



MILPITAS CITY COUNCIL MEETING AGENDA

TUESDAY, NOVEMBER 17, 2015

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

SUMMARY OF CONTENTS

- I. **CALL TO ORDER/ROLL CALL** by the Mayor (6:00 p.m.)
- II. **ADJOURN TO CLOSED SESSION**
 - (1) **CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION** – 2 cases
Pursuant to California Government Code Section 54956.9(d)(1)
 - Casagrande v. City of Milpitas, Santa Clara County Superior Court, Case No. 1-15-CV-280605
 - SCS Development Co. v. City of Milpitas, Santa Clara County Superior Court, Case No. 115CV283902
 - (2) **CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION**
Pursuant to California Government Code Section 54956.9 - City as Defendant
 - (3) **CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION**
Pursuant to California Government Code Section 54956.9 - City as Plaintiff
- III. **CLOSED SESSION ANNOUNCEMENT:** Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote or abstention of each member present
- IV. **PLEDGE OF ALLEGIANCE** (7:00 p.m.)
- V. **INVOCATION** (Councilmember Grilli)
- VI. **APPROVAL OF COUNCIL MEETING MINUTES** – November 3, 2015
- VII. **SCHEDULE OF MEETINGS – COUNCIL CALENDARS** - November and December 2015
- VIII. **PRESENTATION** Proclaim Sikh Awareness month
- IX. **PUBLIC FORUM**

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an 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.

- X. **ANNOUNCEMENTS**
- XI. **ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**
- XII. **APPROVAL OF AGENDA**

XIII. CONSENT CALENDAR (Items with asterisks*)

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

XIV. PUBLIC HEARINGS

- 1. Conduct a Public Hearing and Introduce Ordinance No. 290 to Amend Title I of the Milpitas Municipal Code by Adding Section 21, Amending Title V and Title XI Relating to Administrative Citations (Staff Contact: Tim Wong, 408-586-3286)**
- 2. Conduct a Public Hearing and Take All Necessary Actions for Approval including Zone Change for the Development Proposal - the Centre Pointe and Houret Court Project at 1320 and 1425 McCandless Drive, 1463, 1515, 1557 and 1585 Centre Point Drive, 231, 247, 271 Houret Drive and 1757 Houret Court (Staff Contact: Bill Ekern, 408-586-3273)**
- 3. Open Public Hearing Regarding Landscape Ordinance Revisions and Move to Continue the Hearing to December 1, 2015 (Staff Contact: Steven Machida, 408-586-3355)**

XV. REPORT OF MAYOR

- * 4. Consider Mayor's Recommendation for Appointments to City of Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**

XVI. NEW BUSINESS

- 5. Receive Report from the Chair of the Campaign Finance Reform Committee (Staff Contact: Mary Lavelle, 408-586-3001)**
- * 6. Receive Report on Biennial Rate Adjustments for Solid Waste Program Services Provided by Republic Services of North America (Staff Contact: Steven Machida, 408-586-3355)**
- * 7. Consider Request from Non-profit Milpitas Firefighters Toy Program for a \$500 Donation Toward Holiday Toy Program (Staff Contact: Mary Lavelle, 408-586-3001)**
- * 8. Consider Request from Milpitas Executive Lions Club to Co-Sponsor "Celebrating Differences" (formerly Kids and Adults Day) on April 24, 2016 (Staff Contact: Renee Lorentzen, 408-586-3409)**

XVII. ORDINANCE

- * 9. Waive the Second Reading and Adopt Ordinance No. 38.823 Relating to Special Events and Activities (Staff Contact: Bill Ekern, 408-586-3273)**

XVIII. RESOLUTION

- * 10. Consider Mayor Esteves' Proposal to Amend City Commission Bylaws and Adopt a Resolution to Change Commissioner Eligibility (Contact: Mayor Esteves, 408-586-3029)**

XIX. AGREEMENTS

- * 11. Authorize the Chief of Police to Execute the Agreement with the County of Santa Clara for the 2016 Avoid the 13 Grant Program (Staff Contact: Daryl Sequeira, 408-586-2434)**

- * 12. **Approve an Amendment No. 2 to the Consultant Agreement with HF&H Consultants for Solid Waste Procurement Services in the Amount of \$106,800 and Approve a Budget Appropriation for CIP No. 3401 (Staff Contact: Steven Machida, 408-586-3355)**
- * 13. **Approve and Authorize the City Manager to Execute the Storm Water Management Operation and Maintenance Agreement and the On-site Private Utility Agreement for 345 Los Coches Street (Cobblestone), Project No. 2792 (Staff Contact: Steven Machida, 408-586-3355)**

XX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, DECEMBER 1, 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

Current Vacancies on
Bicycle Pedestrian Advisory Commission
Sister Cities Commission (2 vacancies)
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

XIV. PUBLIC HEARINGS

1. Conduct a Public Hearing and Introduce Ordinance No. 290 to Amend Title I of the Milpitas Municipal Code by Adding Section 21, Amending Title V and Title XI Relating to Administrative Citations (Staff Contact: Tim Wong, 408-586-3286)

Background: The purpose of the code amendment is to update the Municipal Code to create a uniform citation process for all code violations. Currently, the Municipal Code has citation authority for some violations and not for others. Some of the violations that cannot be cited include graffiti, tree removal, lack of solid waste service, and violation of the noise ordinance. Several code sections only allow for infractions, a form of criminal complaint, and/or a charge/lien process. There is no option for a less punitive action, such as a citation. The recommended code change provides the flexibility for a lower-level enforcement tool. This will allow staff to use citations to encourage compliance at a lower level for all ordinances.

Highlights of the citation update:

1. If the violating party is not compliant within a designated timeframe, the City may issue a citation. The amount of the citation increases with each citation of non-compliance, which are the same as other existing citations:
 - \$100 - First Violation
 - \$200 - Second Violation
 - \$500 - Third and Subsequent Violation(s)
2. Appeal rights retained through use of a Hearing Officer process. If the violating party wishes to appeal the citation, he/she must request an Administrative Hearing with the Hearing Officer. The Hearing Officer decision is final, but appealable to Superior Court. This is consistent with the standard practice of other jurisdictions. Currently all appeals of the Administrative Hearing Officer go to the City Council. This would eliminate frivolous appeals (such as trash cans in the front yard, junk cars, etc.) to the Council.
3. It provides a clear and uniform process for the public. The current enforcement process is confusing for the public. There are different requirements under different code sections. The update would provide one uniform process.

The Administrative Update has been reviewed by Police, Public Works, Fire, and Building and Safety Departments. In addition, the Administrative Citation section of the code will replace Section V-500-8.00 and Section XI-10-63.07(B). Therefore, Title V and Title XI will be amended to remove those sections.

Fiscal Impact: Service for an Administrative Hearing Officer will need to be contracted. The fiscal impact is unknown. However, staff will issue a Request for Proposals for this service in order to establish a budget and appropriate charges.

Recommendations:

1. Open the public hearing on the proposed Administrative Citation Ordinance to accept comments.
2. Move to close the public hearing following any comments.
3. Waive the first reading beyond the title of Ordinance No. 290, following the City Attorney reading the title aloud.
4. Introduce Ordinance No. 290 amending Title I of the Milpitas Municipal Code to establish the Administrative Citations regulations.

2. **Conduct a Public Hearing and Take All Necessary Actions for Approval including Zone Change for the Development Proposal - the Centre Pointe and Houret Court Project at 1320 and 1425 McCandless Drive, 1463, 1515, 1557 and 1585 Centre Point Drive, 231, 247, 271 Houret Drive and 1757 Houret Court (Staff Contact: Bill Ekern, 408-586-3273)**

Background: On October 28, 2015, the Milpitas Planning Commission held a public hearing on the proposed development of a 26.65 acre project in the Transit Area Specific Plan (TASP). The project area is located along the Great Mall Parkway and bounded by McCandless Drive and Montague Expressway. The project proposes to construct 1,169 dwelling units (of which 355 will be for-sale), a 175-room hotel, and 83,842 square feet of retail. Minor deviations from the requirements of TASP, private open space for some studio apartment units, setbacks along interior streets, and building pad elevations to meet flood ordinances require additional findings and issuance of a Conditional Use Permit. Additionally, the proposed development is seeking an exception to the Supplemental Water Use Restrictions contained VIII-6-5.03 and VII-6-5.07. The Planning Commission voted unanimously to recommend to the City Council adoption of the Addendum, adoption of the General Plan Amendment, Specific Plan Amendment, Zoning Amendment, Vesting Tentative Map, Conditional Use Permit, and Site Development Permit for the requested development. In response to the public comment, the Planning Commission also recommended that the City Council consider a police sub-station in the Transit Area Specific Plan area.

Staff and the applicant presented the proposal before the Economic Development Commission on November 9, 2015. Commissioners unanimously accepted and recommended the City Council to approve this development project, as recommended by staff.

Fiscal Impact: The project will pay all TASP fees required and other assorted development fees both to the City and to the School District.

Attachments:

- A-C) Three City Council Resolutions
- D) Ordinance No. 38.824
- E-F) Two Adopted Planning Commission Resolutions
- G) Planning Commission Staff Report 10/28/2015
- H) Addendum to adopted Environmental Impact Report for the Transit Area Specific Plan
- I) Project Plans for The District - Centre Pointe, and Houret Court development

Recommendations:

1. Open the public hearing for comments, and move to close the hearing following all speakers.
2. Adopt City Council Resolution adopting the Addendum to the Transit Area Specific Plan Environmental Impact Report.
3. Adopt City Council Resolution approving the General Plan Amendment and the Specific Plan Amendment.
4. Adopt City Council Resolution approving the Vesting Tentative Map, Site Development Permit, and Use Permit.
5. Following a reading of the title aloud by the City Attorney, move to waive the first reading beyond the title of Ordinance No. 38.324 for zoning changes.
6. Move to introduce Ordinance No. 38.824.

3. **Open Public Hearing Regarding Landscape Ordinance Revisions and Move to Continue the Hearing to December 1, 2015 (Staff Contact: Steven Machida, 408-586-3355)**

Background: Due to the ongoing severe drought, Governor Brown signed Drought Executive Order (EO B-29-15) on April 1, 2015, which directed the California Department of Water Resources (DWR) to update the State's Model Water Efficient Landscape Ordinance (MWELo) through expedited regulation. The California Water Commission approved the revised MWELo Ordinance on July 15, 2015. State legislation was enacted into the California Code of

Regulations on September 15, 2015. Agencies shall adopt a locally modified ordinance effective on or before December 1, 2015 or the State Model Ordinance shall be in effect. The new provisions include changes to the project threshold for applicability, stricter water efficient measures and formulas, and new requirements for annual reporting to the state.

Additional revisions to the City's Landscape Ordinance are required, so city Engineering staff will present additional background information, as well as the proposed revised ordinance for introduction, to City Council on December 1, 2015.

Recommendations:

1. Open the public hearing on revisions to the city's Water Efficient Landscape ordinance and receive any comments.
2. Move to continue the public hearing to the December 1, 2015 City Council meeting.

XV. REPORT OF MAYOR

- * 4. Consider Mayor's Recommendation for Appointments to City of Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**

Background: Mayor Esteves recommends the following appointments:

Arts Commission: re-appoint current Commissioner Harriet McGuire to a new term that will expire in October of 2018.

Veterans Commission: move current Alternate No. 1 Ed Ackerman up to the voting seat as a regular voting member of the Commission to a term that will expire in February of 2016.

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

XVI. NEW BUSINESS

- 5. Receive Report from the Chair of the Campaign Finance Reform Committee (Staff Contact: Mary Lavelle, 408-586-3001)**

Background: In January, the Mayor recommended and City Council appointed nine residents to serve on the Campaign Finance Reform Committee. Mayor Esteves attended the first meeting of the group on February 19, 2015, providing an overview of the topics he wished the Committee would discuss and provide recommendations to the City Council regarding. City Attorney and City Clerk provided staff expertise and support to the committee as it met seven times during the past year.

At the City Council meeting, Committee Chair Althea Polanski will make a presentation of the final recommendations that the group recommends to the City Council.

Fiscal Impact: None, for receipt of the report. There may be cost implications for some of the recommendations, if adopted by the City Council

Recommendation: Hear report from Chair Althea Polanski of the Campaign Finance Reform Committee. Provide feedback and possible direction to staff.

- * 6. Receive Report on Biennial Rate Adjustments for Solid Waste Program Services Provided by Republic Services of North America (Staff Contact: Steven Machida, 408-586-3355)**

Background: Residential and commercial solid waste service in Milpitas is provided through long-term franchise agreements with Republic Services of North America (Republic). These

private services include garbage collection and disposal, recycling and yard trimmings programs, and street sweeping. The agreements stipulate that the maximum allowable rates charged by the private hauler are adjusted every two years to incorporate changes in inflation, as measured by the consumer price index (CPI), and extraordinary costs, stemming from regulatory requirements imposed on Republic after execution of the agreement. Per the agreement, Republic's next rate ceiling adjustment is effective January 1, 2016 and the new rate will be in effect through September 5, 2017. This will be the last Biennial adjustment under this contract.

The City's consultant, HF&H, reviewed Republic's submission of proposed customer rates for the next 20 months and finds the rate submittal to be in accordance with requirements of the agreement. A copy of the HF&H report is included in the Council agenda packet. Proposed increases for general customer categories are shown in the table below.

Customer Category	Current Monthly Rate	Proposed Rate	Increase
Single Family Service	\$31.30	\$33.89	\$2.59
Senior Rate	\$15.65	\$16.96	\$1.31
Mobile Home (1-can)	\$8.65	\$10.34	\$1.69
Mobile Home (2-cans)	\$13.46	\$15.34	\$1.88
Commercial Service	Various	Various	8.14%-12.6%
Multi-Family Service	Various	Various	3.98%-15.19%
Various Service	Various	Various	3.98%

Staff will update the agreement rate exhibits administratively. The City Council's Finance Subcommittee received this report on October 28, 2015 and recommended the rate adjustment be brought to the full Council for review.

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

Alternative: Rate formulas are described in the existing agreement. Failure to implement the rate adjustment will be a breach in the terms of the contract.

Fiscal Impact: There will be no fiscal impact to the City from the rate adjustment as garbage collection is a private service provided by a corporate entity and service costs are those solely of the private company. Rates themselves are not imposed by the City.

Recommendation: Receive a report on biennial rate adjustments for solid waste program services provided by Republic Services of North America.

*** 7. Consider Request from Non-profit Milpitas Firefighters Toy Program for a \$500 Donation Toward Holiday Toy Program (Staff Contact: Mary Lavelle, 408-586-3001)**

Background: The City Clerk received a "Donation or Fee Waiver/Reduction Request Application Form" on November 3 from the Milpitas Firefighters Toy Program, a 501(c)(3) non-profit organization located in Milpitas. The program seeks donations of toys and money each holiday season, and then distributes those to needy children and families throughout Milpitas. The Toy Program has requested a donation of \$500. The request is within the amounts allowed in the Council's adopted policy.

Included in the agenda packet are: the donation request form, the IRS non-profit determination letter, and a flyer for the upcoming toy drive for 2015.

Fiscal Impact: \$20,000 was approved and included in the FY 2015-16 City budget for the City Council's Unallocated Community Promotions. If the current donation request is approved, then \$16,595.58 would be the remaining balance.

Recommendation: Consider the request from the Milpitas Firefighters Toy Program and approve a \$500 donation to the 2015 Milpitas Firefighters Toy Drive.

- * 8. **Consider Request from Milpitas Executive Lions Club to Co-Sponsor “Celebrating Differences” (formerly Kids and Adults Day) on April 24, 2016 (Staff Contact: Renee Lorentzen, 408-586-3409)**

Background: Thelma Batilo of behalf of the Milpitas Executive Lions Club, requested a co-sponsorship of the second “Celebrating Differences” event at the November 3, 2015 City Council meeting. The event is planned to include fun games, crafts and activities focused on empowering persons with differing abilities. The event would be held in the Milpitas Community Center Auditorium on Saturday, April 24, 2016 from 2:00– 5:00 PM.

A co-sponsorship of this event would include use of the Milpitas Community Center, its amenities and required staffing (Recreation building attendants, Recreation Coordinator) including:

- Auditorium
- Dance Studio
- Conference Room 7&8

A co-sponsorship of this event would also include the use of:

- City Hall Digital Marquee
- City Social Media
- Use of City Logo on event marketing materials

Alternative: The City Council can authorize of fee waiver of up to \$1,500 for this event per their Fee Waiver/Reduction Policy. The fee waivers/reductions only apply to services provided by the City during its regular course of business such as rental fees for the City’s facilities or equipment, building permit fees, or fire permit fees. The policy prohibits the waiver of any staff overtime costs required due to an event. With this alternative the Lions Club would not have access to the City’s Marquee, Social Media or use of the City Logo on event marketing materials.

Fiscal Impact: \$3,021 in facility revenue and staff administration costs.

Recommendation: Approve the City of Milpitas co-sponsoring the Milpitas Executive Lions Club’s “Celebrating Differences” day event for kids and adults on April 24, 2016, waive City fees in the amount of \$3,021 and authorize staff support for the event.

XVII. ORDINANCE

- * 9. **Waive the Second Reading and Adopt Ordinance No. 38.823 Relating to Special Events and Activities (Staff Contact: Bill Ekern, 408-586-3273)**

Background: On November 3, 2015, the City Council introduced Ordinance 38.823 to amend the City’s Zoning Code to update the regulations regarding Special Events and Activities that provides clear and concise provisions and streamlined process that ensures all special events are conducted in a safe and orderly fashion to benefit all those who live in and visit the City of Milpitas. Ordinance No. 38.823 is now ready for a second reading and adoption.

Recommendations:

1. Waive the second reading of Ordinance No. 38.823.
2. Adopt Ordinance No. 38.823 amending the Milpitas Municipal Code to update zoning regulations regarding Special Events and Activities.

XVIII. RESOLUTION

- * 10. **Consider Mayor Esteves' Proposal to Amend City Commission Bylaws and Adopt a Resolution to Change Commissioner Eligibility (Contact: Mayor Esteves, 408-586-3029)**

Background: Since 2009, by-laws of all City Commissions comprised of Milpitas residents require that all Commissioners, including alternates, must be Milpitas residents or residents within the boundaries of Milpitas Unified School District. Mayor Esteves recommends returning to the long-standing prior practice that those appointed to positions required to be residents of Milpitas would be those who are residents within the City of Milpitas boundary only.

This change can be implemented by adopting a resolution directing that all 14 Commission Bylaws for membership requirements be changed to reflect the intended makeup of the Commissions. The change would be effective immediately and applicable to any future Commission appointments.

Recommendation: Adopt a resolution changing the Bylaws of City Commissions to require resident appointments be those of residents within the City of Milpitas boundary.

XIX. AGREEMENTS

- * 11. **Authorize the Chief of Police to Execute the Agreement with the County of Santa Clara for the 2016 Avoid the 13 Grant Program (Staff Contact: Daryl Sequeira, 408-586-2434)**

Background: The County of Santa Clara is administering the 2016 Avoid the 13 grant program that offers grant funds from the California Office of Traffic Safety to reimburse law enforcement agencies for overtime expenditures specifically directed towards Driving Under the Influence (DUI) enforcement. The goals of the program are to apprehend drunk drivers and to reduce the number of people killed or injured in alcohol-related collisions. The City of Milpitas has been approved for a grant of \$18,700.00 to conduct DUI saturation patrols and a DUI checkpoint on an overtime basis in conjunction with the countywide Avoid the 13 program between October 1, 2015 and September 30, 2016.

Fiscal Impact: None. Overtime expenditures will be reimbursed by the grant.

Recommendations:

1. Authorize the Chief of Police to execute the agreement with the County of Santa Clara for the 2016 Avoid the 13 grant program.
 2. Approve a budget appropriation in the amount of \$18,700.00 to the Police Department overtime budget as a result of the 2016 Avoid the 13 Grant Program.
- * 12. **Approve an Amendment No. 2 to the Consultant Agreement with HF&H Consultants for Solid Waste Procurement Services in the Amount of \$106,800 and Approve a Budget Appropriation for CIP No. 3401 (Staff Contact: Steven Machida, 408-586-3355)**

Background: As the City Council is aware, the City's 30-year solid waste collection and disposal agreements with Republic Services will expire in September 2017. On December 2, 2014, the City entered into an agreement with HF&H Consultants (HF&H) for \$55,525 to analyze pros and cons of extending the contract or to issue a Request for Proposal (RFP) to search for a new vendor.

In April 2015, Council selected to pursue the RFP option and Staff proceeded to develop the scope of work and budgets. Since Solid Waste Procurement is a highly dynamic and complex process where the completions of tasks are dependent on the results of preceding tasks, Staff structured the completion of the tasks in the RFP using a phased project and budget approach.

Phase 1 was the work that HF&H performed described above and included meetings with staff, preparation of documents, Council briefings, and initiation of the selected option.

Phase 2 of the RFP was approved by Council on June 16, 2015, in the amount of \$49,925 which included the subsequent tasks of work involved in developing a list of proposers, completing development of and issuing the RFP including two draft agreements, posting the RFP to a dedicated website, responding to proposer questions, and receiving and conducting an initial review of the proposals. The cost estimate was based upon several assumptions related to these tasks, which included developing and implementing the Integrity Process, preparing and issuing the RFP package, preparing draft collection and disposal agreements, responding to vendor questions, issuing two Addenda, and performing the initial evaluation of proposals. However, some tasks required a larger effort than originally anticipated as described below.

Primary factors affecting the level of effort include:

- Administering the RFP process in conformance with the Integrity Process required significantly more hours than expected.
- Planned to develop the RFP, and the two agreements in parallel; unfortunately had to prepare them in series, due to City staff constraints.
- Planned to use a template for the basis of the two agreements; used the City's current agreement as the basis instead, as there are many unique features that staff desired to retain. This expanded the agreement preparation time.

It is now necessary to approve Phase 3 of the contract which will amend the consultant agreement to include the additional effort as well as to provide new monies for the evaluation of future options and policy and program development. On October 27, 2015, the vendors' proposals were submitted. The next steps include initial screening of proposals to determine responsiveness and then a more thorough review of the proposals which includes both the evaluation of the disposal and collection effort, seek necessary clarification from proposers, prepare proposal summaries and scoring materials, facilitate proposal interviews and facilitate three meetings with the Evaluation Team. Staff has negotiated Phase 3 (contract Amendment No. 2) with HF&H in the amount of \$88,960, which is considered reasonable for this work. Of this total, \$18,590 is additional funding for the tasks performed to date and \$70,370 is for the next phase of work. A detailed letter from the consultant is included in the Council packet. Staff recommends including a contingency of 20% addressing unforeseen needs, which brings the Amendment No. 2 total to \$106,800. The total not-to-exceed amount of this agreement is increased to \$212,250. A copy of Amendment No. 2 is included in the Council packet. A budget appropriation in the amount of \$106,800 is necessary. Staff continues to recommend a phased approach, for the consultant work, as unknowns include the number of and content of proposals that will be submitted, the extent of alternatives/exceptions proposed and Council direction in negotiating agreements with one or more finalist for collection and for disposal.

California Environmental Quality Act: This amendment 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 procurement consulting services to complete the RFP process and the City will not have resources available to make an informed decision when selecting a vendor to best meet the needs of the City.

Fiscal Impact: A budget appropriation of \$106,800 from the Solid Waste Fund to CIP No. 3401 is necessary to perform this work.

Recommendations:

1. Approve Amendment No. 2 to the consultant agreement with HF&H Consultants for solid waste procurement services in the amount of \$106,800.

2. Approve a budget appropriation in the amount of \$106,800 from the Solid Waste Fund to CIP No. 3401.

*** 13. Approve and Authorize the City Manager to Execute the Storm Water Management Operation and Maintenance Agreement and the On-site Private Utility Agreement for 345 Los Coches Street (Cobblestone), Project No. 2792 (Staff Contact: Steven Machida, 408-586-3355)**

Background: On May 7, 2013, the City Council approved Vesting Major Tentative Map (MT12-0002), Site Development Permit (SD12-0003), Conditional Use Permit (UP12-0016), and Environmental Impact Assessment (EA12-0005) for the construction of 28 new single-family detached residential units and four live-work units on 2.7 acres, located at 345 Los Coches Street (APN: 086-39-001, 086-39-002).

At the time of final map approval the Storm Water Management Operation and Maintenance Agreement and an On-site Private Utility Agreement were not included in the package sent to council. Staff is now requesting approval and authorization.

California Environmental Quality Act: These agreements are covered under the project's Mitigated Negative Declaration.

Alternative: If the Storm Management Operation and Maintenance Agreement and the On-site Private Utility Agreement are not approved, the developer will not be able to complete the development conditions for final project acceptance.

Fiscal Impact: None.

Recommendations:

1. Approve and authorize the City Manager to execute the Storm Management Facilities Operation and Maintenance Agreement for 345 Los Coches Street (Cobblestone), Project No. 2792.
2. Approve and authorize the City Manager to execute the On-site Private Utility Agreement for 345 Los Coches Street (Cobblestone), Project No. 2792.

XX. ADJOURNMENT

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