



# MILPITAS CITY COUNCIL MEETING AGENDA

TUESDAY, APRIL 5, 2016

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

## SUMMARY OF CONTENTS

- I. **CALL TO ORDER/ROLL CALL** by the Mayor (6:00 p.m.)
- II. **ADJOURN TO CLOSED SESSION**
  - (a) **CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**  
Pursuant to California Government Code section 54956.9(d)(1)
    - (1) U.S. Equal Employment Opportunity Commission v. City of Milpitas; U.S. District Court, Northern District of California, Case No. 15-CV-04444
    - (2) City of Milpitas v. City of San Jose Local Enforcement Agency; appeal of LEA Hearing Officer Decision, California Department of Resources Recycling and Recovery (no case or file no.)
    - (3) Milpitas Mobile Home Estates, et al. v. The City of Milpitas, et al., Santa Clara County Superior Court Case No. 112CV227468, Ninth Circuit Court of Appeals Case No. 14-16808
  - (b) **CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**  
Pursuant to California Government Code Section 54957.6  
City Negotiators: Tom Williams, Tina Murphy  
Employee Groups: Mid-management and Confidential Unit (Mid-Con), and Professional and Technical Group (ProTech)  
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
- 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** – March 15, 2016
- VII. **SCHEDULE OF MEETINGS – COUNCIL CALENDAR** - April 2016
- VIII. **PUBLIC FORUM**

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

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- IX. ANNOUNCEMENTS**
- X. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**
- XI. APPROVAL OF AGENDA**
- XII. CONSENT CALENDAR (Items with asterisks\*)**

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

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**XIII. PUBLIC HEARINGS**

- 1. Conduct Public Hearing, Adopt a Resolution Approving an Addendum, Adopting Findings, Adopting a Statement of Overriding Considerations, and Adopt a Resolution Approving the Major Tentative Map, Conditional Use Permit, Site Development Permit and Environmental Assessment for a 22-Story, Mixed-Use Building Including Two 19-Story Residential Towers Over One to Two Levels of Subterranean Parking and Three Levels of Parking and Retail and Office Uses on a Three-Acre Parcel (Staff Contact: Richard Patenaude, 408-586-3277)**
- 2. Conduct Public Hearing Adopt a Resolution Approving the Major Vesting Tentative Map, the Conditional Use Permit, and the Site Development Permit, for a 12-Story Tower Containing 210 Apartments and 2,937 Square Feet of Commercial Space, and 98 Townhome Units on a 5.72-Acre Parcel within the Piper-Montague Sub-District of the Transit Area Specific Plan pursuant to CEQA Guideline 15168(c)(2) (Staff Contact: Richard Patenaude, 408-586-3277)**

**XIV. UNFINISHED BUSINESS**

- \* 3. Receive Update of the Odor Control Report (Staff Contact: Steven Machida, 408-586-3355)**
- 4. Receive a Report and Demonstration on City's New Website (Staff Contact: Mike Luu, 408-586-2706)**

**XV. REPORTS OF OFFICERS**

- \* 5. Consider Mayor's Recommendation for Re-appointments to City of Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**
- \* 6. Per Recommendation of City Council's Facilities Naming Subcommittee, Approve Naming "Bob McGuire Park" in the Amalfi Development and Approve Naming "Larry Itliong Park" in 450 Montague Development (Staff Contact: Renee Lorentzen, 408-586-3409)**

**XVI. NEW BUSINESS**

- \* 7. Accept Santa Clara County Emergency Medical Services Agency Trust Funds of \$17,194.50 to Purchase Patient Care Data Hardware, Benefiting the Santa Clara County EMS System and Approve a Budget Adjustment (Staff Contact: Brian Stelling, 408-586-2822)**
- \* 8. Grant Site Development Permit Including Exception per Milpitas Municipal Code Section VIII-6.5.08 to Allow Construction of Swimming Pool & Spa at 1506 Augusta Court in the Hillside Zoning District (Staff Contact: Bill Ekern, 408-586-3273)**

**XVII. AGREEMENTS**

- \* 9. Approve Amendment No. 2 to the Agreement with M Group for Planning Services in the Amount of \$100,000 for a Total Agreement of \$290,000 (Staff Contact: Bill Ekern, 408-586-3273)
- \*10. Approve an Agreement with De Novo Planning Group for Preparation of the General Plan Update, Environmental Impact Report and Economic Development Strategy, in an amount Not to Exceed \$1,200,000 (Staff Contact: Bill Ekern, 408-586-3273)
- \*11. Authorize the City Manager to Amend the Contract with Level 3 Communications, LLC – the City’s Current Voice and Internet Service Provider - to a New Term of 36 Months Commencing April 5, 2016 (Staff Contact: Chris Schroeder, 408-586-3161)

**XVIII. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, APRIL 19, 2016**

**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](http://www.ci.milpitas.ca.gov) by selecting the Milpitas Municipal Code link.*

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk’s office at Milpitas City Hall, 3<sup>rd</sup> floor 455 E. Calaveras Blvd., Milpitas and on the City website. 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](http://www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp) (select meeting date)

**APPLY TO SERVE ON A CITY COMMISSION**

Current Vacancies on  
Parks, Recreation and Cultural Resources Commission  
Telecommunications Commission  
Veterans Commission

Commission application forms are available online at [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov) or at Milpitas City Hall. Contact the City Clerk’s office at 408-586-3003 for more information.

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

*meetings in that facility.*

## AGENDA REPORTS

### XIII. PUBLIC HEARINGS

1. **Conduct Public Hearing, Adopt a Resolution Approving an Addendum, Adopting Findings, Adopting a Statement of Overriding Considerations, and Adopt a Resolution Approving the Major Tentative Map, Conditional Use Permit, Site Development Permit and Environmental Assessment for a 22-Story, Mixed-Use Building Including Two 19-Story Residential Towers Over One to Two Levels of Subterranean Parking and Three Levels of Parking and Retail and Office Uses on a Three-Acre Parcel (Staff Contact: Richard Patenaude, 408-586-3277)**

**Background:** The project proposes to redevelop the site with a 22-story, mixed-use building that includes two 19-story residential towers over three stories of parking as well as supporting retail and office uses and one to two levels of below-ground parking. The residential towers would have a maximum height of approximately 277 feet. Retail and commercial uses are proposed on floors one through three with 42,000 square feet of retail uses and 8,000 square feet of office space. Up to 450 residences are proposed in the residential towers with a mix of six one-bedroom units, 304 two-bedroom units, and 140 three-bedroom units.

The project would provide a total of 1,383 parking spaces, including 183 above-ground, self-parking spaces on levels one through three, and 1,200 below-grade, automated parking spaces. Three driveways from Barber Lane would provide access to the project site: 1) the northern driveway would be adjacent to the northern property line and would be for emergency vehicle and waste disposal vehicle access only; 2) the central driveway would provide access for residents, commercial customers, and employees; and 3) the southern driveway would provide access for residents only.

The project includes five outdoor use areas. These include 1) a fourth-floor rooftop pool to serve gym members; 2) a ninth-floor rooftop pool for the residences; 3) a ground-level courtyard, 4) a ninth-floor rooftop garden, and 5) a fourth-floor dog park. In addition, each residence would include a private balcony.

On November 18, 2008, the City of Milpitas certified an Environmental Impact Report (EIR) for an 18-story mixed-use project at this location and subsequently approved that project. Planning staff reviewed the proposed project in relation to the previously approved project to determine the appropriate environmental document. Revisions to the EIR are not required because of a lack of substantial changes in the project, because of a lack of substantial changes with respect to the circumstances under which the proposed project is undertaken, and because no new information of substantial importance has been uncovered. On that basis, Planning staff determined that an Addendum is the appropriate environmental document in compliance with CEQA Guidelines 15164, 15163, and 15162. An Addendum to the EIR has been prepared to evaluate any environmental impacts of the proposed changes from the entitled project to the proposed project. The Addendum concludes that the proposed project would not result in any new impacts that were not disclosed in the previously-certified EIR, nor would changes substantially increase the magnitude of those impacts previously identified. A supplemental or subsequent EIR is therefore not required, and the Addendum to the Landmark Tower Mixed-Use Development EIR has been prepared.

The Planning Commission conducted a public hearing on February 24, 2016, and adopted a Resolution by a 6-1 vote recommending the City Council approve the proposed project. The Planning Commission found the proposed project is consistent with the City of Milpitas General Plan and the Zoning Ordinance.

**Fiscal Impact:** None.

**Recommendations:**

1. Open the public hearing for comments, and move to close the hearing following any speakers.
  2. Per the Planning Commission's recommendation, adopt the following two Resolutions:
    - a. Resolution approving the Addendum to the Certified Final Environmental Impact Report, adopting the Environmental Findings, Adopting a Statement of Overriding Considerations and Adopting a Mitigation Monitoring and Reporting Program
    - b. Resolution approving the Major Tentative Map, Conditional Use Permit, Site Development Permit and Environmental Assessment for a 22-story, mixed-use building including two 19-story residential towers over one to two levels of subterranean parking and three levels of parking and retail and office uses on a three-acre parcel.
- 2. Conduct Public Hearing Adopt a Resolution Approving the Major Vesting Tentative Map, the Conditional Use Permit, and the Site Development Permit, for a 12-Story Tower Containing 210 Apartments and 2,937 Square Feet of Commercial Space, and 98 Townhome Units on a 5.72-Acre Parcel within the Piper-Montague Sub-District of the Transit Area Specific Plan pursuant to CEQA Guideline 15168(c)(2) (Staff Contact: Richard Patenaude, 408-586-3277)**

**Background:** The applicant proposes to construct a 12-story tower containing 210 apartments and 2,937 square feet of commercial space, and 98 townhome units and associated site improvements on 5.72 acres known as Piper Drive Residential. The proposed project, developed by KB Home and Barry Swenson Builder, would contain a total of 308 residential units at 54 units per acre, to meet close to the maximum level of the density range (41-60 units/acre) allowed for this site. This project is consistent with the development program addressed by the Transit Area Specific Plan (TASP) Environmental Impact Report pursuant to CEQA Guideline 15168(c)(2).

Parking would exceed the City's minimum parking requirements by providing 279 spaces on four levels (one subterranean) of the 12-story tower, and providing two garage parking spaces per townhome unit, as well as 18 guest parking spaces. The project includes site improvements, including improved public streets (Piper Drive and Garden Street), streetscape and landscape improvements, stormwater treatment, utility, and public art.

The Planning Commission conducted a public hearing on March 9, 2016, and adopted a resolution by a unanimous vote recommending the City Council approve the proposed Project. The Planning Commission found the proposed Project is consistent with the City of Milpitas General Plan, the TASP and the Zoning Ordinance.

**Fiscal Impact:** None.

**Recommendations:**

1. Open the public hearing for comments, and move to close the hearing following any speakers.
2. Per the Planning Commission's recommendation, adopt a resolution approving the Major Vesting Tentative Map, the Conditional Use Permit, and the Site Development Permit, for a 12-story tower containing 210 apartments, 2,937 square feet of commercial space, and 98 townhome units on a 5.72-acre parcel within the Piper-Montague Sub-District of the Transit Area Specific Plan (TASP).

**XIV. UNFINISHED BUSINESS**

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

**Background:** From February 3 through March 8, 2016, the Bay Area Air Quality Management District (BAAQMD) forwarded 540 complaints originating in Milpitas. 255 complaints

identified a garbage odor, 21 complaints identified a sewage odor, 259 complaints did not identify an odor source, and 5 complaints identifying multiple sources. As of the last Council update, the City's odor reporting website has received 88 reported complaints.

**Recommendation:** Receive the monthly update of the odor control report.

**4. Receive a Report and Demonstration on City's New Website (Staff Contact: Mike Luu, 408-586-2706)**

**Background:** Information Services staff is very pleased to report that it has - in collaboration with various City departments - completed the new edition of the City of Milpitas website. The current website will be replaced with the all new and improved City website design and features. Staff demonstrated the new site to the Telecommunications Commission on March 21, 2016, where the effort received many positive inputs and the new design was unanimously approved by Telecommunications Commission. The current website is more than five years old, so with the growing demand and viewing from mobile devices, the new redesign will respond and adapt to the new requirements. The goal of the redesign is to create a site that is cleaner and adjusted to integrate with social media.

At the City Council meeting, the Information Services Director will make a brief presentation to demonstrate the new web site. New features include:

- Easily translates pages to different languages
- Responsive and mobile-friendly – adapts and adjusts to mobile devices
- Using CMS (Content Management System)
- Modern design
- Consolidated
- Will easily integrate with social media sites

**Alternative:** Maintain the current website design.

**Recommendation:** Receive report and direct staff to switch the current City of Milpitas website display to the new and modernized edition of the City's website.

**XV. REPORTS OF OFFICERS**

**\* 5. Consider Mayor's Recommendation for Re-appointments to City of Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**

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

**Telecommunications Commission:** re-appoint Albert Alcorn to a term that expires in January of 2017.

Re-appoint Idrees Munir to a term that will expire in January of 2018.

**Veterans Commission:** re-appoint Dana Arbaugh to a term that will expire in February of 2019. Re-appoint Alternate No. 1 William Devereux to a term that will expire in February of 2019.

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

**\* 6. Per Recommendation of City Council's Facilities Naming Subcommittee, Approve Naming "Bob McGuire Park" in the Amalfi Development and Approve Naming "Larry Itliong Park" in 450 Montague Development (Staff Contact: Renee Lorentzen, 408-586-3409)**

**Background:** The City Council Facilities Naming Subcommittee was formed on October 26, 2015 to review and recommend the naming of City streets, parks and facilities for final City Council approval. The Subcommittee met recently, when the two members reviewed and recommended two new park names for final City Council approval.

A new City park in the Amalfi residential development by Citation Homes on Garden Street and Milpitas Boulevard is recommended to be named “Bob McGuire Park.” Robert McGuire was the City of Milpitas’ first Parks and Recreation Director and served as a City Commissioner on the Parks, Recreation and Cultural Resources Commission for more than a decade. Many of the program concepts that Mr. McGuire during his tenure are offered in the community today.

Bob McGuire is one of the approved Milpitas Historical Names and per the Naming Subcommittee, it does meet the City Streets, Parks and Facilities Naming Standard Operating Procedure Criteria, 1.C and 1.D:

1C) Historical or cultural significance: the name of a historical figure can be considered if the figure had a significant and extraordinary historical influence on the area, state, national or international level;

1D) The name of any person or family that has made a significant impact in the community and/or in development of the street, park, facility;

A new City park in the 450 Montague residential development by Lennar is recommended to be named the “Larry Itliong Park.” Along with Cesar Chavez, Mr. Itliong led Filipino farm workers in California to instigate one of the American farm labor movement’s finest hours – the Delano Grape Strike of 1965. He organized a group of 1500 Filipinos to strike against the grape growers of Delano, California, beginning a collaboration between workers of multiple ethnicities that is considered an important event in U.S. civil rights history.

Larry Itliong is one of the approved Influential People Names and per the Naming Subcommittee, it does meet the City Streets, Parks and Facilities Naming Standard Operating Procedure Criteria, 1C (as listed above).

**Fiscal Impact:** None.

**Recommendation:** Per recommendation of the City Council Facilities Naming Subcommittee, approve two new City of Milpitas Park names - Bob McGuire Park (at Amalfi) and Larry Itliong Park (at 450 Montague).

## **XVI. NEW BUSINESS**

- \* 7. Accept Santa Clara County Emergency Medical Services Agency Trust Funds of \$17,194.50 to Purchase Patient Care Data Hardware, Benefiting the Santa Clara County EMS System and Approve a Budget Adjustment (Staff Contact: Brian Stelling, 408-586-2822)**

**Background:** The Santa Clara Emergency Medical Service Agency has awarded funding through the EMS Trust Fund to the City of Milpitas for the purchase of patient care data hardware to assist patient documentation. This hardware will include Apple i-pads, cases, chargers and modems. Funding will also be utilized for implementation and the servicing of stated hardware. This funding will provide Milpitas Fire Department the ability to transfer Patient Data to the transporting ambulance and receiving hospitals, allowing for a rapid and improved patient care reporting system. This Data Project is a Santa Clara County mandatory requirement by all Emergency Medical Providers, which will be initiated by June, 30 2016. There are no matching funds required by the City of Milpitas. The i-pads will require data plans that will be paid for in the FY 2016-17 budget.

**Fiscal Impact:** None. There is no net cost to the City as the purchase of the aforementioned hardware is fully offset by grant funds

**Recommendation:** Accept \$17,194.50 funds from the Santa Clara County EMS Trust Fund and approve a budget appropriation into the Fire Department's budget.

- \* 8. **Grant Site Development Permit Including Exception per Milpitas Municipal Code Section VIII-6.5.08 to Allow Construction of Swimming Pool & Spa at 1506 Augusta Court in the Hillside Zoning District (Staff Contact: Bill Ekern, 408-586-3273)**

**Background:** On February 10, 2016, the Planning Commission adopted a resolution recommending the City Council to grant an exception per Milpitas Municipal Code section VIII-6.5.08 and grant Site Development permit no. 15-0003 to allow construction of an in-ground swimming pool and spa in the Hillside Zoning District. The project is conditioned so that the permits for the pool cannot be obtained until such time as the Governor rescinds the state's emergency drought regulations.

**Fiscal Impact:** None.

**Recommendation:** Approve Site Development Permit No. 15-0003 to allow the construction of an in-ground swimming pool and spa at 1506 Augusta Court, in the Hillside Zoning District, subject to the Conditions of Approval.

## XVII. AGREEMENTS

- \* 9. **Approve Amendment No. 2 to the Agreement with M Group for Planning Services in the Amount of \$100,000 for a Total Agreement of \$290,000 (Staff Contact: Bill Ekern, 408-586-3273)**

**Background:** The City entered into an agreement for planning services with M Group in March 2015 for \$140,000. The agreement was amended in December 2015, for an additional \$50,000, for a total agreement of \$190,000. M Group is providing day to day line support for the Planning Department, covering the public counter, answering telephone questions, meeting with applicants, reviewing applications, coordinating design and project review with other city departments and outside agencies, preparing written and oral reports for the Planning Commission and City Council, as well as spending considerable time after the completion of the Planning permit process reviewing building permit applications for conformance with conditions of approval. The firm currently provides a principal planner for work on major, complex projects (such as the recently approved Landmark Towers), and an assistant planner for smaller projects and public interaction.

Services provided by this group, in addition to the support provided by two other firms, enables City staff to also provide these services to the residents and businesses in compliance with the state laws requiring timely review of projects and to assure that all projects conform to the City's codes. The volume of development, not just new projects, but approved projects now undergoing building and engineering review for construction, simply outstrips the resources of the City staff. By continuing to fund M Group, the City will continue to meet the expectations of its residents for timely and complete review of projects.

**Fiscal Impact:** None. The planning consultant agreement is cost recovery, so there is no fiscal impact to the City.

**Recommendation:** Approve the Second Amendment to the Agreement with M Group for planning services in the amount of \$100,000, for a total agreement of \$290,000.

- \*10. Approve an Agreement with De Novo Planning Group for Preparation of the General Plan Update, Environmental Impact Report and Economic Development Strategy, in an amount Not to Exceed \$1,200,000 (Staff Contact: Bill Ekern, 408-586-3273)**

**Background:** As part of its Strategic Plan, the City Council directed that the General Plan be updated. Staff solicited qualifications from six planning firms that have Bay Area General Plan experience. Based on interviews with the six firms, staff selected two firms to provide proposals for the preparation and adoption of a new General Plan for the City. The two firms were De Novo Planning Group and Barry Miller Consulting. Both groups responded promptly and thoroughly to the request. Staff recommends De Novo based on their approach to accessing the Council and public throughout the anticipated two-year effort. Their approach, in staff's estimation, more closely captured the sense of the City and its constituents for engagement and interaction for such a large and time-consuming planning effort. Both groups proposed significant engagement with the range of citizen interests, but De Novo's approach seems to fit better with staff and the public. Not required as part of the proposal, as staff anticipated soliciting a separate contract for the Environmental Impact Report, De Novo prepared a proposal and logic for including the EIR as part of their scope of work. After conversation with them on this topic, staff believes it will be an effective and efficient means of delivering both document (General Plan and EIR) in a timely manner.

The General Plan will be a complete rewrite of the document to capture the City's vision for the next 30 years and will include many elements beyond the limited analysis required under state law. For example, the impacts of Sea Level Rise will be profound in the Bay Area within this century. Including a public discussion and technical analysis will greatly benefit the Council and the citizens in planning for that future. Similarly, De Novo proposes to include an expansion of the Economic Development portions of the General Plan such that the City will have a thorough Economic Development Strategy document to assist with land use decisions in the future. The General Plan adoption process is anticipated to be complete by December 2018; the Agreement terminates in February 2019 to provide adequate time for close out of all contract elements. De Novo has completed a significant number of General Plan projects throughout the Bay Area. They recently completed comprehensive General Plan Updates and EIRs for the Cities of Brentwood and Cotati, a General Plan EIR and Climate Action Plan for Foster City, and are nearing completion of the General Plan Update and EIR for Sebastopol.

**Fiscal Impact:** Funding is available in the adopted Capital Improvement Plan.

**Recommendation:** Approve an agreement with De Novo Planning Group for the preparation of the General Plan Update, Environmental Impact Report, and Economic Development Strategy, in an amount not to exceed \$1,200,000.

- \*11. Authorize the City Manager to Amend the Contract with Level 3 Communications, LLC – the City's Current Voice and Internet Service Provider - to a New Term of 36 Months Commencing April 5, 2016 (Staff Contact: Chris Schroeder, 408-586-3161)**

**Background:** On October 21, 2011, the City of Milpitas solicited a Request for Proposal ("RFP") for a new Internet Service Provider. Six proposals were received and evaluated. TW Telecom Inc. received the highest score and was awarded the contract. Their service levels have met the City's operational expectations providing effective, fast and integral internet services. On March 4, 2016 Level 3 Communications LLC. (L3), as result of their 2014 acquisition of TW Telecom, Inc, entered into an Assignment and Assumption Agreement with the City of Milpitas to formally assume the terms, conditions, obligations and liability of the TW Telecom, Inc. contract. This change in ownership was just recently discovered in the process of evaluating discounted market rates. In doing so, the need for this contract amendment arose.

In the process of rate evaluation, Information Services staff surveyed current market prices and determined that they are well below those agreed to in the original 2012 contract. At this time,

L3 is offering a 36-month contract term with a reduced monthly charge of \$1,225.77 for voice over IP services and \$994 for general internet services citywide, representing \$6,811.20 in annual savings.

Internet services are now an essential basic necessity similar in nature to other utilities such as gas, water or electricity. Extending the contract at this time given favorable prices, combined with the delivery of superior service far outweigh any marginal savings that might accrue to a new provider given the extensive work, and risk, involved in switching over services with the risk of impacting both general and public safety operations (excluding 911). Some key considerations include: the possible installation of new optic-fiber infrastructure, deployment of new switching hardware by a new provider, and significant staff time to reconfigure the Internet Protocol via “Addressing and Domain Name Server settings”, etc. The current providers internet service supports voice over internet protocol (VoIP) traffic, so any change in this model would likely impact pricing for current voice services (local/long-distance calls). In the worst case it would have to be sourced alternatively at significant additional cost to the City.

Staff therefore recommends amending the contract and synchronizing the contract terms of both voice and internet services to a new term of 36 months from April 5, 2016 to April 5, 2019 at the reduced monthly prices noted above. The total not-to-exceed contract amount, for the new 36 month term for both voice and internet service to Level 3 Communications, LLC will be \$79,911.72. The total contract amount for both voice and internet service based on the original term to date and the new 36 month term combined is not-to-exceed \$222,340.95.

**Fiscal Impact:** Additional savings of \$6,811.20 per year for the next three years for a total contract value, inception to date, of \$222,340.95.

**Recommendation:** Authorize the City Manager to amend the contract with Level 3 Communications, LLC - the City’s current voice and internet service provider - to a new term of 36 months starting April 5, 2016.

**XVIII. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, APRIL 19, 2016**