



MILPITAS CITY COUNCIL MEETING AGENDA

TUESDAY, DECEMBER 1, 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, ANTICIPATED LITIGATION**
Pursuant to California Government Code Section 54956.9 - City as Defendant
 - (2) **CONFERENCE WITH REAL PROPERTY NEGOTIATOR**
Pursuant to California Government Code Section 54956.8
Property: McCandless Property APN 086-41-016 and APN 086-41-017
Negotiating with: Milpitas Unified School District
Under Negotiation: Purchase & Sale Agreement
- 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** (Mayor Esteves)
- VI. **APPROVAL OF COUNCIL MEETING MINUTES** – November 17, 2015
- VII. **SCHEDULE OF MEETINGS – COUNCIL CALENDAR** - December 2015
- VIII. **PRESENTATION**
- 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. Re-open 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. Re-open Public Hearing Regarding Landscape Ordinance Revisions and Introduce Ordinance No. 238.4 Repealing and Replacing Title VIII, Chapter 5 of the Milpitas Municipal Code Regarding Water Efficient Landscaping Staff Contact: Steven Machida, 408-586-3355)**

XV. UNFINISHED BUSINESS

- 3. Receive the Update of the Odor Control Report and Receive Status Report on the South Bay Odor Stakeholder Group (Staff Contact: Steven Machida, 408-586-3355)**

XVI. REPORTS OF MAYOR & COMMISSIONS

- * 4. Consider Mayor's Recommendation for Re-appointment to Milpitas Planning Commission (Contact: Mayor Esteves, 408-586-3029)**
- * 5. Per Mayor's Recommendation, Appoint One Public Representative and One Alternate to Serve on the South Bay Odor Stakeholder Group (Contact: Mayor Esteves, 408-586-3029)**
- * 6. Approve Parks, Recreation and Cultural Resources Commission's Recommendation for a Memorial Bench in Honor of Charles Loughborough to be Installed at Augustine Park (Staff Contact: Renee Lorentzen, 408-586-3409)**
- 7. Approve Youth Advisory Commission Work Plan for FY 2015-16 (Staff Contact: Andrew Mendes, 408-586-3231)**

XVII. NEW BUSINESS

- * 8. Accept the City's Comprehensive Annual Financial Report and Other Related Annual Audited Reports for the Fiscal Year Ended June 30, 2015 (Staff Contact: Jane Corpus, 408-586-3125)**

XVIII. ORDINANCE

- * 9. Waive the Second Reading and Adopt Ordinance No. 38.824 Relating to Re-zoning Necessary for Approved Mixed-Use Development in the Transit Area (Staff Contact: Bill Ekern, 408-586-3273)**

XIX. RESOLUTIONS

- * 10. Adopt a Resolution Making Findings for Unexpended Development Fees and Review and Accept the Annual Developer Fee Disclosure Information Pursuant to the Mitigation Fee Act (Staff Contact: Emma Karlen, 408-586-3145)**

- * 11. **Adopt a Resolution Declaring Weeds on Certain Properties to be a Public Nuisance and Setting a Public Hearing for January 5, 2016 to Hear Objections (Staff Contact: Albert Zamora, 408-586-3371)**
- * 12. **Adopt a Resolution Authorizing Filing a Financial Assistance Application for a Financing Agreement with the State Water Resources Control Board for the Design and Construction of the Milpitas Recycled Water Pipeline Extension Project, and Authorizing City Manager to Execute Documents Relating to Proposition 1 and State Revolving Fund Water Recycling Funding Program, Project No. 7118 (Staff Contact: Steven Machida, 408-586-3355)**

XX. AGREEMENTS & BIDS

- * 13. **Approve the First Amendment to the Agreement with M Group, Inc. for Planning Support Services, Increasing the Agreement by \$50,000, for a Total Amount Not to Exceed \$190,000 (Staff Contact: Bill Ekern, 408-586-3273)**
- * 14. **Award the Bid and Authorize the City Manager to Execute the Contract for McCarthy Ranch Landscape Maintenance Services with Terracare Associates Initially for \$84,576.00 for the First Year with Annual Increase Not to Exceed 5% for Remaining Four Years for a Total of \$423,267 (Staff Contact: Natalie Livezey, 408-586-3162)**
- * 15. **Approve and Authorize the City Manager to Execute an Agreement with SSA Landscape Architects, Inc. for Higuera Adobe Park Picnic and Playground Renovation, Project No. 5097 (Staff Contact: Steve Erickson, 408-586-3301)**
- * 16. **Approve Amendment No. 4 to the Consulting Services Agreement with RMC Water and Environment, Inc. in the Amount of \$100,000 to Continue Staff Augmentation Services for the Utility Section, Engineering Division (Staff Contact: Steven Machida, 408-586-3355)**
- * 17. **Approve Amendment No. 3 to the Consulting Services Agreement with Hatch Mott MacDonald in the Amount of \$211,750 and Extend the Terms of the Agreement to June 30, 2016 to Continue Staff Augmentation Services for the Land Development Engineering (Staff Contact: Steven Machida, 408-586-3355)**
- 18. **Receive a Presentation and Progress Report on the Milpitas Sports Center Sports Fields Project No. 5104, Award the Construction Contract to O.C. Jones & Sons, Inc., Authorize the Director of Engineering/City Engineer to Execute Contract Change Orders and Approve a Budget Appropriation (Staff Contact: Steve Erickson, 408-586-3301)**

XXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, DECEMBER 15, 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
Library Advisory Commission
Sister Cities Commission (3 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. Re-open 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's 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 costs.

Recommendations:

1. Re-open the continued public hearing (first opened on November 17) on the proposed Administrative Citation Ordinance to receive comments.
2. Move to close the public hearing following any speakers.
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. Re-open Public Hearing Regarding Landscape Ordinance Revisions and Introduce Ordinance No. 238.4 Repealing and Replacing Title VIII, Chapter 5 of the Milpitas Municipal Code Regarding Water Efficient Landscaping Staff Contact: Steven Machida, 408-586-3355)

Background: After the 1988-1993 drought, the City Council adopted a Water Efficient Landscape ordinance as required by the state. The ordinance required landscape architects to incorporate water-efficient measures into new landscaping and irrigation systems. Landscape architects are also required to calculate and submit the maximum applied water allowance for the project’s irrigation. Over the years, the City Council has adopted state-mandated revisions to the Water Efficient Landscape regulations.

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 on July 15, 2015. The state model ordinance was entered 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. Given the significant changes to the state model ordinance, staff recommends that rather than revising the existing ordinance, the City Council repeal and replace it. A copy of the proposed ordinance is included in the Council’s agenda packet.

DWR estimates that with the new state model ordinance provisions, a typical California landscape will use 12,000 gallons less of water per year, which is 20% less than allowed by the 2009 state ordinance. It is estimated that commercial landscape will cut water use by 35% under the new provisions. Over the next three years, it is predicted that 470,000 new homes associated with 20,000 acres of landscape will be built in California. With proper implementation and enforcement, the state ordinance is expected to lead to substantial water savings.

Summary of Changes

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.

Applicability. A significant change to the proposed ordinance is the reduction in the threshold for applicability. See Table 1 for a comparison between the current and proposed ordinances. In general, the proposed ordinance prescribes that all new development projects that include landscape areas equal to or greater than 500 square feet are subject to requirements of the ordinance. Applicability thresholds would affect most new projects in Milpitas.

Table 1 Applicability

Project Type	Current Milpitas Landscape regulation in MMC	Proposed Ordinance No. 238.4
New Non-residential- Developer Installed	≥ 2500 square feet (SF)	≥ 500 SF
New residential- Developer Installed	≥ 2500 SF	≥ 500 SF
New residential- Homeowner Provided/ Hired	≥ 5000 SF	≥ 500 SF
Rehabilitated Landscape	Same as above	≥ 2500 SF

Water-Efficient Measures. Several new and/or revised water efficient measures are included in the proposed Ordinance. These include dedicated irrigation meters, significant reduction in

calculated potable water allowance, restrictions on street median plant types, professional submittals, prescriptive checklist, recycled water, gray water, and rain water.

- *Dedicated Irrigation Meters.* The City's current landscape ordinance requires dedicated (separate) irrigation meters for new non-single family landscape exceeding 2,500 square feet. The current requirement does not apply to single-family residential properties. The State Ordinance is stricter for non-residential sites and requires either dedicated irrigation service meters or private submeters to be installed for all non-residential irrigated landscapes of 1,000 square feet or more. The State Ordinance is more lenient for residential sites and requires irrigation meters for landscapes for 5,000 square feet or more. The proposed ordinance includes 1,000 square feet for non-residential and 2,500 square feet for residential, including single family. Dedicated irrigation service meters are read by the City and bills are issued based upon consumption. Private submeters are not used for billing and are simply a way for a property owner to measure water specifically used for irrigation. Staff recommends requiring dedicated irrigation service meters and backflow devices to be installed, and not allow the option to install private submeters, except with City Engineer approval. The proposed ordinance reflects this recommendation.
- *Limits Potable Irrigation Water Usage.* The proposed ordinance also revises the design criteria to reduce maximum applied water allowance with potable water by 20% percent for single-family residential developments and 36% percent for multi-family residential developments. This will be achieved through plant selection, irrigation method, irrigation efficiency, and area associated with each watering zone. Landscape architects provide calculations to demonstrate that the landscape will use less than the maximum allowed water.
- *Landscape & Irrigation Design Restrictions.* A significant change to landscape design restrictions includes the explicit prohibition of high water use plants in street medians. Irrigation design restrictions have also been updated. For example, the minimum width of areas that can be overhead spray irrigated has been amended from eight feet to ten feet. This means that areas less than ten feet wide must be irrigated with subsurface drip or other technology that produces no overspray or runoff.
- *Professional Submittal.* The proposed ordinance will require applicable project landscape plans to be prepared by a licensed landscape architect for all new development projects installed after December 1, 2015 that meet the applicability criteria.
- *Prescriptive checklist.* Smaller projects with rehabilitated landscape areas less than 2,500 square feet, using treated or untreated graywater or rainwater captured on site meeting the entire need for irrigation, may comply with the performance requirements or conform to the prescriptive measures checklist. The intention of this checklist option is to simplify compliance for smaller projects.
- *Recycled Water.* Use of recycled water for irrigation continues to be incentivized in the proposed Ordinance by allowing landscapes using recycled water to have a higher Evapo Transpiration Adjustment Factor (ETAF). This will allow a higher "water budget," and can provide the opportunity to plant higher water using plants.
- *Graywater & Rainwater Systems.* A new section has been added to the proposed ordinance to allow smaller projects, irrigated with graywater (e.g., from clothes washing machines) or rainwater, to be subject only to the prescriptive checklist. The City's current Plumbing Code, adopted January 1, 2014, addresses technical and safety requirements for these systems.

Agency Reporting. Another significant change is that local agencies, including the City of Milpitas, will be required to report on the implementation and enforcement of their ordinances to DWR by December 31, 2015, and subsequent annual reporting to DWR by January 31 of each

year thereafter beginning in 2017. Currently, staff simply collects and files certifications from landscape architects.

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

Alternative: If Council takes no action on this item, the State’s Model Ordinance becomes effective.

Fiscal Impact: Currently, the City’s Land Development staff receives the landscape documentation packages and collects the certification as part of the plan check process. Staff time is reimbursed by developers through the Private Job (“PJ”) accounts. The proposed ordinance will require more applicants to submit a water efficiency landscape package, which will result in an increase to workload, and staff will be required to review these submittals. In addition, DWR now requires tracking and annual reporting for all development projects, which when coupled with the new requirements, will result in additional staff time in order for the City to adhere and remain in compliance.

Recommendations:

1. Re-open the continued public hearing (first opened on November 17) to receive comments.
2. Move to close the public hearing, following any speakers.
3. Following the City Attorney’s reading of the title, move to waive the first reading beyond the title of Ordinance No. 238.4.
4. Introduce Ordinance No. 238.4 repealing and replacing Title VIII, Chapter 5 of the Milpitas Municipal Code, regarding water efficient landscaping.

XV. UNFINISHED BUSINESS

- 3. Receive the Update of the Odor Control Report and Receive Status Report on the South Bay Odor Stakeholder Group (Staff Contact: Steven Machida, 408-586-3355)**

Background: Monthly Odor Control Report From October 12 through November 8, 2015, the Bay Area Air Quality Management District (BAAQMD) forwarded 284 complaints originating in Milpitas. 119 complaints identified a garbage odor, 24 complaints identified a sewage odor, 141 complaints did not identify an odor source and none identifying multiple odor sources. As of the last Council update, the City’s odor reporting website had received 71 reported complaints.

Status Report on the South Bay Odor Stakeholder Group City staff has attended scheduled South Bay Odor Stakeholder Group meetings and will provide a brief update of the meeting discussions at the City Council meeting.

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

Recommendations:

1. Receive the update of the Odor Control Report.
2. Receive a status report on the South Bay Odor Stakeholder Group from City Engineering staff.

XVI. REPORTS OF MAYOR & COMMISSIONS

- * 4. Consider Mayor’s Recommendation for Re-appointment to Milpitas Planning Commission (Contact: Mayor Esteves, 408-586-3029)**

Recommendation: Mayor Esteves recommends Rajeev Madnawat be re-appointed to another term of three years on Milpitas Planning Commission to a term that expires in December 2018.

*** 5. Per Mayor’s Recommendation, Appoint One Public Representative and One Alternate to Serve on the South Bay Odor Stakeholder Group (Contact: Mayor Esteves, 408-586-3029)**

Background: On September 15, 2015, staff briefed the City Council that the South Bay Odor Stakeholder Group recommended the cities of Milpitas, Fremont and San Jose each appoint a Public Representative and Alternate to participate in the Stakeholder Group meetings. The intent was to allow a member of the public, from each city, to participate in the ongoing odor discussions of the group. Meetings are held quarterly on the third Thursday of the scheduled month and the next meeting is set for January 21, 2016.

Three members of the public have submitted an application to the City Clerk (copies are included in the agenda packet) to represent the City of Milpitas as either the Public Representative or the Alternate. All three applicants are Milpitas residents and eligible to serve on the Stakeholder Group.

Mayor Esteves recommends the City Council confirm the appointment of two residents to serve as the Public Representative and Alternate.

Recommendation: Appoint Mr. Minh Q. Le as the public representative and Mr. Jim Q. Li as the Alternate on the South Bay Odor Stakeholder Group.

*** 6. Approve Parks, Recreation and Cultural Resources Commission’s Recommendation for a Memorial Bench in Honor of Charles Loughborough to be Installed at Augustine Park (Staff Contact: Renee Lorentzen, 408-586-3409)**

Background: On October 5, 2015, the Parks, Recreation and Cultural Resources Commission voted to recommend to the City Council for its approval of the Parks & Recreation Donation Application by Cindy Ingram and Patti Clark for installation of a Memorial Bench in Augustine Park for their brother Charles Loughborough.

Detail information noted on the application revealed:

- 1) Charles “Charlie” worked at his father's company, Huntford Printing in Milpitas, since he was a teenager up to his death on February 3, 2015 at the age of 43.
- 2) Charles was his dad George Loughborough’s “right hand” in the business. Huntford, a long time Milpitas operated and owned company has supported the Milpitas business community, local non-profits as well as the City of Milpitas for over 20 years through great service and expertise. Charles was a big part of that service.

Fiscal Impact: None. The Loughborough family accepts all financial responsibility of the donation which includes the bench and plaque installation.

Recommendation: Approve the recommendation from the Parks, Recreation and Cultural Resources Commission to approve the application and authorize the Parks & Recreation donation for installation of a Memorial Bench at Augustine Park in memory of resident Charles Loughborough.

7. Approve Youth Advisory Commission Work Plan for FY 2015-16 (Staff Contact: Andrew Mendes, 408-586-3231)

Background: The Youth Advisory Commission (YAC) was established in 1996 to advise the Council on matters pertaining to the youth and teens of the Milpitas community. Over the years, the Commission has provided the Milpitas community with a variety of youth and teen oriented special events such as Milpitas’ Got Talent Competitions, Open Mics, Youth Spelling Bees and

Math Competitions. The Commission has also provided many volunteer hours at City sponsored events as well. In addition, they have successfully fundraised monies to award a community service based scholarship to a graduating Milpitas senior.

At the October 8, 2015 YAC meeting, Commissioners created and approved a draft 2015-16 Work Plan. The Commission's 2015-16 Work Plan identifies the goals, projects and on-going tasks that they would like to accomplish for the year. In addition to continuing successful annual events, the Commission is looking to partner with local community charities in order to continue to give back to the Milpitas community.

Fiscal Impact: None.

Recommendation: Receive report from the Chair and Vice Chair of the Youth Advisory Commission, and move to approve Youth Advisory Commission 2015-16 Work Plan.

XVII. NEW BUSINESS

- * **8. Accept the City's Comprehensive Annual Financial Report and Other Related Annual Audited Reports for the Fiscal Year Ended June 30, 2015 (Staff Contact: Jane Corpus, 408-586-3125)**

Background: The Comprehensive Annual Financial Report (CAFR) of the City of Milpitas, Single Audit Report, Agreed Upon Procedures Report on Compliance with the Appropriations Limit Increment, Bicycle/Pedestrian Projects and the Memorandum on Internal Control and Required Communications for the fiscal year ended June 30, 2015 are presented to the City Council for review.

Comprehensive Annual Financial Report (CAFR) of the City of Milpitas

The CAFR presents the operations and financial activity of all the City's various funds, including the General Fund. It includes an unqualified audit opinion from Maze & Associates, the City's external auditors, that the financial statements present fairly the results of operations for the year ended June 30, 2015, in conformance with Generally Accepted Accounting Principles (GAAP).

Single Audit Report

The Single Audit is required by the Office of Management and Budget Circular A-133 for state and local governments and non-profit organizations that receive Federal Awards. The report disclosed a significant deficiency, but no material weaknesses or instances of noncompliance on the internal control over the major federal award programs. The deficiency was that the City was reimbursed \$15,167 more than what the City was authorized for. Consequently, the excess amount has to be returned to the grantor.

Agreed Upon Procedures Report on Compliance with the Appropriations Limit Increment

This report shows the auditor applied specific procedures to validate the City's Appropriations Limit calculations.

Bicycle/Pedestrian Projects Financial Statements

The Bicycle/Pedestrian Projects Financial Statements includes Bicycle/Pedestrian Projects that were developed using Transportation Development Act (TDA) grants. The auditor issued an unqualified opinion on these statements.

Memorandum on Internal Control and Required Communications

Under generally accepted auditing standards, the City's auditors are encouraged to report certain matters regarding the City's internal control structure. The City's auditors have provided such a report in their Memorandum on Internal Control and Required Communications ("Management Letter") for the Year Ended June 30, 2015. This report includes management response to the auditor's recommendations on reviewing new memorandum of understanding after union

negotiations to ensure changes or omissions were negotiated, developing procedures to review changes to vendor database and financial system access, reviewing bank reconciliation timely, maintaining documentation in employees' files for pay increases, updating bank account signature cards timely, reviewing non-collateralized bank account balances to ensure they are within FDIC insured limits, ensuring comprehensiveness of the investment report to include all bank account balances, and maintaining documentation of the follow up efforts on the filing of Forms 700. It should be noted that the auditors do not view any of their comments as material weaknesses on the City's internal control structure.

Fiscal Impact: None.

Attachments:

- A. Comprehensive Annual Financial Report for FY 2014-15
- B. Single Audit Report for FY 2014-15
- C. Agreed Upon Procedures for Compliance with the Appropriations Limit Increment
- D. Bicycle/Pedestrian Projects Financial Statements for FY 2014-15
- E. Memorandum on Internal Control and Required Communications for FY 2014-15

Recommendation: Accept the City's Comprehensive Annual Financial Report, and other related Annual Audited Reports for the fiscal year ended June 30, 2015.

XVIII. ORDINANCE

- * **9. Waive the Second Reading and Adopt Ordinance No. 38.824 Relating to Re-zoning Necessary for Approved Mixed-Use Development in the Transit Area (Staff Contact: Bill Ekern, 408-586-3273)**

Background: On November 17, 2015, the City Council introduced Ordinance 38.824 to amend the City's Municipal Code on zoning regulations to change the land use designation of a parcel in the Transit Area Specific Plan from Mixed Use Very High Density (MXD3) (Transit Overlay) to Multi-Family Residential, High Density (R3) (Transit Overlay). Ordinance No. 38.823 is now ready for a second reading and adoption.

Fiscal Impact: There is no fiscal impact to this action.

Recommendation: Waive the second reading and adopt Ordinance No. 38.824 for zoning changes needed in the Transit Area Specific Plan area.

XIX. RESOLUTIONS

- * **10. Adopt a Resolution Making Findings for Unexpended Development Fees and Review and Accept the Annual Developer Fee Disclosure Information Pursuant to the Mitigation Fee Act (Staff Contact: Emma Karlen, 408-586-3145)**

Background: California Government Code Section 66000 et seq. ("Mitigation Fee Act") requires local agencies to provide an accounting of fees charged for development projects. The City has two basic accounting and reporting responsibilities under the Government Code. Section 66001(d) requires that, five years after collecting a development fee subject to this Code section and every five years thereafter, the local agency shall make findings with respect to any portion of the fee remaining unexpended, whether committed or uncommitted. If the required findings are not made, the unexpended funds shall be refunded to the current property owners.

Findings must:

1. Identify the purpose of the fee;
2. Demonstrate a reasonable relationship between the fee and the purpose for which it was charged;

3. Identify all sources and amounts of funding anticipated to complete financing of incomplete improvements; and
4. Designate the approximate dates on which these funding sources can be expected to be deposited into the appropriate account or fund.

When sufficient funds have been collected to complete financing on incomplete public improvements, the local agency has 180 days to identify an approximate date by which the construction of the public improvement will begin or else is required to refund the unexpended fees, including accrued interest, to the current owner of lots or units of the development project.

The second requirement set forth under Government Code Section 66006(b)(1) provides that the City shall establish separate capital improvement accounts or funds for each improvement funded by project development fees. Any interest income earned by funds in such an account shall be deposited in such account. Each local agency is required on an annual basis, within 180 days after fiscal year end, for each separate account, to make available to the public the following information:

1. Brief description of the type of fee in the account;
2. The amount of the fee;
3. The account's beginning and ending balance;
4. The amount of fees collected and the interest earned;
5. A description of the improvements on which the funds were expended and the amount expended on each improvement including the percentage of the improvement funded with development fees;
6. An approximate date by which the construction of a public improvement will begin if the local agency determines that sufficient funds have been collected to complete financing on the incomplete improvement;
7. A description of each inter-fund transfer or loan made from the account; and
8. The amount of any refunds made pursuant to Code Section 66001.

The City deposits mitigation fees subject to the above disclosure in the Traffic Impact Fee Fund, Transit Area Specific Plan (TASP) Impact Fee Fund, Storm Drain Development Fund, and Park Development Fee Fund to track these development related fees. Interest income is allocated to the funds based on their respective monthly cash balances. Expenditures from these funds were in the form of capital improvement projects to either renovate existing facilities or maintain the existing level of service, consistent with the General Plan and approved Capital Improvement Plan due to increased demand related to the development projects.

Status reports (included in the agenda packet) summarize the Fiscal Year 2014-15 fund activity for Traffic Impact Fee (Exhibit 1); Transit Area Specific Plan (TASP) Impact Fee (Exhibit 2); Storm Drain Development Fee (Exhibit 3); and Park Development Fee (Exhibit 4). The reports show the amount of fees collected in fiscal year 2014-15, interest income, a brief description of the projects funded, the percentage of the projects funded by the development fees, and the beginning and ending balance of the funds.

Fund balances at the end of June 30, 2015 are as follows:

Fund	FY 2014-15 Revenues Collected	FY 2014-15 Expenditures	Ending Fund Balance
Traffic Impact Fee	\$46,549	\$165,920	\$1,441,791
TASP Impact Fee	\$9,397,902	\$9,268,002	(\$5,362,080)
Storm Drain Development Fee	\$280,563	\$525,000	\$928,814
Park Development Fee	\$381,812	\$1,300,000	\$3,176,864

A deficit in the TASP Impact Fee Fund is due to the amount spent on capital expenditures exceeding TASP development fees collected to date. Prior loans were made from other funds to the TASP Impact Fee Fund to advance the cost of the required TASP public infrastructure and will be paid back to those funds when sufficient TASP fees are collected in the future. However, there have not been any loans made from the accounts during the past fiscal year. As of June 30, 2015, the City has not refunded any of the development fees outlined above.

Staff identified traffic impact fees of \$117,525, which were collected from development projects, for traffic impact mitigation on Montague Expressway, that are over five years old. These funds will be appropriated into existing and future capital improvement projects to fund widening improvement on Montague Expressway within City limits. The Montague Expressway Widening project's estimated cost is \$20 million, and the City's share of the cost is approximately \$2.7 million. Staff also identified \$662,448 in traffic impact fees collected in FY 2009-10 for traffic impact mitigation at the Milpitas Business Park. These funds will be used to implement roadway improvements in the Milpitas Business Park area when adverse traffic condition is triggered by developments and when sufficient funds are collected.

Fiscal Impact: None. There is no fiscal impact for the recommended action.

Recommendation: Adopt a resolution making certain findings pursuant to the Mitigation Fee Act for Fiscal Year 2014-15 regarding continuing need for unexpended development fees and review and accept the annual developer fee disclosure information.

- * 11. **Adopt a Resolution Declaring Weeds on Certain Properties to be a Public Nuisance and Setting a Public Hearing for January 5, 2016 to Hear Objections (Staff Contact: Albert Zamora, 408-586-3371)**

Background: The County of Santa Clara Department of Agriculture and Environmental Management has notified the City of Milpitas that it is commencing its Hazardous Vegetation Abatement (weed abatement) program for the forthcoming 2016 season. The County has requested the City adopt a resolution declaring weeds to be a public nuisance and to schedule a public hearing to hear objections to the proposed destruction and / or removal of weeds. A resolution, declaring weeds on specific properties to be a public nuisance, is adopted by the Council each year. The City then holds a public hearing to give affected property owners an opportunity to appear before the Council to dispute the designation of their property as a public nuisance. The public hearing will be scheduled for January 5, 2016.

Recommendation: Adopt a resolution declaring weeds on specific properties to be a public nuisance and set a public hearing on January 5, 2016.

- * 12. **Adopt a Resolution Authorizing Filing a Financial Assistance Application for a Financing Agreement with the State Water Resources Control Board for the Design and Construction of the Milpitas Recycled Water Pipeline Extension Project, and Authorizing City Manager to Execute Documents Relating to Proposition 1 and State Revolving Fund Water Recycling Funding Program, Project No. 7118 (Staff Contact: Steven Machida, 408-586-3355)**

Background: On May 5, 2015, Council accepted the Water Supply Augmentation Study and approved moving forward with next steps on three programs: recycled water, groundwater, and conservation-related infrastructure improvements. The next steps include preparing conceptual designs and applying for State Proposition 1 grant/loan and State Revolving Fund (SRF) Water Recycling funding. There are separate funding programs for potable water and recycled water projects. This request is for the Milpitas recycled water pipeline extension project crossing and extending east of I-680.

The Milpitas Recycled Water Pipeline Extension Project is a part of the City's efforts to respond to the ongoing drought by offsetting the use of potable and raw water, with recycled water. The project is divided into five segments. Segment 1 is currently being designed as part of the City's Dempsey Road Utility Improvements Project. Alternatives for Segments 2 through 5 are currently being evaluated. The purpose of each segment is as follows:

- Segment 1 – This segment will extend the recycled water system east across I-680.
- Segment 2 – This segment will provide looping of the RW system by providing another path across I-680.
- Segment 3 - This segment will serve several hillside customers, which consist of Summitpointe Golf Club, Ed Levin County Park, Spring Valley Golf Course, and CalFire.
- Segment 4 – This segment will make recycled water available to numerous City of Milpitas irrigation customers located to the south and east of Segment 1. This segment also extends the recycled water system towards San Jose Water Company's recycled water system, providing opportunities for future interconnection to improve reliability.
- Segment 5 – This segment will provide additional looping of the RW system by providing another path across I-680.
- Recycled Water Interties: In order to increase reliability of the recycled water system, staff is proposing the addition of three emergency recycled water interties with San Jose Water Company. These three interties would be located at the southern border of the City, with two interties located on the west of I-680 and one intertie located on the east of I-680.

The state is encouraging agencies to submit partial applications as the state will assign a Funding Officer to assist with the rest of the application process. The Proposition 1 grant funding covers construction costs only and is capped at 35% of the construction costs. SRF loan funding will cover design and construction costs. The state intends to award a combination of grants and loans. The required submittals are broken down into four packages: General, Technical, Environmental, and Financial Security. The general information will be a summary of the information contained in the other sections. The technical work is underway and includes evaluating pipeline alignments and sizing, reservoir and pump station sizing and locations, permitting, and compliance with various requirements. The environmental work is also underway. Most of the financial documents are contingent upon adoption of water rates in December 2015. The proposed rates include financing a \$10 million recycled water project to provide sufficient cash flow as grant and loans reimburse already-incurred expenses.

This application will consist of the authorizing Resolution, which is included in the Council packet. The Resolution also delegates authority to the City Manager, to act on behalf of the City, in all matters pertaining to this funding application.

California Environmental Quality Act: The resolution is exempt from CEQA as there will be no physical change to the environment, as it merely involves an application for funding certain improvements with no clear indication whether the funding will be approved.

Alternative: If the City Council does not adopt the Resolution, staff will not start the grant application process. The City will have insufficient funding for the entire project and will be limited to constructing a portion of the proposed recycled water extension. If the City Council does not authorize the City Manager to execute the remaining documents relating to the State's Proposition 1/SRF Water Recycling Funding Program, then grant application documents will be placed on a future Council agenda date for approval.

Fiscal Impact: None. There are sufficient funds in Project No. 7118 to prepare and submit the funding application.

Recommendation: Adopt a resolution 1) authorizing filing of a financial assistance application for a financing agreement with the State Water Resources Control Board for the design and construction of the Milpitas Recycled Water Pipeline Extension Project, and 2) authorizing City

Manager to execute documents relating to Proposition 1 and State Revolving Fund Water Recycling Funding Program.

XX. AGREEMENTS & BIDS

- * 13. **Approve the First Amendment to the Agreement with M Group, Inc. for Planning Support Services, Increasing the Agreement by \$50,000, for a Total Amount Not to Exceed \$190,000 (Staff Contact: Bill Ekern, 408-586-3273)**

Background: On March 4, 2015, the City entered into an agreement for professional consulting for Design and Development Review Planning Support Services in the amount of \$140,000 with M Group. The Agreement expires on June 30, 2016. The Planning Department has experienced the loss of one Senior Planner and two Assistant Planners in the last 30 days, consequently, there is a significant need for third party support in the review and processing of development applications. M Group has been responsive to the City's requests for staff assistance and is presently providing on site staffing with a Principal Planner and an Assistant Planner. The Department has begun the search for permanent staff but does not expect to fill the positions immediately, given the upcoming holiday season.

Fiscal Impact: All third party work is charged to Private Job ("PJ") accounts, which are fully cost-recovery.

Recommendation: Approve Amendment No. 1 to the agreement with the M Group firm for Planning support services, increasing the agreement by \$50,000, for a total agreement amount not to exceed \$190,000.

- * 14. **Award the Bid and Authorize the City Manager to Execute the Contract for McCarthy Ranch Landscape Maintenance Services with Terracare Associates Initially for \$84,576.00 for the First Year with Annual Increase Not to Exceed 5% for Remaining Four Years for a Total of \$423,267 (Staff Contact: Natalie Livezey, 408-586-3162)**

Background: On October 5, 2015, staff sent out a Request for Proposal (RFP) for McCarthy Ranch Landscape Maintenance Services. Purchasing worked closely with Public Works to develop the specification and bid package for the RFP. The RFP was advertised in the local newspapers, on the City website, and through Public Purchase. Five proposals were received and evaluated by a committee of three: the Public Works Director, an Equipment Maintenance Worker III, and the Purchasing Buyer. The committee scored the proposals based on six criteria including price, proposers' company background, technical abilities, and references.

The recommendation for award to Terracare Associates is based on the offering that is considered to be the most advantageous to the City. The new contract for McCarthy Ranch Landscape Maintenance Services is for one year from December 1, 2015 to November 30, 2016 with four one year options for renewal. Renewal years contain a compensation adjustment clause based on the Employment Cost Index (ECI) for total compensation for private industry workers, by occupational group and industry, not seasonally adjusted or 5% whichever is less. The base price for the landscape maintenance services portion of the contract is \$66,000.00. After posting the Notice of Intent to Award (Pending Bid Results), there was no protest filed.

There is an immediate need for repair of piping, risers, heads and valves in response to field observation and central irrigation alarm reports. Several lateral irrigation lines throughout different areas of McCarthy Ranch Boulevard are broken and some areas need immediate valve replacement. Terracare is required to perform urgent irrigation repairs in the first month of the contract to repair these lateral pipes and valves in order to bring the irrigation system up to required operational condition. The cost of these repairs is estimated to be \$8,576.00. Due to the age and wear and tear of various irrigation lines, an annual contingency of \$10,000.00 is added to the landscape maintenance contract for incidental repairs in each of the contract years.

Consequently, the contract price for the first year will be set at \$84,576.00 to accommodate both known landscape maintenance services and unknown incidental repairs needed. The contract price for the subsequent four years will range from \$79,300.00 to \$90,223.00 with a 5% annual price increase included in the calculation. Total contract price for five years is \$423,267.00.

Fiscal Impact: Funds are available from the Facilities Maintenance Operating Budget for this service.

Recommendations:

1. Award the bid and authorize the City Manager to execute the contract for McCarthy Ranch Landscape Maintenance Services with Terracare Associates for the not-to-exceed amount of \$84,576.00 for the first year with an annual price increase not to exceed 5% for the remaining four years of the contract, for a total amount of \$423,267.00 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 contract and without further City Council action, except for appropriation of funds.

*** 15. Approve and Authorize the City Manager to Execute an Agreement with SSA Landscape Architects, Inc. for Higuera Adobe Park Picnic and Playground Renovation, Project No. 5097 (Staff Contact: Steve Erickson, 408-586-3301)**

Background: The City's Higuera Adobe Park is a special use park located at the northeast corner of Wessex Place and North Park Victoria Drive. It is the home of the Higuera Adobe which is a registered historic structure built in the 1830's, and one of the two oldest buildings in the City of Milpitas. In addition to the adobe, the park includes an open lawn used for soccer practice, a group barbeque and picnic area on the east side of the adobe, individual picnic areas along the edge of Calera Creek, and a children's play area at the south-west end of the park. The 4.8 acre park and improvements were constructed in the early 1980s, and have now reached the end of their serviceable lifespan.

The Higuera Adobe Park Picnic and Playground Renovation project, Project No. 5097, was funded in FY 2014-15, and it is included in the list of previously funded projects in the approved FY 2015-20 Capital Improvement Program. This project involves the design and construction of renovation improvements for the group picnic and barbeque area, playground and play equipment, and the installation of shade structures. These park areas will be improved for Americans with Disabilities (ADA) accessibility as well as enhancements to landscaping, lighting, drainage and related improvements.

Through the City's consultant selection process, SSA Landscape Architects Inc. has been selected to provide the design, bidding, and construction support services for the completion of this project. Staff negotiated a scope and fee for these services not to exceed \$198,896, which is considered reasonable for the work.

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

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

Recommendation: Approve and authorize the City Manager to execute an agreement with SSA Landscape Architects, Inc. in the amount of \$198,896 for Project No. 5097, subject to approval as to form by the City Attorney.

*** 16. Approve Amendment No. 4 to the Consulting Services Agreement with RMC Water and Environment, Inc. in the Amount of \$100,000 to Continue Staff Augmentation Services for the Utility Section, Engineering Division (Staff Contact: Steven Machida, 408-586-3355)**

Background: Over the last few years, the Utility Engineering Section has experienced an unprecedented work load while simultaneously experiencing multiple staffing changes. The City has been utilizing contract engineers to augment internal staff to complete the assigned work in the Division. The additional work load includes:

- Relocation of utility infrastructure for BART
- Review an increased number of proposed developer projects within the City
- Assisting Land Development and managing several projects such as the Financial Utility Master Plan Update, Water Supply Augmentation Study, and Proposition 1 grant funding applications, the Solid Waste Request for Proposals and the proposed revisions to the Municipal Regional Urban Runoff permit.

On October 7, 2014, the City entered into an agreement with RMC Water and Environment, Inc. in the amount of \$27,734 to support backfilling City staff vacancy in the Utility Engineering Section for water/recycled water distribution and wastewater collection systems through June 30, 2015.

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. On October 6, 2015, the City Council approved Amendment No. 3 for \$40,000 and extended the term through June 30, 2016. Staff recommends that RMC Water and Environment, Inc. continue its support, so Amendment No. 4 is proposed for these continued services. Staff negotiated a fee for these services not to exceed \$100,000 at the same hourly rate. Approval of Amendment No. 4 brings the total agreement amount to \$267,734.

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. 4 to the Consulting Services Agreement with RMC Water and Environment, Inc. in the amount of \$100,000 to continue staff augmentation services for the Utility Section of the Engineering Department.

- * 17. **Approve Amendment No. 3 to the Consulting Services Agreement with Hatch Mott MacDonald in the Amount of \$211,750 and Extend the Terms of the Agreement to June 30, 2016 to Continue Staff Augmentation Services for the Land Development Engineering (Staff Contact: Steven Machida, 408-586-3355)**

Background: Over the last few years, the Engineering Land Development Division has experienced unprecedented work load and land development activity along with multiple staffing changes. Ongoing efforts to fill current vacancies in the Division have and are continuing, but to this point, qualified candidates have not been found. With new land development applications submitted on a regular basis, staff has had contract engineers to perform plan and final map reviews, develop the conditions of approvals and prepare documents for final recordation to meet the State processing review mandates.

On July 14, 2014, the City entered into a consulting services agreement with Hatch Mott MacDonald to provide the following support services for the Land Development Engineering Division:

- Providing a licensed Civil Engineer/Land Surveyor to review and sign parcel/final maps for technical correctness
- Review and provide comments on improvement plans
- Review easement deeds and/or legal plats
- Assist in preparation of resolutions, agreements, conditions of approval and other related documents
- Respond to inquiries and attend internal review and development meetings
- Attend other city meetings, such as, Planning Commission and City Council
- Other Engineering support services as requested by the City.

The term of the agreement was from July 14, 2014 to June 30, 2015 for \$19,850. On October 7, 2014, the parties entered into Amendment No.1 to increase the compensation by \$143,110 and on May 19, 2015, the parties entered into Amendment No. 2 to increase the compensation by \$108,240.

Over the years, work has steadily increased in the Transit Area Specific Plan and Mid-Town areas, where the staff augmentation budget will be exhausted. Staff recommends that Hatch Mott MacDonald continue its support through June 30, 2016 at the current level of effort (approximately four days per week). Amendment No. 3 with Hatch Mott MacDonald is proposed for these continued services. Staff negotiated a fee for these services not to exceed \$211,750 at the same hourly rates. Approval of this agreement amendment brings the total agreement amount to \$482,950.

Alternative: Denial of this request will result in delayed completion of some Land Development Engineering tasks described above and thus having the City not being in compliance with State mandates to process Land Development applications in a timely manner.

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. Salary savings from the vacant Associate Civil Engineer position will fund a majority of these staff augmentation services. The remaining consultant expenses are reimbursable through the private development projects.

Recommendation: Approve Amendment No.3 to the consulting services agreement with Hatch Mott MacDonald, LLC in the amount of \$211,750 and extend the terms of the Agreement to June 30, 2016 to continue staff augmentation for the Land Development Engineering Division.

18. Receive a Presentation and Progress Report on the Milpitas Sports Center Sports Fields Project No. 5104, Award the Construction Contract to O.C. Jones & Sons Inc., Authorize the Director of Engineering/City Engineer to Execute Contract Change Orders and Approve a Budget Appropriation (Staff Contact: Steve Erickson, 408-586-3301)

Background: This project is in the approved Capital Improvement Program. In September of 2015, the City Council authorized staff to issue a request for submission of pre-qualification statements from interested contractors, and to advertise the completed project plans and specifications for bid proposals. The project provides for installation of a new synthetic turf multi-purpose field providing for football and soccer, and a smaller youth soccer field. Various amenities are also part of the project, including new stadium lighting, loudspeaker system, score board, fencing, goal posts, removal of the visitor bleacher and code improvements to the home bleacher, and installation of a decomposed granite walking path around the new fields. The engineer's estimate for construction is approximately \$3.5 million.

Two firms - O.C. Jones & Sons, Inc. and Robert A. Bothman Inc. - submitted qualification statements for review on November 4, 2015. Staff determined these contractors were qualified and had sufficient experience to submit construction bid proposals for the project. The list of contractors was approved by staff on November 6, 2015.

The project was advertised for bid proposals on November 6 and 13, 2015 and the bid opening was completed on November 23, 2015. The bid pricing received ranged from \$3,364,800.00 to \$3,516,000.00 and no bid protest was filed. The lowest responsible bid was submitted by O.C. Jones & Sons, Inc. in the amount of \$3,364,800.00. A budget appropriation of \$1,710,000 from the Park Fund and General Government CIP Fund is required to award this project for construction.

As was previously approved for the successful completion of recent projects with tight completion schedules, staff requests use of the same change order policy (copy of policy is included in the Council agenda packet). This policy allows for timely completion of this project while addressing the need to respond swiftly to construction conditions and approving necessary change orders, in order to limit potential claims or risk to the City. Construction contingency established for this project is \$505,000 - approximately 15% of the total contract value - and the change order authority would not exceed this amount.

Alternative: Denial of this action would result in failure to complete construction of the project before the 4th of July 2016 events at the Milpitas Sports Center.

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

Fiscal Impact: A budget appropriation is needed to award and complete this project.

Recommendations:

1. Receive a presentation and project progress report on the Milpitas Sports Center Sports Fields, Project No. 5104.
2. Award the construction contract to O.C. Jones & Sons, Inc. for an amount not to exceed \$3,364,800 and authorize the Director of Engineering/City Engineer to execute contract change orders for Milpitas Sports Center Sports Fields Project No. 5104, in the cumulative amount not to exceed \$505,000.
3. Approve a budget appropriation of \$1,710,000 from the Park Fund and General Government CIP Fund, which is required to award this project for construction.

XXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, DECEMBER 15, 2015**