



**MILPITAS CITY COUNCIL  
REGULAR MEETING  
AGENDA**

**TUESDAY, JUNE 7, 2016**

**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**
- II. ADJOURN TO CLOSED SESSION (6:00 p.m.)**
  - (a) 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
  - (b) CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**  
Pursuant to California Government Code Section 54956.9(d)(1)  
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
  - (c) CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION**  
Pursuant to California Government Code Section 54956.9 - City as Plaintiff
  - (d) CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION**  
Pursuant to California Government Code Section 54956.9 - City as Defendant
  - (e) CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**  
Pursuant to California Government Code section 54956.9(d)(1)  
American Arbitration Association Case No. 01-16-0000-4753
- 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 (Vice Mayor Montano)**
- VI. APPROVAL OF COUNCIL MEETING MINUTES May 17 and 23, 2016**
- VII. SCHEDULE OF MEETINGS – COUNCIL CALENDAR June 2016**
- VIII. PRESENTATION**
  - Proclaim June as *Parks & Recreation Month*

**IX. 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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**X. ANNOUNCEMENTS**

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

**XII. APPROVAL OF AGENDA**

**XIII. 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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**XIV. PUBLIC HEARING**

- 1. Receive Update on the State Water Supply Situation, Conduct a Public Hearing and Adopt a Resolution Adopting the 2015 Urban Water Management Plan (Staff Contact: Steven Machida, 408-586-3355)**

**XV. UNFINISHED BUSINESS**

- \* 2. Receive Odor Control Report Update (Staff Contact: Steven Machida, 408-586-3355)**
- 3. Receive Report and Update on the Santa Clara Countywide Study on Minimum Wage Increase (Staff Contact: Edesa Bitbadal, 408-586-3052)**
- \* 4. Receive a Report on the Expenditure for Solid Surface Decking for the New Milpitas Sports Center Sports Field, Project No. 5104 (Staff Contact: Steve Erickson, 408-586-3301)**

**XVI. REPORTS OF MAYOR AND COMMISSION**

- \* 5. Consider Mayor's Recommendations for Re-appointments to City of Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**
- 6. Hear Report and Consider Request From Mayor Esteves Regarding Santa Clara Valley Transportation Authority's Proposed 30 Year Half-Cent Sales Tax (Contact: Mayor Esteves, 408-586-3029)**
- 7. Consider Written Request from the Milpitas Unified School District for a Joint Meeting with the Milpitas City Council (Staff Contact: Tom Williams, 408-586-3050)**
- \* 8. Approve Donation of \$1,000 from the Veterans Commission Funds to the Milpitas Food Pantry (Staff Contact: Dale Flunoy, 408-586-3228)**

**XVII. NEW BUSINESS**

- \* 9. Accept State Homeland Security Grant Program to Reimburse the City of Milpitas for Overtime Costs Paid to Fire Department Personnel for Participation in Region-Wide Disaster Training (Staff Contact: Geoff Maloon, 408-586-2800)**

- \*10. **Accept the 2016 Citizen Options for Public Safety (COPS) Grant (Staff Contact: Daryl Sequeira, 408-586-2434)**
- \*11. **Approve the Accounts Receivable Write-offs for the Fiscal Year Ended June 30, 2016 (Staff Contact: Russell Morreale, 408-586-3111)**

**XVIII. RESOLUTIONS**

- \*12. **Adopt a Resolution to Release Unclaimed Checks per Standard Operating Procedure (Staff Contact: Gabrielle Tsang, 408-586-3131)**
- \*13. **Adopt a Resolution Approving the Annual Engineer's Report, Declaring Intention to Levy and Collect Assessments for Fiscal Year 2016-2017, and Providing Notice of Public Hearing for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch (Staff Contacts: Nina Hawk, 408-586-2603 and Steve Machida, 408-586-3355)**
- \*14. **Adopt a Resolution Approving the Annual Engineer's Report, Declaring Intention to Levy and Collect Assessments for Fiscal Year 2016-2017, and Providing Notice of Public Hearing for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon (Staff Contact: Nina Hawk, 408-586-2603 and Steve Machida, 408-586-3355)**
- \*15. **Continue the Request to Adopt a Resolution Annexing Real Properties Within Tract No. 10324 into Community Facilities District No. 2008-1, Approve Final Map Tract 10324 for a 489-Unit Residential Development at 450 Montague Expressway and Authorize the City Manager to Execute the Subdivision Improvement Agreement, Fee Credit Agreement, and Density Averaging Agreement (Staff Contact: Judy Chu, 408-586-3325)**
- \*16. **Adopt a Resolution Calling for the General Municipal Election on November 8, 2016 (Staff Contact: Mary Lavelle, 408-586-3001)**
- \*17. **Consider Action and Adopt a Resolution Calling for a Ballot Measure Following Receipt of Petition for Referendum on Award of Contract for Solid Waste Services to be Placed on the Ballot for the November 8, 2016 Election (Staff Contacts: Mary Lavelle, 408-586-3001 and Chris Diaz, 408-586-3050)**

**XIX. AGREEMENTS & BIDS**

- \*18. **Approve Amendment No. 1 to an Agreement Setting Forth Terms Under Which Milpitas Police Officers May be Authorized to Work as Reserve Officers at the Santa Clara Stadium and Authorize the City Manager to Execute the Amendment No. 1 (Staff Contact: Christopher J. Diaz, 408-586-3040)**
- \*19. **Authorize the City Manager to Execute Amendment No. 2 to the Agreement with Otis Elevator Company Extending it for Five More Years for a Total Ten Year Amount Not-To-Exceed \$236,055 (Staff Contact: Chris Schroeder, 408-586-3161)**
- \*20. **Award the Bid and Authorize the City Manager to Execute a Contract with Bosco Oil, Inc. Doing Business As Valley Oil Company for Gasoline and Diesel Fuel for the Not-To-Exceed Annual Amount of \$600,000 (Staff Contact: Chris Schroeder, 408-586-3161)**
- \*21. **Authorize the City Manager to Execute a Technical Services Support Agreement with Physio-Control, Inc. to Support and Maintain the Fire Department's Lifepak Defibrillator Monitors and Lucas Chest Compression Systems, and Authorize Purchase**

of New Equipment through Physio-Control Inc. Totaling \$165,138 (Staff Contact: Chris Schroeder, 408-586-3161)

- \*22. Approve Amendment No. 2 to the Agreement with OfficeMax for the Purchase of Citywide Office Supplies for the Increased Amount of \$170,000 through June 30, 2018 for a Total Five Year Amount Not-To-Exceed \$610,000 (Staff Contact: Chris Schroeder, 408-586-3161)
- \*23. Approve Plans and Specifications and Authorize Advertisement for Bid Proposals for Street Resurfacing 2016, Project No. 4280 (Staff Contact: Steve Chan, 408-586-3324)
- \*24. Approve Project Plans and Specifications, and Authorize Advertisement for Bid Proposals for the Parking Garage Fire Door Conversion, Projects No. 3407 and No. 4276 (Staff Contact: Steve Erickson, 408-586-3301)
- \*25. Approve and Authorize the City Manager to Execute Amendment No. 4 to the Consulting Service Agreement with Hatch Mott MacDonald, LLC in the amount of \$450,000 and Extend the Terms of the Agreement to June 30, 2017 to Continue Engineering Staff Augmentation for the Land Development Engineering Division (Staff Contact: Judy Chu, 408-586-3325)
- \*26. Approve Project Plans and Specifications, and Authorize Advertisement for Bid Proposals for Bridge Improvements, Project No. 4271 (Staff Contact: Steve Erickson, 408-586-3301)
- \*27. Approve Project Plans and Specifications, and Authorize Advertisement for Bid Proposals for Higuera Adobe Park Picnic and Playground Renovation, Project No. 5097 (Staff Contact: Steve Erickson, 408-586-3301)
- \*28. Approve Project Plans and Specifications, and Authorize Advertisement for Bid Proposals for Light Rail Median Landscaping Project No. 2001 (Staff Contact: Steve Erickson, 408-586-3301)
- \*29. Authorize the City Manager to Execute an Agreement with the County of Santa Clara for Fiscal Year 2016-17 Senior Nutrition Program (Staff Contact: Renee Lorentzen, 408-586-3409)

**XXI. DEMAND**

- \*30. Authorize and Approve Payment of Annual Software Support and Maintenance Fees to Cayenta (Staff Contact: Mike Luu, 408-586-2706)

**XXI. ADJOURNMENT**

**NEXT REGULAR CITY COUNCIL MEETING  
TUESDAY, JUNE 21, 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  
e-mail: [cdiaz@ci.milpitas.ca.gov](mailto:cdiaz@ci.milpitas.ca.gov) / Phone: 408-586-3040

*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.

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

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.*

## AGENDA REPORTS

### XIV. PUBLIC HEARING

#### 1. **Receive Update on the State Water Supply Situation, Conduct a Public Hearing and Adopt a Resolution Adopting the 2015 Urban Water Management Plan (Staff Contact: Steven Machida, 408-586-3355)**

**Background:** The State of California is interested in the efficient use of state waters because of the limited supply in the State. Due to the severe drought, over the past two years the Governor has issued Executive Orders and the State Water Resources Control Board (SWRCB) has adopted water conservation requirements. These requirements include water use prohibitions, assigned water conservation goals to retailers, enforcement requirements by the SWRCB onto retailers, and enforcement requirements by retailers onto the community. State-wide water savings is 23.9% for the period June 2015 to March 2016.

On May 9, 2016, the Governor issued a new Executive Order noting that drought conditions continue and California is required to move beyond temporary emergency drought measures to permanent drought measures. Permanent prohibitions include: hosing off sidewalks, driveways, and other hardscapes, washing automobiles with hoses not equipped with a shut-off nozzle, using non-recirculated water in a fountain or other decorative water feature, lawn-watering that results in runoff, lawn watering within 48 hours after measurable precipitation, and irrigation of ornamental turf on public street medians. Other key provisions include: increasing priority for funding projects that reduce leaks and other water system losses, require retailers to accelerate data collection, improve water system management, and prioritize capital improvement projects that reduce water waste. Draft regulations are expected to be released in January 2017.

Prior to May 9, 2016, the San Francisco Public Utilities Commission (SFPUC), one of the city's water supply wholesalers had implemented a conservation level of 10%. Staff is not aware of any planned changes at this time. However, the Santa Clara Valley Water District (SCVWD), the city's other water supply wholesaler, may consider easing its current level of 30% conservation.

The drought in 1976-77 was the most severe in California history. As a result, the State adopted Assembly Bill 797, creating the "Urban Water Management Planning Act" in 1983. This Act requires urban water suppliers serving more than 3,000 customers to prepare and adopt an Urban Water Management Plan every five years that describes the existing and planned service area, supply and demand, reliability, and recycling and conservation efforts. In 2009 the State adopted Senate Bill X7-7, creating the "Water Conservation Bill of 2009." This legislation required urban water retailers to develop water use targets to achieve 10 percent per capita water use reduction by 2015 and 20 percent reduction by 2020. The 2015 Urban Water Management Plan is due to the State by July 1, 2016.

The City's 2015 Urban Water Management Plan, included in the Council packet, describes the City's service area, existing and planned sources of water, reliability of the supply, water demand and use projections, water conservation, demand management measures, a comparison between State-mandated water use targets against actual water use, and water shortage contingency analysis.

Major changes from previous plans are:

- water supply projections include use of groundwater (wells) and an expansion of the recycled water system as discussed in the Water Supply Augmentation Feasibility Report
- water use target calculations were revised from 2010 fiscal year calculations to a calendar year basis

- demand management measure descriptions and retailer reporting incorporate State revisions
- water loss calculations are standardized
- sections and tables are reformatted to facilitate review by regulatory agencies
- May 9, 2016 Executive Order permanent water use prohibitions are addressed in the Water Shortage Contingency Plan

The 2015 UWMP identifies several key points:

- 2015 UWMP is a water supply planning tool
- Existing and planned customer water demands include land uses shown in Midtown and Transit Area Specific Plans, 2009 Water Master Plan, planned large redevelopments such as Serra Center and Pacific Mall, miscellaneous redevelopments, and addition of recycled water irrigation for Ed Levin County Park and two hillside golf courses
- The City has sufficient contractual water supply to meet customer demands
- The City is proactively seeking to expand its water supply options to provide both operational flexibility and reliability
- The City is planning to introduce groundwater as a new supply
- The City is working with several stakeholders to expand the recycled water system to achieve regional benefits
- The City's State-mandated target for 2015 and 2020 is 159 and 146 gallons per day per capita (gpdpc) respectively; calculated by taking city-wide consumption divided by the population
- The 2015 actual per capita usage was only 108 gpdpc, well within target levels due to the community's diligent efforts in complying with the Governor's call for conservation
- 2015 water use is lower than estimated in the 2010 Plan due to severe drought conditions and water usage is expected to rebound to normal levels when the drought is over
- The 2020 per capita water use is anticipated to meet water use targets as the community's normal water use levels reflect a conservation ethic, new construction includes water efficient fixtures and recycled water use for landscape, and some existing landscape will convert from potable to recycled water
- The 2010 Water Shortage Contingency Plan was successfully implemented and is the basis for the updated Water Shortage Contingency Plan

State regulations require a public hearing prior to adoption of the 2015 Urban Water Management Plan. On February 26, the City published notice to update its Urban Water Management Plan and invited public comment. On May 20 and 27, the City published notice to the public, via the local newspaper, that the 2015 UWMP was available on the City website and at City Hall.

**California Environmental Quality Act:** The 2015 UWMP is exempt from CEQA pursuant to Water Code Section 10652.

**Alternative:** Failure to adopt the 2015 Urban Water Management Plan renders the City ineligible for any water management grant or loan administered by the Department of Water Resources (DWR) and may render the City ineligible for other State funding, depending on the conditions that are specified in funding guidelines.

**Fiscal Impact:** There are no fiscal impacts related to UWMP adoption. The City's operating budget includes water system operational costs and the City's capital improvement program identifies well improvements and recycled water extension projects and funding options.

**Recommendations:**

1. Receive update from City Engineering staff on the State water supply situation.
2. Open the public hearing to receive comments on the 2015 Urban Water Management Plan.
3. Move to close the public hearing, following any speakers.
4. Adopt a Resolution adopting the 2015 Urban Water Management Plan.

## XV. UNFINISHED BUSINESS

### \* 2. **Receive Odor Control Report Update (Staff Contact: Steven Machida, 408-586-3355)**

**Background:** From April 6 through May 10, 2016, the Bay Area Air Quality Management District (BAAQMD) forwarded 393 complaints originating in Milpitas. 160 complaints identified a garbage odor, 21 complaints identified a sewage odor and 212 complaints did not identify an odor source. As of the last Council update, the City's odor reporting website had received 51 reported complaints.

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

### 3. **Receive Report and Update on the Santa Clara Countywide Study on Minimum Wage Increase (Staff Contact: Edesa Bitbadal, 408-586-3052)**

**Background:** The City of San Jose is leading the effort to analyze and study a Countywide minimum wage. Several cities in Santa Clara County, including City of Milpitas, agreed to assist and participate in the study effort. The preliminary report findings were released in mid-April with the full study to be released in mid-June. Upon receipt of the preliminary report finding, staff forwarded them to the Mayor and City Council for review and discussion.

On January 1, 2016, state law required the minimum wage to increase to \$10.00 per hour. All City positions and contracted agencies and organizations are compliant with this minimum wage increase.

On April 4, 2016, Governor Brown signed into law Senate Bill (SB) 3. SB 3 (Leno) requires a new statewide minimum wage schedule with annual increases commencing January 1, 2017 through January 1, 2023. SB 3 requires the minimum wage for any employer who employs 26 or more employees to adhere to the following minimum wage schedule:

- (1) For any employer who employs 26 or more employees, the minimum wage shall be as follows:
  - (A) From January 1, 2017, to December 31, 2017, inclusive,—ten dollars and fifty cents (\$10.50) per hour.
  - (B) From January 1, 2018, to December 31, 2018, inclusive,—eleven dollars (\$11) per hour.
  - (C) From January 1, 2019, to December 31, 2019, inclusive,—twelve dollars (\$12) per hour.
  - (D) From January 1, 2020, to December 31, 2020, inclusive,—thirteen dollars (\$13) per hour.
  - (E) From January 1, 2021, to December 31, 2021, inclusive,—fourteen dollars (\$14) per hour.
  - (F) From January 1, 2022, and until adjusted by subdivision (c)—fifteen dollars (\$15) per hour.

SB 3 also requires the minimum wage for any employer who employs 25 or fewer employees to adhere to the following minimum wage schedule:

- (2) For any employer who employs 25 or fewer employees, the minimum wage shall be as follows:
  - (A) From January 1, 2018, to December 31, 2018, inclusive,—ten dollars and fifty cents (\$10.50) per hour.
  - (B) From January 1, 2019, to December 31, 2019, inclusive,—eleven dollars (\$11) per hour.
  - (C) From January 1, 2020, to December 31, 2020, inclusive,—twelve dollars (\$12) per hour.
  - (D) From January 1, 2021, to December 31, 2021, inclusive,—thirteen dollars (\$13) per hour.
  - (E) From January 1, 2022, to December 31, 2022, inclusive,—fourteen dollars (\$14) per hour.
  - (F) From January 1, 2023, and until adjusted by subdivision (c)—fifteen dollars (\$15) per hour.

The City Council has also considered raising the current contract janitorial minimum wage to \$13.00 per hour but had deferred any action until the Countywide minimum wage study was completed. The table reflects the current contract provisions and the escalation of wages for the city's contract janitorial services. Escalation per terms of the agreement provides for an increase to \$10.75 effective January 1, 2017 (.25/hour more than required by SB 3) and an increase to \$13.69 effective January 1, 2018 (\$2.69/hour more than required by SB 3).



The City Council's budget study session was held on April 25, 2016. There were several key decision points to prioritize and discuss, including internal budget requests from all departments as well as the possible escalation of the private janitorial wage increase ahead of the contractual wage increase (reflected in the table included in the agenda packet). To comply with public contracting provisions, any wage increase will require invoking the 30-day cancellation clause with the City's current janitorial contract vendor and re-issuance of a new Request for Proposal (RFP) with the wage terms as may be directed by City Council. Although the preliminary Countywide minimum wage study was released in April, the City Council did not raise the current janitorial contract during the City's budget hearing and approval on May 7, 2016.

**Outreach:** Economic Development staff in collaboration with Milpitas Chamber of Commerce held two meetings with local business owners to review the newly increased State mandated minimum wage increase, the Countywide study, and a hybrid of the State minimum wage increase with incremental increases linked to the State's CPI. Those who attended the meetings filled out a survey as well, in addition to voicing their thoughts and opinions during the meeting. The same survey has been mailed to Milpitas-based businesses in case they were not able to attend the meetings. A final meeting on three options is scheduled on June 6, 2016 at the Senior Center. Results of the survey and meetings will be presented to the City Council on June 7.

**Fiscal Impact:** None.

**Attachments:**

- A. Key Findings on Effects of \$15 Minimum Wage
- B. Report from BW Research Partnership
- C. Slides from BW Research on employer survey
- D. Senate Bill No. 3
- E. Wages paid by City of Milpitas to contracted janitorial service Varsity
- F. Matrix of Minimum Wage Rates for Cities in Santa Clara County

**Recommendation:** to receive a report from staff and direct staff, as appropriate.

**\* 4. Receive a Report on the Expenditure for Solid Surface Decking for the New Milpitas Sports Center Sports Field, Project No. 5104 (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** On December 1, 2015 the City Council awarded a contract to O.C. Jones and Sons (OCJ) to construct the Milpitas Sports Center Sports Field renovations. As a part of its work, OCJ installed 129,000 square feet of synthetic turf in place of the existing grass football field and created a new smaller youth sports field.

During the weekend of May 21-22, 2016, vandals gained access to the fields and damaged the new synthetic turf. A Police Report was filed and it is expected that the individual(s) responsible will be apprehended. However, unauthorized public access to the fields will continue to be problematic. Staff is coordinating with Public Safety and Recreation to determine methods to limit the unauthorized access. Staff is also investigating measures to protect the fields either by using roll out covers or solid surface decking.

The synthetic turf is a very durable and rugged product that will withstand heavy athletic use. The turf will also withstand concerts and public gatherings when certain precautions are used such as using chairs with the proper chair support (feet), washing food or liquid spillage from the field, prohibiting umbrellas or tent stakes on the field. In light that the fields will be used for the City's Annual 4th of July Fireworks Celebration, Staff was concerned about protecting the fields from the foot traffic and food spillage that will occur from the crowds that gather at the MSC for the fireworks show. Staff evaluated various coverings including tarps, woven polypropylene fabrics and solid surface decking. The tarps and fabrics pose a tripping hazard when they are

placed on the field in addition they will not comply with ADA access. Solid surface decking will provide protection to the field while providing a secure surface for ADA use.

Staff investigated the solid surface decking that was recommended by the turf manufacturer. We received several recommendations from end users throughout the country and most recently De Anza College purchased the solid surface decking for their college commencements on June 13, 2016. Based on the recommendations and our conversations with the De Anza College, Staff recommends that this is the best product for our application.

There is a lead time to manufacture and ship the decking to Milpitas to arrive in time for the 4th of July Celebration, therefore Staff purchased the solid surface decking recommended to ensure that the material will be received by this year's 4th of July event.

The cost to purchase and deliver the solid surface decking is \$283,130.63 which will be paid by the project budget.

**California Environmental Quality Act:** The project is exempt under Section 15301 (Existing Facilities) of the CEQA Guidelines.

**Fiscal Impact:** None. Adequate funds are available in the project budget for construction.

**Recommendation:** Receive a report from the Director of Engineering/City Engineer on the purchase of the solid surface decking in the amount of \$283,130.63.

## **XVI. REPORTS OF MAYOR AND COMMISSION**

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

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

**Economic Development Commission:** Re-appoint Commissioner Cat-Tuong Nguyen to a new term of three years that will expire in April of 2019. Re-appoint Alternate No. 2 Raghu Reddy to a new term of two years that will expire in April of 2018.

**Emergency Preparedness Commission:** Re-appoint Commissioners Betty Jo Reuter and Don Clendenin to terms of three years that will each expire in June of 2019.

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

### **6. Hear Report and Consider Request From Mayor Esteves Regarding Santa Clara Valley Transportation Authority's Proposed 30 Year Half-Cent Sales Tax (Contact: Mayor Esteves, 408-586-3029)**

**Background:** Santa Clara Valley Transportation Authority (VTA) is seeking voter approval for a half cent sales tax on the November 8, 2016 ballot in Santa Clara County. In terms of background, VTA already has three special taxes being levied on City of Milpitas and countywide taxpayers. These include a VTA half cent sales tax from 1976, a half cent sales tax from 2000 and an eighth cent sales tax adopted in 2008. The total sales tax rate by VTA is  $1 \frac{1}{8} \%$  out of the total sales tax in Milpitas of 8.75%. It should be noted of the 8.75% total that the City of Milpitas receives only one (1) percent.

The proposed VTA half cent sales tax for November will generate, just from the City of Milpitas, approximately \$10 million to \$12 million to VTA every year. These are potential revenues that

could otherwise come directly to the City of Milpitas for local programs, street maintenance and infrastructure improvements, if the City of Milpitas was to adopt its own half cent sales tax.

Over the life of the tax, not adjusted for inflation, Milpitas will generate \$300 million to \$360 million in sales tax revenue benefiting VTA. As such, it is important that VTA prioritize improvements directly benefiting the City of Milpitas and the amount of benefit received by the City of Milpitas is equal to the amount paid by Milpitas tax payers each year. Improvements to the Calaveras overcrossing just west of Milpitas Boulevard and the widening of Highway 237 are examples of projects directly benefiting the City of Milpitas and neighboring areas.

The purpose of this item is to discuss the detriments and benefits of supporting VTA's proposed sales tax, other options and priorities for the City of Milpitas.

**Fiscal Impact:** Unknown at this time.

**Recommendation:** Receive report of Mayor Esteves, direct staff and take action, as may be desired by the Mayor and City Council.

**7. Consider Written Request from the Milpitas Unified School District for a Joint Meeting with the Milpitas City Council (Staff Contact: Tom Williams, 408-586-3050)**

**Background:** On May 15, 2016, the Mayor and City Manager received a formal written request from Milpitas Unified School District (MUSD) Board President Gunawan Alisantosa and Board Vice President Robert Nunez. The letter identifies information requested by the City Council in the past as well as discussion topics identified by the MUSD Board. These topics include demographic/enrollment forecasts, status of joint use agreement for the McCandless elementary school, school financing, developer fees and the need for a Performing Arts Center.

The purpose of this agenda item is to discuss possible discussion items, meeting dates, time and location of a proposed joint meeting. A copy of the request letter is included in the agenda packet.

**Recommendation:** Direct staff on meeting agenda topics, meeting date, time and location.

**\* 8. Approve Donation of \$1,000 from the Veterans Commission Funds to the Milpitas Food Pantry (Staff Contact: Dale Flunoy, 408-586-3228)**

**Background:** The Milpitas Veterans Commission holds an Annual Car Show in the fall to raise money to benefit local organizations that assist veterans. On April 6, 2016, Commissioners voted to recommend donating \$1,000 to the Milpitas Food Pantry, particularly since that local non-profit organization directly assists Milpitas veterans who need food and other items.

**Fiscal Impact:** None. Transferring \$1,000 from the Veterans Commission Holding to Special Events account will not impact the General Fund budget.

**Recommendation:** Approve the donation of \$1,000 from the Milpitas Veterans Commission funds to the Milpitas Food Pantry, in support of local veterans.

**XVII. NEW BUSINESS**

**\* 9. Accept State Homeland Security Grant Program to Reimburse the City of Milpitas for Overtime Costs Paid to Fire Department Personnel for Participation in Region-Wide Disaster Training (Staff Contact: Geoff Maloon, 408-586-2800)**

**Background:** The Milpitas Fire Department participated in a region wide, federally funded training exercise that simulates complex technical rescue scenarios that might be encountered

during a major natural disaster of terrorism incident. This training occurred in September 2015. Personnel costs associated with this training are paid for by this grant and will offset the overtime expenditures that were incurred by the City.

**Fiscal Impact:** None. SHSGP grant funds of \$5,709 will fully cover the cost incurred for overtime used to participate in this training exercise.

**Recommendation:** Accept the State Homeland Security Grant Program (SHSGP) Grant in the amount of \$5,709 and approve a budget appropriation in the amount of \$5,709 into the Fire Department's operating budget.

**\*10. Accept the 2016 Citizen Options for Public Safety (COPS) Grant (Staff Contact: Daryl Sequeira, 408-586-2434)**

**Background:** The California State Legislature awarded \$113,490.00 to the City of Milpitas through the Citizen Options for Public Safety (COPS) Grant as authorized by Government Code sections 30061-30063. No City matching funds are required. Government Code section 30062 specifies that these funds must be used exclusively for front line law enforcement services. These funds shall be appropriated pursuant to a written request from the Chief of Police. The Milpitas Police Department recommends the following list of front line municipal police services expenditures with the 2016 COPS grant money for fiscal year 2016:

1. Video/Audio Recorders
2. Polygraph Examiner Position
3. Technology Improvements to Police Vehicles

**Fiscal Impact:** None. COPS grant funds - \$113,490 in total - will fully cover the cost of the front line services described.

**Recommendation:** Accept the 2016 Citizen Options for Public Safety (COPS) Grant in the amount of \$113,490 and approve a budget appropriation in the amount of \$113,490 into the Police Department's operating budget.

**\*11. Approve the Accounts Receivable Write-offs for the Fiscal Year Ended June 30, 2016 (Staff Contact: Russell Morreale, 408-586-3111)**

**Background:** On a periodic basis staff presents a listing of accounts receivable (AR) write-offs to City Council for approval. This report covers a two-year period from January 2013 to June 2015. Attached in the Council's packet are two AR lists, one for utility accounts (water, sewer, solid waste) and the other for non-utility accounts that have remained unpaid for more than 12 months. When customers are first invoiced, normal accounting procedures require us to record AR revenue with the intent of collecting amount due in a year's time or less. However, a small percentage of receivables are ultimately found to be uncollectible for a variety of reasons and subject to bad-debt write off. When such items have been outstanding for more than a year and all collection methods have been exhausted, it is necessary to write off these accounts off. This is a routine, but important, audit and year-end procedure. Collections efforts that precede this write-off request include internal billing mailings, past due notices, phone call follow up and collection agency services. Some collection efforts may continue after write off but are expected to have a low probability of success.

The table below identifies account/invoice categories, payees and amounts for the entire two-year term. It should be noted that during this period, the City achieved an overall collection rate of 99.8%. The proposed write-offs amount of \$126,493 approximate 0.2% (2 tenths of 1%) of all the amounts invoiced during the same period.

The following table displays the write off dollars and percentage by invoice category.

	Invoiced amounts	Proposed write-off amounts	% of invoiced amount
Utility accounts & Backflow Device Testing	\$ 55,816,632	\$ 39,537	0.10%
Other Utility Accounts	166,798	3,461	2.10%
Housing Authority Loan		50,000	N/A
Private development jobs	2,155,346	8,626	0.40%
Fire Annual Permits	577,588	1,286	0.20%
Police False Alarms	102,300	7,100	6.90%
Police Cost Recoveries	32,280	1,035	3.20%
Animal Violation regulation	22,814	2,675	11.7%
NBO Violations	13,120	4,600	35.1%
Public Works Cost Recovery	118,334	6,037	5.10%
Recreation Fees	4,451,241	1,667	0.04%
Misc. other	29,364	469	1.60%
<b>Total</b>	<b>\$ 63,485,817</b>	<b>\$126,493</b>	<b>0.20%</b>

In reviewing the listing above, the majority portion of the write offs relate to the following activities. Utility based uncollectible billings equal \$42,998, a small percentage, and common to the industry, of annual bad-debt accounts. One \$50,000 uncollectible relates to a Housing Authority loan recipient that went into foreclosure some years ago with the City subjected to a subordinated loan status.

**Fiscal Impact:** Write offs of \$126,493 from the outstanding accounts receivable will reduce the full-accrual fund balances of the following funds:

General Fund:	\$33,495
Utility Funds:	\$42,998
HCD Fund:	\$50,000

**Recommendation:** Approve the Accounts Receivable Write-offs for the fiscal year ended June 30, 2016.

## XVIII. RESOLUTIONS

### \*12. Adopt a Resolution to Release Unclaimed Checks Per Standard Operating Procedure (Staff Contact: Gabrielle Tsang, 408-586-3131)

**Background:** According to City of Milpitas' Standard Operating Procedure No. 26-1, which conforms with California Government Code Section 50055, unclaimed checks of less than \$15, or any amount if the depositor's name is unknown, which remain unclaimed for more than one year may be transferred to the General Fund by authorization of the City Council. A list of unclaimed checks and credits of less than \$15, which remain unclaimed for more than one year, is provided to the City Council along with draft Resolution (included in the Council's agenda packet). The checks listed are no older than 2015 and this action brings the matter, including all credits, up to date through the current year. The sum total of the amount subject to write off is an extremely low percentage of the City's total accounts payable payments.

**Fiscal Impact:** The recommended action will increase General Fund revenues by \$544.68.

**Recommendation:** Adopt a resolution to transfer a total of \$544.68 unclaimed checks and credits, per the list generated by the City's Finance department, to the General Fund in accordance with Standard Operating Procedure No. 26-1.

- \*13. Adopt a Resolution Approving the Annual Engineer’s Report, Declaring Intention to Levy and Collect Assessments for Fiscal Year 2016-17, and Providing Notice of Public Hearing for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch (Staff Contacts: Nina Hawk, 408-586-2603 and Steve Machida, 408-586-3355)**

**Background:** Landscaping and Lighting Maintenance Assessment District 95-1 (LLMD 95-1) was created in 1995 to maintain and improve public landscaping, irrigation systems, and pedestrian lighting along portions of McCarthy Boulevard and Ranch Drive gateway between State Route 237 and Dixon landing Road. Before Council may levy the annual assessment for LLMD No. 95-1, the Landscaping and Lighting Act of 1972 requires Council to approve an annual Engineer’ Report evaluating the LLMD’s maintenance and improvement costs.

On May 3, 2016 the City Council adopted Resolution No. 8538 directing preparation of the annual Engineer’s Report (in the Council agenda packet). This report includes proposed LLMD District No. 95-1 (McCarthy Ranch) maintenance and improvement costs per the Landscaping and Lighting Maintenance Act of 1972. The existing and proposed improvements, and any substantial changes proposed to be made to the existing improvements are as described on Exhibit A to the Resolution. The proposed total assessment of \$308,093.00 has increased from the prior year by 5.97% to adjust for inflation, increased maintenance needs and to fund future Capital Improvement Program projects within the Maintenance District for the replacement of landscape, irrigation, and lighting infrastructure. The amount of the proposed increase is under the maximum authorized range previously approved by the owners of the Maintenance District. This Resolution approves the Engineer’s Report, declares the City’s intent to levy and collect an assessment, and directs publishing of notice of a public hearing to be held on June 21, 2016.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution approving the annual Engineer’s Report, declaring intention to levy an assessment, and provide for a notice of public hearing on June 21, 2016 for LLMD No. 95-1, McCarthy Ranch.

- \*14. Adopt a Resolution Approving the Annual Engineer’s Report, Declaring Intention to Levy and Collect Assessments for Fiscal Year 2016-17, and Providing Notice of Public Hearing for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon (Staff Contact: Nina Hawk, 408-586-2603 and Steve Machida, 408-586-3355)**

**Background:** Landscaping and Lighting Maintenance Assessment District No. 98-1 (LLMD 98-1) was created in 1998 to maintain and improve public landscaping, irrigation systems along Sinclair Frontage Road, Los Coches Creek, and Berryessa Creek abutting the Sinclair Horizon residential subdivision. Before Council may levy the annual assessment for this District, the Landscaping and Lighting Act of 1972 requires Council to approve an annual Engineer’s Report evaluating the LLMD 98-1 maintenance and improvement costs.

On May 3, 2016 the Council adopted Resolution No. 8539 directing preparation of the annual Engineer’s Report, which is included in the Council packet. This report includes proposed LLMD District No. 98-1 (Sinclair Horizon), maintenance and improvement costs per the Landscaping and Lighting Maintenance Act of 1972. The existing and proposed improvements, and any substantial changes proposed to be made to the existing improvements, are as described on Exhibit A to the Resolution. The proposed total assessment of \$39,121.60 has increased from prior year by 2.81% to adjust for inflation, and to fund future Capital Improvement Program projects within the Maintenance District for the replacement of landscape, irrigation, and lighting improvements. The amount of the increase is under the maximum authorized range previously approved by the owners of the Maintenance District. This Resolution approves the Engineer’s Report, declares the City’s intent to levy and collect an assessment, and directs publishing of notice of a public hearing to be held on June 21, 2016.

**Fiscal Impact:** None

**Recommendation:** Adopt a resolution approving the annual Engineer's Report, declaring intention to levy an assessment, and provide for notice of public hearing on June 21, 2016 for LLMD No. 98-1, Sinclair Horizon.

- \*15. Continue the Request to Adopt a Resolution Annexing Real Properties Within Tract No. 10324 into Community Facilities District No. 2008-1, Approve Final Map Tract 10324 for a 489-Unit Residential Development at 450 Montague Expressway and Authorize the City Manager to Execute the Subdivision Improvement Agreement, Fee Credit Agreement, and Density Averaging Agreement (Staff Contact: Judy Chu, 408-586-3325)**

**Background:** On May 5, 2015, the City Council conditionally approved a Vesting Tentative Map (the "VTM") for a 489-unit residential development project at 450 Montague Expressway by Lennar Homes of California and LMC Milpitas Holdings I, LLC (the "Developers").

The final map Tract 10324 is located within the Transit Area Specific Plan (TASP) area and, therefore, it is subject to annexation to the Community Facilities District No. 2008-1 (the "CFD 2008-1") (Attachment 1) as required by the project condition.

The City Engineer has examined the final map Tract 10324 (Attachment 2) and determined that the final map Tract 10324 is substantially the same as the VTM pursuant to California Government Code (GC) Section 66442. The City Council shall not deny approval of a final map if it has previously approved a tentative map for the proposed subdivision and if it finds that the final map is in substantial compliance with the previously approved tentative map pursuant to GC Section 66474.1. Therefore, once the City Engineer certifies the final map, there are no additional discretionary grounds for the City Council to disapprove the final map.

Developers have offered dedications to the City for public use, such as public street, public utilities, emergency vehicle access, public access and bridge improvements, as required by the project condition and as depicted on the final map. City Council shall accept, accept subject to improvements, or reject any offer of dedication at the time of final map approval pursuant to GC Section 66477.1 and Milpitas Municipal Code (MMC) Section XI-1-5.05-2.

On March 23, 2016, the City's Facilities and Streets Naming Subcommittee reviewed and recommended approval of the street names as shown on the final map. Those private street names are Delano Street, Riesling Avenue and Vineyard Avenue without duplication. City Council shall approve all street names pursuant to MMC Section XI-1-7.01-8.

The City Engineer has also reviewed and approved public improvement plans (2-1202) pursuant to MMC XI-1-7.09-2. The Developers have executed a Subdivision Improvement Agreement (Attachment 3) as approved by the City Attorney as to form and by the City Engineer as to substance pursuant to MMC XI-1-17.01, paid all development fees and provided improvement securities (\$2,660,549 for faithful performance and \$2,660,549 for labor and materials) to guarantee completion of required public improvements.

The final map Tract 10324 conforms to all of the requirements of the State of California Subdivision Map Act, and Milpitas Municipal Code Title XI, Chapter 1 *Subdivisions*.

As part of the project condition of approval, the Developers are required to construct an extension of the existing recycled water system that will serve more than the Developers' property within the TASP area. The Developers are also required to perform feasibility studies, design and construction drawings for future implementation of two bridge crossings over Montague Expressway and East Penitencia Creek, which would otherwise be financed by the TASP fees. The Developers will also install park improvements for public use, which would

otherwise be financed by the TASP fees. Therefore, the Developers are subject to fee credits against their TASP fee payment (Attachment 4).

Also as part of the project condition of approval, the Developers are required to execute a Density Average Agreement (Attachment 5) with the neighboring developer (LMC Milpitas Holdings I, LLC), by transferring the density that is available on one project site that is not being utilized to another project site, as long as combined density of the two projects when averaged conforms with overall development requirements. The “density averaging” process is permitted by Milpitas Zoning Code, State law, and the Milpitas TASP (Policy 3.8).

**California Environmental Quality Act:** Approval of final subdivision map is a ministerial action exempt from CEQA pursuant to CEQA Guidelines Section 15268(b)(3). Annexation to the CFD 2008-1 is exempt from CEQA as it does not cause any physical change to the environment. Further, approval of the Fee Credit Agreement and Density Averaging Agreement, were requirements imposed through conditions of approval on the underlying development project which was found to be consistent with the Transit Area Specific Plan EIR pursuant to CEQA Guideline 15168(c)(2).

**Recommendation:** As mutually agreed upon by the City of Milpitas and the project developer, this matter is requested to be continued to June 21, 2016.

**\*16. Adopt a Resolution Calling for the General Municipal Election on November 8, 2016 (Staff Contact: Mary Lavelle, 408-586-3001)**

**Background:** Milpitas Municipal Code Title I, Chapter 200 Section 1.00 provides for the municipal election to be held on the same day as the statewide Presidential General Election. The statewide General Election is scheduled this year on Tuesday, November 8. A Resolution was drafted calling for the municipal election on Tuesday, November 8, 2016 for the purpose of electing one Mayor and two members of the City Council. The resolution also requests consolidation of the Milpitas Municipal Election with the statewide General Election and requests provision of services from the Santa Clara County Registrar of Voters.

In June 2006, the City Council adopted Resolution No. 7597 relating to Candidates’ Statements of Qualification printed in the sample ballot for Municipal Elections. This resolution sets forth the total number of words permitted in a Candidate’s Statement (200) and that the candidate is responsible for the cost of printing and mailing the statement as well as the translation into minority languages. Also take note that the Federal Voting Rights Act requirements as applied to Santa Clara County mandate that election materials be made available in four minority languages - Chinese, Spanish, Tagalog and Vietnamese - in addition to English, since 2002.

**Fiscal Impact:** None. Funds are budgeted in the City Clerk’s FY 2016-17 budget for the biennial City election. The County of Santa Clara will invoice the City after the election is concluded for all related costs.

**Recommendation:** Adopt a resolution calling a General Municipal Election for Tuesday, November 8, 2016, requesting consolidation with the statewide presidential election and requesting election services from the Santa Clara County Registrar of Voters.

**\*17. Consider Action and Adopt a Resolution Calling for a Ballot Measure Following Receipt of Petition for Referendum on Award of Contract for Solid Waste Services to be Placed on the Ballot for the November 8, 2016 Election (Staff Contacts: Mary Lavelle, 408-586-3001 and Chris Diaz, 408-586-3050)**

**Background:** Proponents filed a referendum petition with 3,777 voter signatures in the City Clerk’s office on April 14, 2016. The City Clerk certified to the City Council on May 17, 2016 that 2,541 signatures were found sufficient and that number was more than required to qualify



this matter to go on the next election ballot. The referendum seeks to overturn Resolution No. 8532 adopted by the City Council on March 15, 2016. The Resolution awarded a contract to one of two bidders, Waste Management Inc., for the City's solid waste disposal services. Because the referendum petition was filed within the required 30 days timeframe, the contract award is currently suspended.

Two options are possible on this matter. If the City Council chose to rescind the resolution, then the matter would not go to the ballot. If the City Council adopts a resolution calling for the ballot measure to go onto the November election based on the voter petition, then Milpitas voters could vote to ratify the Council-adopted Resolution (maintaining the contract award) or not.

Based on the report received from the City Clerk on May 17, 2016, the City Council must take one of the following actions, per California Elections Code §9237:

- a) Move to rescind Resolution No. 8532; or,
- b) Adopt a Resolution calling for a Special Election for Milpitas voters to consider the referendum on Resolution No. 8532 to be consolidated with the municipal election scheduled on November 8, 2016.

**Fiscal Impact:** If the City Council calls for this measure to go on the ballot, the City of Milpitas will have to pay unbudgeted election costs of approximately \$53,000 in FY 2016-17 in addition to budgeted amount for the scheduled municipal election on November 8, 2016.

**Recommendation:** Adopt a Resolution calling for a ballot measure following receipt of Petition for Referendum of Resolution No. 8532 awarding a contract for Solid Waste Disposal Services to Waste Management Inc. to be placed on the November 8, 2016 election ballot, consolidated with the scheduled municipal election on that date.

## **XIX. AGREEMENTS & BIDS**

- \*18. Approve Amendment No. 1 to an Agreement Setting Forth Terms Under Which Milpitas Police Officers May be Authorized to Work as Reserve Officers at the Santa Clara Stadium and Authorize the City Manager to Execute the Amendment No. 1 (Staff Contact: Christopher J. Diaz, 408-586-3040)**

**Background:** On December 17, 2013, the City of Milpitas, along with Santa Clara Stadium Authority, and the cities of Santa Clara, Campbell, Gilroy, Morgan Hill, Mountain View, Palo Alto, and the Town of Los Gatos, jointly entered into an agreement setting forth the terms under which Milpitas, and other agencies, would allow their off-duty officers to serve as reserve officers for the City of Santa Clara at Levis Stadium.

The agreement arose because the Santa Clara Police Department, as the entity providing law enforcement services for Levi Stadium, sought additional police officers from other local agencies to supplement the forces available within their department for large events that may occur at the Stadium. The agreement allows the City of Santa Clara and the Stadium Authority to obtain those additional officers by hiring off-duty officers from other agencies, including the City of Milpitas, as reserve officers of the City of Santa Clara. Under the terms of the agreement:

1. The officer's duties to Milpitas will take priority over any reserve assignment with Santa Clara;
2. Santa Clara and the Stadium Authority will indemnify Milpitas against any civil actions; and
3. Santa Clara and the Stadium Authority will provide insurance coverage for Milpitas.

The agreement is set to expire on June 30, 2016 and the City of Santa Clara has asked all agencies to approve and execute an Amendment No. 1 to the agreement that merely extends the

term of the agreement out for another three years through June 30, 2019. No other changes to the agreement are proposed.

**Fiscal Impact:** None.

**Recommendation:** Approve Amendment No. 1 to the agreement with the Santa Clara Stadium Authority setting forth terms under which Milpitas Police Officers may be authorized to work as reserve officers at the Santa Clara Stadium and authorize the City Manager to execute the Amendment No. 1.

**\*19. Authorize the City Manager to Execute Amendment No. 2 to the Agreement with Otis Elevator Company Extending it for Five More Years for a Total Ten Year Amount Not-To-Exceed \$236,055 (Staff Contact: Chris Schroeder, 408-586-3161)**

**Background:** On December 7, 2011, the City of Milpitas and Otis Elevator Company entered into a Piggyback Agreement through the National Intergovernmental Purchasing Alliance (NIPA) based on a competitive solicitation lead by the Metropolitan Government of Nashville and Davidson County Tennessee for “Full Service Elevator, Escalator, and Platform Lift Maintenance and Repair” to be utilized for the two elevators located at the Milpitas Library Garage. The Piggyback Agreement was entered into pursuant to Municipal Code Section I-2-3.07 “Piggyback Procurement.” After several years of service, a rate analysis was conducted of all City elevators and on June 17, 2014 the remaining six City elevators were moved to the Otis contract. Staff estimated the savings over the five year contract term to be approximately \$29,067 compared to the previous provider ThyssenKrupp Elevator.

Amendment Number 5 to the NIPA contract states under item 3. – TERM “This amendment clarifies services for Metro Nashville expires on July 26, 2016. However, nothing in this contract shall prohibit any other governmental entity from extending this contract beyond the stated term to the extent such extension is permissible under its procurement laws.” There is no provision of the Purchasing section of the Milpitas Municipal Code that would prohibit extension of the contract. Given that the service has been satisfactory and the Otis Elevator Company has agreed to cap the cost of service at the individual prices listed in Amendment No. 2, plus a fixed 3% increase per year for the maintenance portion only, staff recommends extending the contract for five more years from July 25, 2016 to July 24, 2021.

The original term of the Piggyback Agreement was for five years for a total of \$84,394. The second five year term includes the built-in 3% escalation mentioned above in years seven through ten for a total years six through ten amount not-to-exceed \$151,661, and a total ten year agreement amount not-to-exceed \$236,055.

**Fiscal Impact:** None. This is a programmed expense in the Facilities Maintenance Operating Budget.

**Recommendations:**

1. Authorize the City Manager to execute Amendment No. 2 to the Agreement with Otis Elevator Company extending it for five years with such changes to the amendment as may be deemed necessary by the City Attorney, for a total ten year amount not-to-exceed of \$236,055.
2. Authorize the Purchasing Agent to exercise the annual options of the agreement for the next four years without further City Council action, except for appropriation of funds.

**\*20. Award the Bid and Authorize the City Manager to Execute a Contract with Bosco Oil, Inc. Doing Business As Valley Oil Company for Gasoline and Diesel Fuel for the Not-To-Exceed Annual Amount of \$600,000 (Staff Contact: Chris Schroeder, 408-586-3161)**

**Background:** On April 15, 2016 Purchasing issued a bid for a multi-year fuel purchase and delivery contract. The bid was advertised in the local newspaper, on the City website and via Public Purchase. Thirteen fuel distributors received bid packages and three responded. Bid prices were based on the Oil Price Information Service (OPIS) Pad 4/5 San Jose Area index of April 25, 2016 plus a margin, fixed for the life of the contract, for the distributor. After posting the Notice of Intent to Award (Pending Bid Results), there was no protest filed. Bosco Oil, Inc. d/b/a Valley Oil Company is the winning bidder.

The three bids received are summarized below.

	Bosco d/b/a Valley Oil Co.	J.N. Abbott	SC Fuels
<b>Mid-Grade Unleaded 89 Octane</b>			
April 25, 2016 OPIS Pad 4/5 San Jose Average Price	\$1.939 / gallon	\$1.9376 / gallon	\$1.9390 / gallon
Margin Bid	\$.0145 / gallon	\$.14 / gallon	\$.17 / gallon
Total price per gallon	\$1.9535 / gallon	\$2.0767 / gallon	\$2.109 / gallon
<b>Red Diesel</b>			
April 25, 2016 OPIS Pad 4/5 San Jose Average Price	\$1.6285 / gallon	\$1.6269 / gallon	\$1.6296 / gallon
Margin Bid	\$.1095 / gallon	\$.18 / gallon	\$.17 / gallon
Total price per gallon	\$1.7353 / gallon	\$1.8069 / gallon	\$1.7969 / gallon
<b>Clear Diesel #2</b>			
April 25, 2016 OPIS Pad 4/5 San Jose Average Price	\$1.6141 / gallon	\$1.615 / gallon	\$1.6150 / gallon
Margin Bid	\$.1095 / gallon	\$.16 / gallon	\$.17 / gallon
Total price per gallon	\$1.7236 / gallon	\$1.775 / gallon	\$1.7850 / gallon

Based on past consumption and the volatile nature of fuel prices - currently depressed due to market over supply – fuel will likely rebound during the five years of the contract. Staff recommends the annual amount of the contract be set the same as the previous contract at not-to-exceed \$600,000 per year. The initial term of the contract is for one year and covers the period of July 1, 2016 through June 30, 2017 with four one-year options to renew through June 30, 2021.

**Fiscal Impact:** None. Funding for this contract is available in the Fleet Maintenance and Utility Maintenance Operating Budgets.

**Recommendations:**

1. Award the bid to Bosco Oil, Inc. doing business as Valley Oil Company for gasoline and diesel fuel and authorize the City Manager to execute a contract with Valley Oil for the not-to-exceed annual amount of \$600,000 per year.
2. Authorize the Purchasing Agent to exercise up to four annual renewal options, subject to appropriation of funds and without further City Council approval.

- \*21. Authorize the City Manager to Execute a Technical Services Support Agreement with Physio-Control, Inc. to Support and Maintain the Fire Department’s Lifepak Defibrillator Monitors and Lucas Chest Compression Systems, and Authorize Purchase of New Equipment through Physio-Control Inc. Totaling \$165,138 (Staff Contact: Chris Schroeder, 408-586-3161)**

**Background:** On July 7, 2015 City Council approved Physio-Control, Inc. as a sole source provider of Lifepak Defibrillator Monitors for the City, pursuant to Municipal Code Section I-2-

3.09 Sole Source Procurement. These defibrillator monitors are the standard in Santa Clara County for Mutual Aid purposes. It allows the Fire Department to share data and patient care information with all other EMS providers and hospitals in the county. As Physio-Control, Inc. is the manufacturer of this proprietary equipment, there is no other source for support and maintenance of the equipment. On January 4, 2011 City Council authorized the City Manager to execute a Technical Services Support Agreement to support and maintain the Lifepak Defibrillator Monitors in the amount of \$29,510. This support agreement ended on October 31, 2015.

Due to age of the current models in the fleet, the Fire Department has a need for four (4) LIFEPAK-15 Cardiac Monitor/Defibrillators and four (4) LUCAS (Lund University Cardiac Arrest System) 2 Chest Compression Systems. Physio-Control is the sole source provider of both the LIFEPAK 15 monitors/defibrillators and LUCAS 2 Chest Compression Systems. These defibrillator monitors are compatible with the Santa Clara County Emergency Management System. The LUCAS is the only mechanical chest compression device that performs Cardiopulmonary Resuscitation (CPR) according to our Santa Clara County EMS Systems' policy #700-A07 Cardiac Arrest – CPR per current American Heart Association Guidelines.

Since the current support and maintenance agreement expired and renewal of these services is necessary, a new technical service support agreement can be placed at the same time the new equipment is ordered. The total not-to-exceed amount of equipment and technical services support agreement is \$165,138, and includes a one-time \$26,000 credit to trade in four (4) remaining LP-12 Cardiac Monitor/Defibrillators.

**Fiscal Impact:** None. Funds for this service are available from the Fire Department operating budget.

**Recommendations:**

1. Authorize the City Manager to execute a Technical Services Support Agreement with Physio-Control, Inc. to support and maintain the Fire Department's Lifepak Defibrillator Monitors and Lucas Chest Compression Systems.
2. Authorize purchase of new equipment through Physio-Control, Inc. to include four (4) Lifepak-15 Cardiac Monitor/Defibrillators and four Lucas 2 Chest Compression Systems for and amount not to exceed \$165,138.

**\*22. Approve Amendment No. 2 to the Agreement with OfficeMax for the Purchase of Citywide Office Supplies for the Increased Amount of \$170,000 through June 30, 2018 for a Total Five Year Amount Not-To-Exceed \$610,000 (Staff Contact: Chris Schroeder, 408-586-3161)**

**Background:** On October 15, 2013 the City entered into a "piggyback" agreement for the citywide purchase of office supplies with OfficeMax, per Milpitas Municipal Code Section I-2-3.07 (Piggyback Procurement). The OfficeMax contract is based on a solicitation conducted by Oakland County, Michigan under the Public Sourcing Solutions/OfficeMax-America Saves program. The City of San Jose negotiated additional discounts of up to 70% on a list of 3,000 core products from the America Saves program. Because of the City's long standing customer relationship, OfficeMax has extended to the City of Milpitas the same discounts enjoyed by San Jose and other Bay Area cities.

The City is in a growth phase and the demand for office supplies is increasing. Based on expenditures for the period October 15, 2015 to March 30, 2016 the City is spending approximately \$10,000 per month on office supplies. Staff recommends increasing contract years three through five covering the period of October 15, 2015 to June 30, 2018 to \$140,000 per year to allow for additional growth during years three through five, for a total contract amount not-to-exceed \$610,000.

**Fiscal Impact:** None. Funding for this purchase is available in Departments' operating budgets.

**Recommendation:** Approve Amendment No. 2 to the agreement with OfficeMax for the purchase of citywide office supplies for the increased amount of \$170,000 through June 30, 2018 for a total five year amount not to exceed \$610,000.

**\*23. Approve Plans and Specifications and Authorize Advertisement for Bid Proposals for Street Resurfacing 2016, Project No. 4280 (Staff Contact: Steve Chan, 408-586-3324)**

**Background:** Plans and specifications have been completed for Street Resurfacing 2016, Project No. 4280. The work will include localized repair of failed asphalt concrete pavement, resurface asphalt concrete pavement, install ADA compliant sidewalk ramps, repair damaged sidewalk, curb and gutter and reinstall pavement delineation on the following street segments:

- 1) McCarthy Boulevard between Barber lane and Tasman Drive
- 2) Tasman Drive between McCarthy Boulevard and Alder Drive.

The Engineer's Estimate for the project is \$1,800,000. A copy of the title sheet of the project plans is included in the Council's agenda packet, and the complete set of plans and specifications are available for review in the office of the City Engineer.

**California Environmental Quality Act:** The project is categorical exempt under CEQA Article 19 Section 15301 for maintenance of existing public streets.

**Fiscal Impact:** None. Sufficient funds are available in the project budget.

**Recommendation:** Approve the Plans and Specifications for Street Resurfacing 2016, Project No. 4280, and authorize advertisement for bid proposals.

**\*24. Approve Project Plans and Specifications, and Authorize Advertisement for Bid Proposals for the Parking Garage Fire Door Conversion, Projects No. 3407 and No. 4276 (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** Plans and specifications have been completed for the Parking Garage Fire Door Conversion, Projects No. 3407 and No. 4276. The project will convert six manual fire doors within the City's parking garage and library to motorized units. Currently, the six fire doors require hand cranks to open when the doors close upon activation by fire alarm. Several of the hand cranks are high above the ground or are in tight attic spaces making raising of the door difficult or hazardous for staff. The work includes the replacement of the hand cranks with electric motors, operational switches, and the installation of a new electrical subpanel and wiring to accommodate the additional electric load. The new sub panel will be sized to for electric vehicle charging stations which will be installed by a future project by the end of the year, with a separate contract. The estimated cost of construction is approximately \$175,000.

A copy of the front cover of the project specifications is included in the Council's agenda packet and a complete set of the contract documents is available for review in the office of the City Engineer.

**Alternative:** Denial would result in not completing needed repairs resulting in further deterioration and potentially unsafe conditions.

**California Environmental Quality Act:** The project is exempt under Section 15301 (Existing Facilities) of the CEQA Guidelines.

**Fiscal Impact:** None. Adequate funds are available in the project budget for construction.

**Recommendation:** Approve Project Plans and Specifications, and authorize advertisement for bid proposals for the Parking Garage Fire Door Conversion, Projects No. 3407 and No. 4276 and authorize advertisement for bid proposals.

- \*25. Approve and Authorize the City Manager to Execute Amendment No. 4 to the Consulting Service Agreement with Hatch Mott MacDonald, LLC in the amount of \$450,000 and Extend the Terms of the Agreement to June 30, 2017 to Continue Engineering Staff Augmentation for the Land Development Engineering Division (Staff Contact: Judy Chu, 408-586-3325)**

**Background:** On July 14, 2014, the City entered into a consulting services agreement (the “Agreement”) with Hatch Mott MacDonald, LLC to provide various support services associated with land development projects for the Land Development Engineering Division. On October 7, 2014, May 19, 2015, and December 1, 2015, the parties entered into Amendments No. 2, No. 3 and No. 4 to the Agreement respectively to increase the compensation and to extend the terms of the Agreement to June 30, 2016 due to increased service demand, including but not limited to service associated with development projects within the Transit Area Specific Plan and Mid-Town Specific Plan areas.

To continue to meet service demands in land development in FY 2016-17, and maintain quality service, continuity and consistency, staff recommends that the City Council approve Amendment No. 4 with an additional compensation in the amount of \$450,000 and to extend the term to June 30, 2017. The amount of additional compensation is based upon prior costs for service provided during FY 2014-15 (\$187,752.50) and FY 2015-16 (\$215,557.50), a recent vacancy for the Associate Civil Engineer as well as projected service demand as of to date. The \$450,000 is approximately 26 hours per week of service for each of the two consultants. When the vacancy is filled with permanent staff, one of the two consultants will be released.

**Alternative:** Denial would result in delayed completion of some Land Development Engineering tasks and thus having the City not be in compliance with the California Permit Streamlining Act. Denial of this request will also be inconsistent with the City’s Strategic Plan Values for Superior Customer Service.

**California Environmental Quality Act:** This action is not considered a project under CEQA as there will be no direct, or reasonable foreseeable indirect physical change in the environment as this item concerns merely staff augmentation at the City.

**Fiscal Impact:** None. The expenses are reimbursable through the private development projects and salary savings.

**Recommendation:** Approve and authorize the City Manager to execute Amendment No. 4 to the consulting services Agreement with Hatch Mott MacDonald, LLC in the amount of \$450,000, and extend the terms of the Agreement to June 30, 2017 continuing staff augmentation for the Land Development Engineering Division.

- \*26. Approve Project Plans and Specifications, and Authorize Advertisement for Bid Proposals for Bridge Improvements, Project No. 4271 (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** Plans and specifications for the Bridge Improvements Project No. 4271 have been completed. The project proposes to construct preventative maintenance and minor repairs to ten city-owned bridges. Work includes deck resurfacing, crack sealing, damaged guardrail replacement, and concrete repairs - all preventative maintenance work recommended in Caltrans’ bi-annual bridge inspection reports.

Work will be performed on the following City owned bridges: 1) North McCarthy Boulevard Bridge; 2) North Abbott Avenue Bridge; 3) North Hillview Drive Bridge; 4) Los Coches Street

Bridge; 5) Yosemite Drive Bridge; 6) Machado Avenue Bridge; and 7) Ames Avenue Bridge. 8) North Abel Street Bridge; 9) North Milpitas Boulevard Bridge; and 10) Paseo Refugio Bridge.

Work on the first seven bridges will be performed during regular working hours from 8 AM – 5 PM, and work on the remaining bridges will be performed at night from 8 PM – 5 AM when traffic on these bridges is minimal. Traffic control on all of the bridges will be required during the duration of construction. Estimated cost of construction is approximately \$700,000.

A copy of the front cover of the project specifications is included in the Council's agenda packet and a complete set of the contract documents is available for review in the office of the City Engineer.

**Alternative:** Denial would result in not completing needed repairs resulting in further bridge deterioration.

**California Environmental Quality Act:** The project is exempt under Section 15301 (Existing Facilities) of the CEQA Guidelines.

**Fiscal Impact:** Adequate funds are available in the project budget for construction.

**Recommendation:** Approve the project documents for Bridge Improvements, Project No. 4271 and authorize advertisement for bid proposals.

**\*27. Approve Project Plans and Specifications, and Authorize Advertisement for Bid Proposals for Higuera Adobe Park Picnic and Playground Renovation, Project No. 5097 (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** The Higuera Adobe Park is located at the northeast corner of Wessex Place and North Park Victoria Drive. It is the home of the Higuera Adobe, 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 barbecue 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.

Staff completed the plans and specifications for the Higuera Adobe Park Picnic and Playground Renovation Project No. 5097. This project will renovate various park elements including replacement of the playground structure, and upgrade of the group picnic area behind the Adobe building with new tables and barbecue grills, improved paving, lighting, drainage, shade trees and installation of a shade structure. The project will include Americans with Disabilities Act (ADA) accessibility improvements to pathways and restriping of the parking lot to include ADA parking stalls. The picnic tables and trash receptacles near the children playground will also be replaced and landscaping will be enhanced.

Construction is anticipated to start late in 2016 after the conclusion of scheduled summer recreation activities at the park. The park and the Adobe building will be closed during construction of the project which is planned for completion by mid 2017, weather permitting. Estimated cost of construction is approximately \$1,700,000.

A copy of the front cover of the project specifications is included in the Council's agenda packet and a complete set of the contract documents is available for review in the office of the City Engineer.

**Alternative:** Denial would result in not completing needed park renovations resulting in further deterioration and potentially unsafe conditions.

**California Environmental Quality Act:** The project is exempt under Section 15301 (Existing Facilities) of the CEQA Guidelines.

**Fiscal Impact:** Adequate funds are available in the project budget for construction.

**Recommendation:** Approve the project contract documents for Higuera Adobe Park Picnic and Playground Renovation, Project No. 5097 and authorize advertisement for bid proposals.

**\*28. Approve Project Plans and Specifications, and Authorize Advertisement for Bid Proposals for Light Rail Median Landscaping Project No. 2001 (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** Plans and specifications have been completed for the Light Rail Median Landscaping Project No. 2001. This project proposes to construct median landscape improvements on Great Mall Parkway from Interstate 880 to Montague Expressway adjacent and below the Santa Clara Valley Transportation Authority's (VTA) Light Rail Transit corridor. The length of the project is approximately 1.1 miles. Work includes planting of trees, shrubs, ground cover and recycled water irrigation facilities. In addition, the existing landscaping along the sidewalks of Great Mall Parkway between Thompson Street and South Abel Street will be converted to use recycled water, consistent with City policy of using recycled water for landscape irrigation.

The project will be coordinated with VTA, Caltrans, Santa Clara County Roads Department, South Bay Recycling Water and the State Water Resources Control Board. Work will be performed during regular working hours; however no lane closures on Great Mall Parkway will be permitted during peak commute times. Traffic control on Great Mall Parkway will be required during construction and coordinated with other construction activities taking place in the area. Estimated cost of construction is approximately \$1,880,000.

A copy of the front cover of the project specifications is included in the Council's agenda packet and a complete set of the contract documents is available for review in the office of the City Engineer.

**Alternative:** A denial of this request would result in not completing the City's plan to enhance Great Mall Parkway consistent with the City's Transit Area Specific Plan.

**California Environmental Quality Act:** The project is exempt under Section 15301 (Existing Facilities) of the CEQA Guidelines.

**Fiscal Impact:** Adequate funds are available in the project budget for construction.

**Recommendation:** Approve the project contract documents for Light Rail Median Landscaping, Project No. 2001 and authorize advertisement for bid proposals.

**\*29. Authorize the City Manager to Execute an Agreement with the County of Santa Clara for Fiscal Year 2016-17 Senior Nutrition Program (Staff Contact: Renee Lorentzen, 408-586-3409)**

**Background:** The City of Milpitas has contracted with the County of Santa Clara to help implement the Senior Nutrition Program since 1978. This program serves seniors, age 60 years and older, 249 days per year, an average of 89 meals per day, for a total of 22,209 meals per year. The total budget for FY 2016-17 Nutrition Program is \$181,116. Under the proposed agreement, the City of Milpitas and the County of Santa Clara would equally share the cost of the program for FY 2016-17, which would amount to a burden of \$90,558 each (after reimbursements), as outlined in Exhibit A and the Proposed Budget (both included in the agenda packet). The City



initially pays all costs and the County would reimburse the City its 50% cost share after the receipt of invoices and other documentation.

**Fiscal Impact:** Sufficient funds in the amount of \$181,116 have been budgeted and were approved in the Recreation Services Department FY 2016-17 operating budget.

**Recommendation:** Authorize the City Manager to execute an Agreement with the County of Santa Clara for the FY 2016-17 Senior Nutrition Program.

**XX. DEMAND**

**\*30. Authorize and Approve Payment of Annual Software Support and Maintenance Fees to Cayenta (Staff Contact: Mike Luu, 408-586-2706)**

**Background:** The City utilizes a number of automated systems for critical functions such as utility billings, human resources management and financial management. These systems require payment for annual support and maintenance fees in order to continue vendor support. This generally included telephone support, software fixes and new software versions. The annual maintenance payment is due and requires payment in order to continue support through Fiscal Year 2016-17. The current Cayenta (Payroll, Accounts Payable, General Ledger, Human Resources and Utility management system) amount due is \$177,884.44.

**Fiscal Impact:** Funding for these annual maintenance payments is included in the Information Services Department budget.

**Recommendation:** Authorize and approve payment to Cayenta for annual support and maintenance in the amount of \$177,884.44.

**XXI. ADJOURNMENT**

**NEXT REGULAR CITY COUNCIL MEETING  
TUESDAY, JUNE 21, 2016**