



**JOINT MEETING OF THE
MILPITAS CITY COUNCIL AND THE
ECONOMIC DEVELOPMENT CORPORATION
MEETING AGENDA**

TUESDAY, OCTOBER 6, 2015

**455 EAST CALAVERAS BOULEVARD, MILPITAS, CA
7:00 P.M.**

SUMMARY OF CONTENTS

- I. CALL TO ORDER by the Mayor (7:00 p.m.)**
- II. PLEDGE OF ALLEGIANCE**
- III. INVOCATION (Councilmember Barbadillo)**
- IV. APPROVAL OF COUNCIL MEETING MINUTES – September 15, 16 and 22, 2015**
- V. SCHEDULE OF MEETINGS – COUNCIL CALENDARS - October 2015**
- VI. PRESENTATIONS**
- Proclaim Fire Prevention Week for October 4 – 10, 2015
 - Commend Friends of the Milpitas Library
 - Commend Rob Devincenzi, Editor and Publisher of The Milpitas Post newspaper
 - Commend Tyler Nguyen, USA National Team Member representing the nation at International Taekwondo events in 2016
- VII. 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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- VIII. ANNOUNCEMENTS**
- IX. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**
- X. APPROVAL OF AGENDA**
- XI. 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.

XII. PUBLIC HEARINGS

- 1. Conduct a Public Hearing on Water Rates and Introduce Water Ordinance No. 120.47 to Establish Water Rates for the Remainder of Fiscal Year 2015-16 and for Fiscal Year 2016-17, to Authorize Mailing of Proposition 218 Hearing Notice and Set December 15, 2015 as the Public Hearing Date (Staff Contact: Steven Machida, 408-586-3355)**
- 2. Conduct a Public Hearing and Introduce Ordinance No. 240.4 Removing Supplemental Water Penalties per State Law (Staff Contact: Nina Hawk, 408-586-2603)**

XIII. UNFINISHED BUSINESS

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

XIV. REPORTS OF MAYOR AND COMMISSION

- * 4. Consider Mayor's Recommendations for Appointments to City Commissions (Contact: Mayor Esteves, 408-586-3029)**
- * 5. Consider Mayor's Request to Establish Four City Council Subcommittees and to Appoint Councilmembers to those Subcommittees (Contact: Mayor Esteves, 408-586-3029)**
- * 6. Consider Mayor's Request for Report on Gender and Ethnicity Pay Equity Policy (Contact: Mayor Esteves, 408-586-3029)**
- * 7. Per Recommendation of the Library Advisory Commission, Accept \$2,500 Donation from Republic of South Korea to the Milpitas Public Library and Approve the Spending Plan from Commissioners (Staff Contact: Bill Ekern, 408-586-3273)**

XV. NEW BUSINESS

- * 8. Establish a Capital Improvement Project and Related Budget Appropriation for Update of the City of Milpitas General Plan (Staff Contact: Sarah Fleming, 408-586-3278)**

XVI. RESOLUTIONS

- * 9. Adopt a Resolution Approving the Sole Source Purchase of Ammunition for the Police Department from Three Different Suppliers for a Combined Annual Not-To-Exceed Amount of \$57,000 (Staff Contact: Chris Schroeder, 408-586-3161)**
- *10. Adopt a Resolution Authorizing Purchase of Seven City Vehicles from the National Auto Fleet Group for a Not-To-Exceed Amount of \$265,617.53 through a Cooperative Procurement Contract (Staff Contact: Chris Schroeder, 408-586-3161)**

XVII. AGREEMENTS

- * 11. Approve Amendment No. 3 to the Consultant Services Agreement with RMC Water and Environment, Inc. for Utility Engineering Support for \$40,000 and Extend the Term through June 30, 2016 (Staff Contact: Steven Machida, 408-586-3355)**
- * 12. Approve Amendment No. 6 to the Consultant Services Agreement with RMC Water and Environment to Extend the Term to October 31, 2016 for Support on the Silicon Valley Rapid Transit (BART) Program Berryessa Extension, Project No. 4265 and Various City Capital Projects (Staff Contact: Steven Machida, 408-586-3355)**

- * 13. **Approve Amendment No. 6 to the Consultant Agreement with Schaaf & Wheeler to Extend the Term to October 31, 2016 for Storm Drain/Stormwater Program Documentation Review for the Silicon Valley Rapid Transit (BART) Program Berryessa Extension, Project No. 4265 (Staff Contact: Steven Machida, 408-586-3355)**
- * 14. **Approve Amendment No. 3 to the Consultant Services Agreement with CalRecovery, Inc. to Increase the Compensation by \$105,000 for Technical Odor Support Services and Approve a Budget Appropriation of \$130,000 (Staff Contact: Steven Machida, 408-586-3355)**
- * 15. **Approve and Execute a Storm Management Operation and Maintenance Agreement for the Pace Development Project at 324 Montague Expressway, Project No. 2762 (Staff Contact: Steven Machida, 408-586-3355)**
- * 16. **Award the Bid to ACCO Engineered Systems, Inc. and Authorize the City Manager to Execute the Agreement for Citywide HVAC Maintenance and Repair Service for \$300,000 and Thereafter Annually Not to Exceed \$187,527 (Staff Contact: Chris Schroeder, 408-586-3161)**
- * 17. **Approve the First Amendment to the Purchase and Sale Agreement between the City of Milpitas and Milpitas Unified School District to Extend the Escrow Closing Date (Staff Contact: Emma Karlen, 408-586-3145)**
- * 18. **Approve an Agreement between City of Milpitas and Singer Associates, Inc., in the amount of \$180,000, to Implement a Communications Plan and Provide Public Information Services (Staff Contact: Tom Williams, 408-586-3050)**

XVIII. JOINT MEETING of CITY COUNCIL/ECONOMIC DEVELOPMENT CORPORATION

CALL TO ORDER by Mayor/Chair

APPROVE CONSENT CALENDAR

- * 19. **Authorize City Manager and the Milpitas Economic Development Corporation President to Execute Five Memorandums of Termination of Option to Purchase Certain Properties (Staff Contact: Christopher Diaz , 408-586-3040)**

XIX. ADJOURN CITY COUNCIL AND ECONOMIC DEVELOPMENT CORPORATION

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, OCTOBER 20, 2015**

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

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

APPLY TO SERVE ON A CITY COMMISSION

Seeking Applications for:

Economic Development Commission (alternate)

Veterans Commission (2 vacancies)

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

XII. PUBLIC HEARINGS

- 1. Conduct a Public Hearing on Water Rates and Introduce Water Ordinance No. 120.47 to Establish Water Rates for the Remainder of Fiscal Year 2015-16 and for Fiscal Year 2016-17, to Authorize Mailing of Proposition 218 Hearing Notice and Set December 15, 2015 as the Public Hearing Date (Staff Contact: Steven Machida, 408-586-3355)**

Background: The City of Milpitas sells potable water and recycled water services to residential and business customers in the City. On May 19, 2015, the City Council introduced Ordinance 120.47, authorized mailing Proposition 218 hearing notices, and set the date of August 4 for the protest hearing. On July 22, 2015, a final legal decision was rendered by a court of appeals regarding interpretation of Proposition 218 requirements and tiered water rates. On August 4, 2015, staff briefed the Council on the ramifications of the legal decision and recommended a new rate study be performed. The primary concern is that encouraging conservation is an insufficient justification for tiered rates; instead a detailed cost analysis is required.

Bartle Wells Associates was retained to perform the new water rate study. The study examined the City's water fixed and variable costs for operations and capital improvements in order to prescribe a uniform water rate. While there are several acceptable methods for recovering water service costs, the rate study provides for various increases and decreases to our overall rate structure as part of the recommended update. The study recommends the following:

- Adopt American Water Works Association capacity standards to scale fixed charges with all meters 6-inches and larger paying the same rate.
- Implement a uniform rate instead of a tiered rate.
- Implement long-term financing to fund capital projects with long-term benefit.
- Recover capital costs through a capital program surcharge.

As presented to the City Council's Finance Subcommittee on September 14, the proposed rate includes a 10% increase in operational costs to cover the drought program, consultant support to maintain utility services and capital management tasks, additional permanent engineering and operations staff to cover scheduled valve exercising and replacements, pipeline repairs, water system maintenance and flushing, inspection, and capital management. In addition, the City is faced with significant cost of service increases from its water wholesalers. San Francisco Public Utilities Commission (SFPUC) wholesale rate increased by 28% and Santa Clara Valley Water District (SCVWD) wholesale rate increased by 20%. An additional \$22 million of important capital projects will also be included as part of the proposed rate increases that will address pipeline relocation for the Lower Berryessa Flood Control Project, valve and system replacements to address the City's aging infrastructure, increase seismic reliability, and expand the recycled water distribution system that will reduce high demands on the City's limited potable supplies and protect them for health and safety purposes. These capital projects will be added to the City's \$20 million approved Capital Improvement Plan that now totals \$42 million.

As a result of the rate study, it is recommended these long term beneficial projects be financed to take advantage of intergenerational benefit. The City will also prepare applications to various grant opportunities to help finance these capital costs. In addition, the water rate study recommends that all capital improvements be included in a capital surcharge shown in the new rate structure.

California State Constitution Article XIII D, also known as "Proposition 218," gives property owners receiving water services the right to protest water rate increases. The process is specifically for property owners and is not a ballot open to the general public. The City is required to notify property owners of its intent to adopt utility rate increases and give property

owners the opportunity to protest the increases. The City must mail notification to each parcel owner receiving water services, allow a 45-day protest period, and then conduct a public hearing to receive public comment. The City may adopt the proposed rates if less than a majority of property owners protest against the increase. The proposed notice, included in the Council packet, includes all requirements of Proposition 218 which are: that it states the date, time and place of the public hearing and the reason for the proposed increases and basis for the proposed rates. A copy of the Proposition 218 Notice is included in the Council packet along with the proposed ordinance.

Results of this study are shown in the following tables:

Fixed Meter Bi-Monthly Charges

Meter Size	Current bimonthly rate	Rate Effective 01-15-2016	Rate Effective 04-01-2016
5/8 inch	\$27.36	\$18.00	\$19.44
3/4 inch	\$29.07	\$27.00	\$29.16
1 inch	\$41.28	\$45.00	\$48.60
1-1/2 inch	\$52.07	\$90.00	\$97.20
2 inch	\$67.96	\$144.00	\$155.52
3 inch	\$181.95	\$270.00	\$291.60
4 inch	\$230.57	\$450.00	\$486.00
6 inch & above	\$351.86 - 667.31	\$900.00	\$972.00

Fire Meter Bi-Monthly Charges

Fire Service Line Size	Current bimonthly rate	Rate Effective 01-15-2016	Rate Effective 04-01-2016
2 inch	\$43.72	\$28.80	\$31.10
3 inch	\$65.68	\$54.00	\$58.32
4 inch	\$72.99	\$90.00	\$97.20
6 inch & above	\$94.92 – 138.69	\$180.00	\$194.40

Quantity Charges (Charge per Hundred Cubic Feet)

Category	Current per HCF	Volumetric charge effective 01-15-2016	Volumetric charge effective 04-01-2016	Capital surcharge effective 04-01-16
Residential:				
0-10 hcf	\$2.62	\$4.75	\$5.13	\$1.30
11-20 hcf	\$3.48	\$4.75	\$5.13	\$1.30
21-30 hcf	\$4.69	\$4.75	\$5.13	\$1.30
> 30 hcf	\$5.29	\$4.75	\$5.13	\$1.30
Commercial, Industrial, Institutional and Construction	\$5.29	\$4.75	\$5.13	\$1.30
Potable Irrigation	\$5.29	\$4.75	\$5.13	\$1.30
Ed Levin Park**	\$3.08	\$3.75	\$3.79	NA
City of Milpitas	\$5.29	\$4.75	\$5.13	\$1.30
Recycled Irrigation	\$4.08	\$2.42	\$2.78	NA
Recycled Industrial, Dual-plumbed, Construction	\$2.65	\$2.42	\$2.78	NA
Recycled City of Milpitas	\$2.51	\$2.42	\$2.78	NA

* 1 Hundred Cubic Feet (hcf) = 748 gallons

**County of Santa Clara rate is established by contract to be equivalent to the SFPUC wholesale rate. The FY 2016-17 SFPUC rate is estimated to be \$3.79/HCF and staff will revise to actual rate once SFPUC adopts the FY 2016-17 wholesale rate.

Staff recommends implementing the rate increase over a two year period through FY 2016-17. The proposed water rate schedule is tabulated in Ordinance No. 120.47, which is included in the Council packet. The typical residential customer in Milpitas uses 8.5 units of water per month. The average cost per single family residence for effective January 15, 2016 would increase by \$10.42 per month (from \$38.96 to \$49.38). The average cost per single family residence for FY 2016-17 would increase by \$15.00 per month (from \$49.38 to \$64.38).

Schedule: the recommended schedule for adoption of the ordinance and adjusting rates includes these milestones:

October 6, 2015

Council holds public hearing of first reading of ordinance setting water rates effective January 1 and April 1, 2016.

October 30, 2015

Proposition 218 notices must be mailed no later than this date to provide 45-day protest period before December 15 Council meeting.

December 15, 2015

Council meeting holds a public hearing. If there is not a majority protest, Council may approve the new rates through a second reading and adoption of the new water ordinance.

January 15, 2016

Effective date of the water ordinance.

April 1, 2016

Effective date for FY 2016-17 rates.

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

Alternative: Consequences of not raising rates sufficient to cover costs are that the City would be forced to take funding from the General Fund, the only source of discretionary funds, to replace lost revenues from rates insufficient to recover costs. This transfer from the General Fund would reduce the City's ability to provide other desired community services such as enhancing public safety, parks and recreation, library, street landscaping, and street maintenance. It would also conflict with City policy and standard government practice that the water fund be operated as a self-supporting enterprise fund. By not adopting the proposed rate structure, the City would forfeit approximately \$40 million in important operating and capital projects over the next decade and it is estimated the City would lose more than \$2.5 million per year from reserves and other services funded through the General Fund to offset lost revenue. In addition, this would violate the City's operating reserve policy and increase our vulnerability of recovering from a major catastrophe. Furthermore, consequences of failure to adopt the proposed rate structure will be perceived as noncompliance with Proposition 218.

Fiscal Impact: The water rate adjustments would pay for escalating costs of wholesale purchases, City and wholesaler capital improvement programs, and system operation and maintenance for the utilities. In addition, water bonds are needed to provide capital for the proposed water supply and reliability projects.

Recommendations:

1. Open the public hearing on water rates to accept comments.
 2. Close the public hearing, following all speakers.
 3. Move to waive the first reading beyond the title of Ordinance No. 120.47, following a reading of the title by the City Attorney.
 4. Introduce Water Ordinance No. 120.47 to amend Title VIII of the Milpitas Municipal Code to establish water rates.
 5. Authorize mailing of the Proposition 218 notice of public hearing on rate increase proposed.
 6. Set the date of December 15, 2015 for the public hearing.
2. **Conduct a Public Hearing and Introduce Ordinance No. 240.4 Removing Supplemental Water Penalties per State Law (Staff Contact: Nina Hawk, 408-586-2603)**

Background: On June 16, 2015, the City Council of the City of Milpitas declared the continuation of a water shortage for the year 2015 (Stage 2 of the Milpitas Water Shortage Contingency Plan) and added additional conservation measures as required by State law; and require the community to implement water conservation measures with a goal of reducing consumption by thirty percent (30%). Included in the urgency ordinance adopted by the City Council were penalties for failing to limit use and penalties for violating water use restrictions.

Penalties for Failing to Limit Water Use

Urgency Ordinance No. 240.3, adopted on June 16, 2015, included penalties for failing to limit water use. Residential Section VIII-6-7.00 – Drought Penalties included a 10% penalty for residential, commercial, industrial and institutional, and irrigation customers who exceed water use levels.

Recent court rulings have determined that municipal water retailers cannot engage in above-the-cost-of-service pricing. As such, the City is evaluating a new water rate structure. The urgency ordinance includes a penalty for failing to limit water use which is based on the existing tiered water rate structure. Additionally, the City is currently meeting state, regional and city water reduction requirements and targets, therefore the proposed ordinance removes all the ten-percent penalties for failing to limit water use. Concurrently, it is being proposed that the penalties for violating water use restrictions are being clarified as discussed below. The City never implemented the penalty rate structure, so repeal at this time is a formality, but required nonetheless.

Penalties for Violating Water Use Restrictions

Since adoption of the water conservation program, education and outreach efforts have proved effective at reducing water consumption. However, with the loss of penalties for excessive water use, the remaining penalties for violation of water use prohibitions were reviewed. The proposed ordinance strengthens these provisions by updating the references to the correct section of the Administrative Code and by referencing the health and safety provisions of the Municipal Code related to water service.

Fiscal Impact: None.

Recommendations:

1. Open the public hearing for comments, and move to close the hearing.
2. Following a reading of the title of Ordinance No. 240.4 by the City Attorney, move to waive the first reading beyond the title of the ordinance.
3. Introduce Ordinance No. 240.4 removing supplemental water penalties, per state law.

XIII. UNFINISHED BUSINESS

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

Background: From August 10 through September 13, 2015, the Bay Area Air Quality Management District (BAAQMD) forwarded 197 complaints originating in Milpitas. 102 complaints identified a garbage odor, 10 complaints identified a sewage odor, 84 complaints did not identify an odor source, and 1 identifying multiple odor sources. As of the last Council update, the City's odor reporting website has received 76 reported complaints.

Recommendation: Receive the update of the odor control report.

XIV. 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 appointments:

Arts Commission:

Appoint current Alternate No. 1 Doris Roth as voting member to a term that will expire in October 2017.

Appoint current Alternate No. 2 Marsha Tran as Alternate No. 1 to a term that will expire in October 2016.

Appoint current Alternate No. 3 Christina Driggers as Alternate No. 2 to a term that will expire in October 2017.

Newly appoint Luqiang Shu as Alternate No. 3 to a term that will expire in October 2016.

Community Advisory Commission:

Newly appoint Vishal Gandhi as Alternate No. 4 to a term that will expire in January 2016.

Economic Development Commission:

Newly appoint Anna Wang as the real estate voting representative to a term that will expire in April of 2018.

Youth Advisory Commission: All terms expire in September of 2016.

Move current Alternate No. 1 Christie Maly to a seat as a regular voting member.

Move current Alternate No. 2 Emerald Gilana to the seat as Alternate No. 1.

Newly appoint Jenna Zarbis as Alternate No. 2.

Newly appoint Madeline Cacao as Alternate No. 3.

Newly appoint Amanda Jimenez as Alternate No. 4.

Recommendation: Receive Mayor's recommendations and move to approve appointments to four City of Milpitas Commissions.

- * 5. **Consider Mayor's Request to Establish Four City Council Subcommittees and to Appoint Councilmembers to those Subcommittees (Contact: Mayor Esteves, 408-586-3029)**

Background: Mayor Esteves recommends the formation of the following three Ad Hoc City Council Subcommittees: Land Use and Transportation, Joint Use, and Facilities Naming Subcommittees; and to change City Council Finance Subcommittee Councilmember assignment. Mayor Esteves provided a written memo with his recommendations for appointment of specific Councilmembers to the four Subcommittees and his memo is included in the agenda packet.

Recommendation: Approve the Mayor's recommendation, effective immediately, to form three City Council Subcommittees, and to appoint two Councilmembers to each of those three and the Finance Subcommittee.

- * 6. **Consider Mayor's Request for Report on Gender and Ethnicity Pay Equity Policy (Contact: Mayor Esteves, 408-586-3029)**

Background: Mayor Esteves requested City staff to research the need for a Gender and Ethnicity Pay Equity policy or ordinance. This study would include both the City as an employer (permanent, contract, temporary, interns etc.) and the agencies, firms and businesses the City contracts with to ensure fairness and equity in all contracts. It should be noted that this has not been an issue internally with the City of Milpitas due to current wage and hiring practices but is unknown regarding those entities with which the City may contract. This study will ensure policies are in place for fair and equitable pay. In addition, Senate Bill (SB) 358 seeks to ensure gender wage equity. This study would also include any necessary actions by the City of Milpitas to ensure compliance with SB 358 should it be signed by the Governor. The purpose of this item, and pursuant to City Council adopted policy, is to seek a majority direction of the City Council to prepare the study since this effort will take more than four hours of staff time.

Fiscal Impact: None.

Recommendation: Direct staff to conduct a study and bring back to City Council a gender and ethnicity pay equity policy or ordinance that would include both the City of Milpitas as an employer and the agencies with which the City contracts; as well as City compliance with Senate Bill 358, if signed into law.

- * 7. **Per Recommendation of the Library Advisory Commission, Accept \$2,500 Donation from Republic of South Korea to the Milpitas Public Library and Approve the Spending Plan from Commissioners (Staff Contact: Bill Ekern, 408-586-3273)**

Background: In September 2015, Community Librarian Stephen Fitzgerald received a donation from Consulate General of the Republic of Korea in the amount of \$2,500 to the Milpitas Public Library. Librarian Fitzgerald has accepted the donation on behalf of the Library Advisory Commission (LAC) and forwarded the matter for acceptance of the donation and a proposed spending plan to the entire LAC. The donor specified that the donation be used for Korean language classics and popular titles.

At its meeting on September 21 2015, the LAC accepted the donation, approved the spending plan and directed staff to forward its recommendation to the City Council. Included in the Council's agenda packet is the proposed spending plan for Korean language classic and popular title books. Upon acceptance by the Council, the Consulate General of the Republic of Korea will be recognized by the LAC on the donor board at the Milpitas Public Library.

Recommendation: Accept the donation gift of \$2,500 to the Milpitas Public Library and the proposed spending plan, as recommended by the Library Advisory Commission.

XV. NEW BUSINESS

- * 8. **Establish a Capital Improvement Project and Related Budget Appropriation for Update of the City of Milpitas General Plan (Staff Contact: Sarah Fleming, 408-586-3278)**

Background: California state law requires that each city adopt and regularly update its general plan. While it has been amended multiple times through 2010, the City of Milpitas General Plan has not been comprehensively updated since it was prepared and adopted in 1994 (Housing Element updated in 2015).

Council action will permit the establishment of a multi-year Capital Improvement Project (CIP) for a comprehensive general plan update and required CEQA analysis, and appropriate funding for the project in FY 2015-16.

Fiscal Impact: The project and related CEQA analysis is estimated to cost \$2,100,000 which is expected to be spent over three fiscal years.

FY 2015-16: The City currently collects a Community Planning Fee of 5% on all building-related permits to provide funds that enable the General Plan Update Project. \$200,000 is currently available from this source for FY 2015-16. Additionally, Developer Fee contributions for FY 2015-16 are provided through the Trumark/Lennar Waterstone Residential Development Project in the amount of \$1,000,000.

Future Funding: Future funding for this project is expected from a combination of Community Planning Fee Collections and Developer Contributions.

Recommendation: Establish a Capital Improvement Project for the City of Milpitas General Plan Update Project in the amount of \$2,100,000 and appropriate \$1,200,000 to this project in FY 2015-16.

XVI. RESOLUTIONS

- * 9. Adopt a Resolution Approving the Sole Source Purchase of Ammunition for the Police Department from Three Different Suppliers for a Combined Annual Not-To-Exceed Amount of \$57,000 (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: Based on documented testing of duty weapons and ammunition, the Milpitas Police Department determined the performance features of particular products/brands of ammunition are compatible with the department's issued duty weapons and have reliable performance data. The Police Department uses three specific brands and various calibers of ammunition: the Federal brand, Winchester Brand and Hornady brand. Purchasing staff determined that San Diego Police Equipment Company, Inc. is the authorized sole source distributor for Federal brand ammunition in California, Adamson Police Products, Inc. is the authorized sole source distributor for Winchester brand ammunition in Northern California, and Miwall Corporation is the authorized sole source distributor for Hornady brand ammunition in California.

To ensure that these companies are sole source providers, Purchasing staff issued a competitive bid for Federal brand in March 2015 and advertised through the normal channels such as local newspaper, City website and nationally through Public Purchase website. Thirteen companies downloaded the bid but only San Diego Police Equipment Company submitted a bid. Staff further determined that changing to other brands of ammunition would require significant retraining and testing by the Police Department, resulting in substantial cost to the City that is not offset by lower price of different brands' ammunition. Therefore, staff recommends that these ammunition purchases be sole source procurements per Municipal Code Section I-2-3.09 "Sole Source Procurement."

Fiscal Impact: None. Funds for the purchase are available in the FY 2015-16 Police Department Operating Budget.

Recommendation: Adopt a resolution approving the sole source purchase of ammunition for the police department from San Diego Police Equipment Company, Inc., Adamson Police Products, Inc. and Miwall Corporation for a combined annual not-to-exceed amount of \$57,000.00.

- *10. Adopt a Resolution Authorizing Purchase of Seven City Vehicles from the National Auto Fleet Group for a Not-To-Exceed Amount of \$265,617.53 through a Cooperative Procurement Contract (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: The Police Department's Fiscal Year 2015-16 budget includes the purchase of three 2016 Ford Sedan Police Interceptors and two Ford Utility Police Interceptor, including fitting them with standard push bars, and one Toyota Utility vehicle for undercover operations, to replace equipment that has reached the end of its useful life. The Finance Department's Fiscal Year 2015-16 budget includes the purchase of one Ford F150 regular cab truck for its Meter Reading function, to replace equipment that has reached the end of its useful life. Staff recommends cooperative purchases through the National Joint Powers Alliance (NJPA). Cooperative purchasing through NJPA is specifically authorized pursuant to Municipal Code Section I-2-3.08 "Cooperative Procurement." The Purchasing Agent reviewed all of the documentation from the National Joint Powers Alliance Request for Proposal entitled "Passenger Cars, Light Duty, Medium Duty, and Heavy Duty Trucks with Related Accessories" and determined that the underlying purchase was made using competitive bidding procedures at least as restrictive as the City of Milpitas. The price for the vehicles is the same as that offered in the original agreement.

Fiscal Impact: None. Sufficient funding is in the FY 2015-16 Equipment Replacement Fund for these purchases.

Recommendation: Adopt a resolution authorizing the purchase of seven city vehicles from the National Auto Fleet Group for the not-to-exceed amount of \$265,617.53 through a cooperative procurement contract, per Milpitas Municipal Code Section I-2-3.08, Cooperative Purchasing.

XVII. AGREEMENTS

- * 11. **Approve Amendment No. 3 to the Consultant Services Agreement with RMC Water and Environment, Inc. for Utility Engineering Support for \$40,000 and Extend the Term through June 30, 2016 (Staff Contact: Steven Machida, 408-586-3355)**

Background: On October 7, 2014, the City entered into an Agreement with RMC Water and Environment, Inc. for support to backfill City staff vacancy in the Utility Engineering Section for water/recycled water distribution and wastewater collection systems through June 30, 2015. The City Council approved Amendment No. 1 for \$58,000 for additional services on April 7, 2015 through December 31, 2015. On June 16, 2015, the City Council approved Amendment No. 2 for \$42,000. Staff recommends City Council approve Amendment No. 3 to increase the agreement amount by \$40,000 and extending the term through June 30, 2016. This will bring the total value of the agreement to \$167,734. The proposed Amendment No. 3 is included in the Council packet.

Alternative: Denial of this request will result in delayed completion of some Utility Engineering tasks. Tasks include but are not limited to: 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.

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.

Fiscal Impact: None. There are sufficient funds available in the Utility Engineering operations budget.

Recommendation: Approve Amendment No. 3 to the consultant services agreement with RMC Water and Environment, Inc. for Utility Engineering Support for \$40,000 and extend the term through June 30, 2016.

- * 12. **Approve Amendment No. 6 to the Consultant Services Agreement with RMC Water and Environment to Extend the Term to October 31, 2016 for Support on the Silicon Valley**

Rapid Transit (BART) Program Berryessa Extension, Project No. 4265 and Various City Capital Projects (Staff Contact: Steven Machida, 408-586-3355)

Background: The following amendment is for a time extension only and no additional funds are requested at this time. Santa Clara Valley Transportation Authority (VTA) continues to move forward on the design and construction of the Bay Area Rapid Transit (BART) extension project. As such, engineering staff continue to require technical support on BART and routine CIP projects. 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 project. The Master Agreement allows reimbursement of consultant costs for design review services. On March 1, 2011, Council approved a Consultant Services Agreement with RMC Water and Environment (RMC) for professional engineering services on either the BART project directly or work on other capital improvement projects, thereby freeing staff to work on the BART project. Over the past five years, the City Council has approved five amendments to the Consultant Agreement and extended the term through October 31, 2015. The following amendment would extend the term of the contract by 12 months to October 31, 2016.

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

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: None. Consultant expenses and City staff labor are reimbursable under the VTA Master Agreement. There are sufficient funds in the project budget for the continuation of this work.

Recommendation: Approve Amendment No. 6 to the consultant services agreement with RMC Water and Environment to extend the term to October 31, 2016 for support on the Silicon Valley Rapid Transit (BART) Program Berryessa Extension, Project No. 4265 and various city capital projects.

- * 13. **Approve Amendment No. 6 to the Consultant Agreement with Schaaf & Wheeler to Extend the Term to October 31, 2016 for Storm Drain/Stormwater Program Documentation Review for the Silicon Valley Rapid Transit (BART) Program Berryessa Extension, Project No. 4265 (Staff Contact: Steven Machida, 408-586-3355)**

Background: The following amendment is for a time extension only and no additional funds are requested at this time. Santa Clara Valley Transportation Authority (VTA) continues to move forward on the design and construction of the Bay Area Rapid Transit (BART) extension project. Engineering support is necessary as the Milpitas BART station and parts of the BART alignment are within a floodplain requiring relocation of existing and/or installation of new City storm drain pipes, and compliance verification with mandatory storm water program requirements. 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 project. On January 26, 2012, the City entered into a Consultant Services Agreement with Schaaf & Wheeler for professional engineering services for the BART extension project. Over the past three years, the City Council has approved five amendments to the Consultant Agreement and extended the term through October 31, 2015. The following amendment would extend the term of the contract by 12 months to October 31, 2016.

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

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: None. There are sufficient funds in the project budget. Consultant expenses and City staff labor are reimbursable under the VTA Master Agreement.

Recommendation: Approve Amendment No. 6 to the consultant agreement with Schaaf & Wheeler to extend the term to October 31, 2016 for Storm Drain/Stormwater Program Documentation Review for the Silicon Valley Rapid Transit (BART) Program Berryessa Extension, Project No. 4265.

- * 14. **Approve Amendment No. 3 to the Consultant Services Agreement with CalRecovery, Inc. to Increase the Compensation by \$105,000 for Technical Odor Support Services and Approve a Budget Appropriation of \$130,000 (Staff Contact: Steven Machida, 408-586-3355)**

Background: On October 16, 2014, the City entered into an agreement for \$15,000 with CalRecovery, Inc. to provide technical on-call consulting support services for odor issues and other technical solid waste management related matters. The agreement was amended on January 20, 2015 and July 1, 2015 for \$35,000 and \$50,000 respectively, for continued services, for a total not to exceed \$100,000. The work has included field visits to odor-generating sites, review of Newby Island permit application documents, preparing written documents, attending regulatory hearings, providing expert witness testimony, and other odor-related technical support services. Additional services will be required to support review of the regional odor study, review of the Newby Island landfill expansion and City of San Jose's Planned Development Permit, and the City's appeal of San Jose's Hearing Officer's decision to CalRecycle.

The Bay Area Air Quality Management District (BAAQMD) staff is requesting the City to submit an application for an Air Permit for the City's sewer lift station located on McCarthy Boulevard. The City will perform air quality sampling and submit the results with the permit application. BAAQMD will then determine if a permit and/or odor treatment facilities are required. CalRecovery will coordinate the sampling, review the results, prepare the application, and assist the City through the permit process. It is now necessary to increase the agreement amount by \$105,000, for a total not to exceed \$205,000, for continued technical odor support services. The permit application is estimated to cost up to \$25,000. A budget appropriation of \$130,000 is necessary to perform this work. Staff will request additional funding in the future, if odor treatment facilities are required.

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

Alternative: If the amendment is not approved, engineering staff will not receive technical odor consulting services to address ongoing odor problems in the City, will need to accept BAAQMD's decisions on the City's lift station without the ability to review and/or discuss and challenge complex odor emissions chemistry, and will use operating funds, allocated for other activities for the permit application fees.

Fiscal Impact: An operating budget appropriation of \$50,000 from Solid Waste Fund and \$80,000 from Sewer Fund is necessary to perform this work, with \$25,000 from the Sewer Fund going to the Utility Maintenance operating budget and the remaining funds going to the Utility Engineering operating budget.

Recommendation: Approve Amendment No. 3 to the consultant services agreement with CalRecovery, Inc. to increase the compensation by \$105,000 for technical odor support services and approve a budget appropriation of \$130,000.

- * 15. **Approve and Execute a Storm Management Operation and Maintenance Agreement for the Pace Development Project at 324 Montague Expressway, Project No. 2762 (Staff Contact: Steven Machida, 408-586-3355)**

Background: On November 15, 2011, the City Council approved a Vesting Tentative Map, Conditional Use Permit and Site Development Permit for Trumark Communities' Contour Project (since renamed the "Pace Project") for construction of 43 single family homes and 91 condominium units. The project is located at 330 Montague Expressway (on northeast corner of Montague Expressway and Trade Zone Blvd.). At the time of final map, approval of this agreement was not included in the package sent to council; staff is now requesting approval and authorization of this Agreement.

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

Alternative: If the Storm Management Operation and Maintenance agreement is not approved, the Developer will not be able to complete the development conditions for final project acceptance.

Fiscal Impact: None.

Recommendation: Approve and authorize the execution of a Storm Management Operation and Maintenance agreement for Pace Development at 324 Montague Expressway, Project No. 2762.

- * 16. **Award the Bid to ACCO Engineered Systems, Inc. and Authorize the City Manager to Execute the Agreement for Citywide HVAC Maintenance and Repair Service for \$300,000 and Thereafter Annually Not to Exceed \$187,527 (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: On July 24, 2015, the City of Milpitas issued a Request for Proposal (RFP) for Citywide Heating, Ventilation and Air Conditioning (HVAC) Maintenance and Repair Service. Purchasing staff worked closely with Public Works and Engineering departments to develop the specification and bid package for the RFP. The RFP was advertised in the local newspaper, on the City website and through Public Purchase. Four proposals were received and evaluated by a committee of three: the Utility Maintenance Manager, an Equipment Maintenance Worker II and the Buyer.

The committee scored the proposals based on six criteria including price, proposers' company background, technical abilities, and references. The recommendation for award to ACCO Engineered Systems Inc. is based on the offering that is considered the most advantageous to the City. The new contract for HVAC Maintenance and Repair service is for one year from October 7, 2015 to October 6, 2016 with four one-year options for renewal. Renewal years contain a compensation adjustment clause based on the Producer Price Index for Commercial Machinery Repair and Maintenance or 5% whichever is less. The base price for the maintenance portion of the contract is \$87,527.00. After posting the Notice of Intent to Award (Pending Bid Results), no protest was filed.

HVAC equipment throughout different City buildings is in various states of operational condition. ACCO is required to perform a "Baseline Inventory and Equipment Evaluation Survey" in the first month of the agreement to determine the repair types to various pieces of equipment to bring all City HVAC systems up to peak operational condition. The cost of these repairs is estimated to be \$212,473.00. Consequently, the contract price for the first year will be set at \$300,000 to accommodate both known maintenance and unknown repairs needed for the HVAC systems. Due to age and wear-and-tear of various equipment, an annual contingency repair of \$100,000 is added to the base maintenance contract in each remaining four years, therefore, the contract price is set at \$187,527 annually for subsequent years.

Fiscal Impact: None. Funds are available in Facilities Maintenance Operating Budget for this service.

Recommendations:

1. Award the bid to ACCO Engineered Systems, Inc. and authorize the City Manager to execute an agreement with ACCO for citywide HVAC Maintenance and Repair Service with for the not-to-exceed amount of \$300,000 for the first year and the annual not-to-exceed amount of \$187,527 for the remaining four years of the contract, for a total amount of \$1,050,108 during the five year term.
2. Authorize the Purchasing Agent to extend the term of the agreement annually for the next four years with an annual price increase per the terms of the agreement and without further City Council action, except for appropriation of funds.

*** 17. Approve the First Amendment to the Purchase and Sale Agreement between the City of Milpitas and Milpitas Unified School District to Extend the Escrow Closing Date (Staff Contact: Emma Karlen, 408-586-3145)**

Background: On October 21, 2014, the City of Milpitas and the Milpitas Unified School District (“District”) entered into a Purchase and Sale Agreement for the District to purchase 6.7 acres of City owned property on McCandless Drive for construction of a new elementary school. Due to delay in completing the Environmental Impact Report, the District requires more time in order to obtain the state’s approval of the site to be used for an elementary school. The District requests a one year extension of the close of escrow date to not later than October 21, 2016.

Fiscal Impact: None.

Recommendation: Approve the first amendment to the Purchase and Sale Agreement between the City of Milpitas and Milpitas Unified School District to extend the escrow closing date.

*** 18. Approve an Agreement between City of Milpitas and Singer Associates, Inc., in the amount of \$180,000, to Implement a Communications Plan and Provide Public Information Services (Staff Contact: Tom Williams, 408-586-3050)**

Background: For over a decade, the City of Milpitas has operated without a general public information officer. The City is need of a person or firm with experience in media relations, preparation of press releases, quarterly newsletters, annual reports, positive City promotions and communications to the public.

Over the last several years, it has become evident there is need for the City to inform the public, employees and the media with reliable and accurate information communicated on behalf of the City. As the City grows, faces additional complex issues and seeks to create additional business attraction and jobs through positive imaging and economic development efforts, ensuring accurate reliable information to the public is essential.

In consideration of the need to fill the information/communications void, the cost versus benefit of hiring an in-house Public Information Officer or retaining an experienced firm was analyzed. This led to the conclusion that hiring a professional firm is better suited both in terms of cost savings and experience to meet the City’s needs at this time. After a professional services search and outreach to firms, City staff recommends Singer Associates. There are five primary areas that Singer Associates will fulfill as part of this proposed annual agreement. In summary, these service areas include:

- 1) Developing a communications plan;
- 2) News and media relations;
- 3) Community relations and communications;

- 4) Web/Social Media; and
- 5) Internal communications.

A copy of the agreement proposed with Singer Associates is included in the agenda packet.

Fiscal Impact: \$120,000 for remainder of FY 2015-16 and \$60,000 in FY 2016-17. The annualized contract is for a not to exceed \$180,000.

Recommendation: Authorize the City Manager to enter into a agreement with Singer Associates, Inc. in the not to exceed amount of \$180,000.

XVIII. JOINT MEETING of CITY COUNCIL/ECONOMIC DEVELOPMENT CORPORATION

CALL TO ORDER by Mayor/Chair

APPROVE CONSENT CALENDAR

- * 19. **Authorize City Manager and the Milpitas Economic Development Corporation President to Execute Five Memorandums of Termination of Option to Purchase Certain Properties (Staff Contact: Christopher Diaz , 408-586-3040)**

Background: On March 28, 2011, in a Special Joint meeting of the City Council, the Redevelopment Agency, and the Economic Development Corporation (“EDC”), the City Council and EDC authorized the execution of Option Agreements providing the EDC the option to purchase certain real property from the City. This was done in connection with possible future use and reuse of those parcels and possible marketing of those parcels to developers and entities for economic development and community improvement opportunities. At that time six properties were the subject of the Option Agreements. One of the Option Agreements was for the Alder Drive/Barber Lane property, which was subsequently terminated by Memorandum of Termination of Option on November 28, 2012. This leaves five properties currently encumbered with an Option Agreement, as set out below:

APN	ADDRESS	DESCRIPTION
022-02-012	1265 N. Milpitas Blvd.	Corporation Yard
029-17-004 through -013 and -015	1325 E. Calaveras Blvd.	Sports Center and Open Space
028-24-025	86 N. Main Street	Vacant land
028-34-001 through 028-34-094	230 N. Main Street	Vacant land
086-10-025	540 S. Abel Street	Cracolice Building

On June 17, 2014 the City, and on June 19, 2014 the Successor Agency, each approved the Settlement Agreement in the two redevelopment agency litigation cases. Effectively, the Settlement Agreement, ended any future claims that the EDC would have under these options. In order to fully effectuate the Settlement Agreement the City is required to formally terminate all of the Option Agreements. This will allow other steps necessary under the Settlement to occur. In addition, in order to effectuate clear title for the all the properties, the Option Agreements must be terminated.

Additionally, the EDC anticipates dissolving in the near future and therefore all of the Option Agreements encumbering the above properties should be terminated, prior to that occurring.

Therefore, it is recommended that all remaining Option Agreements be terminated by Memorandum of Termination of Option for each Agreement, which will then be recorded with the County of Santa Clara Recorder’s Office, to clear the title of the above properties. At the

request of the County, the Memorandum of Termination of Option for the Sports Center property is dated to be effective September 14, 2015, so that it is effective prior to the execution and recordation of associated grant deeds.

Fiscal Impact: None. Although the EDC was required to pay the City \$150,000 as consideration for the options, the payment was never made.

Recommendation: Authorize the City Manager and the Milpitas Economic Development Corporation President to execute five Memorandums of Termination of Option to purchase the five properties (listed in report above), which will then be recorded with the County of Santa Clara Recorder's Office.

XIX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, OCTOBER 20, 2015**