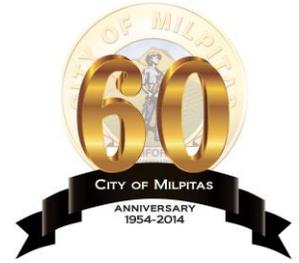




**MILPITAS CITY COUNCIL AGENDA**  
**TUESDAY, JUNE 17, 2014**  
**455 EAST CALAVERAS BOULEVARD, MILPITAS, CA**  
**6:00 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)**



**SUMMARY OF CONTENTS**

- I. CALL TO ORDER 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 (IAFF) 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
  - 3. PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Pursuant to CA Government Code Section 54957, Position: City Manager
  - 4. PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Pursuant to CA Government Code Section 54957, Position: City Attorney
- 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 – June 3, 2014**
- VII. SCHEDULE OF MEETINGS – COUNCIL CALENDARS – June and July 2014**
- VIII. PRESENTATIONS**
  - Proclaim June 21, 2014 as *Iglesia Ni Cristo Day* in Milpitas
  - Proclaim July 2014 as “*Parks and Recreation Month*”
  - Commendation to student Alexa Cacao
  - Recognition to student Sabrina Pham
  - Recognition to student Corentine Demoitie – Rotary International Youth Exchange

**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 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.

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**X. ANNOUNCEMENTS**

**XI. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**

**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 HEARING**

- 1. Hold a Public Hearing and Adopt a Resolution Approving Major Vesting Tentative Map, Site Development Permit and Conditional Use Permit for 381 Apartment Units, 8,100 square feet of Commercial and Office Space and Associated Site Improvements for Citation II Lago Vista Apartments at 765 Montague Expressway (Staff Contact: Scott Ruhland, 408-586-3274)**

**XV. REPORT**

- 2. Approve the Public Art Project for Cardoza Park Per Recommendation of the Public Art Committee (Staff Contact: Renee Lorentzen, 408-586-3409)**

**XVI. NEW BUSINESS**

- \* 3. Authorize Three Temporary Building Inspector Positions (Staff Contact: Keyvan Irannejad, 408-586-3244)**
- 4. Receive City of Milpitas Social Media Presentation (Staff Contact: Renee Lorentzen, 408-586-3409)**

**XVII. ORDINANCE**

- \* 5. Waive the Second Reading and Adopt Ordinance No. 164.3 to Amend the Municipal Code Relating to Schedule of Fees and Service Charges (Staff Contact: Emma Karlen, 408-586-3145)**

**XVIII. RESOLUTIONS**

- \* 6. Adopt a Resolution Granting Final Acceptance of the Abel Street Transit Connection Project No. 4260, Federal Aid Project No. CML-5314 (003) (Staff Contact: Jeff Moneda, 408-586-3345)**
- \* 7. Adopt a Resolution Approving Amendment No. 2 to the Agreement with Tecogen, Inc. for an Annual Amount Not-To-Exceed \$15,500 for Maintenance of the Cogenerator at the Milpitas Sports Center (Staff Contact: Chris Schroeder, 408-586-3161)**

- \* 8. **Adopt a Resolution Annexing Certain Real Property into Community Facilities District No. 2008-1; Approve a Subdivision Improvement Agreement with Milpitas Station (San Jose) Venture, LLLP, a Fee Credit Agreement, Final Maps, and Improvement Plans for 1425 S. Milpitas Blvd. (Lot 1), Project No. 3216 (Staff Contact: Ahmed Aly, 408-586-3325)**
- \* 9. **Adopt a Resolution Granting Initial Acceptance of Public Improvements and Approve a Reduction in the Performance Bond for the Subdivision Improvement Security for 905 Los Coches St. (Robson Homes), Tract 10077, Project No. 2653 (Staff Contact: Ahmed Aly, 408-586-3325)**
- \* 10. **Adopt a Resolution Revising the Interfund Advance or Loan Policy (Staff Contact: Emma Karlen, 408-586-3145)**
- \* 11. **Adopt a Resolution Awarding a Contract to O’Grady Paving, Inc. for the Street Resurfacing 2015, Projects No. 4275 and No. 3412, and Authorize the Director of Public Works to Execute Contract Change Orders (Staff Contact: Steve Chan, 408-586-3324)**
- \* 12. **Adopt a Resolution to Release Unclaimed Checks per Standard Operating Procedure (Staff Contact: Gabrielle Tsang, 408-586-3131)**
- \* 13. **Adopt a Resolution Approving a Non-Exclusive Collection, Transportation, and Recycling Agreement with Waste Connections of California, Inc. (Staff Contact: Jeff Moneda, 408-586-3345)**
- \* 14. **Adopt a Resolution Making Sole Source Findings, Approving Amendment No. 3 with Tiburon, Inc. for Software Support and Maintenance for Police Records Management System, and Authorizing the City Manager to Extend the Agreement (Staff Contact: Chris Schroeder, 408-586-3161)**

**XIX. AGREEMENTS**

- \* 15. **Approve Amendment No. 1 to Agreement for Outside Labor Negotiator Services with Burke, Williams & Sorensen, LLP (Staff Contact: Mike Ogaz, 408-586-3040)**
- \* 16. **Approve Amendment No. 1 to the Agreement with Carollo Engineers, Inc. for the Curtis Well Improvements Project No. 7076 (Staff Contact: Jeff Moneda, 408-586-3345)**
- \* 17. **Approve the First Amendment to Consulting Services Agreements Between the City of Milpitas and Healani Maloney and Between the City of Milpitas and Linda Trudeau (Staff Contact: Armando Corpuz, 408-586-2534)**
- \* 18. **Approve Amendment No. 1 to the Agreement with Otis Elevator Company for Full Service Elevator, Escalator, Chairlift, and Platform Lift Maintenance and Repair for Various City of Milpitas Elevators for an Annual Amount Not-To-Exceed \$30,000 (Staff Contact: Chris Schroeder, 408-586-3161)**
- \* 19. **Authorize the City Manager to Execute the Second Amendment to the Agreement with CSG for Fire Department Plan Review & Inspection Services for Fiscal Year 2014-15 Through June 30, 2015 (Staff Contact: Albert Zamora, 408-586-3371)**
- \* 20. **Approve Amendment No. 6 to the Master Agreement with the Santa Clara Valley Transportation Authority (VTA) Relating to the Silicon Valley Rapid Transit Berryessa Extension Project (GT-1063) and Approve a Budget Appropriation of \$650,000 (Staff Contact: Jeff Moneda, 408-586-3345)**

- \* 21. **Approve Amendment No. 4 to the Agreement with HMH Engineers Extending the Term to June 30, 2017 for the Dixon Landing Road/I-880 Interchange Right of Way Project with No Change in Compensation (Staff Contact: Chris Schroeder, 408-586-3161)**
- \* 22. **Approve Renewal of Excess Workers' Compensation Insurance Contracted via Brown & Brown of California (Staff Contact: Carmen Valdez, 408-586-3086)**
- \* 23. **Approve Plans and Specifications and Authorize Advertisement for Bid Proposals for McCarthy Boulevard Landscape & Lighting Improvements, Project No. 3402 (Staff Contact: Jeff Moneda, 408-586-3345)**
- \* 24. **Approve a Consultant Agreement with RMC Water and Environment for the Dempsey Road Water Line Replacement, East Segment Two of the Seismic Waterline "Los Coches Back Bone," Abel Street Pipe Line Extension, and Dempsey Road Storm Drain Replacement Projects No. 7118, No. 7100, No. 7117 and No. 3709 (Staff Contact: Jeff Moneda, 408-586-3345)**
- \* 25. **Approve Litigation Settlement Agreement for County of Santa Clara, et al. v. the Milpitas Economic Development Corporation, et al. and Successor Agency to the Milpitas Redevelopment Agency, et al. v. John Chiang, et al. (Staff Contact: Mike Ogaz, 408-586-3040)**

**XX. CLAIM AND DEMANDS**

- \* 26. **Authorize a Settlement with Claimant through Association of Bay Area Governments Pooled Liability Assurance Network (ABAG PLAN) (Staff Contact: Emma Karlen, 408-586-3145)**
- \* 27. **Approve Payment of Annual Software Support and Maintenance Fees to Cayenta and Peelle Technologies (Staff Contact: Mike Luu, 408-586-2706)**
- \* 28. **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)**

**XXI. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, AUGUST 5, 2014**

**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](mailto: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](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 SERVE ON A CITY COMMISSION**

Current vacancies exist on:

Senior Advisory Commission  
Sister Cities Commission – student non-voting member  
Veterans 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 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](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 City Council Chambers for all meetings.*

## AGENDA REPORTS

### XIV. PUBLIC HEARING

- 1. Hold a Public Hearing and Adopt a Resolution Approving Major Vesting Tentative Map, Site Development Permit and Conditional Use Permit for 381 Apartment Units, 8,100 square feet of Commercial and Office Space and Associated Site Improvements for Citation II Lago Vista Apartments at 765 Montague Expressway (Staff Contact: Scott Ruhland, 408-586-3274)**

**Background:** The proposed project includes entitlement requests for the construction of a new 5-story, 381 unit mixed-use apartment building including 8,100 square feet of commercial tenant space, a six level parking structure, and two interior courtyards. The parking structure will contain 622 parking spaces and will be wrapped by the residential units and commercial use. The project also includes a variety of site improvements including a new private street along the rear and side of the building; streetscape and landscape improvements along Piper Drive and Montague Expressway; and, stormwater treatment, utility, grading and other associated site improvements.

The location of this proposal is in a transitioning industrial area within the Piper/Montague Sub-district of the Transit Area Specific Plan area and is directly across the street from the future Milpitas BART station. The site is currently used as a recycling collection facility.

The proposed development is consistent with the type of mixed-use development projects envisioned for the Transit Area. It is consistent with the General Plan, Transit Area Specific Plan and Zoning Ordinance. The project is well designed and includes public streetscape improvements that will further the design and development goals of the transit area by providing a vibrant mixed-use community directly across the street from the BART station.

The Milpitas Planning Commission considered this project on May 14, 2014, when Commissioners voted six in favor with one opposed to recommend the project to City Council for approval. The staff report to the Planning Commission is included as part of the Council agenda packet, providing greater detail on the project.

**California Environmental Quality Act:** The Planning Division conducted an environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). This project is included within the area evaluated as part of the Transit Area Specific Plan Environmental Impact Report (EIR), SCH#2006032091, which was certified by the City Council June 3, 2008. The project is covered under the scope of activities approved with that EIR. A finding is proposed that this project is within the program of the Transit Area Specific Plan EIR and no further action is required.

**Fiscal Impact:** None.

**Attachments:**

- A. Site Development Permit
- B. Major Vesting Tentative Map
- C. Planning Commission Staff Report 05/14/14
- D. Planning Commission Meeting Minutes 05/14/14
- E. Planning Commission Resolution No. 14-019

**Recommendations:**

1. Following any comments, move to close the public hearing.
2. Adopt a resolution approving Major Vesting Tentative Map No. MT13-0006, Site Development Permit No. SD13-0012, and Conditional Use Permit No. UP13-0011 for the construction of a mixed-used project including 381 apartment dwelling units, 8,100 square

feet of commercial and office space and associated site improvements located at 765 Montague Expressway for the Citation II Lago Vista Apartments development in the Transit Area Specific Plan area.

## **XV. REPORT**

### **2. Approve the Public Art Project for Cardoza Park Per Recommendation of the Public Art Committee (Staff Contact: Renee Lorentzen, 408-586-3409)**

**Background:** On March 19, 2013, the City’s Public Art Master Plan was approved by the City Council which outlined public art installations and maintenance projects through 2015. The Cardoza Park Public Art Installation project is included in the Master Plan and was approved in the Fiscal Year 2014-15 budget for a total of \$20,000.

Regional artists were asked through the Public Art Committee’s project Request for Proposals to submit proposals that featured a visually interesting, safe, three-dimensional public art piece that incorporated the following park/community requested themes: interactive, colorful, nature, and sports. From those submissions, the Public Art Committee chose four finalist art projects to create models of their proposals: “A Day with Dad at Cardoza Park,” “Kicker Kid,” “Millipede” and “Players.” Four project models were available at various City events, public facilities and online to gather community-at-large and park neighborhood input and votes from April – May 2014.

On May 5, 2014, the project models were presented to the Parks, Recreation and Cultural Resources Commission as an informational courtesy due to the intended location of the art piece. Parks, Recreation and Cultural Resources Commissioners communicated with staff that they were unable to recommend one piece but would like a piece installed that would withstand the elements. There was some concern expressed that more interactive art pieces might easily break from overuse at the park.

On May 19, 2014, results from the community and park neighborhood voting were presented to the Public Art Committee at its regular meeting. The proposal for the “Kicker Kid” piece led the votes with both the community-at-large and park neighborhood. Public Art Committee members then voted to recommend “Kicker Kid” for final City Council approval.

**Fiscal Impact:** None. Sufficient funds are available and allotted for this project in the Fiscal Year 2014-2015 budget.

**Recommendation:** Move to approve the “Kicker Kid” art piece for the Cardoza Park Art Installation project, per the recommendation of the Milpitas Public Art Committee.

## **XVI. NEW BUSINESS**

### **\* 3. Authorize Three Temporary Building Inspector Positions (Staff Contact: Keyvan Irannejad, 408-586-3244)**

**Background:** Due to the current peak of workload, several developers - Taylor Morrison (developer of 200 townhomes at McCandless Drive), Citation (developer of 534 residential units 5-story apartment building and 7-story parking garage at Piper Drive) and K Hovnanian Homes (developer of Travers 206 residential units community on Trade Zone Boulevard) - are requesting dedicated full time building inspectors for the construction of their projects in order to provide continuous and uninterrupted inspection service for the duration of construction. Such service was provided earlier by the City of Milpitas to other major projects and proved to be beneficial to both sides. It allows City to provide a high level of construction quality and customer service by considerably reducing the number of re-inspections, streamlining and maintaining construction schedule and minimizing the number of construction revisions. Present

workload does not allow the Building Department to provide dedicated building inspectors from current staff to the projects and thus necessitates hiring temporary inspectors at the annual cost of \$161,909 per inspector. The developers will pay the full cost of the inspection service, which includes salary for the dedicated building inspectors and an administrative fee.

**Fiscal Impact:** None. The developers will pay the full cost of the inspection services.

**Recommendations:**

1. Approve and authorize the developers' requests for employment of three Temporary Building Inspectors.
2. Approve a budget appropriation of \$485,727 into the Building and Safety Department's budget for fiscal year 2014-15.

**4. Receive City of Milpitas Social Media Presentation (Staff Contact: Renee Lorentzen, 408-586-3409)**

**Background:** The City of Milpitas continues to streamline its programs, processes and customer service to stay inline with the technology and trends of Silicon Valley. Social media efforts in local governmental agencies have shown to 1) improve citizen engagement, 2) humanize government, and 3) increase real-time response.

In response to expressed interest from City staff and the community, representatives from the Recreation, Police and Information Services Departments created a set of parameters, rules and steps for setting up and conducting responsible and safe City social media accounts called the "City of Milpitas Social Media Guidebook – You and Your Department's Guide to Going Social!"

This Guidebook, created after researching several local city social media policies and procedures, outlines for the reader:

- Whether he or she needs a social media account
- How to request an account
- Citywide standards for individual program/department accounts
- Role of the Social Media Review Team (SMRT)
- Training
- Record retention and account security

The Social Media Guidebook will be used as a tool for the development of Citywide Social Media Account Standard Operating Procedures.

**Fiscal Impact:** None.

**Recommendation:** Receive a presentation of the City of Milpitas Social Media Guidebook.

**XVII. ORDINANCE**

**\* 5. Waive the Second Reading and Adopt Ordinance No. 164.3 to Amend the Municipal Code Relating to Schedule of Fees and Service Charges (Staff Contact: Emma Karlen, 408-586-3145)**

**Background:** On June 3, 2014, the City Council introduced Ordinance No. 164.3 to amend the Milpitas Municipal Code relating to the Schedule of Fees and Services Charges. No changes were made to the ordinance introduced on June 3, 2014 and it is ready for second reading and adoption.

**Recommendation:** Waive the second reading and adopt Ordinance No. 164.3 amending the Milpitas Municipal Code relating to the Schedule of Fees and Service Charges.

## XVIII. RESOLUTIONS

- \* 6. **Adopt a Resolution Granting Final Acceptance of the Abel Street Transit Connection Project No. 4260, Federal Aid Project No. CML-5314 (003) (Staff Contact: Jeff Moneda, 408-586-3345)**

**Background:** The Abel Street Transit Connection Project No. 4260 was initially accepted on March 19, 2013 and has passed the one-year warranty period. A final inspection of the installed public improvements was made and the work was found to be satisfactory. The project provided new streetscape improvements including curb, gutter, sidewalk, decorative paving, decorative street lighting, landscaping, and irrigation on a portion of Abel Street south of Great Mall Parkway.

Staff recommends that the Council grant final project acceptance of the Abel Street Transit Connection Project No. 4260, Federal Aid Project No. CML-5314 (003) and release the contractor's bond.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution granting final acceptance of the Abel Street Transit Connection Project No. 4260, Federal Aid Project No. CML 5314 (003), and release the contractor's bond.

- \* 7. **Adopt a Resolution Approving Amendment No. 2 to the Agreement with Tecogen, Inc. for an Annual Amount Not-To-Exceed \$15,500 for Maintenance of the Cogenerator at the Milpitas Sports Center (Staff Contact: Chris Schroeder, 408-586-3161)**

**Background:** Tecogen, Inc. is both the manufacturer and installer of the cogeneration equipment located at the Milpitas Sports Center, which was originally installed on January 1, 1992. The cogenerator burns natural gas to turn an engine/generator set that heats the swimming pool water, and the electricity generated is sold back to PG&E. The original sole source agreement with Tecogen, Inc. was for the period January 1, 2009 to January 1, 2014 for a total not-to-exceed \$75,000. On December 16, 2013, staff extended the agreement to June 30, 2014 and increased the total compensation by \$7,500 for a total not-to-exceed \$82,500. This was to allow staff time to research the market and determine if Tecogen, Inc. was still a sole source provider.

The Purchasing Agent conducted due diligence and determined that only Tecogen, Inc. could provide factory trained and certified technicians and original equipment manufacturer parts. The current contract will expire June 30, 2014 and the Purchasing Agent recommends the City Council approve the extension of the agreement for five (5) years in an annual amount not to exceed \$15,500 for a total amount of \$77,500 in accordance with Municipal Code Section I-2-3.09 "Sole Source Procurement." This would bring the total agreement amount to \$160,000.

**Fiscal Impact:** None. This is a programmed expense in the Engineering Department operating budget.

**Recommendation:** Adopt a resolution approving Amendment No. 2 to the Agreement with Tecogen, Inc. in the annual not-to-exceed amount of \$15,500 for the term from July 1, 2014 to June 30, 2019 in accordance with Municipal Code Section I-2-3.09 (Sole Source Procurement).

- \* 8. **Adopt a Resolution Annexing Certain Real Property into Community Facilities District No. 2008-1; Approve a Subdivision Improvement Agreement with Milpitas Station (San Jose)**

**Venture, LLLP, a Fee Credit Agreement, Final Maps, and Improvement Plans for 1425 S. Milpitas Blvd. (Lot 1), Project No. 3216 (Staff Contact: Ahmed Aly, 408-586-3325)**

**Background:** On October 21, 2008, the City Council approved Minor Tentative Map (TM08-0001) to allow four parcels that could accommodate up to 318 dwelling units along with ancillary lots for private streets, public streets, and a public park (hereafter referred to as “Master Tentative Map”). On October 5, 2010, the City Council subsequently approved Major Tentative Map (MT09-0002), Site Development Permit (SD08-0006), and Conditional Use Permit (UP10-0012) to allow for the future phased development of 303 new dwelling units on 12.1 acres located at 1425 S. Milpitas Blvd. (hereafter referred to as “Builder Tentative Map”).

Milpitas Station (San Jose) Venture, LLLP (hereafter “Milpitas Station”) submitted two final tract maps with required supporting documents for the creation of Lot 1 (hereafter “Master Map”) and the subsequent division of Lot 1 into seven lots for condominium purposes (hereafter “Phase 1”).

This first phase of development will construct 46 condominium units on 2.37 acres located at 1425 S. Milpitas Blvd. The development has on-site private utilities (potable water, sanitary sewer, storm drain, recycled water, etc.). Public improvements consist of frontage improvements along Garden St. and Merry Loop, and roadway and utility improvements along S. Milpitas Blvd from Gibraltar to the Union Pacific Rail Road (“UPRR”) tracks (City utility connections, recycled water main, sidewalk, median, overlay, landscaping, electrical distribution line undergrounding, joint pole relocation, etc.).

In addition to the final maps, the developer also submitted two public improvement plans (Garden St. and Merry Loop 2-1164, and Milpitas Blvd. 2-1183), and executed a subdivision improvement agreement and a fee credit agreement for the project. Staff reviewed the documents and found that they satisfy the City’s requirements for this project. The public improvement plans and final maps are available for review in the office of the City Engineer.

Milpitas Station agreed to dedicate 1.68 acres of park land and construct certain roadway and utility improvements identified within the Transit Area Specific Plan (TASP) financing plan that would otherwise be financed by the TASP Fee, described as follows:

1. **Park Land Dedication:** Developer will make an irrevocable offer of dedication of fee title to the City for approximately 1.68 acres of real property identified as Lot E on Tract Map No. 10218 for a public park. Developer shall provide the City with a fully executed grant deed in a form acceptable to the City simultaneously with the execution of this Agreement. The City will accept the offer of dedication by recording the grant deed at a later date upon completion of the park improvements on the 1.68 acres of real property in accordance with all City requirements. Park improvements shall be completed by another developer at a later date.
2. **S. Milpitas Blvd Improvements:** Developer will design and construct certain public improvements on South Milpitas Boulevard described on Improvement Plan No. 2-1183 and as identified in the Cost Sharing Agreement approved by the City Council in 2009. The developer will underground the electrical distribution and communication lines along S. Milpitas Boulevard between Power Pole No. 1 and Power Pole No. 5 and will relocate the existing Joint Poles No. 2, No. 3 and No. 4 and the associated electrical transmission lines to the east frontage of S. Milpitas Boulevard.

Milpitas Station executed a fee credit agreement to receive a total fee credit not to exceed \$5,744,486 to be applied against total projected TASP fees of \$9,932,643. A fee credit balance will be carried across all future phases of the Project totaling 303 units until the balance is exhausted at which time full payment of the applicable TASP fees will be due at building permit issuance (at the rate in effect at that time).

Milpitas Station is required to annex the subject property into the Community Facilities District 2008-1 (CFD 2008-1) as a condition of the tentative maps approved by the City Council on October 21, 2008 and on October 5, 2010. Resolution No. 7816 adopted by City Council on January 6, 2009 forming CFD 2008-1 authorizes the City to annex properties into the District, which will be assessed only for eligible public services without further public hearing or formal election upon receipt of written consent from the owners. Milpitas Station has given consent and approval that this property be annexed to CFD 2008-1. Milpitas Station has also agreed that such consent and approval constitutes election to annex to CFD 2008-1 and approval of the authorization for the levy of the special tax on the subject properties.

**California Environmental Quality Act:** a Certified Environmental Impact Report for the TASP was previously adopted by the City Council on June 3, 2008. Pursuant to Sections 15168(c)(2) and 15315 of the CEQA Guidelines, the Master Tentative Map was found to be exempt from further CEQA documentation by the City Council on October 25, 2008 because the project is consistent with the certified EIR for the TASP. Pursuant to Sections 15061(b)(3) and 15162 of the CEQA Guidelines, the Builder Tentative Map was subsequently found to be exempt from further CEQA documentation by the City Council on October 5, 2010. All previous mitigation measures and monitoring and reporting program adopted for the project are still applicable and no new conditions exist that invalidate the previous environmental determination or will not create a significant environment impact that require further analysis under CEQA.

**Fiscal Impact:** None.

**Recommendations:**

1. Adopt a resolution annexing real properties located within Final Tract Map No. 10037 and Final Tract Map No. 10281 into Community Facilities District 2008-1.
  2. Approve the Subdivision Improvement Agreement between the City of Milpitas and Milpitas Station (San Jose) Venture, LLLP for public improvements associated with Final Tract Map No. 10037 (Milpitas Station Master Map) and Final Tract Map No. 10281 (Milpitas Station Phase 1).
  3. Approve Fee Credit Agreement between the City of Milpitas and Milpitas Station (San Jose) Venture, LLLP for fee credits associated with the TASP park land dedication and S. Milpitas Blvd. Improvements.
  4. Approve the Final Tract Map No. 10037 (Milpitas Station Master Map), Final Tract Map No. 10281 (Milpitas Station Phase 1), and Public Improvement Plans 2-1164 and 2-1183 (construction documents for the associated public improvements).
- \* 9. **Adopt a Resolution Granting Initial Acceptance of Public Improvements and Approve a Reduction in the Performance Bond for the Subdivision Improvement Security for 905 Los Coches St. (Robson Homes), Tract 10077, Project No. 2653 (Staff Contact: Ahmed Aly, 408-586-3325)**

**Background:** On August 16, 2011, City Council approved the Subdivision Improvement Agreement (SIA) for the Robson Homes project (Tract 10077) located at 905 Los Coches Street. The SIA is for the construction of certain public improvements identified in Public Improvement Plan 2-1142. Public improvements include utilities, pavement, curb, gutter, sidewalk, irrigation, and landscaping improvements along Los Coches Street. These public improvements have been completed by the developer per the approved public improvement plans and are ready for initial acceptance in accordance with the SIA. The developer's performance bond may be reduced to \$71,000, which is 10% of the improvement amount.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution granting initial acceptance of public improvements for Robson Homes, Tract 10077, Project No. 2653 and approve a reduction in the performance bond,

subject to a one-year warranty period and reduction of the faithful performance security to \$71,000.

\* 10. **Adopt a Resolution Revising the Interfund Advance or Loan Policy (Staff Contact: Emma Karlen, 408-586-3145)**

**Background:** The City's Fiscal Policy allows interfund loans to meet short-term cash flow needs. In the past, the City utilized interfund loans or advances to meet operating or capital financing needs, especially when the borrowing was infrequent or the amount of financing needed was insufficient in size to warrant debt issuance.

On April 7, 2009, the Milpitas Redevelopment Agency and City Council adopted Joint Resolution No. RA327 / 7852 to memorialize the interfund advance or loan policy. The policy states that the outstanding principal balance of the advance or loan shall accrue interest at the fixed rate of five percent (5%) simple interest per year. The 5% interest rate was reasonable at the time when the policy was established. Since 2009, interest rates have decreased significantly due to the Federal Reserve Bank's monetary policy. The general low interest environment also impacts the investment return on the City's investment portfolio as city government is restricted by California Government Code to only invest in low risk securities, such as U.S. Treasuries and federal government etc. The current return on the City's investment portfolio is 0.59%. Consequently, 5% interest on the interfund loan is no longer equitable. Staff recommends that the City Council adopt a resolution revising the interest rate charged on interfund loans to be the monthly investment return of the City's investment portfolio. Staff believes that the revised interest rate is reasonable as it is what the fund that provides the advances to other funds would have earned.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution revising the Interfund Advance or Loan Policy.

\* 11. **Adopt a Resolution Awarding a Contract to O'Grady Paving, Inc. for the Street Resurfacing 2015, Projects No. 4275 and No. 3412, and Authorize the Director of Public Works to Execute Contract Change Orders (Staff Contact: Steve Chan, 408-586-3324)**

**Background:** On April 1, 2014, the City Council approved project plans and specifications and authorized the advertisement for construction bid proposals for Street Resurfacing 2015. The project consists of localized repair of failed asphalt concrete pavement, removal and replacement of asphalt concrete, cape seal, slurry seal, installation of Americans with Disabilities Act (ADA) compliant sidewalk ramps, and striping work. The Engineer's Estimate for the base bid project work was \$3,800,000, with construction scheduled to be completed during the summer 2014 school recess to minimize impact to the community.

The project was advertised, and three sealed bid proposals were received on May 22, 2014. Bid proposals ranged from \$3,305,360 to \$3,667,192, and the lowest responsible base bid was submitted by O'Grady Paving, Inc. in the amount of \$3,305,360. No protest was received.

As was approved for the successful completion of recent projects with tight completion schedules, staff is requesting the use of the same change order policy. This policy allows for the timely completion of this project, while addressing the need to respond swiftly to construction conditions in order to limit potential claims or risks to the City. The construction contingency established for this project is \$500,000, approximately 15% of the total contract value, and the change order authority would not exceed this amount and would not require additional appropriation. This project is categorically exempt under CEQA Article 19 Section 15301 for maintenance of existing public streets.

**Fiscal Impact:** None. Sufficient funds are available in the project budgets.

**Recommendation:** Adopt a resolution:

1. Awarding a construction contract to O'Grady Paving, Inc. and authorizing the City Manger to execute the contract for Street Resurfacing 2015, Projects No. 4275 and No. 3412, in the amount of \$3,305,360.
2. Authorizing the Director of Public Works to negotiate and execute change orders for the Street Resurfacing 2015 project in the cumulate amount not to exceed \$500,000.

\* **12. Adopt a Resolution to Release Unclaimed Checks per Standard Operating Procedure (Staff Contact: Gabrielle Tsang, 408-586-3131)**

**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 materials.

**Fiscal Impact:** The recommended action will increase General Fund revenues by \$159.89.

**Recommendation:** Adopt a resolution transferring a total of \$159.89 in 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.

\* **13. Adopt a Resolution Approving a Non-Exclusive Collection, Transportation, and Recycling Agreement with Waste Connections of California, Inc. (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, Inc., 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 residents and businesses that are not covered by the Republic Services, Inc. exclusive franchise agreement.

Waste Connections of California, Inc. is a new collector seeking a non-exclusive agreement with the City. The proposed agreement grants a three-year term commencing on June 17, 2014. Staff requests authority to administratively review collections under the agreement and grant a maximum of two, three-year agreement extensions without further Council action.

**California Environmental Quality Act:** The action is not considered a project under CEQA as there will be no direct, or reasonably foreseeable indirect physical change in the environment.

**Fiscal Impact:** A 12% franchise fee is paid by all non-exclusive collection haulers.

**Recommendation:** Adopt a resolution approving Non-Exclusive Collection, Transportation, and Recycling Agreement with Waste Connections of California, Inc. for a three-year term commencing on June 17, 2014 and authorizing the City Manager or designee to extend the agreement for a maximum of two, three-year extensions.

\* **14. Adopt a Resolution Making Sole Source Findings, Approving Amendment No. 3 with Tiburon, Inc. for Software Support and Maintenance for Police Records Management System, and Authorizing the City Manager to Extend the Agreement (Staff Contact: Chris Schroeder, 408-586-3161)**

**Background:** In December 1996, the City entered into an agreement with Tiburon, Inc. to provide a Police Records Management System (PRMS). Tiburon Inc. is the developer of the

software, and there is no other source for support and maintenance of this application. Conversion to another Records Management System is not financially feasible at this time. Renewal of the maintenance agreement is therefore necessary to keep the PRMS operating. On January 4, 2011, Council approved Tiburon, Inc. as a sole source provider pursuant to Municipal Code Section I-2-3.09 (Sole Source Procurement).

The parties desire to amend the Agreement to extend the term of service from July 1, 2014 to June 30, 2015 in the amount not to exceed \$55,496, extend the sole source designation for another five years, add a Non-Appropriations clause and authorize the City Manager or designee to extend the Agreement on an annual basis with annual increases in compensation of up to five percent (5%), subject to appropriation of City Council and without further City Council approval.

**Fiscal Impact:** None. Cost of the maintenance agreement in the current fiscal year is \$55,469, which is part of the Information Services Department FY 2014-15 operating budget.

**Recommendation:** Adopt a resolution making sole source findings per Milpitas Municipal Code Section I-2-3.09, approving Amendment No. 3 to the Agreement with Tiburon, Inc. for Software Support and Maintenance for Police Records Management System in the amount of \$55,496 for the term July 1, 2014 to June 30, 2015, authorizing the City Manager or designee to extend the agreement on annual basis for up to four additional years with annual increase of up to 5%, subject to Council appropriation of funds and without further Council action, and authorizing the City Manager to grant increases according to the agreement without further City Council action.

## **XIX. AGREEMENTS**

- \* 15. **Approve Amendment No. 1 to Agreement for Outside Labor Negotiator Services with Burke, Williams & Sorensen, LLP (Staff Contact: Mike Ogaz, 408-586-3040)**

**Background:** On September 17, 2013, the City entered into an Agreement with the law firm Burke, Williams & Sorensen, LLP to represent the City in labor negotiations. Labor negotiations are continuing and the Agreement requires amendment adding \$30,000 in further compensation to cover the continuing services.

**Fiscal Impact:** None. There are sufficient funds in the City Attorney's budget.

**Recommendations:** Approve Amendment No. 1 to the September 17, 2013 Agreement with Burke, Williams & Sorensen, LLP for outside labor negotiator services.

- \* 16. **Approve Amendment No. 1 to the Agreement with Carollo Engineers, Inc. for the Curtis Well Improvements Project No. 7076 (Staff Contact: Jeff Moneda, 408-586-3345)**

**Background:** On June 5, 2012, the City entered into a consultant agreement with Carollo Engineers, Inc. in the amount of \$130,437 to complete the design documents for the Curtis Well pump station and package it for public bidding. The existing consultant agreement expires on June 30, 2014. Due to the work associated with utility relocations for BART on and near the new pump station, the site has not been ready for construction and the consultant was instructed to hold off on finalizing the 100% design until that work was completed. City staff was informed by BART that the utility work in the vicinity of the new station will soon be completed. Due to the length of time for the utility work to be completed, the agreement with Carollo Engineers, Inc. needs to be extended to allow the firm to finish design for the Curtis Well pump station improvements. Amendment No. 1 to the agreement with Carollo Engineers, Inc. is recommended to extend the agreement for one year expiring June 30, 2015 with no change in compensation.

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

**Recommendation:** Approve Amendment No. 1 to the consultant agreement with Carollo Engineers, Inc. to extend the term to June 30, 2015 for the Curtis Well Project No. 7076.

- \* 17. **Approve the First Amendment to Consulting Services Agreements Between the City of Milpitas and Healani Maloney and Between the City of Milpitas and Linda Trudeau (Staff Contact: Armando Corpuz, 408-586-2534)**

**Background:** In July 2012, the City entered into consultant agreements with Ms. Linda Trudeau and Ms. Healani Maloney to provide public safety dispatcher services. The agreements expired on June 30, 2013 and the amount was not to exceed \$19,710 for each consultant. The City and each consultant agreed to reinstate the agreement, which are due to expire on June 30, 2014. Public safety dispatch consultants reduce overtime costs and assist in staffing the Communication Center when unexpected staffing challenges arise. Renewing the agreements with two consultants will continue to reduce overtime and overcome unexpected staffing vacancies. No change in compensation is proposed.

**Fiscal Impact:** None. The expense is part of the Police Department's FY 2014-15 approved operating budget.

**Recommendations:** Approve the First Amendment to the consulting agreements with Linda Trudeau and Healani Maloney for public safety dispatching service.

- \* 18. **Approve Amendment No. 1 to the Agreement with Otis Elevator Company for Full Service Elevator, Escalator, Chairlift, and Platform Lift Maintenance and Repair for Various City of Milpitas Elevators for an Annual Amount Not-To-Exceed \$30,000 (Staff Contact: Chris Schroeder, 408-586-3161)**

**Background:** On December 7, 2011, the City of Milpitas and Otis Elevator Company entered into a Piggyback Agreement for maintenance and repair of two elevators located at the Milpitas Library Garage. The Piggyback Agreement was entered into pursuant to Municipal Code Section I-2-3.07 "Piggyback Procurement," through a nationally bid contract. The Piggyback Agreement was for five years at the rate of \$6,460 per year. City staff recommends that the City Council amend the Piggyback Agreement to include six additional City elevators at various City of Milpitas locations. This will raise the cost per year from \$6,460.00 by \$18,486.24 to an annual total amount not-to-exceed \$24,946.24 with a contingency of \$5,053.76 for a total annual amount of \$30,000. The amount includes all annual and five year tests. Staff estimates the contract will save \$29,067 and over the next five years as compared to the previous provider ThyssenKrupp Elevator.

**Fiscal Impact:** None. This is a programmed expense in the Facilities Maintenance Operating Budget.

**Recommendation:** Approve Amendment No. 1 to the agreement with Otis Elevator Company for maintenance service on various City of Milpitas elevators for the annual amount not-to-exceed \$30,000 for the period beginning July 1, 2014 and ending on December 6, 2016.

- \* 19. **Authorize the City Manager to Execute the Second Amendment to the Agreement with CSG for Fire Department Plan Review & Inspection Services for Fiscal Year 2014-15 Through June 30, 2015 (Staff Contact: Albert Zamora, 408-586-3371)**

**Background:** On May 20, 2014, the City Council approved the City's Final Budget for Fiscal Year 2014-15, which includes \$163,200 for plan review and inspection services within the Fire Prevention Division. This amendment is necessary due to the multiple residential and commercial development projects approved by the City, and the increased demand for the services.

**Fiscal Impact:** None. Contractual services were approved as part of the FY 2014-15 adopted budget. Sufficient funding is available in the Fire Prevention Division's operating budget.

**Recommendation:** Authorize the City Manager to execute Amendment No. 2 to the agreement with CSG for fire inspection and plan review services for a total amount-not-to-exceed \$163,200 for Fiscal Year 2014-15, and extend the agreement to June 30, 2015.

- \* 20. **Approve Amendment No. 6 to the Master Agreement with the Santa Clara Valley Transportation Authority (VTA) Relating to the Silicon Valley Rapid Transit Berryessa Extension Project (GT-1063) and Approve a Budget Appropriation of \$650,000 (Staff Contact: Jeff Moneda, 408-586-3345)**

**Background:** The extension of the Bay Area Rapid Transit (BART) system into Santa Clara County is being implemented by VTA's Silicon Valley Rapid Transit (SVRT) Program. The City and VTA executed a Master Agreement in 2010, which created a cooperative frame work between VTA and the City for the design and construction of the BART line extension through Milpitas. This agreement allows for reimbursement of City expenses for a variety of coordination efforts, including but not limited to design approval and inspection of City facilities, encroachment permit oversight, easements, utility maintenance operations, meetings, resolution of construction issues, and consultant support. The Master Agreement and Amendments No. 1 – No. 5 included a work plan which described the City's support effort with a total agreement amount of \$2,990,588 through September 2014.

The construction effort has increased over the last several months and the available contract amount has been used. It is necessary to extend the work plan and increase the contract amount at this time. Additionally, the City Council approved the 2014 Cost Allocation Plan Update and the rates for City services will be revised in Amendment No. 6 to reflect the updated plan.

Staff negotiated a work plan extension with VTA to continue the coordination efforts. Staff recommends increasing the Master Agreement value in the amount of \$1,696,300 for the additional work for a total not-to-exceed amount of \$4,686,888 and extending the term to September 30, 2015. The requested budget appropriation will place a portion of this funding into a project budget account to allow payment for consultant support to the BART project.

**Fiscal Impact:** The Master Agreement requires VTA to establish a deposit account with the City to fund the City's work related to the BART extension project. This amendment provides for an additional deposit of \$1,696,300 for reimbursable costs in accordance with the Master Agreement.

**Recommendations:**

1. Approve Amendment No. 6 to the Master Agreement with Santa Clara Valley Transportation Authority related to the Silicon Valley Rapid Transit Program Berryessa Extension (BART) Project to extend the term to September 30, 2015 and increase the agreement amount by \$1,696,300.
2. Approve a budget appropriation of \$650,000 to Project No. 4265-BART extension coordination and planning in the CIP.

- \* 21. **Approve Amendment No. 4 to the Agreement with HMM Engineers Extending the Term to June 30, 2017 for the Dixon Landing Road/I-880 Interchange Right of Way Project with No Change in Compensation (Staff Contact: Chris Schroeder, 408-586-3161)**

**Background:** The City entered into a consulting services agreement with HMM Engineers on April 7, 2009 for professional engineering services for Capital Improvement Project No. 4047 Dixon Landing Road/I-880 Interchange Right of Way close out. The agreement was extended three times and most recently to June 30, 2014. City staff recommends extension of the

agreement for three additional years to June 30, 2017 to allow more time for coordination with Caltrans to transfer the land title to the State of California. There will be no change in compensation.

**Fiscal Impact:** None.

**Recommendation:** Approve Amendment No. 4 to the Agreement with HMH Engineers to extend the term from June 30, 2014 to June 30, 2017 for the Dixon Landing Road/I-880 Interchange Right of Way project at no additional cost to the City.

- \* 22. **Approve Renewal of Excess Workers' Compensation Insurance Contracted via Brown & Brown of California (Staff Contact: Carmen Valdez, 408-586-3086)**

**Background:** The City of Milpitas carries excess workers' compensation insurance in accordance with state law. The city's insurance broker is Brown & Brown of California, which was able to retain coverage through Safety National Casualty Corporation for fiscal year 2014-15. For fiscal year 2013-14, the cost of the excess workers' compensation was \$113,631. This year payroll has an overall increase of approximately 6.34%. The City's self-insured retention is \$1,000,000 for Safety employees and \$750,000 for Miscellaneous employees. The renewal premium for fiscal year 2014-15 is \$126,878 and is based on the City's payroll.

**Fiscal Impact:** None. There are sufficient funds allocated in the Human Resources Department FY 2014-15 budget.

**Recommendation:** Authorize the City Manager to pay Brown & Brown of California the premium rate of \$126,878 and approve acceptance of Safety National Casualty Corporation as provider of the City's excess workers' compensation insurance for FY 2014-15.

- \* 23. **Approve Plans and Specifications and Authorize Advertisement for Bid Proposals for McCarthy Boulevard Landscape & Lighting Improvements, Project No. 3402 (Staff Contact: Jeff Moneda, 408-586-3345)**

**Background:** Staff completed plans and specifications for McCarthy Boulevard Landscape & Lighting Improvements, Project No. 3402. The project provides for the rehabilitation of portions of the irrigation and lighting systems, landscaping, and correct deficiencies to comply with current regulations at the intersection of South Ranch Drive and McCarthy Boulevard and the northern monument sign location on McCarthy Boulevard near the City limits.

The Engineer's Estimate for the project is \$300,000. A copy of the title sheet of the project plans is included in the Council's agenda packet, with the complete set of plans and specifications available for review in the office of the City Engineer.

**California Environmental Quality Act (CEQA):** This project is categorically exempt under Section 15301 of the California Environmental Quality Act guidelines for maintenance of existing facilities.

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

**Recommendation:** Approve plans and specifications for Project No. 3402, McCarthy Boulevard Landscape & Lighting Improvements, and authorize advertisement for bid proposals.

- \* 24. **Approve a Consultant Agreement with RMC Water and Environment for the Dempsey Road Water Line Replacement, East Segment Two of the Seismic Waterline "Los Coches Back Bone," Abel Street Pipe Line Extension, and Dempsey Road Storm Drain Replacement Projects No. 7118, No. 7100, No. 7117 and No. 3709 (Staff Contact: Jeff Moneda, 408-586-3345)**

**Background:** The Dempsey Road Water Line Replacement, East Segment Two of the Seismic Waterline “Los Coches Back Bone,” Abel Street Pipe Line Extension, and Dempsey Road Storm Drain Replacement, Projects No. 7118, No. 7100, No. 7117 and No. 3709, are included in the approved 2014-2019 Capital Improvement Program. The existing water line along Dempsey Road, which was installed in the 1950s, has experienced several line breaks in the past couple of years and reached the end of its useful life. This project will provide the design and construction documents to eventually replace approximately 3,400 lineal feet of water main in the Dempsey area, install approximately 3,200 lineal feet of new water main lines to the City’s 16-inch ductile iron pipe seismic waterline standard from Ayer Pump Station to the westerly side of Interstate 680, and install isolation valves on short segments of waterline near Carlo Street and Calaveras Boulevard to improve water quality. The project will also replace approximately 3,200 lineal feet of large diameter storm drain piping (36 and 48-inch) and install two new outfalls within Los Coches Creek in the Dempsey area.

The scope of work includes preparing plans and specifications, obtaining easements and regulatory permits, and contract documents for the improvements to remove and replace water and storm drain lines. Through the City’s consultant selection process, RMC Water and Environment was selected to provide the design services, construction management, and other miscellaneous services for the Dempsey Road Water Line Replacement, East Segment Two of the Seismic Waterline “Los Coches Back Bone,” Abel Street Pipe Line Extension, and Dempsey Road Storm Drain Replacement Project. Staff negotiated a scope and fee for these services not to exceed \$900,000.

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

**Recommendation:** Approve a consultant agreement with RMC Water and Environment in the amount of \$900,000 and for a term to February 28, 2017 for the Dempsey Road Water Line Replacement, East Segment Two of the Seismic Waterline “Los Coches Back Bone,” Abel Street Pipe Line Extension, and Dempsey Road Storm Drain Replacement, Projects No. 7118, No. 7100, No. 7117 and No. 3709.

- \* 25. **Approve Litigation Settlement Agreement for County of Santa Clara, et al. v. the Milpitas Economic Development Corporation, et al. and Successor Agency to the Milpitas Redevelopment Agency, et al. v. John Chiang, et al. (Staff Contact: Mike Ogaz, 408-586-3040)**

**Background:** The City has been involved in the two above-referenced litigations in the Sacramento County Superior Court relating to the dissolution of the Milpitas Redevelopment Agency since the spring of 2013. The parties to both litigation cases have now agreed to jointly settle the cases. The terms of the contemplated settlement are being finalized and a final version of the written settlement agreement is anticipated to be available by the date of this City Council meeting for the City Council’s review and approval.

**Fiscal Impact:** Pursuant to final settlement document.

**Recommendation:** Approve the settlement agreement between the parties to two lawsuits: County of Santa Clara, et alia versus the Milpitas Economic Development Corporation, et alia and Successor Agency to the Milpitas Redevelopment Agency, et alia versus John Chiang, et alia.

## XX. CLAIM AND DEMANDS

- \* 26. **Authorize a Settlement with Claimant through Association of Bay Area Governments Pooled Liability Assurance Network (ABAG PLAN) (Staff Contact: Emma Karlen, 408-586-3145)**

**Background:** The City received a tort claim from claimant Shah for an incident that occurred in November 2013. The claimant's residence was damaged from a sewage back up, which caused extensive damage as the sewage overflowed into the living room area. The cause was determined to be the City's tree roots intrusion into the sewer lateral. ABAG PLAN investigated thoroughly and determined that the City's liability is adverse. ABAG PLAN brought in a qualified restoration contractor who provided an estimate of the repair costs of \$85,892.93, not including the hotel stay for the family. The costs include a hygienist report, home repair, lateral repair, personal property replacement and hotel cost for the family for four weeks during the repair works. The repair cost estimate was lower than other estimates that the claimant obtained and now ABAG PLAN is seeking the City's authorization to settle the claim. Staff estimates that costs of repair and hotel should not exceed \$95,000 and therefore recommend that the City Council authorize a settlement of the claim not to exceed \$95,000.

**Fiscal Impact:** None. There is sufficient money set aside for tort claim settlements in the FY 2013-14 operating budget.

**Recommendations:** Authorize a claim settlement with claimant Shah through ABAG PLAN for an amount not to exceed \$95,000.

\* 27. **Approve Payment of Annual Software Support and Maintenance Fees to Cayenta and Peelle Technologies (Staff Contact: Mike Luu, 408-586-2706)**

**Background:** The City utilizes a number of automated systems for critical functions such as utility billing, human resources management and financial management. These systems require payment for annual support and maintenance fees in order to continue vendor support. This generally includes telephone support, software fixes and new software versions. These annual maintenance payments are due and require payment in order to continue support through fiscal year 2014 -15: Cayenta (Finance System and Human Resources) \$141,448.26, and Peelle Technologies (Document Management) \$23,144.00.

**Fiscal Impact:** None. Funding for these annual maintenance payments is included in the Information Services Department budget.

**Recommendation:** Authorize the payment for annual support and maintenance to two vendors: Cayenta (Financial System) in the amount of \$141,448.26 and Peelle Technologies (Document Management) in the amount of \$23,144.00.

\* 28. **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:** Pursuant to 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 Weatherproofing Technologies Inc. to complete roofing and wall weather proofing repairs to the Public Works/Police Department Building.

Staff conducted an inspection of the Public Works/Police Building and found several problems with the building's roof and exterior walls that need to be addressed for the health and welfare of the buildings occupants. The roof and second floor patio wall problems are allowing moisture to enter the building. This is further deteriorating the building from the inside and is damaging equipment. The moisture within the wood structures has also attracted termites. Staff repaired the termite damage and conducted treatment. However, additional substantial roof and wall repairs are needed.

Staff consulted with several qualified roofing and water proofing contractors to determine the best and most cost effective method of repair. The firm of Weatherproofing Technologies Inc. was selected to perform the work based upon its proposal. The scope of work includes installation of a metal cap over the top of the second floor wall, and removing and replacing damaged roofing materials. The cost of the repair work will not exceed \$25,000.

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.

**Recommendation:** Receive this report of emergency repair of the Milpitas Police/Public Works Building, Project No. 3410 and authorize payment of invoices for this work.

**XXI. ADJOURNMENT**

**CITY COUNCIL WILL TAKE A SUMMER BREAK:  
NO COUNCIL MEETINGS IN JULY 2014**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, AUGUST 5, 2014**