



# MILPITAS CITY COUNCIL MEETING AGENDA

TUESDAY, AUGUST 18, 2015

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**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**

### **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

Pursuant to California Government Code Section 54956.9(a) – cases:

- 1) City of Milpitas v. City of San Jose, et al.; appeal to U.S. District Court, case no. H040664
- 2) City of Milpitas v. City of San Jose Planning Commission; appeal of Planning Director Decision, file no. PD 14-014
- 3) City of Milpitas v. City of San Jose Local Enforcement Agency; administrative hearing before LEA Hearing Officer
- 4) City of Milpitas v. City of San Jose Local Enforcement Agency; Santa Clara County Superior Court, case no. 115CV279041

### **CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION**

Pursuant to California Government Code Section 54956.9 - City as Defendant – 2 cases

**III. CLOSED SESSION ANNOUNCEMENTS:** Report on action taken in Closed Session, if required pursuant to Government Code §54957.1, including the vote or abstention of each member present

**IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)**

**V. INVOCATION (Vice Mayor Montano)**

**VI. APPROVAL OF COUNCIL MEETING MINUTES – August 4, 2015**

**VII. SCHEDULE OF MEETINGS – COUNCIL CALENDARS – August and September 2015**

**VIII. PRESENTATIONS**

- Proclaim PG&E's "Safe Digging Day" and campaign
- Commend Milpitas Little League team's success playing in Big League Western Regional

**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. UNFINISHED BUSINESS**

- 1. Review and Adopt Citywide Strategic Plan Vision, Mission and Values (Staff Contact: Tom Williams, 408-586-3050)**
- 2. Receive Update on the Request for Proposals for Operation of the Community Access Television Channel 26 (Staff Contact: Mike Luu, 408-586-2706)**

**XV. REPORTS OF MAYOR AND COMMISSIONS**

- \* 3. Consider Mayor’s Recommendations for Appointments to City of Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**
- \* 4. Per Recommendation from the Parks, Recreation and Cultural Resources Commission, Approve Installation of Memorial Plaque at Alviso Adobe Park in Memory of Mabel Mattos (Staff Contact: Renee Lorentzen, 408-586-3409)**
- \* 5. Per the Parks, Recreation and Cultural Resources Commission, Approve Revised Rules and Regulations for the Cesar E. Chavez Community Garden (Staff Contact: Renee Lorentzen, 408-586-3409)**
- \* 6. Per Recommendation of the Arts Commission, Approve and Award One Milpitas Art and Culture Grant of In-Kind Service to Evelyn Chua for FY 2015-16 (Staff Contact: Jaime Chew, 408-586-3234)**
- 7. Accept and Approve the Telecommunications Commission Work Plan for 2015-16 (Staff Contact: Eliren Pasion, 408-586-2730)**

**XVI. NEW BUSINESS**

- \* 8. Consider Request from Korean Language and Culture Foundation for a Donation of \$500 (Staff Contact: Mary Lavelle, 408-586-3001)**

**XVII. RESOLUTION**

- \* 9. Adopt a Resolution Awarding a Contract to California Commercial Pools, Inc for the Milpitas Sports Center Pool Repairs Projects No. 3408 and No. 5103, and Authorize Director of Engineering to Execute Contract Change Orders (Staff Contact: Steve Erickson, 408-586-3301)**

**XVIII. AGREEMENTS**

- \*10. Authorize the City Manager to Execute a Subordination and Release Agreement with Santa Clara Valley Transportation Authority along Dixon Landing Road (Staff Contact: Steven Machida, 408-586-3355)**
- \*11. Approve and Authorize the City Manager to Execute an Agreement with Verde Design Inc. for Sports Center Sports Fields Project No. 5104 (Staff Contact: Steve Erickson, 408-586-3301)**
- \*12. Authorize the City Manager to Execute Amendment No. 5 to the Agreement with CSG Consultants, Inc. for Fire Department Plan Review and Inspection Services for Fiscal Year 2015-16 Increasing the Agreement Term to September 30, 2015 for an Additional Amount of \$22,000 (Staff Contact: Albert Zamora, 408-586-3371)**
- \*13. Authorize the City Manager to Execute a Consultant Agreement with Harris & Associates, Inc. for Support Services for the Utility Engineering Section and Approve a Budget Appropriation for Five Capital Improvement Program Projects (Staff Contact: Eric Hansen, 408-586-3315)**
- \*14. Approve and Authorize the City Manager to Execute a Common Interest, Privilege and Confidentiality Agreement with Tributary Agencies of the San José/Santa Clara Regional Wastewater Facility (Staff Contact: Nina Hawk, 408-586-2603)**

**XIX. ADJOURNMENT**

**KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035  
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**

Seeking Applications for:  
Arts Commission, Community Advisory Commission  
Economic Development Commission, Veterans Commission,  
and Youth Advisory 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 in that facility.*

## AGENDA REPORTS

### XIV. UNFINISHED BUSINESS

#### 1. Review and Adopt Citywide Strategic Plan Vision, Mission and Values (Staff Contact: Tom Williams, 408-586-3050)

**Background:** An extensive effort has been underway to prepare the City's first comprehensive strategic plan. General information, specific ideas about future needs of the City and direction as to the needs of employees, citizens and businesses has been obtained through an outreach program inclusive of a wide and diverse cross section of the community and city staff.

This has been an extensive effort. Working with the consultant team, the City engaged over 300 community members to elicit their views and hear their visions for the future of the City. Simultaneously, the city engaged over 125 employees in discussion groups to hear their thoughts regarding the strengths, challenges, and opportunities for the organization. These discussion groups were facilitated by members of the Employee Engagement Team, a group of 18 employees who have worked closely with the Executive Management Team throughout the process to help shape the Strategic Plan. Additionally, two prior City-wide meetings were held, one to launch the strategic planning process, and the other to gain input and ideas on an early draft of the Plan. Recently, a third City-wide meeting was held to share the foundation of the first City-wide strategic plan.

The cornerstone of the plan now consists of a final draft of the staff and community vision, organizational mission, a set of five organizational values. City staff has signed the document pledging their support and concurrence with Vision, Mission and Values of the plan.

Staff is excited to share the Strategic Plan with the City Council and gain concurrence. Employees believe the Vision, Mission and Values represent a turning point for the City organization, an opportunity to move past the economic decline and painful cuts that were endured toward a more positive and brighter future. As the City Council will see, the Plan helps define where the City is going as an organization, the values that are important and the goals to be accomplished.

The City staff fully recognizes that there is more that needs to be done to live up to the lofty aspirations set for the employee workforce in the Strategic Plan. But staff is prepared to take on that challenge. Following are the agreed upon Vision statement, Mission statement and Organizational Values. Seeking concurrence with the City Council is desired.

**Community Vision:** Milpitas will preserve its close-knit community and rich cultural diversity as it moves with innovation into the future by supporting sustainable growth and development, ensuring public safety, enhancing the environment and natural landscape, and nurturing family and community connections.

**Organizational Mission:** The City of Milpitas is committed to accomplishing the community's vision by providing fiscally sound, superior services.

#### **Organizational Values**

**Superior Customer Service** – Develop the knowledge and skills, and secure the resources and tools to provide superior services to the community. Be innovative and open to change. Seek out efficiencies and streamlining efforts. Stay current and adopt best practices.

**Open Communication** – Listen openly and speak candidly when interacting with others. Promote two-way communication at all levels of the organization, between management and staff, across departments, and with the community. Ensure that employees are informed and have access to important information.

**Integrity and Accountability** – Be honest, ethical, and transparent when dealing with others. Take responsibility and be accountable for your actions. Establish expectations and adhere to standards of conduct for yourself and others.

**Trust and Respect** – Treat everyone fairly. Foster mutual respect at all levels of the organization. Embrace diverse views and experiences.

**Recognition and Celebration** – Acknowledge contributions. Celebrate accomplishments. Make Milpitas an enjoyable and fun place to work. Show support and care for all employees.

### **Strategic Goals**

#### **Goal 1: Superior Customer Service**

The City of Milpitas will maintain and continuously improve on providing superior service to our customers.

#### **Goal 2: Public Safety**

The City of Milpitas will maintain and enhance community trust and well-being by ensuring the protection and safety of residents, families, and all members of the community.

#### **Goal 3: Growth and Economic Development**

The City of Milpitas will develop plans and implement projects that will balance the needs of commercial, residential, and businesses in order to increase the City's economic base.

#### **Goal 4: Community Connections**

The City of Milpitas will build and maintain a strong connection with the community, creating greater collaboration, mutual trust and appreciation between the City and the people we serve.

#### **Goal 5: Regional Partnerships**

The City of Milpitas will build upon the strengths and sustain effective positive partnerships with citizens, local, State and regional organizations to enhance the quality of life in our community, and provide valuable services and solutions.

#### **Goal 6: Environment and Natural Resources**

The City of Milpitas will demonstrate environmental leadership through shared knowledge, green initiatives, environmental conservation, sustainable development, and compliance with health and environmental regulations.

#### **Goal 7: Fiscal Responsibility**

The City of Milpitas will operate in a fiscally responsible and sustainable manner for now and for future generations.

**Fiscal Impact:** None. Funding for these services was approved and included in the City budget from the City Manager's Department.

### **Recommendations:**

1. Hear and receive update from the City Manager on the strategic planning effort for the City and provide comments.
  2. Move to approve the City of Milpitas Vision, Mission and Values as submitted.
2. **Receive Update on the Request for Proposals for Operation of the Community Access Television Channel 26 (Staff Contact: Mike Luu, 408-586-2706)**

**Background:** In April of 2009, Council approved an agreement with Milpitas Community Television (MCTV) for operation of the Milpitas Public Access Channel and studio. The agreement was automatically renewed in April of 2012 for another three years. MCTV has been

operating Channel 26 and the studio with funding from the City's franchise agreement with Comcast Inc. As part of the agreement, MCTV operates the studio and the City maintains and upgrades the equipment. The agreement will be up for renewal again in April of 2015. In November 18, 2014, staff presented Council with the recommendation for staff to go through with the Request for Proposal (RFP) process to obtain an operator for the management of the community access television channel and studio. The RFP process is now completed.

In summary, the RFP requested these goals for the operator to meet and adhere to:

- Implement a community television solution that is financially and operational stable.
- Provide techniques for assessing community needs and new opportunities.
- Provide opportunities for openness and transparency in the operation of the station.
- Increase community support.
- Provide innovations for advancing the station in the ever-changing technology of video and television production.
- Provide educational training programs, non-profit engagement and marketing that support community access television.
- Provide greater community station effectiveness to include independent art and cultural groups, entertainment groups, sports and recreation associations.

**Recommendation:** Receive the report on the responses to the RFP and approve the recommendation for the operation of the Community Access Television – Channel 26.

## **XV. REPORTS OF MAYOR AND COMMISSIONS**

### **\* 3. Consider Mayor's Recommendations for Appointments to City of Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**

**Background:** Mayor Esteves recommends the following:

**Bicycle Advisory Commission:**

Re-appoint Alternate No. 2 William Barnes to a term that will expire in August of 2018.

**Community Advisory Commission:**

Appoint Alternate No. 3 Evan Bell now as Alternate No. 2 to a term to expire in January of 2017. Newly appoint George Chen as Alternate No. 3 to a term that will expire in January of 2016.

**Library Advisory Commission:**

Re-appoint Sonny Wang to a term that will expire in June of 2017.

Re-appoint Alternate No. 1 Hellie Mateo to a term that will expire in June of 2017.

**Parks, Recreation and Cultural Resources Commission:**

Re-appoint Evelyn Ramirez as a regular member to a term that will expire in June of 2018.

**Recommendation:** Receive Mayor's recommendations and approve re-appointments and new appointment to four City of Milpitas Commissions.

### **\* 4. Per Recommendation from the Parks, Recreation and Cultural Resources Commission, Approve Installation of Memorial Plaque at Alviso Adobe Park in Memory of Mabel Mattos (Staff Contact: Renee Lorentzen, 408-586-3409)**

**Background:** The Parks, Recreation and Cultural Resources Commission reviewed a Park Donation Application from the Milpitas Historical Society at the May 4, 2015 meeting. The Historical Society would like to donate a 12 x 12 bronze plaque and cement base in appreciation of Mabel Mattos' donation of historical farm equipment to the Alviso Adobe Park, prior to her passing away last year. The plaque would be placed in the Park in the vicinity of the farm

equipment. The Parks, Recreation and Cultural Resources Commission unanimously voted to recommend final City Council approval on the Milpitas Historical Society's donation.

**Fiscal Impact:** None. The plaque and cement base for the plaque will be donated by the Milpitas Historical Society.

**Recommendation:** Per recommendation of the Parks, Recreation and Cultural Resources Commission, approve a memorial plaque to be installed near the Alviso Adobe Park's historical farm equipment in memory of Mabel Mattos.

**\* 5. Per the Parks, Recreation and Cultural Resources Commission, Approve Revised Rules and Regulations for the Cesar E. Chavez Community Garden (Staff Contact: Renee Lorentzen, 408-586-3409)**

**Background:** On May 4, 2015, at the Parks, Recreation and Cultural Resources Commission meeting, staff proposed revisions to the Community Garden Rules and Regulations which had not been updated since 2002. Revisions included minor language changes, making garden plots available to Milpitas residents only, water reduction procedures during declared drought emergencies and updated programming logistics. Also recommended for addition are a one-time plot-cleaning deposit and a key replacement fee which will be brought to a future City Council meeting for approval as part of the Master Fee Schedule.

On June 8, 2015, the Parks, Recreation and Cultural Resources Commission unanimously recommended final City Council approval of the revised Cesar E. Chavez Community Garden Rules and Regulations.

**Fiscal Impact:** None.

**Recommendation:** Per recommendation of the Parks, Recreation and Cultural Resources Commission, approve the revised Rules and Regulations for the Cesar E. Chavez Community Garden.

**\* 6. Per Recommendation of the Arts Commission, Approve and Award One Milpitas Art and Culture Grant of In-Kind Service to Evelyn Chua for FY 2015-16 (Staff Contact: Jaime Chew, 408-586-3234)**

**Background:** The Milpitas Arts and Culture Grant Program is an in-kind grant program offering support to individuals and organizations hosting cultural or artistic events in the City of Milpitas. In-kind support includes performance space at no cost (i.e. Community Center or Senior Center) and City staff support. All events receiving in-kind grants are held in Milpitas between the months of November 2015 – October 2016 and are open to the public at either little or no cost.

One application was submitted for the Milpitas Arts and Culture Grant Program (MACG) for the 2015-16 grant cycle from Evelyn Chua, a Milpitas resident. The Milpitas Arts Commission voted to review this application early due to the requested event date falling in October 2015, just prior to the usual grant period beginning. Ms. Chua's event includes the screening of the documentary "Delano Manongs" and other multicultural performances. She is timing this event to coincide with the Filipino-American Heritage month of October, and plans to show the film on October 10, 2015 at the Milpitas Senior Center. The Milpitas Arts Commission recommends the grant application for City Council's final approval.

**Fiscal Impact:** None. Estimated value of the in-kind grant is \$500 - \$2,200.

**Recommendation:** Approve the Milpitas Arts and Culture Grant application and award a grant for in-kind performance space and City staff support to Evelyn Chua for her movie screening event to be held on October 10, 2015 at the Barbara Lee Senior Center.

**7. Accept and Approve the Telecommunications Commission Work Plan for 2015-16 (Staff Contact: Eliren Pasion, 408-586-2730)**

**Background:** The Milpitas Telecommunications Commission was established September 9, 1994 to address the growing technology needs of the City of Milpitas. In the two decades since its establishment, the Commission has assisted the City in reviewing and evaluating new application technologies and programs that have improved the operations of City Hall and for the betterment of the Milpitas community.

For the 2015-16 Telecommunications Commission work plan, Commissioners included new activities that will lead to future growth and improved communications technologies for City Hall and the Milpitas community. The Commission has continued to update the existing Milpitas telecommunications master plan document, it has supported the creation of the City's first mobile application for smart phones, reviewed and implemented the city's new VOIP telephony technology. As for future applications and programs, Commissioners support the development of the new city website, providing refurbished computers to low-income members of the Milpitas community, launch a new Android mobile application, support the development of a new citizen camera registry application for public safety, and continue to review new high-speed wi-fi (wireless) technology service for the Milpitas community.

The Telecommunications Commission supports ongoing efforts to utilize cost-effective technology programs and projects for the city while maintaining a high level of service with existing Information Services department staffing. The Commission will continue to support future technology endeavors that will benefit the city and Milpitas community.

**Fiscal Impact:** None.

**Recommendations:**

1. Receive report from staff and Chair of the Telecommunications Commission.
2. Approve the 2015-16 Telecommunications Commission Work Plan.

**XVI. NEW BUSINESS**

**\* 8. Consider Request from Korean Language and Culture Foundation for a Donation of \$500 (Staff Contact: Mary Lavelle, 408-586-3001)**

**Background:** On August 7, 2015, the City Clerk received a "Donation or Fee Waiver/Reduction Request Application Form" from the Korean Language and Culture Foundation, a non-profit organization in Milpitas. This group plans to hold a celebration of Hangeul, the Korean alphabet on October 3, 2015 at Milpitas Library from 11:00 am to 2:00 pm. The event allows participants to experience Korean culture including the Korean alphabet, Korean customs and printing system. The Foundation is seeking funds for support from the City of Milpitas.

**Fiscal Impact:** \$20,000 was approved and included in the FY 2015-16 City budget for City Council's Unallocated Community Promotions. If the \$500 donation request is approved, \$18,069.23 would be the remaining balance.

**Recommendation:** Consider the request from the Korean Language and Culture Foundation and move to approve a \$500 donation to the non-profit group for its Hangeul Day celebration on October 3.

**XVII. RESOLUTION**

- \* 9. Adopt a Resolution Awarding a Contract to California Commercial Pools, Inc for the Milpitas Sports Center Pool Repairs, Projects No. 3408 and No. 5103, and Authorize Director of Engineering to Execute Contract Change Orders (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** On June 16, 2015, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals for the Milpitas Sports Center Pool Repairs Project. The Engineer's Estimate for the project was \$1,500,000.

The project was advertised and three sealed bids proposal were received on July 28, 2015. The bid pricing ranged from \$1,346,000 to \$2,299,302 and no bid protest was filed. The lowest responsible bid was submitted by California Commercial Pools in the amount of \$1,346,000.

To complete the pool repairs, the water in all three pools, approximately 240,000 gallons, must be drained and disposed of. It is not cost effective or possible to treat and store this water for re-use in the pools at the end of the one-year construction period. Other than disposal to the sanitary sewer, another option would be to dechlorinate the water and use to maintain the water surface levels at the City's Hall Park Lagoon. During the late summer months, the water level in this lagoon drops and produces odors. The lagoon is also home to different wildlife and maintaining the water surface level is a benefit. At Hall Park, the past practice has been to refill the lagoon in late summer with potable water; however, the drought restrictions would prevent using potable water. Therefore, staff recommends having the pool water removed and transported for use in Hall Park Lagoon.

The bid package included one add alternate bid item for the removal and transport of the pool water to Hall Park Lagoon for consideration of submitted pricing after bid opening. Staff recommends awarding the package with this item for a not-to-exceed amount of \$95,000. Awarding the project base bid with the recommended alternate item brings the total construction contract to \$1,441,000, which is within the project's cost plan and budget and no additional budget appropriation is required.

In addition, staff requests the use of the change order policy (a copy of which is included in the Council agenda packet) previously approved to complete recent projects with tight completion schedules. This policy allows for the timely completion of the project, swift responses to construction conditions and necessary change order approvals in order to limit potential claims or risk to the City. The construction contingency established for this project is \$144,100, approximately 10% of the total contract value. The change order authority would not exceed this amount and would not require an additional appropriation.

**Alternative:** Denying this request would lead to necessary repairs to the pools and pool deck not being completed.

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

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

**Recommendations:** Adopt a resolution:

- 1) Awarding a contract to California Commercial Pools, Inc. and authorize the City Manager to execute the contract for the Sports Center Pool Repairs Projects No. 3408 and No. 5103 in the amount of \$1,441,000.
- 2) Authorizing the Director of Engineering/City Engineer to execute contract change orders for Milpitas Sports Center Pool Repairs in the cumulative amount not to exceed \$144,100.

## XVIII. AGREEMENTS

- \*10. Authorize the City Manager to Execute a Subordination and Release Agreement with Santa Clara Valley Transportation Authority along Dixon Landing Road (Staff Contact: Steven Machida, 408-586-3355)**

**Background:** In 1987, the City was granted a Public Service and Utility Easement (PSUE) ten feet wide along the northern edge of Dixon Landing Road east of the Union Pacific Railroad crossing, and adjacent to the Spinnaker Apartment complex. This easement contains PG&E gas and electrical utilities, and Verizon conduit. A Chevron pipeline and MCI conduit are located in the UPRR right of way and run parallel to and east of the UPRR tracks.

Valley Transportation Authority (VTA) has purchased some of the UPRR right of way and is constructing the Silicon Valley Bart Extension (SVBX) project across Dixon Landing Road. The PG&E gas and electrical facilities, Verizon conduit, Chevron pipeline and MCI conduit must be relocated to accommodate the SVBX project. The VTA policy is to provide a new easement for the relocated utility with rights equivalent to those enjoyed prior to relocation. At their previous locations, within private property, the Chevron pipeline and MCI conduit enjoyed rights of a higher standard than those typically provided to third party utilities located in the City's right-of-way. Due to space constraints within the SVBX corridor, an MCI manhole must be located partially within the City's PSUE.

The easement is for an area 4 feet by 10 feet in the sidewalk adjacent to the property line between Spinnaker Apartments and the Santa Clara Valley Transportation Authority (VTA) right of way for the BART trench. VTA is requesting that Milpitas enter into a Subordination and Release Agreement to allow VTA to provide to MCI superior rights over the City to access the 40 square foot area. Staff has reviewed the request and determined there is no harm to the City. The Agreement, including plat and legal description for both the original easement dedication to the City and the requested easement, is included in the Council packet.

**California Environmental Quality Act:** Lead agency VTA prepared and adopted the necessary environmental documents for the SVBX project.

**Alternative:** It is not possible to leave the manhole in its original relocation due to conflicts with other facilities. Any location will require an amendment to the existing easement.

**Fiscal Impact:** None. MCI is responsible for the vault relocation costs.

**Recommendation:** Authorize the City Manager to execute a Subordination and Release Agreement with Santa Clara Valley Transportation Authority along Dixon Landing Road.

- \*11. Approve and Authorize the City Manager to Execute an Agreement with Verde Design Inc. for Sports Center Sports Fields Project No. 5104 (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** The Sports Center Sports Fields Project No. 5104 is included in the approved Capital Improvement Program. The work involves generating plans, specifications, and contract documents for the installation of new synthetic turf sports fields for soccer and football including stadium lighting and field furniture. Through the City's consultant selection process, Verde Design Inc. was selected to provide the design services for this project. Staff negotiated a scope and fee for these services not to exceed \$325,000, which is considered reasonable for the work.

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

**Recommendation:** Approve and authorize the City Manager to execute an agreement with Verde Design Inc. in the amount of \$325,000 for Project No. 5104, subject to approval as to form by the City Attorney.

- \*12. Authorize the City Manager to Execute Amendment No. 5 to the Agreement with CSG Consultants, Inc. for Fire Department Plan Review and Inspection Services for Fiscal Year 2015-16 Increasing the Agreement Term to September 30, 2015 for an Additional Amount of \$22,000 (Staff Contact: Albert Zamora, 408-586-3371)**

**Background:** The Fire Prevention division entered in to a contract with CSG Consultants, Inc. on October 1, 2013 to provide professional consulting for Fire Plan Review and Inspection Services. The last amendment to the contract extended the term to July 30, 2015 and added \$15,000.00 for a total contract value of \$533,200. The process to hire a permanent full time Hazardous Materials Inspector has taken longer than anticipated and as such staff now desires to extend the contract term to September 30, 2015 and increase to value of the contract by \$22,000.00 to cover work performed during that period for a total contract value of \$555,200. This will allow staff the appropriate time to complete the hiring process.

**Fiscal Impact:** None. Sufficient funding is available in the Fire Prevention Division's operating budget.

**Recommendation:** Authorize the City Manager to execute Amendment No. 5 to the agreement with CSG Consultants, Inc. for Fire Department plan review and inspection services for Fiscal 2015-16 increasing the term of the agreement to September 30, 2015 for the additional amount of \$22,000.

- \*13. Authorize the City Manager to Execute a Consultant Agreement with Harris & Associates, Inc. for Support Services for the Utility Engineering Section and Approve a Budget Appropriation for Five Capital Improvement Program Projects (Staff Contact: Eric Hansen, 408-586-3315)**

**Background:** The Utility Engineering Section is working on many one-time or infrequently recurring tasks such as the water rate study revision, Financial Utility Master Plan update, regulatory compliance, drought, solid waste request for proposals, BART coordination, planning and development utility coordination, utility relocations, aging infrastructure, water supply augmentation, and odor program. Due to this heavy workload, the Utility Engineering Section requires on-call support from Harris & Associates, who are familiar with these various utility programs. Staff has negotiated a scope of work and fees of \$240,000 for the proposed work. The funding is proposed to be split with 75% from capital programs and 25% from the operating budget to provide maximum flexibility in assignments. A copy of the consultant agreement and budget appropriation form are included in the Council agenda packet.

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

**Alternative:** Denial of this request would result in delayed completion of some Utility Engineering tasks. Tasks include but are not limited to: implementation of the water supply augmentation program, regulatory compliance reporting for water, sewer, and urban runoff programs, developer project plan checking, implementing new water conservation requirements, and participating in and reviewing documentation for regional water, sewer, urban runoff, and solid waste programs.

**Fiscal Impact:** An operating budget appropriation of \$30,000 from Water Fund and \$30,000 from Sewer Fund, totaling \$60,000, to the Utility Engineering operating budget is necessary. Sufficient funds are available in CIPs No. 4265, No. 7076, No. 7118, No. 7123 and No. 7126.

**Recommendation:** Authorize the City Manager to execute a consultant agreement with Harris & Associates, Inc. for support services for Utility Engineering and approve a budget appropriation for CIPs No. 4265, No. 7076, No. 7118, No. 7123 and No. 7126.

**\*14. Approve and Authorize the City Manager to Execute a Common Interest, Privilege and Confidentiality Agreement with Tributary Agencies of the San José/Santa Clara Regional Wastewater Facility (Staff Contact: Nina Hawk, 408-586-2603)**

**Background:** The City of Milpitas currently discharges its wastewater effluent from the City owned and operated collection system to the San José/Santa Clara Regional Wastewater Facility (RWF). The City of San José is the majority owner of the RWF, and the City of Santa Clara is a minority owner, with the following tributary agencies: West Valley Sanitation District, Burbank Sanitary District, Cupertino Sanitary District, County Sanitation District 2-3 and City of Milpitas.

The RWF requires significant rehabilitation totaling \$2.2 billion over a 20 year period which is captured in a formal planning document known as the Plant Master Plan. To satisfy the Plant Master Plan, significant financial contributions from City of San José, City of Santa Clara and the Tributary Agencies are required. Milpitas is required to pay its fair share, which, based on preliminary information provided by the City of San José, will fluctuate over the 20 year period. Three financing vehicles are being considered by the RWF including long term financing (e.g. bonds), SRF (state revolving fund) loans, and short term financing (e.g. commercial paper). It is evident given these significant contributions, the City will need to consider these financing vehicles as a means to provide for rate stabilization and intergenerational rate equity among its sewer ratepayers. City of Santa Clara and the Tributary Agencies have been asked to confirm their participation in these financing vehicles so that City of San José can develop Master Agreement Amendments. The City has the potential to finance with the City of San José, independently or externally with other parties.

The significant level of financial commitment, legal complexities and terms and conditions are still being examined and discussed among the City of San José, the City of Santa Clara and the Tributary Agencies. City staff is recommending entering into a Common Interest, Privilege and Confidentiality Agreement with the other Tributary Agencies ("Parties"). The Agreement will allow the Parties to exchange legal information and advice regarding the RWF, without the risk of waiving or diminishing any applicable privileges or protections. This Agreement has already been reviewed by all Parties and is currently being brought forward to respective governing bodies for approval during the month of August 2015.

**Fiscal Impact:** None. There is no fiscal impact associated with this Agreement.

**Recommendation:** Authorize the City Manager to execute the Common Interest, Privilege and Confidentiality Agreement with West Valley Sanitation District, Cupertino Sanitary District, County Sanitation District 2-3, and Burbank Sanitary District of the San José/Santa Clara Regional Wastewater Facility.

**XIX. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, SEPTEMBER 1, 2015**