



MILPITAS CITY COUNCIL MEETING AGENDA

TUESDAY, SEPTEMBER 15, 2015

**455 EAST CALAVERAS BOULEVARD, MILPITAS, CA
6:00 P.M. STUDY SESSION • 7:00 P.M. PUBLIC BUSINESS**

SUMMARY OF CONTENTS

- I. **CALL TO ORDER** by the Mayor (6:00 p.m.)
- II. **STUDY SESSION – Regarding Proposal for Development of Serra Center**
- III. **PLEDGE OF ALLEGIANCE** (7:00 p.m.)
- IV. **INVOCATION** (Councilmember Giordano)
- V. **APPROVAL OF COUNCIL MEETING MINUTES** – September 1, 2015
- VI. **SCHEDULE OF MEETINGS – COUNCIL CALENDARS** - September and October 2015
- VII. **PRESENTATIONS**
 - Proclaim September as Ovarian Cancer Awareness Month
 - Commend Generation Taekwondo (won 10 medals at 2015 National Championship)

VIII. **PUBLIC FORUM**

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

IX. **ANNOUNCEMENTS**

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

XI. **APPROVAL OF AGENDA**

XII. **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.

XIII. **PUBLIC HEARING**

- 1. **Hold a Public Hearing and Adopt the FY 2014-15 Community Development Block Grant's Consolidated Annual Performance Evaluation Report (CAPER) (Staff Contact: Tim Wong, 408-586-3286)**

XIV. UNFINISHED BUSINESS

- *2. Review and Approve the Request for Proposals for a City of Milpitas Ethics Hotline (Staff Contact: Tom Williams, 408-586-3050)**
- 3. Receive Update on Proposed Amendment to Current Janitorial Contract to Increase Hourly Wage Rates and Direct Staff Accordingly (Contacts: Vice Mayor Montano, 408-586-3023 and Tom Williams, 408-586-3050)**

XV. REPORTS OF MAYOR AND COMMISSION

- * 4. Consider Mayor's Recommendations for Appointments to City Commissions (Contact: Mayor Esteves, 408-586-3029)**
- 5. Per Parks, Recreation and Cultural Resources Commission, Approve the Revised Rules and Regulations for the Cesar E. Chavez Community Garden (Staff Contact: Renee Lorentzen, 408-586-3409)**
- 6. Receive a Presentation on the Recycling and Source Reduction Advisory Commission and Approve the 2015-16 Work Plan (Staff Contacts: Elizabeth Koo, 408-586-3353 and Leslie Stobbe, 408-586-3352)**

XVI. NEW BUSINESS

- 7. Authorize the Selection Process to Appoint a Public Representative and Alternate to Serve on the South Bay Odor Stakeholder Group (Staff Contact: Steven Machida, 408-586-3355)**
- 8. Receive Report on Milpitas Super Community Committee Marketing Plan (Staff Contact: Edesa Bitbadal, 408-586-3052)**
- 9. Receive Presentation and Approve the Conceptual Plan of the Milpitas Sports Center Sports Fields, Project No. 5104 (Staff Contact: Steven Machida, 408-586-3355)**
- 10. Receive the City of Milpitas Preliminary Year End Financial Report for the Fiscal Year Ended June 30, 2015 (Staff Contact: Emma Karlen, 408-586-3145)**
- *11. Approve the Restoration of Employer's PERS Contribution for Unrepresented Employees (Staff Contact: Emma Karlen, 408-586-3145)**

XVII. ORDINANCE

- *12. Waive the Second Reading and Adopt Ordinance No. 287 Restricting Use of Single-Use Carry-Out Bags (Staff Contact: Steven Machida, 408-586-3355)**

XVIII. RESOLUTIONS

- *13. Adopt a Resolution Granting Initial Acceptance of Public Improvements and Approving a Reduction in the Performance Bond for the Subdivision Improvement Security for 1201 S. Main Street, SORA Milpitas LLC (Shea Residential) Project No. 2718 (Staff Contact: Steve Machida, 408-586-3355)**
- *14. Adopt a Resolution Adding One Administrative Analyst II Position and Reclassifying an Existing Maintenance Custodian Position, and Approve Appropriation of \$182,000 from the General Fund for a Public Works Manager (Staff Contact: Nina Hawk, 408-586-2603)**

- *15. **Adopt a Resolution Opposing the Transport of Hazardous Crude by Rail Along the Union Pacific Railway Through Milpitas and Santa Clara County (Staff Contact: Tom Williams, 408-586-3050)**

XIX. AGREEMENTS

- *16. **Approve Amendment No. 8 to the Master Agreement with the Santa Clara Valley Transportation Authority Related to the Silicon Valley Rapid Transit Program Berryessa BART Extension Project Extending the Term to February 28, 2017, Increase by \$646,100 and Approve a Budget Appropriation of \$300,000 (Staff Contact: Steven Machida, 408-586-3355)**
- *17. **Approve Amendment No. 4 to the Consulting Services Agreement with Vali Cooper & Associates, Inc. Extending the Term to October 31, 2016 and Increasing Compensation in the Additional Amount of \$310,000 to Continue Support on the Silicon Valley Rapid Transit Program Berryessa BART Extension and Montague Expressway Widening, Projects No. 4265 and No. 4179 (Staff Contact: Steve Machida, 408-586-3355)**
- *18. **Approve a Consultant Agreement with CSG Consultants, Inc. for Staff Augmentation Services, for the Capital Improvement Program for an Annual Amount Not-To-Exceed \$150,000 (Staff Contact: Steven Machida, 408-586-3355)**

XX. 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

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. Phone 408-586-3040

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APPLY TO SERVE ON A CITY COMMISSION

Seeking Applications for:

Arts Commission
Community Advisory Commission (alternate)
Economic Development Commission (alternate member and
Commercial/Residential Real Estate broker)
Veterans Commission (2 vacancies)
Youth Advisory Commission

Commission application forms are available online at www.ci.milpitas.ca.gov or at Milpitas City Hall. Contact the City Clerk's office at 408-586-3003 for more information.

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, call the City Clerk at 408-586-3001 or send an e-mail to mlavelle@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the City Council Chambers for all meetings in that facility.

AGENDA REPORTS

II. STUDY SESSION

Study Session to Provide Direction to Owners of the Serra Center Regarding Request to Change the Zoning from C-2 (General Commercial) and Office Overlay (within the Midtown Specific Plan) to Residential (Staff Contact: Bill Ekern, 408-586-3273)

Background: The owners of the Serra Center shopping center desire to change the zoning from commercial and office to residential. Staff has advised them that in order to enable such a development the Midtown Specific Plan and its zoning must be amended, as must the General Plan. It is required by state law that the zoning of a property be consistent with its General Plan designation. In order to accomplish both of these significant land use changes, an environmental review of the proposal must also occur. Before the owners make a formal proposal for a specific development to be reviewed by the City and CEQA, they are interested in obtaining the Council's perspective on changing commercial property to residential property.

Recommendation: Engage in a dialogue with the owners of the Serra Center. Implications of changing this property from commercial/office to residential have profound impacts throughout the City and the other commercial zones. Staff recommends that the City Council advise the owners that the need for commercial and office development, and the related job development, outstrips the City's need for housing in the Midtown Specific Plan area.

XIII. PUBLIC HEARING

1. **Hold a Public Hearing and Adopt the FY 2014-15 Community Development Block Grant's Consolidated Annual Performance Evaluation Report (CAPER) (Staff Contact: Tim Wong, 408-586-3286)**

Background: The Consolidated Annual Performance Evaluation Report (CAPER) describes the City's one-year CDBG programs and activities undertaken in the past program year (FY 2014-15). The CAPER evaluates the City's overall progress in achieving the priority projects that were identified during the Five-Year Consolidated Plan and One-Year Action Plan.

The CAPER identifies major accomplishments in 2014-15 which included:

- Use of CDBG funds to investigate and attend to complaints of 87 elderly in long-term care facilities.
- CDBG funds serviced 32 children in the court-appointed, foster care system with long-term, steady, supportive volunteers throughout until adulthood.
- 47 Milpitas youths benefited from CDBG funds to attend recreational program at 50% of the cost.
- 33 Milpitas residents received shelter and other supportive services through 574 PSDs.
- CDBG funds helped continue services for the Milpitas Food Pantry, serving 1,026 very-low income households.
- CDBG funds assisted 30 low-income, pre-school aged children and their families with kindergarten reading strategies.
- Provided funds for 83 domestic violence victims (women and her children) with supportive & residential services.
- Funds helped with increasing awareness and investigating complaints on fair housing and landlord/tenant services to about 72 residents in Milpitas.
- CDBG funds served 49 Milpitas elderly citizens with free legal services.
- Three elevator modernizations were completed at a senior property with CDBG funds.
- A total of 1,636 of hot meals were delivered daily to 6 low-income, elderly, Milpitas residents.

- Thirty low-income homes were rehabilitated through home improvements of increasing safety, energy efficiency, accessibility and mobility.
- Six low-income households benefited from apartment rehabilitation through weatherization, energy conservation and mitigating code deficiencies.
- Funded 16 public and non-public service organizations with CDBG.
- A total of 3,584 individuals benefited from CDBG funds for FY 2014-15.

The City exceeded its administrative allocation by approximately \$15,000. Therefore, the City will reimburse the program account for the overage. Staff has been working with the federal Department of Housing and Urban Development (HUD) staff which approved this approach.

The CAPER was advertised for public review and comments for 15 days (August 21 - September 4, 2015). Copies of the CAPER were sent to all service providers that received CDBG funding and other interested parties. Copies were also made available at City Hall and Milpitas Library.

Fiscal Impact: None.

Recommendations:

1. Open the public hearing to receive any comments and then move to close the hearing.
2. Adopt the FY 2014-15 Consolidated Annual Performance Evaluation Report (CAPER) regarding distribution of Community Development Block Grant funds to non-profit organizations.

XIV. UNFINISHED BUSINESS

- *2. Review and Approve the Request for Proposals for a City of Milpitas Ethics Hotline (Staff Contact: Tom Williams, 408-586-3050)**

Background: At the June 2, 2015 City Council meeting, staff was directed to return with specifics for a Request for Proposals to implement an Ethics Hotline Program in Milpitas. This is a program that would be available to City employees, vendors, and contractors 24 hours a day to confidentially report incidents of fraud and abuse.

Fiscal Impact: Unknown. Estimated cost is between \$15,000 and \$40,000 per year.

Recommendation: Receive update and direct City Manager to issue the Request for Proposals.

- 3. Receive Update on Proposed Amendment to Current Janitorial Contract to Increase Hourly Wage Rates and Direct Staff Accordingly (Contacts: Vice Mayor Montano, 408-586-3023 and Tom Williams, 408-586-3050)**

Background: At the City Council meeting of August 4, 2015, Vice Mayor Montano introduced a proposal to amend the current janitorial contract with Varsity Facility Services to increase the minimum hourly wage from \$9.00 to \$13.00 per hour. The current contract will expire on January 6, 2016, and allows two annual options to extend the contract (refer to contract document). Contract terms allow for annual escalation of the base hourly rate to \$10.00 (new state mandated minimum wage) to \$10.75 in 2016; and \$13.69 in 2017. The City also has the option to simply let the contract expire and competitively rebid janitorial services. This latter option would allow the City to release a competitively bid Request for Proposals (RFP) with desired salary and benefit terms as directed by the City Council.

To provide additional historic context, the City released an RFP for janitorial services for twelve buildings in 2013 for services to commence in January 2014. The City tentatively selected Universal Business Services (UBS) as the lowest responsible bidder. As a result, the City received correspondence from the South Bay Labor Council opposing the selection of UBS. The reason for opposition stemmed from UBS not reaching agreement with South Bay Labor Council

and SEIU for an in-lieu “prevailing wage” for janitors within the region. South Bay Labor Council and SEIU requested, and the City concurred, to reject all bids and release a new RFP with terms compliant with the South Bay Labor Council/SEIU janitorial wage rates. As a result, Varsity Facility Services was selected per wage rates (identified on page 27) in the RFP.

Typically any public agency contract requires payment of prevailing wages. Locally, the City of Milpitas adopted Resolution No. 5981 requiring any contractor performing routine and recurring labor or services in excess of \$1,000 to pay not less than general prevailing wage. In California, there is no prevailing wage for janitors. As such, the South Bay Labor Council and SEIU reached agreement with four janitorial companies providing service in the region and they agreed to a voluntary in-lieu prevailing wage - refer to the Janitorial Wage Rate Analysis 2015 (included in the Council’s agenda packet).

Discussion: Several issues arise, identified below, and should be considered when analyzing the proposal to amend the existing contract with Varsity Facility Services and to increase the base hourly rate to \$13.00 per hour.

- The additional annual cost to the City ranges from \$121,000 – \$159,000 for the remaining two years of the Varsity contract, should that option be desired by the City Council. Two year aggregated cost is \$242,000 - \$318,000.
- If the City does not rebid the contract with new terms, the City is at risk of not adhering to the public bidding process pursuant to the Public Contract Code (CSL Section 100).
- City of Milpitas employees who made great sacrifices in lower wages and benefits during the 2008 Great Recession and negative impact of the dissolution of redevelopment have not been fully restored.
- The City of Milpitas is participating in a Minimum Wage study for the region. This study effort commenced September 3, 2015 (press release in Council agenda packet).

In light of the above identified issues, the City Council should consider one of two options:

- (1) Adhere to the current contract terms consistent with the agreement between Varsity and the South Bay Labor/SEIU agreed upon terms. Continue participation in the regional minimum wage study. Analyze the findings of the study and rebid the janitorial contract as result of the study findings; or
- (2) Continue with the current contract for the next four months letting the contract expire per the terms. Direct the immediate commencement of an RFP with the desired wage rates and terms as directed by the City Council. The objective of this option would also include having a vendor in place to commence work on January 7, 2016.

Fiscal Impact: If base wages are increased to \$13.00 per hour, the contract increase ranges from \$242,000 - \$318,000 for the remaining term of the existing contract with Varsity.

Recommendation: Adopt recommended Option 1 (current contract, participate in study, and potential rebid contract) and direct staff to report back on the minimum wage study with recommendation to consider for all outside contracts.

XV. REPORTS OF MAYOR AND COMMISSION

- * 4. Consider Mayor’s Recommendations for Appointments to City Commissions (Contact: Mayor Esteves, 408-586-3029)**

Background: Mayor Esteves recommends the following:

Youth Advisory Commission:

Re-appoint current Commissioners Sabina King, Sahil Sandhu and Crystal Tran to one year terms that will expire in September 2016.

Move Alternate No. 1 Jashandeep Chahal, Alternate No. 2 Claudia Wang, and Alternate No. 3 Ravit Sharma to voting member seats to terms that will expire in September of 2016.

Move Alternate No. 4 Christie Maly to Alternate No. 1 to a term that will expire in September of 2016.

Newly appoint Emerald Gilana as Alternate No. 2 to a term that will expire in September of 2016.

Sister Cities Commission:

Re-appoint Massoud Arefi to a new 3-year term that will expire in September of 2018.

Recommendation: Receive Mayor's recommendations for appointments to the Youth Advisory Commission and Sister Cities Commission.

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

Background: At the May 4, 2015 Parks, Recreation and Cultural Resources Commission meeting, staff proposed revisions to the Community Garden Rules and Regulations which had not been updated since 2002. The revisions included minor language changes, 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 City Council approval of the revised Cesar E. Chavez Community Garden Rules and Regulations.

On September 1, 2015, staff met with the Milpitas Unified School District staff at the Garden to identify a new Vehicle Access path to the Garden and the approved loading/unloading and Disabled Placard parking area.

On September 14, 2015, the Parks, Recreation and Cultural Resources Commission reviewed the revised Cesar E. Chavez Community Garden Rules and Regulations with the addition of the new Vehicle Access section.

Fiscal Impact: None.

Recommendation: Approve revised Rules and Regulations for the Cesar E. Chavez Community Garden.

- 6. Receive a Presentation on the Recycling and Source Reduction Advisory Commission and Approve the 2015-16 Work Plan (Staff Contacts: Elizabeth Koo, 408-586-3353 and Leslie Stobbe, 408-586-3352)**

Background: The Recycling and Source Reduction Advisory Commission (RSRAC) was established by City Council on February 5, 1991 and serves as an advisory group to the Council on matters pertaining to recycling and solid waste management. The commission recommends programs designed to reduce solid waste and monitor the City's achievement of state-mandated diversion goals.

The following Fiscal Year 2015-16 Work Plan is being presented to the City Council as an informational update. This Work Plan includes two categories:

- 1) Goals:
 - a. Promote a Plastic Bag Ban
 - b. Pursue an expanded Polystyrene Ban (Beverage and food containers)
 - c. Review of AB1826 (Organics Recycling)
- 2) Accomplishments:
 - a. Review Solid Waste Request for Proposal elements
 - b. Review Long-Term Trash Load Reduction Plan

Recommendation: Approve presentation on Recycling and Source Reduction Advisory Commission's 2015-16 Work Plan.

XVI. NEW BUSINESS

7. **Authorize the Selection Process to Appoint a Public Representative and Alternate to Serve on the South Bay Odor Stakeholder Group (Staff Contact: Steven Machida, 408-586-3355)**

Background: As the City Council is aware, Republic Services has applied to the City of San Jose for a permit to expand the Newby Island Landfill by 195 feet. The South Bay Odor Stakeholder Group has formed to address community concerns related to odor. The stakeholders include Republic Services, Bay Area Air Quality Management District, San Jose Local Enforcement Agency, CalRecycle, City of Fremont, City of San Jose, City of Milpitas, Assemblymember Chu's office and Senator Wieckowski's office.

At a July 31 meeting, stakeholders agreed to include members of the public. It had been requested that each City Council appoint a Representative and Alternate to participate in the Stakeholders Group. The meetings are tentatively scheduled every quarter, with the next meeting scheduled for Thursday, October 22 from 1:30 to 3:30 pm.

Interested persons would be required to fill out a commission application and submit to the City Clerk. The Mayor and City Council would then select the Representative and Alternate. Staff intends to report back to the City Council at the October 20, 2015 Council meeting with a recommendation by the Mayor.

Alternative: If no community members are appointed, the stakeholder group will lack representation from the Milpitas community.

Recommendation: Authorize the selection process to appoint a Representative and Alternate. Report back to the City Council with the recommendation for appointments on October 20, 2015.

8. **Receive Report on Milpitas Super Community Committee Marketing Plan (Staff Contact: Edesa Bitbadal, 408-586-3052)**

Background: The Milpitas Super Community Committee is comprised of ten volunteers representing the City of Milpitas, Milpitas Chamber of Commerce, Milpitas hotels, Milpitas restaurants, Great Mall, and Economic Development Commission. The Committee held two meetings; the first meeting was to gather ideas from each member and the second was to discuss the costs associated with implementing those ideas in participation with the Regional Super Communities Committee. City of Milpitas is ahead in planning and has accomplished a lot compared to other cities. The Milpitas Super Community Committee unanimously proposed a comprehensive marketing package that includes print, television, collateral, signage, shuttle services and billboard advertisement to promote the City during the Super Bowl.

The Economic Development Commission met on August 17, 2015 and discussed the ideas as well as the costs needed to implement these ideas Citywide. The plan is listed below:

Print collateral	\$2,000
Website and social media	\$0
Shuttle Services	\$7,000
Commercial on CBS	\$16,500
Welcome Signage	\$5,500
Billboard Advertisement	\$0
Milpitas Business Passport	\$2,000

The total cost for the entire marketing package is \$35,000 and it will be funded from the City Manager's budget. Although the Milpitas Super Community marketing budget was not included during the FY 2015-16 City Manager's economic development budget request, staff anticipates that a mid-year budget adjustment will make the economic development budget whole.

Fiscal Impact: \$35,000 from FY 2015-16 City Manager's office operating budget.

Recommendation: Receive an oral report and direct staff to implement the Milpitas Super Community Committee Citywide Marketing Plan.

9. Receive Presentation and Approve the Conceptual Plan of the Milpitas Sports Center Sports Fields, Project No. 5104 (Staff Contact: Steven Machida, 408-586-3355)

Background: At the August 18, 2015 meeting, the City Council awarded a contract to Verde Design, Inc. to prepare the construction documents to repurpose the MSC Sports Fields. The existing football field will be modified to a multi-purpose field to accommodate league football, adult and youth soccer and add an additional youth soccer field/practice fields/volleyball courts. The natural grass field will be replaced with artificial turf. Stadium lighting, field furniture and a decomposed granite walking path around the fields are also included in the project. Staff will present the conceptual field design and construction cost estimate as created by the city's project designer, Verde Design, Inc.

Fiscal Impact: None. Sufficient funds are available in the budget for the design of this project.

Recommendation: Receive a presentation and approve the conceptual plan for the Milpitas Sports Center Sports Fields Project No. 5104.

10. Receive the City of Milpitas Preliminary Year End Financial Report for the Fiscal Year Ended June 30, 2015 (Staff Contact: Emma Karlen, 408-586-3145)

Background: The preliminary year end financial report indicates that total General Fund revenue was above budget by approximately \$6 million. The biggest contributors for the increase came from property tax revenue, transient occupancy tax (hotel tax) and other governmental revenues. Property tax revenue increased by \$2.4 million over budget due to recovery of the housing market and increased assessed valuations on most properties. The City also received \$4.2 million distribution from the Redevelopment Property Tax Trust Fund ("RPTTF") which exceeded budget by \$0.7 million, again due to housing market recovery and increased assessed valuations of properties in the Redevelopment Agency (RDA) Project Area. The \$4.2 million distribution represents the City's share of the residual RDA property tax revenue after satisfying the recognized debt obligations of the former RDA.

The hotel tax revenue exceeded budget by \$1.6 million, reflecting economic recovery in this region. Other Governmental revenue increased by \$968,000 over budget primarily due to a one-time reimbursement from the State for State mandates costs incurred prior to 2004. The state budget act of 2014 specifically authorized the cost reimbursements to the counties and cities. The

City of Milpitas received approximately \$723,000 one-time state mandated cost reimbursement in FY 2014-15. The only major revenue that was below budget was sales tax revenue. Sales tax revenue was below budget by \$1 million. While restaurants and miscellaneous retail continue to show improvement in sales tax revenue, sales generated from the office equipment and electronic equipment segments continued to be volatile and cyclical.

On the expenditures side, the report shows that City departments achieved savings in the General Fund operating budget of 7.3% (approximately \$5.4 million). The combination of improved revenue and budget savings resulted in a net income of \$9.8 million. Pursuant to the City's budget policy, any excess revenue and/or distributions from the RPTTF will be transferred to the General Government Capital Improvement Project Fund to meet future capital improvement project funding needs. It should be noted that the most recently adopted Five Year Capital Improvement Plan identified \$57.1 million funding deficiency in the next four years. Any excess revenue or cost savings from the General Fund will be used to help offset some of the CIP funding deficiency.

Fiscal Impact: None.

Recommendation: Receive the preliminary year end financial report for the Fiscal Year ended June 30, 2015.

***11. Approve the Restoration of Employer's PERS Contribution for Unrepresented Employees (Staff Contact: Emma Karlen, 408-586-3145)**

Background: Due to the downturn of the economy in 2008 and the dissolution of the Redevelopment Agency in 2012, the unrepresented employees were among the first group of employees to contribute 7% of their salaries towards employer's share of the CalPERS contribution as a way of helping the City to save costs. As evidenced by recent General Fund revenue increase, the local economy has recovered and is expected to continue its improvement. Concessions from each of the five represented union groups have been restored or are on track to be restored. Staff believes that it is appropriate to restore the 7% employer's PERS contribution for the unrepresented employees as they are the last group of employees to be restored.

Fiscal Impact: Cost savings have been averaging approximately \$225,000 annually. Restoration of 7% employer's PERS contribution will eliminate the cost savings. There is sufficient funding available in the FY 2015-16 budget for the request.

Recommendation: Approve the restoration of Employer PERS 7% contribution for the City of Milpitas unrepresented employees.

XVII. ORDINANCE

***12. Waive the Second Reading and Adopt Ordinance No. 287 Restricting Use of Single-Use Carry-Out Bags (Staff Contact: Steven Machida, 408-586-3355)**

Background: On September 1, 2015, the City Council introduced Ordinance No. 287 that bans single-use carry-out plastic bags for all retail establishments. Alternative paper bags with more than 40% post-consumer recycled material can be available for a 10 cents charge to the customer. Recordkeeping for up to three years is required of all merchants. No changes were made to the ordinance introduced on September 1, 2015. Ordinance No. 287 is now ready for a second reading and adoption.

Recommendation: Waive the second reading and adopt Ordinance No. 287 restricting use of single-use carry-out bags.

XVIII. RESOLUTIONS

- *13. Adopt a Resolution Granting Initial Acceptance of Public Improvements and Approving a Reduction in the Performance Bond for the Subdivision Improvement Security for 1201 S. Main Street, SORA Milpitas LLC (Shea Residential) Project No. 2718 (Staff Contact: Steve Machida, 408-586-3355)**

Background: On February 5, 2013, the City Council approved the Subdivision Improvement Agreement (SIA) for the Shea Residential project (Tract 10139) located at 1201 S. Main Street. The SIA is for the construction of certain public improvements identified in Public Improvement Plan 2-1163. The public improvements include, underground utilities and street improvements along the South Abel Street and South Main Street, and additional public improvements consisting of a portion of Sewer 11D and a new siphon across lower Penitencia Creek. These public improvements have been completed by the developer per the approved public improvement plans and are now ready for initial acceptance in accordance with the SIA. The developer's performance bond may be reduced to \$240,000, which is 10% of the improvement amount.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting initial acceptance of public improvements for SORA Milpitas (Shea Residential), Tract 10139, Project No. 2718 and approving a reduction in the performance bond, subject to a one-year warranty period and reduction of the faithful performance security to \$240,000.

- *14. Adopt a Resolution Adding One Administrative Analyst II Position and Reclassifying an Existing Maintenance Custodian Position, and Approve Appropriation of \$182,000 from the General Fund for a Public Works Manager (Staff Contact: Nina Hawk, 408-586-2603)**

Background: The Public Works Department provides several key services for the Community, including maintenance and operations of City Facilities and aging infrastructure. Delivering these services requires significant oversight, relevant technical aptitude and adequate resources. Public Works must also manage the City's infrastructure in adherence to several ever-changing state regulations and operating permits. While the existing Public Works staff continues to provide a high level of service and is highly dedicated, it is evidenced that three staff positions should be added, funded or reclassified to meet required service delivery and compliance with a number of regulatory requirements.

The Public Works Director proposes to establish a new Administrative Analyst II position, which will assist the entire department in meeting several regulatory requirements and permits, improve contractual management and help the department to develop written procedures for operations and maintenance. The Administrative Analyst will also conduct cost-benefit analysis, complete technical writing assignments and various supplemental assignments as needed. The Administrative Analyst would also serve as a key staff member in preparing the department specific budget. This position would report directly to the Director, but will work closely with all department managers, administration and various department staff.

The Maintenance Custodian classification is traditionally budgeted in the Facilities Maintenance Division within Public Works Department, however a few years ago during workforce reductions, an employee working in Facilities Maintenance was transferred to the Utilities Division to meet work load issues within the department. As a result, the employee has remained a Maintenance Custodian within the Utilities Division performing duties and tasks of a Maintenance Worker I/II. The employee has developed the required competencies for a Maintenance Worker I/II, and has acquired State specific certifications necessary to work within the Utilities Division. Therefore, the Department Director proposes the Maintenance Custodian

position be reclassified as a Maintenance Worker I/II to match the existing work load and skills of the position.

The Public Works Department provides services in six functions: Streets Maintenance, Park Maintenance, Trees and Landscape Maintenance, Fleet Maintenance, Utilities Maintenance and Facilities Maintenance. Currently the Department has one Public Works Manager and utilizes three Maintenance Workers III's on special assignment to help manage these functions. A second Public Works Manager position is authorized but funding has not been provided in the last 2 years to due to budget constraint. Given the high level of customer service requests, contractor services and wide breadth of responsibility, it is apparent that another Public Works Manager is necessary to improve overall workflow, management and services within the department. The Public Works Director requests approval to appropriate funds to fill the existing vacant Public Works Manager within the Public Works Department.

Fiscal Impact: There will be no fiscal impact to add an Administrative Analyst II and reclassify an existing Maintenance Custodian, as there is adequate funding available in the Department's Fiscal Year 2015-16 operating budget. An existing funded but unfilled Maintenance Worker position will be defunded and an existing vacancy in seasonal worker(s) will be used to fund the Administrative Analyst II position. An appropriation from the City's General Fund in the amount of \$182,000 is necessary to fund the Public Works Manager position.

Recommendations:

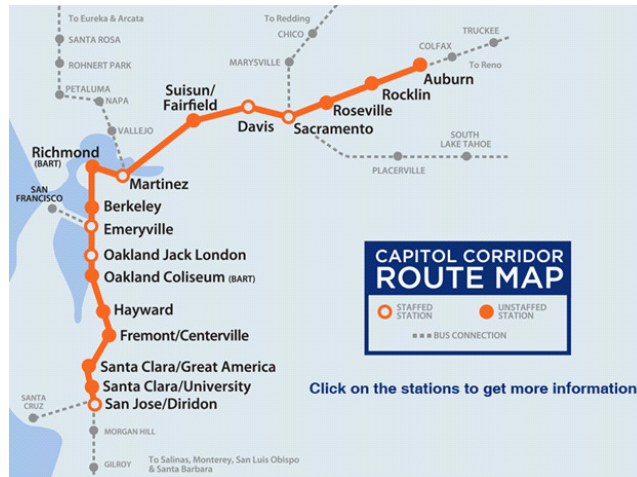
1. Adopt a resolution adding one Administrative Analyst II position and reclassify an existing Maintenance Custodian Position in the Public Works Department.
2. Approve appropriation of funds from the General Fund in the amount of \$182,000 to fill a vacant unfunded Public Works Manager position in the Public Works Department.

***15. Adopt a Resolution Opposing the Transport of Hazardous Crude by Rail Along the Union Pacific Railway Through Milpitas and Santa Clara County (Staff Contact: Tom Williams, 408-586-3050)**

Background: California refineries are in the process of securing permits to build rail terminals to import Canadian tar sands and Bakken crude oils as a result of fracking oil deposits from the Dakotas. Oil company applicants propose to build and operate an oil unloading facility at the existing Santa Maria Refinery in central California (Rail Spur Project). The proposed project is designed to accommodate trains carrying approximately 80 train cars of crude oil to the refinery at any one time. The proposed Rail Spur Project would allow for the unloading of up to five trains per week, with a 250 annual maximum number of trains, with each carrying over two million gallons of heavy, high-sulfur crude oil from North American oilfields. Union Pacific Railroad (UPRR) would be responsible for delivering the trains to the Santa Maria Refinery traveling through the Bay Area and at times Milpitas.

One example of the hazardous conditions stemming from such locomotive transportation of this type of oil occurred in July 2013, when 72 tanker cars loaded with two million gallons of flammable crude oil derailed in Lac-Mégantic, a small town in Quebec, Canada,. The accident dumped 1.5 million gallons of crude oil resulting in fire and explosions that burned down dozens of buildings, killed 47 people, and caused over \$1 billion in damages. Similar accidents have occurred elsewhere, including in North Dakota and Alabama.

The proposed Santa Maria Refinery rail spur extension project, currently in permitting stage, is planning rail transport of crude oil along water supply corridors for most of California and through densely populated urban and industrial areas, including through the East Bay and Milpitas. Trains delivering crude for this project would use Union Pacific rail tracks, which follow the Amtrak Capitol Corridor route through the Bay Area, shown below:



Amtrak Capitol Corridor route map (on Union Pacific Overland Route tracks from Auburn to Oakland and Coast Line tracks from Oakland to San José) (Source: http://www.capitolcorridor.org/route_and_schedules/)

The U.S. Department of Transportation recently classified crude shipments by rail as an “imminent hazard.” In light of recent accidents, the U.S. Department of Transportation issued an Emergency Order on May 7, 2014 and notification requiring all railroads operating trains containing large amounts of Bakken crude oil to notify State Emergency Response Commissions (SERCs) about the operation of the trains through their states. Effective immediately, the Emergency Order requires that each railroad operating trains containing more than 1,000,000 gallons of Bakken crude oil, or approximately 35 tank cars, in a particular state to provide the SERC notification regarding the expected movement of such trains through the counties in that state.

Specific to the City of Milpitas, UPPR rail lines run north/south through the City. Milpitas is an urbanized community and rail lines are in very close proximity to residential and commercial establishments potentially placing thousands of people in danger should an incident similar to Quebec occur.

Recent California legislation related to oil-by-rail and hazardous material transport includes the following bills:

- A currently active bill, AB 22 (Rodriguez), would provide fire departments with the necessary resources to train firefighters in response methods for oil-by-rail spills. AB 22 is in Senate Appropriations Committee held under submission on August 27, 2015.
- Last year’s Public Resources Budget Bill, SB 861, expanded the state’s oil spill prevention and response program to cover all statewide surface waters at risk of oil spills, not just coastal and marine waters. Funding for industry preparedness, spill response, and continued coordination with local, state, and federal government along with industry and non-governmental organizations was included in the measure.
- Senate Bill 84, the 2015-16 General Government Budget bill signed by Governor Brown, included a provision on the issue of transporting hazardous material by rail. Specifically, it requires the State Office of Emergency Services to work with relevant local and state agencies to develop and adopt a state fire services and rescue emergency mutual aid plan to serve as an annex to the State Emergency Plan. The State Emergency Plan addresses the state’s response to extraordinary emergency situations. The Plan describes the methods for carrying out emergency operations and the process for rendering mutual aid.

The bill also creates the Regional Railroad Accident Preparedness Response Force within the Office of Emergency Services. The force will be responsible for providing response capabilities

in the event of a release of hazardous materials that were being transported by rail. The bill requires the Director of the Office of Emergency Services to establish a schedule of fees to be paid by each entity owning any of the 25 most hazardous commodities that are transported by rail in California. The fee is to be based on each loaded rail car that travels in the state. The fee is to reflect the cost of preparations to respond to the release of hazardous materials from a rail car or a railroad accident involving a rail car.

Fiscal Impact: None.

Recommendation: Adopt a resolution and send appropriate letters expressing the City of Milpitas' opposition to the project and trains carrying crude oil from travelling through the City.

XIX. AGREEMENTS

- *16. Approve Amendment No. 8 to the Master Agreement with the Santa Clara Valley Transportation Authority Related to the Silicon Valley Rapid Transit Program Berryessa BART Extension Project Extending the Term to February 28, 2017, Increase by \$646,100 and Approve a Budget Appropriation of \$300,000 (Staff Contact: Steven Machida, 408-586-3355)**

Background: The extension of the Bay Area Rapid Transit (BART) system into Santa Clara County is being implemented by Santa Clara 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 framework between VTA and the City for design and construction of the BART line extension through Milpitas. This agreement allows for reimbursement of City expenses for a variety of coordination efforts, including but not limited to design approval and inspection of City facilities, encroachment permit oversight, easements, utility maintenance operations, meetings, resolution of construction issues, and consultant support. The Master Agreement and Amendments No. 1 – 7 included a work plan which described reimbursement of the City's support effort with a total agreement amount of \$4,686,888 through September 30, 2015.

Several phases of the work are in progress simultaneously, including relocation of existing utilities, installation of new utilities, track installation, parking garage, roadway, frontage, and station construction. It is now necessary to extend the work plan duration and increase the contract amount for continued staff support.

Staff negotiated a work plan extension with VTA and recommends increasing the Master Agreement amount in the value of \$646,100 for the additional work not-to-exceed total of \$5,332,988; and extending the term to February 28, 2017. The requested budget appropriation will place a portion of this funding into a project budget account to allow payment for consultant support to the BART project.

California Environmental Quality Act: This action is exempt from CEQA as there will be no physical change to the environment.

Alternative: If the amendment is not approved, staff will not be available to provide support to the project which will impact construction and inspection of City infrastructure.

Fiscal Impact: The Master Agreement requires VTA to establish a deposit account with the City to fund the City's work related to the BART extension project. This amendment provides for an additional deposit of \$646,100 for reimbursable costs in accordance with the Master Agreement.

Recommendations:

1. Approve Amendment No. 8 to the Master Agreement with the Santa Clara Valley Transportation Authority related to the Silicon Valley Rapid Transit Program Berryessa BART Extension Project extending the term to February 28, 2017 and increasing the agreement amount by \$646,100.
2. Approve a budget appropriation of \$300,000 to Project No. 4265 – BART Extension coordination and planning in the CIP.

***17. Approve Amendment No. 4 to the Consulting Services Agreement with Vali Cooper & Associates, Inc. Extending the Term to October 31, 2016 and Increasing Compensation in the Additional Amount of \$310,000 to Continue Support on the Silicon Valley Rapid Transit Program Berryessa BART Extension and Montague Expressway Widening, Projects No. 4265 and No. 4179 (Staff Contact: Steve Machida, 408-586-3355)**

Background: On August 3, 2010, the City entered into a Master Agreement with the Santa Clara Valley Transportation Authority (VTA) for reimbursement of City work on the Silicon Valley Berryessa Extension (SVBX) BART project. The Master Agreement allows reimbursement of City consultant costs for support services.

On November 20, 2013, the City entered into a consulting services agreement with Vali Cooper & Associates, Inc. in the amount of \$19,760 to provide support services for the SVBX (BART) project through June 30, 2014. On January 21, 2014, the parties entered into Amendment No. 1 to increase the compensation by \$75,000 to continue support services. On June 3, 2014, the parties entered into Amendment No. 2 to increase the compensation by \$158,240 and extended the term through June 30, 2015. On December 16, 2014, the parties entered into Amendment No. 3 increasing compensation by \$300,000 and to extend the term through September 30, 2015.

Several phases of the SVBX (BART) work are in progress simultaneously, including relocation of existing utilities, installation of new utilities, track installation, parking garage, roadway, frontage, and station construction. The Montague Expressway Widening Project is scheduled to begin shortly and will also require engineering support services. Staff recommends that Vali Cooper & Associates perform additional services by continuing their support through October 31, 2016. Staff negotiated a fee for these services not to exceed \$310,000. Approval of this amendment brings the total agreement amount with Vali Cooper not to exceed \$863,000.

Fiscal Impact: Consultant expenses and City staff labor are reimbursable under the VTA Master Agreement. Work performed on the Montague Expressway Widening Project is charged to CIP Project No. 4179. Sufficient funds are available in the project budgets for these services. Miscellaneous third party utility work is reimbursable under Private Job accounts.

Recommendation: Approve Amendment No. 4 to the Agreement with Vali Cooper & Associates, Inc. extending the term to October 31, 2016 and increasing compensation in the additional amount of \$310,000 to continue support on the Silicon Valley Rapid Transit Program-Berryessa BART Extension and on the Montague Expressway Widening, Projects No. 4265 and No. 4179.

***18. Approve a Consultant Agreement with CSG Consultants, Inc. for Staff Augmentation Services for the Capital Improvement Program for an Annual Amount Not-To-Exceed \$150,000 (Staff Contact: Steven Machida, 408-586-3355)**

Background: Each year, engineering staff prepares the comprehensive five-year plan of Capital Improvement Projects (CIP) for the City of Milpitas. Capital Improvement Program projects include construction of capital assets including streets, park development or upgrades, the acquisition of land, construction, repair, and rehabilitation of City infrastructure and facilities. The CIP reflects the City Council's priorities and policies to ensure that the needs of the city are met. For Fiscal Year 2015-16, the value of the CIP is \$22,421,960, and there are several high profile projects with tight completion deadlines.

The majority of the CIP projects, within the five-year plan are completed by the City's Design and Construction (D&C) Engineering Section. Design and Construction staff manage all projects from inception, through design, and finally through the warranty process upon completion of construction. Due to the volume of work in the CIP and the tight completion schedules for several of the projects, staff recommends use of an engineering consultant to provide staff augmentation services. Staff augmentation includes providing up to two consulting staff engineers who would be located at City Hall and would provide project management duties for completion of projects identified in the CIP.

Staff recommends hiring CSG Consultants Inc. as the firm to provide the staff augmentation services. CSG was selected using the City's standard operating procedure for the selection of professional consultants. CSG will provide staff augmentation to assist in the completion of projects identified in the CIP. Tasks will include project management and administration, review of engineering plans and specifications, hiring design consultants, advertisement and project public bidding, review of construction bids, submittals, change orders, and field problems as required for the completion of projects. Staff negotiated a fee with CSG not to exceed \$150,000 for on-call services starting September 16, 2015 and will end on September 16, 2016.

California Environmental Quality Act: This action is exempt from CEQA as there will be no physical change to the environment.

Fiscal Impact: None. There are sufficient funds in CIP budgets. CSG consulting staff will complete the following projects: CIP No. 3403 Fire Station Improvements; CIP No. 4271 Bridge Improvements; CIP No. 4281 TASP Utility Underground District; CIP No. 2001 Light rail Median Landscape; CIP No. 5097 Higuera Adobe Park and CIP No. 7121 Automated Water Meters

Recommendation: Approve a consultant agreement with CSG Consultants, Inc. for staff augmentation services for Capital Improvement Program projects for an annual amount not-to-exceed \$150,000.

XX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, OCTOBER 6, 2015**