



**MILPITAS CITY COUNCIL AGENDA
TUESDAY, JUNE 2, 2015**

455 EAST CALAVERAS BLVD, MILPITAS, CA

**5:30 PM (CLOSED SESSION)
6:00 P.M. (STUDY SESSION)
7:00 P.M. (PUBLIC BUSINESS)**

SUMMARY OF CONTENTS

- I. CALL TO ORDER/ROLL CALL by the Mayor (5:30 p.m.)**
- II. CLOSED SESSION**
 - a) Per California Government Code 54957, Public Employee Appointment/Hiring of the position of Legal Counsel
 - b) Per California Government Code 54956.9, Conference with Legal Counsel regarding Anticipated Litigation with City as Defendant
- III. CLOSED SESSION ANNOUNCEMENT** 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. STUDY SESSION – Proposed Development at Serra Center (6:00 p.m.)**
- V. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- VI. INVOCATION (Mayor Esteves)**
- VII. APPROVAL OF COUNCIL MEETING MINUTES – May 19, 2015**
- VIII. SCHEDULE OF MEETINGS – COUNCIL CALENDAR – June 2015**
- IX. PUBLIC FORUM**

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

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

Consent calendar items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a member of the City Council, member of the audience, or staff requests the Council to remove an item from or be added to the consent calendar. Any person desiring to speak on any item on the consent calendar should ask to have that item removed from the consent calendar. If removed, this item will be discussed in the order in which it appears on the agenda.

XIV. PUBLIC HEARINGS

- 1. Conduct a Public Hearing and Adopt Resolution Approving the Annual Engineer's Report and the Levying of Assessment for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch (Staff Contact: Steve Erickson, 408-586-3301)**
- 2. Conduct a Public Hearing and Adopt Resolution Approving the Annual Engineer's Report and the Levying of Assessment for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon (Staff Contact: Steve Erickson, 408-586-3301)**
- 3. Conduct a Public Hearing and Adopt a Resolution Approving Issuance of the California Municipal Finance Authority Multifamily Housing Revenue Bonds in an Aggregate Principal Amount Not to Exceed \$45,000,000 to Refinance Acquisition, Construction, Improvement and Equipping of The Crossings at Montague Apartments and Certain Related Matters (Staff Contact: Emma Karlen, 408-586-3145)**

XV. UNFINISHED BUSINESS

- 4. Per Request of Mayor Esteves, Consider Establishing an Ethics Hotline (Staff Contact: Tom Williams, 408-586-3050)**
- 5. Per Request of Mayor Esteves, Discuss and Consider Options to Require Affordable Housing Units on Current and Future Development Projects Prior to Completion of a Nexus Study (Staff Contact: Michael Ogaz, 408-586-3040)**
- * 6. Receive Update of the Odor Control Report (Staff Contact: Steven Machida, 408-586-3355)**

XVI. REPORT OF MAYOR AND COMMISSION

- 7. Per Request of the Recycling & Source Reduction Advisory Commission and Mayor Esteves, Consider Anew a Request to the City Council to Discuss Possible Ban on Single-Use Plastic Shopping Bags (Staff Contact: Steven Machida, 408-586-3355)**

XVII. NEW BUSINESS

- 8. Receive Drought Status Report and Water Conservation Program Measures from Officials of the Santa Clara Valley Water District (Staff Contact: Steven Machida, 408-586-3355)**
- * 9. Consider Request from Hindu Swayamsevak Sangh to Waive Fee for Rental of Outdoor Park to Celebrate International Yoga Day on June 21, 2015 (Staff Contact: Mary Lavelle, 408-586-3001)**
- * 10. Approve a New Capital Improvement Program Project and Approve a Budget Appropriation for Disadvantaged Community Americans with Disabilities Act Curb Ramps, Project No. 4278 (Staff Contact: Steve Chan, 408-586-3324)**

XVIII. ORDINANCES

- 11. Introduce Ordinance No. 65.144 Relating to Solar Permit Streamlining in Accordance with State Law (Staff Contact: Keyvan Irannejad, 408-586-3244)**
- 12. Introduce Ordinance No. 208.51 to Amend Section VIII-2-5.38 of the Milpitas Municipal Code Relating to Wastewater Discharge Permits (Staff Contact: Steve Machida, 408-586-3355)**

- * 13. Waive the Second Reading and Adopt Ordinance No. 197.13 Relating to Reorganization of Departments (Staff Contact: Emma Karlen, 408-586-3145)
- * 14. Waive the Second Reading and Adopt Ordinance No. 289 Relating to Contract and Settlement Authority (Staff Contact: Emma Karlen, 408-586-3145)

XIX. RESOLUTIONS

- * 15. Adopt a Resolution Approving Sole Source Purchase of the Advanced Digital Audio Collection System 4 from SyTech Corporation for the Police Department in the Amount of \$26,739.38 and Approving the Maintenance and Support Agreement at Annual Cost of \$10,308 (Staff Contact: Chris Schroeder, 408-586-3161)
- * 16. Adopt a Resolution Authorizing the Purchase of a Breathing Air Compressor System From Bauer Compressors for the Fire Department For a Total of \$64,351.76 (Chris Schroeder, 408-586-3161)
- * 17. Adopt a Resolution Supporting the Mechanism for Cost Recovery Associated Mutual Aid Requests Made through the California Fire Assistance Agreement (Staff Contact: Rick Frawley, 408-586-2824)

XX. AGREEMENTS

- * 18. Approve an Agreement with Data Compliance Services for Transient Occupancy Tax Audit Services for Fiscal Year 2015-16 in an Amount Not-To-Exceed \$20,500 (Staff Contact: Chris Schroeder, 408-586-3161)
- * 19. Approve Amendment No. 4 to Extend the Agreement with DataProse, LLC from July 1, 2015 to June 30, 2016 in an Amount Not to Exceed \$62,500 for Utility Bill Printing and Mailing Services (Staff Contact: Chris Schroeder, 408-586-3161)
- * 20. Approve Amendment No. 9 Extending the Agreement with Jensen Landscape Services, Inc. for Services in the McCarthy Ranch Landscape and Lighting Maintenance District No. 95-1 for Ninety Days and Increasing the Contract by \$18,219.75 to \$415,422.75 (Staff Contact: Chris Schroeder, 408-586-3161)
- * 21. Approve an Agreement with Quality Assurance Engineering, Inc. Doing Business as Consolidated Engineering Laboratories for On-Call Construction Inspection and Materials Testing Services for Various Capital Improvement Projects (Staff Contact: Steve Erickson, 408-586-3301)
- * 22. Approve Amendment No. 1 to the Agreement with HMM Inc. for Additional Design Services and Increasing Compensation in the Additional Amount of \$36,000 for Montague Expressway Widening Project No. 4179 (Staff Contact: Steve Erickson, 408-586-3301)
- * 23. Approve an Agreement with ID Modeling, Inc. for Hydraulic Modeling of the Recycled Water System and a Budget Appropriation of \$49,980, Project No. 7118. (Staff Contact: Steve Machida, 408-586-3355)
- * 24. Approve Amendment No. 7 to the Master Agreement with the Santa Clara Valley Transportation Authority (VTA) Relating to the Silicon Valley Rapid Transit Berryessa BART Extension Project and the Montague Widening Project and Authorize Payment of \$2,700,000 to VTA for City Infrastructure Upgrades (Staff Contact: Steve Machida, 408-586-3355)

XXI. DEMAND

- * 25. Approve Payment of Annual Software Support and Maintenance Fees (Staff Contact: Mike Luu, 408-586-2706)

XXII.

ADJOURNMENT

NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, JUNE 16, 2015 AT 7:00 P.M.

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review.

For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035
e-mail: mogaz@ci.milpitas.ca.gov / Fax: 408-586-3056 / Phone: 408-586-3040

The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website www.ci.milpitas.ca.gov by selecting the Milpitas Municipal Code link.

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3rd floor 455 E. Calaveras Blvd., Milpitas and on the City website.

All City Council agendas and related materials can be viewed online here:
www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp (select meeting date)

APPLY TO BECOME A CITY COMMISSIONER!

Current vacancies exist on the:
Community Advisory Commission
Veterans 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 Council Chambers for all meetings.

AGENDA REPORTS

XIV. PUBLIC HEARINGS

- 1. Conduct a Public Hearing and Adopt Resolution Approving the Annual Engineer's Report and the Levying of Assessment for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch (Staff Contact: Steve Erickson, 408-586-3301)**

Background: On May 19, 2015, the City Council adopted Resolution of Intention No. 8479 to levy annual assessments for the Landscaping and Lighting Maintenance Assessment District No. 95-1. The District was created in 1995 and provides for servicing and maintenance of public landscaping and pedestrian lighting along North McCarthy Boulevard and the gateway features on Ranch Drive. An annual public hearing is necessary to adopt the Annual Engineer's Report to provide funds for the district. Total assessment for the district in the Annual Engineer's Report is \$290,738.36 for the FY 2015-16, and it is within the previously approved range of assessments.

Fiscal Impact: None.

Recommendations:

1. Open the public hearing, receive any written protests, and hear testimony.
2. Move to close the public hearing.
3. Adopt a Resolution approving the annual Engineer's Report, confirm diagram and assessment and ordering levy of assessments for fiscal year 2015-16 for Landscaping and Lighting Maintenance Assessment District No. 95-1 at McCarthy Ranch.

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

Background: On May 19, 2015, the City Council adopted Resolution of Intention No. 8480 to levy annual assessments for the Landscaping and Lighting Maintenance Assessment District No. 98-1. The District was created in 1998 and provides for servicing and maintenance of public landscaping along Sinclair Frontage Road, Los Coches Creek and Berryessa Creek abutting the Sinclair Horizon residential subdivision. An annual public hearing is necessary to adopt the Annual Engineer's Report to provide funds for the district. Total assessment for the district in the Annual Engineer's Report is \$38,053.07 for FY 2015-16, and it is within the previously approved range of assessments.

Fiscal Impact: None.

Recommendations:

1. Open the public hearing, receive any written protests, and hear testimony.
2. Move to close the public hearing.
3. Adopt a Resolution approving the Annual Engineer's Report, confirm diagram and assessment, and ordering levy of assessments for fiscal year 2015-16, for Landscaping and Lighting Maintenance Assessment District No. 98-1.

- 3. Conduct a Public Hearing and Adopt a Resolution Approving Issuance of the California Municipal Finance Authority Multifamily Housing Revenue Bonds in an Aggregate Principal Amount Not to Exceed \$45,000,000 to Refinance Acquisition, Construction, Improvement and Equipping of The Crossings at Montague Apartments and Certain Related Matters (Staff Contact: Emma Karlen, 408-586-3145)**

Background: On November 16, 1999, the City Council approved the 468-unit multifamily housing project known as The Crossings at Montague, located at 755 E. Capital Avenue, Milpitas (the "Project"). The facilities are owned by Montague Parkway Associates, LP, a

California limited partnership, and operated by Ray Douglas Ann & Patrick, Inc., doing business as RPM Company, a California corporation.

Multifamily housing projects that set aside a portion of their units for affordable housing qualify for tax-exempt bond financing. The bond financing program was established by both Federal and State law, and gives private developers access to below-market interest rates for housing projects that include affordable units. Under the law, 20% of the units in the project must be set aside and made available only to individuals and families who earn no more than 50% of the County median income. The Project, as approved by the City Council, requires the developer to set aside 94 of the 468 units for occupancy by individuals and families whose income is 50% or less of the area median gross income. Therefore, the Project qualifies for tax-exempt financing through the issuance of bonds.

In June 2000, the City of Milpitas issued \$45 million of tax-exempt and \$15 million taxable multifamily revenue bonds (the "2000 Bonds") to finance the construction of the apartment complex. Montague Parkway Associates, LP ("Borrower") is responsible for the principal and interest payments and all the expenses related to the issuance and on going administration of the 2000 Bonds.

Montague Parkway Associates, LP wishes to refinance the 2000 Bonds and has requested the California Municipal Finance Authority ("CMFA") to serve as the municipal issuer of the Bonds in an aggregate principal amount not to exceed \$45,000,000 of tax-exempt multifamily housing revenue bonds. The proceeds of the Bonds will be used to: (1) refinance the acquisition, construction, improvement and equipping of the Crossing at Montague Apartments and (2) pay certain expenses incurred in connection with the issuance of the Bonds.

In order for all or a portion of the Bonds to qualify as tax-exempt bonds, the City of Milpitas must conduct a public hearing under the Tax and Equity Fiscal Responsibility Act (the "TEFRA Hearing") providing for the members of the community an opportunity to speak in favor of or against the use of tax-exempt bonds for the financing of the Project. Prior to such TEFRA Hearing, reasonable notice must be provided to the members of the community. Following the close of the TEFRA Hearing, an "applicable elected representative" of the governmental unit hosting the Project, which is the Milpitas City Council, must provide its approval of the issuance of the Bonds for the financing of the Project.

The CMFA was created on January 1, 2004 pursuant to a joint exercise of powers agreement to promote economic, cultural and community development, through the financing of economic development and charitable activities throughout California. To date, over 200 municipalities, including the City of Milpitas, have become members of CMFA.

The CMFA was formed to assist local governments, non-profit organizations and businesses with the issuance of taxable and tax-exempt bonds aimed at improving the standard of living in California. The CMFA's representatives and its Board of Directors have considerable experience in bond financings.

The Joint Exercise of Powers Agreement provides that the CMFA is a public entity, separate and apart from each member executing such agreement. The debts, liabilities and obligations of the CMFA do not constitute debts, liabilities or obligations of the members executing such agreement.

The bonds to be issued by the CMFA for the project will be the sole responsibility of the Borrower, and the City will have no financial, legal, moral obligation, liability or responsibility for the Project or the repayment of the Bonds for the financing of the Project. All financing documents with respect to the issuance of the Bonds will contain clear disclaimers that the Bonds are not obligations of the City or the State of California, but are to be paid for solely from funds provided by the Borrower.

Participation by the City in the CMFA will not impact the City's appropriations limits and will not constitute any type of indebtedness by the City. Outside of holding the TEFRA hearing, adopting the required resolution and executing the Joint Exercise of Powers Agreement of the CMFA, no other participation or activity of the City or the City Council with respect to the issuance of the Bonds will be required.

Fiscal Impact: It is expected a portion of the issuance fee will be granted by the CMFA to the General Fund of the City. Such grant may be used for any lawful purposes of the City.

Recommendations:

- 1) Open the public hearing under the requirements of TEFRA and the Internal Revenue Code of 1986, as amended (the "Code").
- 2) Move to close the public hearing following any comments.
- 3) Adopt a resolution approving the issuance of the bonds by the CMFA for the benefit of Montague Parkway, LP, a California limited partnership, to provide for the financing of the Project. Such adoption is solely for the purposes of satisfying the requirements of TEFRA, the Code and the California Government Code Section 6500 (and following).

XV. UNFINISHED BUSINESS

4. Per Request of Mayor Esteves, Consider Establishing an Ethics Hotline (Staff Contact: Tom Williams, 408-586-3050)

Background: At one of Valley Transportation Authority's Board of Directors' meetings, the General Manager reported its new Ethics Hotline available to its employees, vendors, and contractors 24 hours a day. Mayor Esteves asked staff to review the ethics hotline program and pursue a work plan for implementation in the City of Milpitas.

This item is to seek City Council direction on considering a similar ethics hotline for the City of Milpitas employees, vendors, and contractors. Per adopted City Council policy, since the research and work program efforts of City staff will exceed four hours, and this program was not previously approved, a majority of the City Council must agree to move forward with the project.

The purpose of the hotline would be to establish a program for City of Milpitas' employees and those doing business with the City to report conduct that violates the City's standard of business conduct, such as fraud, waste, abuse or theft, and not for customer service related issues. City of Milpitas staff would not manage or be involved with this system. The hotline would be administered and hosted by a third party provider in order to maintain independence and confidentiality to the extent provided by law.

Fiscal Impact: Unknown at this time. Estimated costs are between \$15,000 and \$40,000 per year.

Recommendation: Receive a report, direct the City Manager to commence with further research and return to City Council with specifics for an ethics hotline program.

5. Per Request of Mayor Esteves, Discuss and Consider Options to Require Affordable Housing Units on Current and Future Development Projects Prior to Completion of a Nexus Study (Staff Contact: Michael Ogaz, 408-586-3040)

Background: On April 28, 2015, in response to the Planning Commission's recommendation to provide additional affordable housing units in the City of Milpitas, the City Council directed staff to conduct a nexus study regarding various options to support affordable housing for City Council review and consideration. Mayor Esteves was also concerned about approving current

and future projects prior to the completion of a nexus study. The Mayor requested this issue be placed on the Council agenda for further discussion.

In researching this subject further with Planning staff and the approach by other cities, five available options were identified, as follows:

1. The City Council may adopt an urgency interim ordinance to impose a moratorium on all residential developments until the affordable housing requirement is in place. This would halt residential approvals during the term of the moratorium. This moratorium may be imposed for a maximum period of up to two years.
2. The City Council may include affordable housing as a Condition of Approval requiring developers to build affordable units or to pay an in lieu fee at time of building permit issuance in accordance with a future ordinance that may be adopted by the City Council. This condition can apply to current incomplete and future development applications. However, this option can be complicated since the Condition of Approval has to provide enough specificity and detail to allow the developer to have reasonable notice of its future obligations.
3. A developer can voluntarily enter into a development agreement with the City to provide affordable housing.
4. If a developer requests deviation from the City's specific plan or zoning standards, the City could work with the developer to provide affordable housing as a public benefit as part of the project.
5. The City can allow current and future projects to move forward under the existing policies, guidelines and ordinances; only incomplete development applications or newly submitted applications after the effective date of any future ordinance would be subject to the affordable housing requirements.

Recommendation: Per request of Mayor Esteves, discuss and consider proposed affordable housing policy options.

*** 6. Receive the Update of the Odor Control Report (Staff Contact: Steven Machida, 408-586-3355)**

Background: From April 13 through May 10, 2015, the Bay Area Air Quality Management District (BAAQMD) forwarded 184 complaints originating in Milpitas. 91 complaints identified a garbage odor, 7 complaints identified a sewage odor and 86 complaints did not identify an odor source. As of the last Council update, the City's odor reporting website has received 35 reported complaints.

Recommendation: Receive the update of the odor control report.

XVI. REPORT OF MAYOR AND COMMISSION

7. Per Request of the Recycling & Source Reduction Advisory Commission and Mayor Esteves, Consider Anew a Request to the City Council to Discuss Possible Ban on Single-Use Plastic Shopping Bags (Staff Contact: Steven Machida, 408-586-3355)

Background: The Recycling & Source Reduction Advisory Commission (RSRAC) requests that the City Council evaluate whether adopting a ban on plastic single-use carryout bags would serve the interests of the City. Various Bay Area regional organizations, including the Santa Clara County Recycling and Waste Reduction Commission (RWRC) and the Association of Bay Area Governments (ABAG) have encouraged local governments to restrict use of single-use bags because plastic bags are viewed as a source of litter and waste. Apart from joining the majority of Santa Clara cities which have already adopted a plastic bag ban, restricting single-use bag distribution will help the City of Milpitas meet its stormwater permit and litter control requirements at lower costs and reduce environmentally harmful trash in storm drains and creeks.

The Recycling and Source Reduction Advisory Commission (RSRAC) made a vote of approval to recommend to the City Council such a potential ban on single-use plastic bags at its April 28, 2015 meeting.

On December 3, 2013, proposed Ordinance No. 287 to ban such bags was denied on a 3 – 2 vote of the City Council. That ordinance could be reconsidered by the current City Council.

California Environmental Quality Act: The City participated in an EIR report led by San Mateo County.

Alternative: Fail to pursue a ban on single use plastic bags and maintain status quo in Milpitas.

Fiscal Impact: None. There is no fiscal impact from this recommended action.

Recommendation: At the request of RSRAC and the Mayor, consider the issue of banning single-use carryout plastic bags in Milpitas, and direct staff accordingly.

XVII. NEW BUSINESS

8. **Receive Drought Status Report and Water Conservation Program Measures from Officials of the Santa Clara Valley Water District (Staff Contact: Steven Machida, 408-586-3355)**

Background: At the request of the Mayor and City Manager, Director Richard Santos and the General Manager Beau Goldie of the Santa Clara Valley Water District will present the status of the drought in 2015 and the recommended water conservation program measures that all water retailers should implement.

As the City Council is well aware, California is experiencing the fourth year of a severe drought. The City has implemented many water conservation measures but additional measures are needed to ensure that future water is available should the drought continue. Director Santos and GM Goldie will present information to the Council on the drought status, the effects that the drought has had on the environment and what measures water retailers should implement in their water conservation programs.

Recommendation: Receive a drought status report and hear water conservation program measures from Santa Clara Valley Water District Director Richard Santos and General Manager Beau Goldie.

* 9. **Consider Request from Hindu Swayamsevak Sangh to Waive Fee for Rental of Outdoor Park to Celebrate International Yoga Day on June 21, 2015 (Staff Contact: Mary Lavelle, 408-586-3001)**

Background: On May 20, 2015, the City Clerk received a “Donation or Fee Waiver/Reduction Request Application Form” from Hindu Swayamsevak Singh, Inc. USA. The request is for the City Council to waive certain City fees for the upcoming June 21 event at Dixon Landing Park, where several hundred participants are expected. The location has been reserved and deposit fees paid toward the costs for site rental. Fees requested to be waived are \$680 for rental of the park. This group is an IRS 501c3 non-profit group, with a local chapter in Milpitas.

Fiscal Impact: \$20,000 was approved and included in the FY 2014-15 City budget for City Council’s Unallocated Community Promotions. If the current fee waiver is approved, then \$12,860.25 would be the remaining balance.

Recommendation: Waive \$680 fee for rental cost for outdoor Dixon Landing Park by Hindu Swayamsevak Sangh USA for its International Yoga Day event on June 21, 2015.

*** 10. Approve a New Capital Improvement Program Project and Approve a Budget Appropriation for Disadvantaged Community Americans with Disabilities Act Curb Ramps, Project No. 4278 (Staff Contact: Steve Chan, 408-586-3324)**

Background: On May 18, 2015, the City Council allocated \$60,648 in FY 2015-16 Community Development Block Grant (CDBG) funds for public improvements that benefit low- and moderate-income persons. This new project will install new Americans with Disabilities Act compliant pedestrian curb ramps serving various low to moderate income neighborhoods within the City. Specific locations will be chosen based on areas with a population having at least 51% low-moderate area median income. City Council is requested to approve the new Capital Improvement Program (CIP) project and authorize funding of the project with the necessary budget appropriation.

Alternative: Denial of this request may result in relinquishment of \$60,648 in CDBG funding.

California Environmental Quality Act: The project is exempt under Section 15301 (Existing Facilities) of the CEQA Guideline.

Fiscal Impact: A budget appropriation is required for this project. The Engineer's Estimate for the work is \$100,000. \$60,648 in FY 2015-16 Community Development Block Grant (CDBG) funding are allocated and approved for this project. Remaining City matching funds of \$39,352 are available from Gas Tax funds.

Recommendations:

1. Approve a new CIP Project, Disadvantaged Community ADA Curb Ramps, Project No. 4278.
2. Approve a budget appropriation of \$39,352 from the Gas Tax Fund and \$60,648 from FY 2015-16 CDBG Funds to the Disadvantaged Community ADA Curb Ramps, Project No. 4278.

XVIII. ORDINANCES

11. Introduce Ordinance No. 65.144 Relating to Solar Permit Streamlining in Accordance with State Law (Staff Contact: Keyvan Irannejad, 408-586-3244)

Background: Section 65850.5(a) of the California Government Code provides that it is the policy of the state to promote and encourage installation and use of solar energy systems by limiting obstacles to their use and by minimizing the permitting costs of such systems. In furtherance of that objective, Section 65850.5(g)(1) of the California Government Code requires that, on or before September 30, 2015, every city, county, or city and county must adopt an ordinance that creates an expedited, streamlined permitting process for small residential rooftop solar energy systems.

The City of Milpitas currently expedites the review of such applications by reviewing and issuing applications for photovoltaic solar systems permits through its express plan checking services. The City also currently can accept and approve such applications electronically through the City's web site. The City, however, needs to adopt the ordinance mandated by Section 65850.5(g) (1), which must be effective by September 30, 2015. Proposed Ordinance No. 65.144 is intended to satisfy that requirement. It codifies requirements of Section 65850.5(g)(1), such as accepting and approving applications through the City's web site, directing the City's Building Official to develop a checklist of all requirements with which small rooftop solar energy systems shall comply to be eligible for expedited review, and authorizes the Building Official to administratively approve such applications.

Fiscal Impact: None. As noted, the Building and Safety Department is already providing expedited review of applications for small residential rooftop solar systems. The ordinance merely codifies the requirement under state law.

Recommendations:

1. Following a reading of the title by the City Attorney, move to waive the first reading beyond the title of Ordinance No. 65.144.
2. Introduce Ordinance No. 64.144 to add new Section 1.5 to Title II of the Milpitas Municipal Code to include provisions relating to solar permit streamlining.

12. Introduce Ordinance No. 208.51 to Amend Section VIII-2-5.38 of the Milpitas Municipal Code Relating to Wastewater Discharge Permits (Staff Contact: Steve Machida, 408-586-3355)

Background: The City of Milpitas contracts for sanitary wastewater treatment at the San Jose/Santa Clara Water Pollution Control Plant (WPCP) under the 1983 “Master Agreement for Wastewater Treatment between City of San Jose, City of Santa Clara, and City of Milpitas.” This agreement requires that the City of Milpitas and other tributary agencies adopt, amend, and revise their sewer ordinances whenever City of San Jose amends their ordinance to comply with current regulatory requirements established by the Plant’s National Pollutant Discharge Elimination System (NPDES) permit.

The City of San Jose revised its sewer ordinance based on a combination of recommendations and audit requirements from the Environmental Protection Agency. The new requirement prohibits transferring, selling, or assigning discharge permits to new owners, users, premises, or changed operations without prior approval of the Director. A red-lined copy of the proposed ordinance is included in the Council packet.

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

Alternative: If the City Council does not adopt these changes, the City will be non-compliant with the Master Agreement for Wastewater Treatment with the Cities of San Jose and Santa Clara.

Fiscal Impact: None. There are no fiscal impacts for the recommended action.

Recommendations:

1. Following the City Attorney’s reading of the title of Ordinance No. 208.51, move to waive the first reading beyond the title.
2. Introduce Ordinance No. 208.51 amending Section VIII-2-5.38 of Milpitas Municipal Code.

*** 13. Waive the Second Reading and Adopt Ordinance No. 197.13 relating to Reorganization of Departments (Staff Contact: Emma Karlen, 408-586-3145)**

Background: On May 19, 2015, the City Council introduced an ordinance to reorganize City departments by separating Engineering and Public Works into two distinct departments and by assigning the Recreation Services Division to directly report to the City Manager. Ordinance No. 197.13 is now ready for a second reading and adoption.

Recommendation: Waive the second reading and adopt Ordinance No. 197.13 amending the Milpitas Municipal Code to re-organize the City departments.

*** 14. Waive the Second Reading and Adopt Ordinance No. 289 Relating to Contract and Settlement Authority (Staff Contact: Emma Karlen, 408-586-3145)**

Background: On May 19, 2015, the City Council introduced an ordinance to codify the contract and settlement authority of City staff. Ordinance No. 289 is now ready for a second reading and adoption.

Recommendation: Waive the second reading and adopt Ordinance No. 289 amending the Milpitas Municipal Code to include the contract and settlement authority of City staff.

XIX. RESOLUTIONS

- * 15. Adopt a Resolution Approving Sole Source Purchase of the Advanced Digital Audio Collection System 4 from SyTech Corporation for the Police Department in the Amount of \$26,739.38 and Approving the Maintenance and Support Agreement at Annual Cost of \$10,308 (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: On April 15, 2014, the City Council accepted the 2014 Citizen Options for Public Safety (COPS) grant in the amount of \$108,325.00 and the corresponding spending plan proposed by the Police Department. The spending plan included an allocation of \$30,300.00 for software and surveillance equipment, which has been identified as the Advanced Digital Audio Collection System 4 (ADACS4) by SyTech Corporation.

The ADACS4 system enables law enforcement agencies to intercept, track, record, and analyze switch based voice, video, and data communications when authorized by a court order or under exigent circumstances. The proposed system includes software and hardware installation, training, technical support, and network service connections maintained by SyTech to all major mobile carriers (a significant advantage). The initial first year cost, including all support and connectivity, is \$26,739.38. Technical support, system upgrades and mobile carrier connectivity are provided starting in the second year in the annual amount of \$10,308.00 per year. Future COPS Grants will be used to cover this cost in years two through five.

Pursuant to Milpitas Municipal Code Section I-2-3.09 "Sole Source Procurement," the City's Purchasing Agent determined, after conducting a good faith review of the available sources for competing systems, that there are no competitors that offer a system with all of the operational features, hardware, installation, training, technical support and network connections to all major mobile carriers similar to Sytech.

Fiscal Impact: None. The 2014 COPS Grant will fully cover the cost.

Recommendation: Adopt a resolution:

- 1) authorizing purchase of the ADAC S4 system by SyTech Corp. at a cost of \$26,739.38 pursuant Municipal Code section on sole source procurement; and
- 2) approving a maintenance and support agreement with SyTech Corporation in the annual amount of \$10,308.00 and for a term from July 1, 2016 to June 30, 2020, subject to City Council appropriation of funds and without further Council action.

- * 16. Adopt a Resolution Authorizing the Purchase of a Breathing Air Compressor System From Bauer Compressors for the Fire Department For a Total of \$64,351.76 (Chris Schroeder, 408-586-3161)**

Background: In December 2013, the Fire Department submitted an Assistance to Firefighters Grant application requesting funding for a new breathing air compressor system. The Department of Homeland Security awarded the grant to the City in September of 2014 in the amount of \$48,713.00. The Assistance to Firefighters Grant provides funding directly to fire departments to enhance operational response capabilities and firefighter safety. The required local matching portion is \$15,638.76 for which funds are available in the Equipment Replacement Fund.

Pursuant to Milpitas Municipal Code Section I-2-3.07 “Piggyback Procurement,” the City’s Purchasing Agent may arrange for the City to enter into purchase contracts without completing its own competitive process if certain findings are made. The Purchasing Agent must determine that (i) there are no local suppliers or contractors, (ii) another public agency completed a competitive process in substantial compliance with the City’s requirements, (iii) City’s specifications are similar, (iv) purchase price is lower than if the City made the purchase through its own process, (v) a competitive process was completed within the past two years, and (vi) City enters into the same terms and conditions with the vendor selected by the originating agency.

On April 16, 2015 the town of Castle Rock, Colorado awarded a nationally advertised Request for Proposal for “SCBA Breathing Air System” to Centennial Fire and Safety Equipment for the same model of Bauer breathing air compressor system the Milpitas Fire Department sought to purchase. Bauer Compressors agreed to offer the same pricing and terms of that procurement to the City of Milpitas. After conducting a good faith review of the Request for Proposal process of the town of Castle Rock, CO, the Purchasing Agent determined that the Castle Rock process is in compliance with the City of Milpitas Municipal Code requirements under Section I-2-3.07 “Piggyback Procurement” and all the findings can be made.

Fiscal Impact: \$15,638.76 in local matching funds is available in the Equipment Replacement Fund.

Recommendation: Adopt a resolution approving the piggyback procurement of a breathing air compressor system from Bauer Compressors for the Fire Department in the total amount of \$64,351.76.

***17. Adopt a Resolution Supporting the Mechanism for Cost Recovery Associated Mutual Aid Requests Made through the California Fire Assistance Agreement (Staff Contact: Rick Frawley, 408-586-2824)**

Background: Milpitas Fire Department provides mutual aid fire response to jurisdictions outside of the City of Milpitas when requested through the California Emergency Management Agency (Cal EMA). The reimbursement of the cost of this assistance is defined through the California Fire Assistance Agreement (CFAA). The CFAA is the negotiated reimbursement mechanism for local government fire agency responses through the California Fire Service and Rescue Emergency Mutual Aid System.

In order to recover the total cost for this type of mutual aid deployment, Cal EMA is requesting that a resolution be adopted by the City of Milpitas that will support “portal to portal” reimbursement of equipment and personnel costs.

Fiscal Impact: Adoption of this resolution will support portal to portal reimbursement for resources when requested through the CFAA and ensure that the support of mutual is cost neutral.

Recommendation: Adopt a resolution supporting the reimbursement to the Milpitas Fire Department of mutual aid costs through the Cal EMA funding process.

XX. AGREEMENTS

*** 18. Approve an Agreement with Data Compliance Services for Transient Occupancy Tax Audit Services for Fiscal Year 2015-16 in an Amount Not-To-Exceed \$20,500 (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: The City’s agreement with Tax Compliance Services expired due to the death of the owner in 2014. The City’s Purchasing Agent worked with Finance staff to develop a Request for Quotation (RFQ) No. 2085 for Transient Occupancy Tax Audit services for Fiscal Year

2015-16. The City of Milpitas issued a Request for Quotation on April 1, 2015. Five consulting companies that provide this type of service were solicited and three responded as noted.

Bidder	Amount
Compliance Data Services	\$20,500.00
Kevin W. Harper CPA & Associates	\$50,000.00
MuniServices, LLC	\$23,850.00

Compliance Data Services was the lowest responsive and responsible bidder. After posting the Notice of Intent to Award (Pending Bid Results), no protest was filed. The firm is committed to meet the City's audit timeline.

Fiscal Impact: \$20,500. This is a programmed expense in the FY 2015-16 Finance Department operational budget.

Recommendation: Approve an agreement with Compliance Data Services for Transient Occupancy Tax (TOT) audit services in the total amount of \$20,500 for a term from July 1, 2015 to June 30, 2016.

- * **19. Approve Amendment No. 4 to Extend the Agreement with DataProse, LLC from July 1, 2015 to June 30, 2016 in an Amount Not to Exceed \$62,500 for Utility Bill Printing and Mailing Services (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: On March 12, 2007, the City issued a Request for Proposals (RFP) related to electronic bill presentment and payment for utility invoices as well as utility bill printing and mailing services. As a result of the RFP, DataProse LLC was awarded a three year contract with three-one year renewal options.

The City Council approved Amendment No. 3 that extended the agreement to June 30, 2015 and modified the scope of work by separating the electronic bill presentment and payment from the utility bill printing and mailing services. Due to changes and improvement in electronic billing technology, it was anticipated that by modifying the scope of work so that different contractors can provide different part of the services will result in better service delivery. DataProse continues to provide the billing printing and mailing services.

Staff intends to issue a RFP for utility bill printing and mailing services in the next fiscal year. Meanwhile, DataProse LLC continues to provide very good service and has agreed to favorable pricing until the competitive process is concluded. As such, staff requests an additional twelve month contract extension from July 1, 2015 to June 30, 2016. The cost for the utility bill printing and mailing services is \$17,500 and \$45,000 for postage for FY 2015-16, for a total cumulative amount of \$686,000.

Fiscal Impact: None. This is a programmed expense in the FY 2015-16 Finance Department operational budget.

Recommendation: Approve Amendment No. 4 to extend the agreement with DataProse, LLC to June 30, 2016 for an amount not to exceed \$62,500 for utility bill printing and mailing services.

- * **20. Approve Amendment No. 9 Extending the Agreement with Jensen Landscape Services, Inc. for Services in the McCarthy Ranch Landscape and Lighting Maintenance District No. 95-1 for Ninety Days and Increasing the Contract by \$18,219.75 to \$415,422.75 (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: In August, 2010, Jensen Landscape Service, Inc. was awarded a three year contract with two, one-year options to provide landscape maintenance service in the McCarthy Ranch

Landscape and Lighting Maintenance District No. 95-1. On August 21, 2013 the City Council approved Amendment No. 8 to the agreement which included various one time repairs to the irrigation system and an annual increase in the value of the contract for the remaining two years to cover unforeseen incidental irrigation repairs and annual plantings, resulting in a five year total contract value of \$407,681.00. The agreement is currently up for rebid but due to changes related to State of California water rules and additional work not contemplated in the original contract, staff needs more time to complete the scope of work. Staff proposes that the current agreement be extended ninety days from August 30, 2015 to November 30, 2015 and the total value be increased by \$18,219.75 to allow additional time to complete the Scope of Work and rebid the contract.

Fiscal Impact: None. This is a programmed expense approved in the FY 2015-16 budget for the McCarthy Ranch Landscape Maintenance District No. 95-1.

Recommendation: Approve Amendment No. 9 to extend the agreement with Jensen Landscape Services, Inc for 90 days from August 30, 2015 to November 30, 2015 and increase the agreement by \$18,219.75 for a total contract amount of \$425,900.75.

*** 21. Approve an Agreement with Quality Assurance Engineering, Inc. Doing Business as Consolidated Engineering Laboratories for On-Call Construction Inspection and Materials Testing Services for Various Capital Improvement Projects (Staff Contact: Steve Erickson, 408-586-3301)**

Background: City of Milpitas issued a Request for Proposal (RFP) for on-call special construction inspection and materials testing services to support the completion of the City's Capital Improvement Program (CIP) construction projects. Several consultants submitted proposals and were interviewed in accordance with the City's policy on consultant selection. Quality Assurance Engineering, Inc. DBA Consolidated Engineering Laboratories (CEL) was the highest ranked proposer and staff recommends awarding a contract to them for the required services. This would be a five year contract, and services would be provided on a time and materials basis for a total not to exceed contract amount of \$1,000,000. CEL will provide special construction inspection and materials testing services required for the completion of the City's Capital Improvement Program projects. Examples of special inspection services include asphalt pavement testing, concrete strength testing, welding inspection, and nuclear gauge soil density testing to determining proper compaction. The respective CIP project budgets and cost plans are sufficient to fund the services to be provided.

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

Recommendation: Approve an agreement with Quality Assurance Engineering, Inc. doing business as Consolidated Engineering Laboratories, in the amount of \$1,000,000, and for a term from July 1, 2015, to June 30, 2020, for construction inspection and materials testing services for various Capital Improvement Program projects.

*** 22. Approve Amendment No. 1 to the Agreement with HMM Inc. for Additional Design Services and Increasing Compensation in the Additional Amount of \$36,000 for Montague Expressway Widening Project No. 4179 (Staff Contact: Steve Erickson, 408-586-3301)**

Background: On August 19, 2014, the City entered into a consultant agreement with HMM Inc. in the amount of \$152,100 to provide engineering design services for the widening of Montague Expressway from Berryessa Creek to Capitol Avenue. The project provides capacity improvements on Montague expressway by providing a total of eight through lanes on Montague from Great Mall Parkway to I-680. Bike use shoulders, improved pedestrian sidewalks, new culvert and bridge over Berryessa Creek, and widening improvements along South Milpitas Boulevard are included in the project. The agreement is from August 19, 2014 through August, 19, 2015.

Amendment No.1 with HMM Inc. is proposed for additional design services for installation of Transit Area Specific Plan (TASP) street lighting along portions of Montague Expressway and South Milpitas Boulevard, for the extension of the City's recycled water line along Montague Expressway and under Berryessa Creek, additional landscape median design, and for the installation of decorative steel security fencing in various locations rather than the standard Caltrans chain link fencing. Staff has negotiated a fee for these design services not to exceed \$36,000. Approval of this agreement amendment brings the total agreement amount to \$188,100.

Alternative: Denial of this request would result in not completing the recommended design services for City standard improvements along portions of Montague Expressway and South Milpitas Boulevard.

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

Recommendation: Approve Amendment No. 1 to the consultant agreement with HMM Inc., for Project No. 4179, increasing the agreement amount by \$36,000 and extending the term to June 30, 2016.

*** 23. Approve an Agreement with ID Modeling, Inc. for Hydraulic Modeling of the Recycled Water System and a Budget Appropriation of \$49,980, Project No. 7118 (Staff Contact: Steve Machida, 408-586-3355)**

Background: On May 5, 2015, Council approved a work plan for the water supply augmentation feasibility study prepared by Water Solutions, Inc. Three primary areas to pursue are: a conservation program, groundwater well system improvements, and recycled water system extensions. Recycled water extensions are planned east of I-680 to serve landscaping for hillside golf courses, schools, and parks.

The City began design of the first phase of the recycled water system expansion on June 17, 2014 to extend the recycled water system to the Sports Center and Cardoza Park. The City is seeking grant, loan, and/or bond funding for construction of this phase and design of future phases. The applications for State and Federal funding require a detailed project description, map showing improvements, feasibility report, environmental review, and estimated construction costs. Hydraulic modeling is required to determine pipeline size, and location and size of a pump station and reservoir. ID Modeling has provided hydraulic modeling services to the City of San Jose for the South Bay Water Recycling system, which serves the cities of Santa Clara, San Jose and Milpitas. Staff has negotiated with ID Modeling for the modeling of the proposed recycled water system extensions to not exceed the amount of \$49,980. A budget appropriation in the amount of \$49,980 is required to perform this work.

Alternative: If this Agreement is not approved, the City would not be able to position our projects in the State and Federal programs. To secure grant, loan, or bond funding for the desired recycled water pipeline extension.

California Environmental Quality Act: The Agreement is not a "Project" under CEQA as there will be no physical change to the environment by the execution of the agreement. This action is also exempt under CEQA Guidelines Section 15262 (Feasibility and Planning Studies).

Fiscal Impact: A budget appropriation of \$49,980 is required from the Water Fund. The proposed water rate increase that was introduced at the May 19 Council meeting includes funding to issue \$15 million debt service for water supply projects. The City will use this funding to begin the work plan tasks; however the debt service funding is expected to be available in early 2016. Grants typically require the City to perform the work and submit documentation for reimbursement.

Recommendations:

1. Approve an agreement with ID Modeling in an amount not to exceed \$49,980.00 for a term from June 2, 2015 to July 31, 2016.
2. Approve a budget appropriation of \$49,980 from the water fund to CIP No. 7118.

- * **24. Approve Amendment No. 7 to the Master Agreement with the Santa Clara Valley Transportation Authority (VTA) Relating to the Silicon Valley Rapid Transit Berryessa BART Extension Project and the Montague Widening Project and Authorize Payment of \$2,700,000 to VTA for City Infrastructure Upgrades (Staff Contact: Steve Machida, 408-586-3355)**

Background: The extension of the Bay Area Rapid Transit (BART) system into Santa Clara County is being implemented by Valley Transportation Authority's (VTA) 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 agreement also establishes a mechanism for reimbursement to VTA for upgrades to City utilities within the work area.

Santa Clara County is proceeding with the Montague Widening Project in conjunction with the BART construction. Due to the complex coordination of two major adjacent construction projects, VTA has agreed to be the lead agency for both projects. Several City utility enhancements within the Montague Widening project work area have been identified. This proposed amendment refines the original utility upgrade estimates within the BART work area and adds new utility and streetscape upgrades in the Montague Widening project work area. The infrastructure upgrades include upgrade existing water line in Montague Expressway, install a smart meter antenna mount on the BART parking garage, install a recycled water pipeline extension from the railroad spur south of Garden Street on South Milpitas Boulevard to Montague Expressway and westerly along Montague Expressway to just west of the BART crossing and easterly across Berryessa Creek, miscellaneous water valves, upsize sanitary sewer pipe along Montague Expressway, install TASP streetlights, install median landscaping along Montague Expressway, and upgrade from chain link fencing to picket style fencing along Montague Expressway and South Milpitas Boulevard. Amendment No. 7 contains a detailed list of infrastructure upgrades (a copy is included in the Council agenda packet).

VTA is in the process of bidding the work for the Montague Widening Project. It would be most efficient to have VTA include the required City Infrastructure work as part of its project. However, an advance deposit to VTA for the upgraded City infrastructure as part of the Montague Widening Project is required at this time. Sufficient funding is available in three City capital improvement projects as of July 1, 2015 as shown below:

BART Project – Water Improvements =	\$1,820,000
BART Project – Sewer Improvements =	\$230,000
<u>Montague Widening Project 4179</u>	<u>= \$775,000</u>
Total	\$2,825,000

Alternative: The City has already committed to infrastructure upgrades associated with the SVRT project with the execution of Amendment No. 1 to the Master Agreement in 2011. If this Amendment is not approved, the desired infrastructure upgrades associated with the Montague Widening Project will not be installed.

California Environmental Quality Act: The lead agencies for these projects, VTA and the County of Santa Clara, have prepared and adopted the necessary environmental documents.

Fiscal Impact: None. There will be sufficient funding in the three Capital Improvement Projects as of July 1, 2015.

Recommendations:

1. Approve Amendment No. 7 to the Master Agreement with the Santa Clara Valley Transportation Authority (VTA) relating to the Silicon Valley Rapid Transit Berryessa (BART) Extension Project (GT-1063) and the Montague Widening Project (CIP No. 4179).
2. Authorize the payment of \$2,825,000 to Santa Clara VTA for City Infrastructure Upgrades after July 1, 2015.

XXI. DEMAND

- * 25. **Approve Payment of Annual Software Support and Maintenance Fees (Staff Contact: Mike Luu, 408-586-2706)**

Background: The City utilizes a number of automated systems for critical functions such as utility billings, human resources management and financial management. These systems require payment for annual support and maintenance fees in order to continue vendor support. This generally included telephone support, software fixes and new software versions. The following annual maintenance payments are now due and require payment in order to continue support through Fiscal Year 2015-16: (1) Cayenta (Finance and Human Resources management system) for \$151,349.62; and, (2) Peelle Technologies (Document Management) for \$23,144.00.

Fiscal Impact: Funding for these annual maintenance payments is included in the Information Services Department budget.

Recommendation: Authorize payments of annual support and maintenance to two vendors: Cayenta for \$151,349.62 and Peelle Technologies for \$23,144.00.

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, JUNE 16, 2015 AT 7:00 P.M.**