). This would increase the CDBG funding allocation to \$9,318.40 for Milpitas Food Pantry, to \$131,233.20 for Terrace Gardens and to \$94,563.20 for Rebuilding Together. The \$3,962.20 additional funding is required to be allocated to Program Administration.

CAC also recommended the Council consider the following:

1. Increase Project Sentinel Fair Housing Services funding allocation from \$10,000 (CDBG) to \$25,000. Staff recommends allocating additional \$5,000 from Program Administration and fund Project Sentinel for \$15,000.
2. Consider eliminating the Council's policy of requiring a minimum of allocating at least \$5,000 per Service Provider. This policy was instituted several years ago at the request of the Service Providers stating that CDBG allocations less than \$5,000 was not worth their effort to submit an application given all the reporting requirements and correspondence between Service Providers and City Staff. Staff recommends maintaining the existing \$5,000 policy.

3. Consider providing additional funding to Milpitas Food Pantry. Last year, Milpitas Food Pantry received \$7,825.95 in CDBG funding. As previously stated, staff recommends Council allocate the additional \$2,971.40 from CDBG Public Service funding to Milpitas Food Pantry. This would increase funding to the Food Pantry to \$9,318.40.

Included in the Council's agenda packet are March 5, 2014 CAC meeting minutes and revised funding recommendations including the additional \$19,810 allocation.

Rehabilitation Revolving Loan Fund

Staff recommends the Council allocate use of \$301,521 from the City's Rehabilitation Revolving Loan Fund. This funding accumulates from the repayment of CDBG Rehabilitation Loans from property owners and can only be used for rehabilitation activities. Due to this funding request, there is no need to request rehabilitation funds from the CDBG FY 2014-15 Grant allocation.

One-Year Action Plan and Amendments to Citizen Participation Plan

The Action Plan describes anticipated CDBG activities and expenditures to be undertaken for fiscal year 2014-15 and how these activities relate to meeting objectives identified in the Five-Year Consolidated Plan. Amendments to the Citizen Participation Plan are included in the update to the plan to meet current federal requirements to encourage citizen's participation in the CDBG process.

The draft Action Plan and amendments to the Citizen Participation Plan were advertised for public review and comments for 30 days (from March 21 through April 21, 2014) and sent to CDBG Service Providers. Copies of both documents were made available at the Milpitas Public Library and City Hall. Any significant public comments received will be incorporated in the Action Plan and Citizen Participation Plan prior to forwarding to HUD by May 15, 2014. HUD reviews and approves the Action Plan prior to releasing CDBG funds.

Fiscal Impact: None.

Recommendations:

1. Open the Public Hearing and move to close the hearing, following testimony.
2. Approve the additional \$5,000 fund for Project Sentinel from Program Administration, maintain the existing \$5,000 policy and approve the additional \$2,971.40 for Milpitas Food Pantry.
3. Approve additional CDBG funding in the amount of \$301,521 from the Rehabilitation Revolving Loan Fund FY 2014-15 for rehabilitation activities.
4. Approve the CDBG Funding for FY 2014-15, Action Plan and Amendments to the Citizen Participation Plan.

XV. UNFINISHED BUSINESS

- * 2. **Receive Odor Control Update Report (Staff Contact: Jeff Moneda, 408-586-3345)**

Background: From March 7 through April 8, 2014, the Bay Area Air Quality Management District (BAAQMD) received three odor complaints originating in Milpitas. All three complaints did not identify an odor source. As of the last Council update, the City's odor reporting website has received fifteen reported complaints.

California Environmental Quality Act (CEQA): The item is exempt from CEQA as there will be no physical change to the environment.

Recommendation: Receive the update of the odor control report, for the period noted.

XVI. REPORT OF MAYOR

- * 3. **Consider Mayor's Recommendation for Appointments to the Bicycle Pedestrian Advisory Commission (Contact: Mayor Esteves, 408-586-3029)**

Background: Mayor Esteves recommends the following appointments:

Appoint Chris Lee as a regular member (currently Alternate #1) to a term that will expire in August 2014.

Appoint Kristal Caidoy as Alternate #1 (currently Alternate #2) to a term that will expire in August 2014.

Newly appoint Samuel Usal as Alternate #2 to a term that will expire in August 2015.

Two current applications are included in the Council's agenda packet.

Recommendation: Receive Mayor's recommendation and move to approve appointments to the Bicycle Pedestrian Advisory Commission.

XVII. NEW BUSINESS

- * 4. **Receive Financial Status Report for the Nine Months Ended March 31, 2014 (Staff Contact: Emma Karlen, 408-586-3145)**

Background: In FY 2013-14, staff projected the total General Fund revenue to be \$62.7 million. Based on the revenues received to date, new information and revenue trend analysis, staff revised the General Fund revenue to be approximately \$2.4 million above the original budget projection. The total revised revenue is estimated to be \$65.1 million. The primary reasons for the increase are improved property tax revenue, Transient Occupancy Tax (TOT) revenue, fire permit and inspection fees and higher than expected residual property tax distributions from the Redevelopment Property Tax Trust Fund (RPTTF).

Property tax revenue, excluding the redevelopment property tax distributions, is projected to be 5.4% or \$900,000 more than budget, reflecting housing market recovery and enrollment of some of the newly constructed properties on the tax roll. The residual property tax distributions from the RPTTF increases \$950,000 more than budget due to improved assessed valuation in the former RDA Project Area thus increasing property tax revenue thereby releasing more property tax distributions to the taxing entities.

TOT is projected to be \$820,000 above budget. The increase in TOT revenue indicates improvement in both the high-tech and construction industries that contribute to increased hotel occupancy in the area. Permit and inspection revenue generated by the Fire department is projected to be about \$505,000 above budget due to increased residential developments citywide, specifically in the Transit Area and fee increase adopted by the City that became effective in FY 2013-14.

The only revenue that did not meet budget expectation was sales tax revenue. The primary reason for the decrease was due to relocation of a major sales tax generator to another city. Additionally, the purchase of equipment for use that generated use tax revenue by the high-tech industry tends to be volatile. Sales tax revenue has been revised downward by \$910,000.

General Fund expenditures at the end of March were at 71.3% of the budget appropriations and are below budget. Staff projected that there would be savings from both personnel costs and non-personnel costs that amount to approximately \$0.88 million for the fiscal year.

The City Council adopted a fiscal policy to allocate any 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, 2014, staff expected \$2.73 million of the General Fund revenue will be available for such purposes. The amount may change or increase by year end. Staff will closely monitor the General Fund budget and report the amount transferred to the General Government Capital Improvement Project Fund to the City Council at year end.

Both the water service charges and sewer service charges are on target with the budget and no revision is necessary. Water conservation may impact water service revenue in the next couple of months. Staff will monitor revenue closely and report results to City Council at the year end.

Fiscal Impact: None.

Recommendation: Receive financial status report for the nine months ended March 31, 2014.

* **5. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended March 31, 2014 (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, 2014 is submitted for Council's review and acceptance.

The Portfolio Summary Report (included in the agenda 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, 2014.

As of March 31, 2014, the principal cost and market value of the City's investment portfolio was \$185,779,819 and \$185,718,328 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, 2014 was 0.57%. The comparative benchmarks for the same period were 0.24% for LAIF (Local Agency Investment Fund) and 0.33% for the 12-month average yield of the 2 year Treasury Note. The weighted average maturity of the portfolio was 449 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.

The 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.

Recommendation: Receive the investment report for the quarter ended March 31, 2014.

- * 6. **Authorize Recreation Division to Transfer \$12,500 from Center Stage Theatre Program to the Recreation Services Operating Budget (Staff Contact: Dale Flunoy, 408-586-3228)**

Background: Center Stage Performing Arts received one time donations from KB Homes and Milpitas Recreation Foundation to help pay for children's theatre show royalties and supply expenses. Staff would like to use the donations from Milpitas Recreation Foundation (\$2,500.00) and KB Homes (\$10,000.00) to pay for show royalties and supply costs in the amount of \$3,500 for the FY 2013-14 and \$9,000 for FY 2014-15.

Fiscal Impact: None. An increase in Recreation's Cultural Arts operating budget will be offset by the donation.

Recommendation: Authorize transfer of funds from Center Stage Theatre Program (holding account) to Recreation Services operating budget to cover the cost of theatre show royalty fees and supplies in the amount of \$3,500 for FY 2013-14 and \$9,000 for FY 2014-15.

- * 7. **Consider Request from Our Lady of Guadalupe Club to Waive Rental Fee for Senior Center Community Room for Pre-Mother's Day Event on Saturday, May 10, 2014 (Staff Contact: Mary Lavelle, 408-586-3001)**

Background: The City Clerk's office received a "Donation or Fee Waiver/Reduction Request Application Form" in the US mail on April 25, 2014 from Milpitas resident Ruben Esguerra of Our Lady of Guadalupe Club to waive the fee to rent the Barbara Lee Senior Center's Community Room on Saturday, May 10, 2014 for a Pre-Mother's Day Event hosted by City Councilmember Carmen Montano. An IRS letter of non-profit status from the Roman Catholic Church of San Jose was provided, along with a 2012 letter from St. John the Baptist Catholic Parish in Milpitas submitted with a tax id number on it. The rental fee has not been paid in advance of the event.

Fiscal Impact: \$20,000 was approved and included in the FY 2013-14 City budget for City Council's Unallocated Community Promotions. If the current donation request is approved, then \$12,271.95 would be the remaining balance.

Recommendation: Consider the request from Our Lady of Guadalupe Club and move to approve fee waiver of \$880.00 for Pre-Mother's Day Event on Saturday, May 10, 2014.

XVIII. ORDINANCE

- 8. **Waive the First Reading and Introduce Ordinance No. 271.1 to Merge the Public Art Committee with the Arts Commission (Staff Contact: Mike Ogaz, 408-586-3041 and Renee Lorentzen, 408-586-3409)**

Background: At the April 15, 2014 City Council meeting, Council recommended merging the Public Art Committee and the current Milpitas Arts Commission into one, new entity – the Arts Commission. Currently, Milpitas Municipal Code Section V-20-410 provides that the Public Art Committee will be comprised of members of the Milpitas Arts Commission and the Milpitas Alliance for the Arts. Since the latter group is no longer in existence, reorganization is necessary.

The new Arts Commission will take over the combined duties of both current art advisory bodies which include: jury Phantom Art Gallery program artists, recommend Milpitas Art and Culture Program recipients, select the Artist of the Year award and manage the City's Public Art Program. The new Arts Commission will have nine (9) members and three (3) alternates. The three least senior members will be assigned as alternates.

Fiscal Impact: None.

Recommendations:

1. Following the City Attorney's reading aloud of the title, move to waive the first reading beyond the title of Ordinance No. 271.1.
2. Introduce Ordinance No. 271.1 creating the new Arts Commission, consisting of former Public Art Committee members and current Milpitas Arts Commissioners.

XIX. RESOLUTIONS

- * **9. 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: Jeff Moneda, 408-586-3345)**

Background: Landscaping and Lighting Maintenance Assessment District No. 95-1 (LLMD No. 95-1) provides for the improvement and maintenance of public landscaping, irrigation, and pedestrian lighting along portions of North McCarthy Boulevard and the Ranch Drive gateway between State Route 237 and Dixon Landing Road. In addition, the draft 2014-2019 Capital Improvement Program includes a project for the renovation and upgrade of portions of the LLMD District landscaping and irrigation systems.

The Landscaping and Lighting Act of 1972 requires adoption of a resolution directing preparation of the annual engineer's report evaluating LLMD District maintenance and improvement costs. At subsequent meetings, the City Council will be asked to approve the completed Engineer's Report and to schedule a public hearing for the proposed assessment on June 3, 2014. Upon Council's approval, the assessment for the maintenance and improvement work will be added to the 2014-15 property tax bills of property owners within the boundaries of the LLMD District.

Fiscal Impact: None.

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

- * **10. 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: Jeff Moneda, 408-586-3345)**

Background: Landscaping and Lighting Maintenance Assessment District No. 98-1 (LLMD No. 98-1) provides for the improvement and maintenance of public landscaping, irrigation, and improvements along Sinclair Frontage Road, Los Coches Creek and Berryessa Creek abutting the Sinclair Horizon residential subdivision.

The Landscaping and Lighting Act of 1972 requires adoption of the subject resolution directing preparation of an annual engineer's report evaluating LLMD District's maintenance and improvement costs. At subsequent meetings, Council will be asked to approve the completed Engineer's Report and to schedule a public hearing for the proposed assessment on June 3, 2014. Upon Council's approval, the assessment for the maintenance and improvement work will be added to the 2014-15 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.

- * 11. **Adopt a Resolution Authorizing Purchase of Ford F-150 Regular Cab Truck from the National Auto Fleet Group for Not-To-Exceed \$20,576.63 Through a Cooperative Procurement Contract (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: The Finance Department's Fiscal Year 2013-14 budget includes the purchase of one 2014 Ford F150 regular cab truck for its Meter Reading Program, to replace a 1999 Ford F-150 truck that has reached the end of its useful life. This is a cooperative purchase through the National Joint Powers Alliance (NJPA). Cooperative purchasing through NJPA is specifically authorized pursuant to Municipal Code Section I-2-3.08 "Cooperative Procurement." The Purchasing Agent reviewed all of the documentation from the National Joint Powers Alliance Request for Proposal (RFP) #102811 entitled "Passenger Cars, Light Duty, Medium Duty, and Heavy Duty Trucks with Related Accessories" and has determined that the underlying purchase was made using competitive bidding procedures at least as restrictive as the City of Milpitas in accordance with the Purchasing Ordinance. The price for the vehicles is the same as that offered in the original agreement.

Fiscal Impact: None. Sufficient funding is in the FY 2013-14 Equipment Replacement Fund for this purchase.

Recommendation: Adopt a resolution authorizing the purchase of one Ford F-150 regular cab truck from the National Auto Fleet Group for the not-to-exceed amount of \$20,576.63 through a cooperative procurement contract.

- * 12. **Adopt a Resolution Approving an Agreement with Oracle America Inc. for Software Technical Support for a Five Year Term and Total Not-to-Exceed \$58,878 (Staff Contact: Chris Schroeder, 586-3161)**

Background: In 2000, the City installed Oracle software, which runs on City servers as the back end application and allows various departments operating software such as Cayenta, the Police Records System, and the City's Document Management System to store data and operate on our network. The existing software agreement expires on May 15, 2015 and staff negotiated a five year contract for technical Support Services from May 16, 2014 to May 15, 2019 for a fixed rate of \$11,775 per year for a total contract value of \$58,878 a savings of \$3,640 off the otherwise annually adjustable price. Because the software is already in place and is critical to the operation of the City, and would be very expensive and difficult to replace, staff requests that this purchase be made as a sole source procurement as authorized in section I-2-5.03-4 of the Milpitas Municipal Code.

Fiscal Impact: None. Funds for this purchase are available in the Information Services operating budget.

Recommendation: Adopt a resolution approving a sole source agreement with Oracle America Inc., a Delaware Corporation, for software technical support from May 16, 2014 to May 15, 2019, an annual not-to-exceed amount of \$11,775 and total not-to-exceed amount of \$58,878.

XX. AGREEMENTS

- * 13. **Approve Amendment No. 1 to the Agreement with Ye-Ming Wu, DDS of Agape Mobile Dental Services to Continue Provision of Free Monthly Dental Services at the Barbara Lee Senior Center (Staff Contact: Stephanie Douglas, 408-586-3226)**

Background: Dr. Ye-Ming Wu, DDS is a licensed dental professional who oversees Agape Mobile Dental Services, which provides free mobile dental services to low-income older adults. The City of Milpitas and Ye-Ming Wu, DDS entered into a mobile dentistry agreement on May 1, 2013. The agreement authorized Yee-Ming Wu, DDS and his staff to provide mobile dentistry services, which including dental examinations, screening, cleaning, x-rays, sealant, fluoride

treatment/varnish and oral health education. The agreement allows for Dr. Wu and his staff to use City property (parking lot of Barbara Lee Senior Center) once a month on the fourth Friday each month from 1:30 - 4:30 PM to provide dental services to the Milpitas senior community. The current agreement will expire May 1, 2014 and the proposed amendment will extend the agreement to June 30, 2015. Senior Center staff will assist with promoting the service and taking appointments.

Fiscal Impact: None.

Recommendation: Approve Amendment No. 1 to the agreement with Ye-Ming Wu, DDS of Agape Mobile Dental Services to provide free monthly dental services outside the Senior Center through June 30, 2015.

- * 14. **Approve an Agreement with D. R. Horton Bay, Inc. for the Demolition of City Buildings at 1650-1690 and 1740-1830 McCandless Drive for \$707,741.29 and Appropriate the Amount from the Transit Area Specific Plan Development Impact Fee Fund (Staff Contact: Felix Reliford, 408-586-3071)**

Background: On April 2, 2013, the City Council and Milpitas Housing Authority adopted a joint resolution approving a loan from the Milpitas Housing Authority to City of Milpitas for the demolition of city buildings at 1650-1690 and 1740-1830 McCandless Drive to address the blighted conditions at the subject property. The amount of the loan was \$621,500. Council also approved a Demolition Agreement with D.R. Horton in the amount of \$593,500 requiring all demolition to be completed on or before October 31, 2013. Since the City Council approval of the agreement, several actions have taken place regarding the site:

- Pacific Gas & Electric (PG&E) Company requiring approximately four months for the City and D.R. Horton to obtain required inspections and permits to authorize the removal of utilities from the site. Utilities were required to be removed prior to demolition of the buildings for health and safety reasons. Therefore, demolition was not completed until March 2014.
- Additional costs not associated with the demolition agreement were incurred for: 1) erosion control, 2) installation of fence, 3) spray hydro-seeding, 4) repair water line, 5) storm water pollution prevention plan, and other required work. This work was required to leave the site in the proper state as required by Storm Water Pollution Regional Control Board and standard demolition practices.
- Because of the amount of time required to obtain inspections and permits required by other agencies, demolition of the site was completed recently in March 2014. The original agreement has expired and staff prepared a new agreement incorporating the costs for additional work required on the site for City Council approval.
- Cost for construction demolition including rough grading of the site was \$551,519, leaving a saving balance of \$41,981 (\$593,500 - \$551,519).
- Additional work completed to date with costs that were not in the original demolition agreement included the following:
 - Erosion Control \$15,000
 - Install Silt Fence (D.R. Horton) \$5,220
 - Spray Hydro-seed for Stabilization and Cover \$37,840.50
 - Repair 12" Water Line \$4,231.79
 - Storm Water Pollution Prevention Plan (SWPPP) \$10,750
 - Prepare Public IP Plan for City Site Frontage \$18,100

• Additional Revisions to City Sidewalk	\$6,840
• Rental of Fence by City	\$6,000
	\$103,982.29

Total construction demolition and additional costs to date were \$655,501.29, which represents a \$62,001.29 increase from the original agreement approved. Also, D. R. Horton recommended the City consider abandonment of three fire and six water lines services, remove and replace ARV (Air Release Valve) and Blow-off to new location to accommodate new sidewalk (\$52,240.00). The City's Public Works staff reviewed the proposed work and recommends the work be done to secure the site. Therefore, the City Council is requested to approve a new agreement with D.R. Horton in the amount of \$707,741.29 (\$655,501.29 for completed work to date and \$52,240.00 for future work).

Since the original agreement approval, there are sufficient development impact fees in the Transit Area Specific Plan to pay for the full proposed agreement amount of \$707,741.29. An appropriation from the Transit Area Specific Plan Development Impact Fee Fund is requested to pay D.R Horton as opposed to using the money loaned from the City Housing Authority.

Fiscal Impact: \$707,741.29 will need to be appropriated from the Transit Area Specific Plan Development Impact Fee Fund.

Recommendations:

1. Approve an agreement with D.R. Horton for the demolition and other related work of City buildings at 1650-1690 and 1740-1830 McCandless Drive, for an amount not to exceed \$707,741.29.
2. Appropriate \$707,741.29 from the Transit Area Specific Plan Development Impact Fee Fund to pay D.R Horton Bay, Inc. for demolition and related work at McCandless site.

*** 15. Approve Second Amendment to the Agreement with County of Santa Clara for Countywide Household Hazardous Waste Collection Program (Staff Contact: Steven Machida, 408-586-3355)**

Background: The Santa Clara County Department of Environmental Health has administered a Countywide Household Hazardous Waste Collection (HHW) Program since October 1991. An agreement dated May 22, 2012 between the County and each participating jurisdiction, including the City of Milpitas, allows the program to continue for a three-year period which must be renewed each year with an amendment. The landfill disposal facilities collect a tipping fee surcharge to fund this County-administered program.

The proposed second amendment to the agreement also includes a \$5,000 augmentation in the event that the program attracts a surplus of Milpitas residents beyond the funded 4% participation level. Historically, Milpitas has attained the 4% level only once since the program was implemented in 2010.

California Environmental Quality Act (CEQA): The ordinance is exempt from CEQA as there will be no physical change to the environment.

Fiscal Impact: None.

Recommendation: Approve the second amendment to the agreement with County of Santa Clara for FY 2014-15 Countywide Household Hazardous Waste Collection Program.

XXI. DEMAND

- * 16. **Receive Report of Emergency Repair of the Police/Public Works Building, and Authorize Staff to Pay Invoices for Project No. 3410 (Staff Contact: Jeff Moneda, 408-586-3317)**

Background: Per state public contracting law and Council Resolution No. 7779, the Director of Public Works may authorize emergency work, but must provide the City Council with a report of all such activities. In accordance with these requirements, the Public Works Director authorized Swenson & Associates Incorporated to remove the deteriorated exterior wood awnings surrounding the Police/Public Works Building, and to repair and patch the exterior.

The Police Department/Public Works Building was constructed in the early 1990s and has a decorative wood awning that surrounds the buildings exterior. An inspection revealed three awnings have deteriorated to the extent that they are a hazard to City staff and the public. The poorly-constructed awning has also been a path for moisture intrusion into the buildings walls, which has further deteriorated the building from the inside.

Staff consulted with several qualified contractors to determine the best and most cost effective method to remove the awning and repair the exterior walls so they are water tight. The firm Swenson & Associates was selected to perform the work based upon its proposal and the City's experience with the company's workmanship in the completion of the Barbara Lee Senior Center. The scope of work for Swenson & Associates includes the removal of the wood awning and patching the exterior walls for a maximum cost of \$250,000.

This project is categorically exempt under Section 15301 of the CEQA Guidelines for restoration or rehabilitation of deteriorated or damaged structures.

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

Recommendations:

1. Receive this report of emergency repair of the Milpitas Police/Public Works Building, Project No. 3410.
2. Authorize payment of invoices for this work up to the maximum amount of \$250,000.

XXII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, MAY 20, 2014 AT 7:00 P.M.**