



**REGULAR MEETING OF
THE MILPITAS CITY COUNCIL**

TUESDAY, MARCH 21, 2017

**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** by the Mayor and **ROLL CALL** by City Clerk (6:00 p.m.)
- II. ADJOURN TO CLOSED SESSION**
 - (a) CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**
Pursuant to California Government Code Section 54957.6
City Negotiators: Tom Williams, Tina Murphy
Employee Groups: Milpitas Police Officers Association
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
 - (b) CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION**
Pursuant to Government Code Section 54956.9(d)(2) – City as Defendant
 - (c) CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION**
Pursuant to Government Code Section 54956.9(d)(4) – City as Amicus Curiae
- 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 Barbadillo)
- VI. SCHEDULE OF MEETINGS – COUNCIL CALENDARS** - April and March 2017
- VII. PRESENTATIONS**
 - Commendation to Ms. Liz Ainsworth
 - Presentation to Women Leaders (Councilmembers Nuñez and Phan) - reception to follow
- VIII. PUBLIC FORUM**

Members of the audience are invited to address the Council on any subject not listed on this 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.

- IX. ANNOUNCEMENTS**
- X. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**

XI. APPROVAL OF AGENDA

XII. CONSENT CALENDAR (Items with asterisks*)

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

XIII. APPROVAL OF COUNCIL MEETING MINUTES – March 1 and 7, 2017

XIV. REPORTS OF OFFICERS

- 1. Consider Request to Authorize More Than Four Hours of Staff Time to Direct Staff to Prepare an Ordinance Regarding Prohibition on Sale of Non-Rescued Animals (Contact: Mayor Tran, 408-586-3029)**
- 2. Consider Request to Authorize More Than Four Hours of Staff Time to Explore Ways to Assist the Non-Profit Community (Contact: Councilmember Phan, 408-586-3032)**
- 3. Receive Report on Milpitas Volunteer Program and Internship Program (Contact: Councilmember Nuñez, 408-586-3023)**

XV. NEW BUSINESS

- 4. Receive Presentation from a Representative of the Santa Clara Valley Transportation Authority on the Next Network Project (Contacts: Tom Williams, 408-586-3051 and Steve Chan, 408-586-3324)**
- 5. Discuss Access to Milpitas Sports Center Fields (Staff Contact: Renee Lorentzen, 408-586-3409)**
- 6. Approve Amendment No. 10 to the Master Agreement with the Santa Clara Valley Transportation Authority (VTA) Relating to the Silicon Valley Rapid Transit Berryessa BART Extension Project, Authorize Payment of \$1,457,150 to VTA for the Environmental Clearance and Final Design of Montague Expressway Pedestrian Overcrossing at Piper Drive (Staff Contact: Greg Chung, 408-586-3355)**
- 7. Provide Information on Cost Options for Including Closed Captioning Services for City Council and Planning Commission Meeting Webcasts (Staff Contact: Mike Luu, 408-586-2706)**
- *8. Approve Request for Out of Country Travel for Councilmember Phan and Economic Development Director to Attend the Smart City Forum and International Tourism Festival in Chengdu City, Szechuan, China from March 29, 2017 to April 5, 2017 (Staff Contact: Edesa Bitbadal, 408-586-3052)**

XVI. ORDINANCE

- 9. Waive the First Reading and Introduce Ordinance No. 41.12 to Amend Milpitas Municipal Code Section I-500-1.14 Authorizing an Increase in Compensation to Planning Commissioners from \$25 to \$100 Per Meeting (Staff Contacts: Chris Diaz, 408-586-3044 and Bradley Misner, 408-586-3273)**

XVII. RESOLUTION

- *10. Adopt a Resolution Authorizing the Sole Source Purchase of One Bergkamp Inc. FP5 Flameless Pothole Patcher for the Public Works Department for the Not-To-Exceed Amount of \$225,000 (Contacts: Chris Schroeder, 408-586-3161 and Robert Hill, 408-586-2626)**

XVIII. AGREEMENTS & BID

- *11. Award the Bid and Authorize the City Manager to Execute the Contract with Environmental Logistics for Routine Disposal and Emergency Cleanup of Hazardous Materials with an Initial Not-to-Exceed Amount of \$40,000 and Approve a Budget Appropriation in the amount of \$40,000 from the General Fund to the Fire Department's Operating Budget (Staff Contacts: Albert Zamora, 408-586-3371 and Chris Schroeder, 408-586-3161)**
- *12. Authorize the Purchase of a Replacement Patrol Vehicle from the National Auto Fleet Group Through a Cooperative Procurement Contract and Approve a Budget Appropriation From the Equipment Fund for \$49,231.20 (Staff Contacts: Chris Schroeder, 408-586-3161 and Sean Heneghan, 408-586-2435)**
- *13. Approve an Amendment No. 1 to the Consulting Services Agreement with HydroScience Engineers, Inc. in the Amount of \$75,000 to Continue Staff Augmentation Services for the Utility Engineering (Staff Contact: Greg Chung, 408-586-3355)**
- *14. Approve Amendment No. 1 to Agreement with Waste Management for Disposal of Solid Waste, and Approve Amendment No. 1 to Agreement with Garden City (doing business as Milpitas Sanitation, Inc.) for Collection of Solid Waste and Collection and Processing of Recyclable Materials and Organic Materials, for All Disposal of Waste to Occur at Kirby Canyon landfill (Staff Contacts: Tom Williams, 408-586-3050 and Chris Diaz, 408-586-3040)**

XIX. REPORTS OF MAYOR & COUNCILMEMBERS – from the assigned Commissions, Committees and Agencies

XX. ADJOURNMENT

**NEXT SPECIAL CITY COUNCIL MEETING:
WEDNESDAY, MARCH 29, 2017**

**NEXT REGULAR CITY COUNCIL MEETING:
TUESDAY, APRIL 4, 2017**

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. 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 by selecting the Milpitas Municipal Code link.

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3rd floor 455 E. Calaveras Blvd., Milpitas and on the City website. 408-586-3000

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

APPLY TO SERVE ON A CITY COMMISSION

Current Vacancies on:

Arts Commission
Emergency Preparedness Commission
Parks, Recreation and Cultural Resources Commission

Commission application forms are available online at www.ci.milpitas.ca.gov or at Milpitas City Hall. Contact the City Clerk's office at 408-586-3003 for more information.

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

AGENDA REPORTS

XIV. REPORTS OF OFFICERS

1. **Consider Request to Authorize More Than Four Hours of Staff Time to Direct Staff to Prepare an Ordinance Regarding Prohibition on Sale of Non-Rescued Animals (Contact: Mayor Tran, 408-586-3029)**

Background: At the March 7, 2017 City Council meeting, Mayor Tran brought to the attention of his colleagues the issue of prohibiting the sale of non-rescued animals at pet stores or at other retailers. Staff requests Council to indicate if it approves spending more than four hours of staff time to prepare an ordinance on this topic.

Recommendation: Hear request from Mayor Tran. Discuss and if desired, direct City Attorney to prepare an ordinance to prohibit the sale of non-rescued animals.

Attachment: None

2. **Consider Request to Authorize More Than Four Hours of Staff Time to Explore Ways to Assist the Non-Profit Community (Contact: Councilmember Phan, 408-586-3032)**

Background: Non-profit organizations are an extension of the services the city provides. It is in the community's interest to make sure they succeed and provide services that benefit Milpitas residents. There is uncertainty regarding federal funding and the services that the community relies upon can be at risk. As a city, the Council should review how the City supports nonprofits and seek opportunities for improvement. Improvement can come in the form of ordinance and policy changes, usage of city facilities or modifications to grant programs. Councilmember Phan requests authorization of more than four hours of staff time to explore ways to assist the non-profit community and bring forward any proposed ordinance and policy changes for City Council consideration individually.

Fiscal Impact: Unknown at this time.

Recommendation: Receive report from Councilmember Phan, and direct staff accordingly.

Attachment: None

3. **Receive Report on Milpitas Volunteer Program and Internship Program (Contact: Councilmember Nuñez, 408-586-3023)**

Background: City staff had a request from several elected officials who would like a briefing on the City's volunteer program and internship program. The Milpitas Volunteer Program was formed in early 1990s. The purpose of the program is to provide community service opportunities to both youth and adults at City of Milpitas events, special projects, and site specific programs. The Milpitas Volunteer Program's mission is to utilize the diverse talents of volunteers for the benefit of the City of Milpitas and the community as a whole. The Milpitas Volunteer Program is handled by the Recreation Department.

The Internship Program commenced in 2014. The purpose of this program is to provide educational enhancement and on-the-job experience for qualified college and high school students. Internships may be paid or unpaid and students may qualify to earn college credits. Although the City receives value from interns, the internship should teach the interns about their field of study and the benefits of working at local government. The Internship Program is handled by the Human Resources Department.

Fiscal Impact: None

Recommendation: Receive report and provide additional direction regarding the two programs.

Attachment: None

XV. NEW BUSINESS

4. Receive Presentation from a Representative of the Santa Clara Valley Transportation Authority on the Next Network Project – Bus Routes and Bus Schedules (Contacts: Tom Williams, 408-586-3051 and Steve Chan, 408-586-3324)

Background: Santa Clara Valley Transportation Authority's (VTA) Next Network project is a redesign of the transit network, bus routes, and bus schedules and is one component of the Transit Ridership Improvement Program. The Transit Ridership Improvement Program is a VTA agency-wide effort to make public transit faster, more frequent and more useful for Santa Clara County travelers. The Next Network project concerns VTA's transit operations and seeks to:

1. Better connect VTA transit with the Milpitas and Berryessa BART stations
2. Increase overall system ridership
3. Improve VTA's farebox recovery rate

Changes to the transit network as part of Next Network implementation will go into effect with the next two-year transit service plan in the fall of 2017, which also coincide with the start of BART service to Santa Clara County.

A verbal report will be provided at the Council meeting by VTA project representatives, which will include the project timeline, project milestones achieved, and an update on changes to the bus routes and bus schedules servicing the Milpitas community.

Fiscal Impact: None

Recommendation: Receive presentation from the Santa Clara Valley Transportation Authority on Next Network Project (Bus Routes and Bus Schedules).

Attachment: None

5. Discuss Access to Milpitas Sports Center Fields (Staff Contact: Renee Lorentzen, 408-586-3409)

Background: On March 1, Council requested to discuss, at a future meeting, access to the new Milpitas Sports Center artificial turf field. The Milpitas Sports Center Sport Fields Project was completed and officially opened on July 2, 2016. The new outdoor field facility is currently in use by Milpitas youth football and soccer organizations, new Adult Sports Soccer League, private rentals, and City sponsored events and programs.

Field Usage Snapshot

Youth Football/Soccer Fall Season (August 2016 – December 2016): 100 practices, games, tournaments

Youth & Adult Soccer Spring Season (January 2017 – June 2017): 182 practices, games, tournaments, recreation classes.

City Holidays during above Seasons (no rentals): 15 days

During the construction of the fields and after its opening, there have been multiple instances of vandalism and misuse, ranging from riding a motorcycle over the turf, spray painting/tagging the turf, hopping closed fences to gain access to the fields and breaking in the gates to walk/run dogs in the

turf area. Regular climbing of the fences to gain unauthorized access to the fields has resulted in damage to the field gate doors.

Other outdoor field facilities such as Gil Field and Dixon Landing Major Field have experienced similar misuse and are locked when not in use by youth sport organizations. Currently, the Sports Center artificial turf field facility is locked when not in use.

To address previous drop in use of the site, staff installed mile-marker signs along existing walking paths from the Sports Center around Cardoza Park for users wishing to track their fitness efforts. Green space at Cardoza Park is available for public use for sports activities during regular park hours (Monday – Sunday, dawn to dusk).

Fiscal Impact: None.

Recommendation: Discuss the access of the Milpitas Sports Center fields.

Attachment: None

6. **Approve Amendment No. 10 to the Master Agreement with the Santa Clara Valley Transportation Authority (VTA) Relating to the Silicon Valley Rapid Transit Berryessa BART Extension Project, Authorize Payment of \$1,457,150 to VTA for the Environmental Clearance and Final Design of Montague Expressway Pedestrian Overcrossing at Piper Drive (Staff Contact: Greg Chung, 408-586-3355)**

Background: The extension of the Bay Area Rapid Transit (BART) system into Santa Clara County is being implemented by Valley Transportation Authority’s (VTA) Silicon Valley Rapid Transit (SVRT) program. The City and VTA executed a Master Agreement in 2010, which created a cooperative frame work between VTA and the City for the design and construction of the BART line extension through Milpitas. This agreement allows for reimbursement of City expenses for a variety of coordination efforts, including but not limited to design approval and inspection of City facilities, encroachment permit oversight, easements, utility maintenance operations, meetings, resolution of construction issues, and consultant support. The agreement also establishes a mechanism for reimbursement to VTA for upgrades to City infrastructures within the work area.

The City adopted Transit Area Specific Plan (TASP) identifies a pedestrian overcrossing on Montague Expressway at Piper Drive to provide safer pedestrian connectivity to the Milpitas BART station, the Great Mall, and surrounding developments. This pedestrian overcrossing is vital piece of infrastructure to improve commuter and visitor access to the BART station.

VTA is currently the lead agency for the Milpitas BART station and Montague Expressway widening construction projects and will also serve as the lead agency for the environmental clearance and final design phase and construction phase of Montague Expressway Pedestrian Overcrossing (POC) at Piper Drive. Having VTA serve as the lead agency for this project will take advantage of the existing management structure that is already in place and would simplify the delivery of this project. VTA will work closely with the City so that there is adequate opportunity for the City to provide input during project design and execution.

Estimated costs for environmental clearance and final design of the Montague POC are as follows:

Environmental clearance and final design	\$2,301,150
Grant funding: One Bay Area Grant Funding	\$744,000
City Local Match for One Bay Area Grant Funding already committed	\$100,000
Remaining Cost to City of Milpitas for environmental clearance and final design	\$1,457,150

City funding for the Montague POC environmental clearance and final design phase is coming from development fees associated with TASP development projects.

Estimated costs for construction of the Montague POC are as follows:

Construction Cost	\$12,432,555
Grant funding: One Bay Area Grant Funding	\$7,000,000
Grant funding: Transit Performance Initiative	\$2,768,555
Cost to City of Milpitas for construction:	\$2,664,000

The City will make payment to VTA up to \$2,664,000 for the Montague POC construction expenditures. City funding for the Montague POC construction phase is coming from development fees associated with TASP development projects.

Alternative: If this Amendment is not approved, implementation of the Montague Expressway Pedestrian Overcrossing could be delayed.

California Environmental Quality Act: The lead agency for this project, VTA, will prepare the necessary environmental documents

Fiscal Impact: None. There is sufficient funding in the Capital Improvement Project No. 2008.

Recommendations:

1. Approve an Amendment No. 10 to the Master Agreement with the Santa Clara Valley Transportation Authority (VTA) relating to the Silicon Valley Rapid Transit Berryessa Extension Project (GT-1063).
2. Authorize a payment of \$1,457,150 to VTA for environmental clearance and final design of Montague Expressway Pedestrian Overcrossing at Piper Drive.

Attachment: Amendment No. 10 to Agreement with SCVTA

7. Provide Information on Cost Options for Including Closed Captioning Services for City Council and Planning Commission Meeting Webcasts (Staff Contact: Mike Luu, 408-586-2706)

Background: Staff was directed to research options and cost for adding closed captioning for Council meeting and Planning Commission meeting broadcast to Channel 15 and webcast via the City’s website.

Closed captioning is the visual display of the audio piece in the video programming. Closed captioning was developed to aid hearing-impaired people, but it’s also useful for other situations. For example, captions can be read when audio can’t be heard in a noisy environment. The City provides video recording and streaming of its Council meeting and Planning Commission meeting to the public. The closed captioning option will initially be for the two types of meetings. The solution should be flexible and able to provide closed captioning to other video programming when needed.

Project/Program Analysis: Staff reached out to local cities and others throughout California to evaluate what solutions are being implemented. Staff also contacted the City’s current vendors of PCD Santa Rosa and Telvue about their solution with integration into the City current video capturing infrastructure. Staff also conducted research for other solutions not included in the outreach with other cities.

Low Cost	High Cost
\$1 / minute	\$3 / minute

Fiscal Impact:

Meeting Type	# of Meetings	Average Minutes per Meeting	Low	High
City Council	24	240 minutes	\$5,760/year	\$17,280/year
Planning Commission	24	120 minutes	\$2,880/year	\$8,640/year
			\$8,640/year	\$25,920/year

Recommendation: to receive the report on closed captioning costs for City Council and Planning Commission meetings.

Attachment: None

- *8. Approve Request for Out of Country Travel for Councilmember Phan and Economic Development Director to Attend the Smart City Forum and International Tourism Festival in Chengdu City, Szechuan, China from March 29, 2017 to April 5, 2017 (Staff Contact: Edesa Bitbadal, 408-586-3052)**

Recommendation: Approve request for out of country travel for Councilmember Anthony Phan and Economic Development Director Edesa Bitbadal to attend the Smart City Forum and International Tourism Festival from March 29, 2017 to April 5, 2017 with the costs to be paid by the US China Friendship City Network.

Fiscal Impact: None

Attachment: Copy of letter of request

XVI. ORDINANCE

- 9. Waive the First Reading and Introduce Ordinance No. 41.12 to Amend Milpitas Municipal Code Section I-500-1.14 Authorizing an Increase in Compensation to Planning Commissioners from \$25 to \$100 Per Meeting (Staff Contacts: Chris Diaz, 408-586-3044 and Bradley Misner, 408-586-3273)**

Background: Pursuant to Milpitas Municipal Code I-500-1.14, Compensation for Attending Meetings, the City of Milpitas Planning Commission receives a compensation in the amount of \$25.00 for attending any regularly or specially scheduled Planning Commission meetings.

On April 25, 2016, the City Council voted to authorize an increase in compensation for each Commissioner attending Planning Commission meetings, from \$25 per meeting to \$100 per meeting. The Council meeting minutes are included in the agenda packet for reference. This Ordinance is now brought forward to effectuate this action in order to allow the increase in pay for service.

Fiscal Impact: Budget appropriations were made for fiscal year 2016-17 and therefore there would not be a new fiscal impact associated with the Ordinance.

Recommendations:

1. Following a reading of the title by the City Attorney, waive the first reading beyond the title of Ordinance No. 41.12 to amend Milpitas Municipal Code I-500-1.14 to increase the amount of compensation for attending Planning Commission meetings from \$25.00 to \$100.00.
2. Introduce Ordinance No. 41.12.

Attachments:

- a) Ordinance No. 41.12

XVII. RESOLUTION

- * 10. Adopt a Resolution Authorizing the Sole Source Purchase of One Bergkamp Inc. FP5 Flameless Pothole Patcher for the Public Works Department for the Not-To-Exceed Amount of \$225,000 (Contacts: Chris Schroeder, 408-586-3161 and Robert Hill, 408-586-2626)**

Background: There are currently over 123 centerline miles of streets owned and maintained by the City of Milpitas. As the pavement surfaces age coupled with the extremely wet rainy season, staff has seen a dramatic increase in potholes. Potholes pose a significant safety hazard for motorists and pedestrians, as well as a liability for the City. Additionally, unresolved potholes can become steadily worse and negatively impact the City's Pavement Condition Index (PCI).

Currently pothole and roadway repairs are performed using a method called cold patching, where a bituminous mixture of sand and aggregate are placed in the failed pavement area. This method is considered to be short term with a life span of a few months at best, requiring considerable staff time to maintain. With the purchase of the Bergkamp FP5 Pothole Patcher City staff will be able to employ a hot patch method, where asphalt concrete is placed in the pavement failure area and compacted. This method is considered to be a long term repair lasting the life time of the roadway. Purchase of the Bergkamp Inc. FPS Flameless Pothole Patcher will increase staff productivity by reducing the time spent on each pavement failure repair.

The Purchasing Agent has determined that Bergkamp Inc. is the sole manufacturer and distributor of the FP5 Flameless Pothole Patcher, which is the only brand of all electric pothole patcher equipped with a GPS based telematics system, patented Swing Auger System, and backup camera with night vision. These last two key features also greatly reduce risk to injury while performing pavement repairs. \$225,000 includes the basic unit, the attachments and a five year extended warranty.

Fiscal Impact: None. Sufficient funding is in CIP No. 4284 for this purchase.

Recommendation: Adopt a resolution authorizing the sole source purchase of one Bergkamp FP5 Flameless Pothole Patcher from Bergkamp, Inc. for the not-to-exceed amount of \$225,000.00.

Attachments:

- a) Resolution
- b) Bergkamp Inc. Quote

XVIII. AGREEMENTS & BID

- *11. Award the Bid and Authorize the City Manager to Execute the Contract with Environmental Logistics for Routine Disposal and Emergency Cleanup of Hazardous Materials with an Initial Not-to-Exceed Amount of \$40,000 and Approve a Budget Appropriation in the amount of \$40,000 from the General Fund to the Fire Department's Operating Budget (Staff Contacts: Albert Zamora, 408-586-3371 and Chris Schroeder, 408-586-3161)**

Background: On August 19, 2016, the City of Milpitas issued a Request for Proposal for Routine Disposal and Emergency Cleanup of Hazardous Materials. Purchasing worked closely with Fire Inspection to develop the specification and bid package for the RFP. The RFP was advertised on the City website, on Public Purchase and in the local newspaper. Services under the Routine Disposal section of the bid include a variety of hazardous materials such as discarded paint, solvents, and oil mixed with water to name a few. Services under the Emergency Cleanup section of the bid include any materials and/or liquids that are dropped on city streets and/or wind up on the city streets as a result of traffic accidents and typically include such things as gas and diesel fuel, anti-freeze and oil.

Ten vendors accessed the bid and one proposal was received in response to the RFP. The proposal was reviewed by the Purchasing Agent and the Deputy Fire Chief. The proposal pricing was based on two scenarios. Scenario One was the disposal of 185 gallons of old paint, oily water, and acetone; typical of what can accumulate at different City sites. The cost for Scenario One, based on standard commercial rates, was \$1,625; this would be considered a typical pickup for the City and is estimated to occur approximately four times per year.

Scenario Two was based on the emergency cleanup lasting five hours of 30 gallons of diesel fuel spilled on a city street. Taking into consideration all labor, materials, equipment, tools, packaging, transportation, staff time and supervision and disposal fees, the cost for the cleanup, based on standard commercial rates, came to \$6,555. When spills of this type occur the City allows the responsible party to provide the cleanup service. If they do not have anyone on contract the City would use its contractor to clean up the spill and proceed against the responsible part for cost recovery. There is no past data for spills of this type but staff estimates it could occur four to five times a year. Based on these two scenarios staff recommends a contract value of up to \$40,000 per year. Environmental Logistics is well respected in the industry and currently performs similar services for Caltrans, the City of San Jose and the City and County of San Francisco to name a few. Environmental Logistics met all of the requirements of the RFP and its references were all positive.

Because the City did not have sufficient budget appropriated for the contract for Routine Disposal and Emergency Cleanup of Hazardous Materials, a contract was not immediately awarded following evaluation of the proposal received from Environmental Logistics. The most recent budget appropriation now includes sufficient funds to execute the contract. While vendors are ordinarily obligated to honor their proposal for a period of 90 days following opening of proposals, City staff, in accordance with Milpitas Municipal Code section 3.06-4, requested and Environmental Logistics agreed to honor its proposal notwithstanding.

The new contract for Routine Disposal and Emergency Cleanup of Hazardous Materials includes an initial one-year period in the amount of \$40,000 commencing 3/22/17 through 3/21/18. The proposed contract includes four 1-year options for renewal. Renewal years contain a compensation adjustment clause based on the Consumer Price Index (CPI) for All Urban Consumers All items not seasonally adjusted for San Francisco-Oakland-San Jose to a maximum of 5%, whichever is less. Four annual renewal options total an amount not-to-exceed \$160,000, resulting in a total not-to-exceed five year contract of \$200,000, excluding CPI compensation adjustments.

Fiscal Impact: A budget appropriation of \$40,000 from the General Fund to the Fire Department operating budget is necessary to fund the first year of this contract.

Recommendations:

1. Award the bid and authorize the City Manager to execute the contract with Environmental Logistics for the Routine Disposal and Emergency Cleanup of Hazardous Materials in the initial not-to-exceed amount of \$40,000.
2. Authorize the Purchasing Agent to extend the term of the agreement annually for each of the four option years with annual price increases per the terms of the agreement and without further City Council action, except for appropriation of funds.
3. Approve a budget appropriation in the amount of \$40,000 from the General Fund to the Fire department's operating budget.

Attachment: Budget Change Form

- *12. Authorize the Purchase of a Replacement Patrol Vehicle from the National Auto Fleet Group Through a Cooperative Procurement Contract and Approve a Budget Appropriation From the Equipment Fund for \$49,231.20 (Staff Contacts: Chris Schroeder, 408-586-3161 and Sean Heneghan, 408-586-2435)**

Background: This purchase is to replace Police Vehicle (PT03-2011) which was totaled in the line of duty. The City of Milpitas received \$50,273.66 in insurance reimbursement from the Association of Bay Area Governments (ABAG) to replace the vehicle and its equipment. The vehicle cost is \$36,231.20. The replacement equipment and additional paint work cost is estimated at \$13,000.00. The vehicle will be purchased cooperatively through the National Joint Powers Alliance (NJPA). Cooperative purchasing through NJPA is specifically authorized pursuant to Municipal Code Section I-2-3.08 "Cooperative Procurement."

Fiscal Impact: Need a budget appropriation for a total of \$49,231.20 from the Equipment Fund. \$36,231.20 for the purchase of the vehicle which will be added to Non-Departmental budget and \$13,000 for the additional equipment and paint work will be added to the Fleet Operating Budget.

Recommendation: Approve the purchase of the replacement vehicle for \$36,231.20 and approve a budget appropriation of \$49,231.20 from the Equipment Fund to the Fleet Operating Budget and the Non Departmental budget to cover the purchase of the vehicle and the cost of the additional equipment and paint work.

Attachments:

- a) National Auto Fleet Group quote
- b) Budget Change Form

***13. Approve an Amendment No. 1 to the Consulting Services Agreement with HydroScience Engineers, Inc. in the Amount of \$75,000 to Continue Staff Augmentation Services for the Utility Engineering (Staff Contact: Greg Chung, 408-586-3355)**

Background: On December 19, 2016, the City entered into an agreement with HydroScience Engineers, Inc. in the amount of \$95,000, to manage and provide Utility Engineering staff support services encompassing the drinking water, recycled water, sanitary sewer, urban runoff and solid waste programs as needed.

Staff augmentation is needed to maintain the level of service in Utility Engineering until vacancies are filled and new City staff can be transitioned into their new positions. Amendment No.1 with HydroScience Engineers, Inc., in the amount of \$75,000 is proposed to continue staff support services while vacancies are filled and for transition of tasks to new permanent City staff. Approval of this agreement brings the agreement amount to a total to not exceed \$170,000.

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

Alternative: Denial of this request will result in delayed completion of some Utility Engineering tasks. Tasks include but are not limited to: regulatory compliance reporting and assessments for water, sewer, and urban runoff programs, developer project plan checking, implementing new water conservation requirements, and participating in and reviewing documentation for regional water, sewer, urban runoff, and solid waste programs.

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

Recommendation: Approve Amendment No.1 to the consulting services Agreement with HydroScience Engineers, Inc. in the amount of \$75,000 to continue staff augmentation services for Utility Engineering.

Attachment: Amendment No. 1 to Agreement with HydroScience

***14. Approve Amendment No. 1 to Agreement with Waste Management for Disposal of Solid Waste, and Approve Amendment No. 1 to Agreement with Garden City (doing business as Milpitas)**

Sanitation Inc.) for Collection of Solid Waste and Collection and Processing of Recyclable Materials and Organic Materials, for all disposal of waste to occur at Kirby Canyon landfill (Staff Contacts: Tom Williams, 408-586-3050 and Chris Diaz, 408-586-3040)

Background: On March 15, 2016, the City Council adopted Resolution No. 8532 to award a disposal agreement to USA Waste of California, Inc. doing business as Waste Management of South Bay. Under the terms of that agreement, all disposal waste is to be deposited at Guadalupe Landfill and C&D Recovery Facility located at 15999 Guadalupe Mines Road in San Jose, with an alternative location identified as the Kirby Canyon Landfill also in San Jose. Shortly after the City Council's award of the disposal agreement, the City was served with a referendum petition to submit the decision to the voters in November of 2016. At the election held in November of 2016, the voters upheld the decision of the City Council to award the disposal agreement to Waste Management.

On November 14, 2016, the City Council adopted Resolution No. 8602 to award the franchise agreement for collection of solid waste and the collection and processing of recyclable and organic materials to Garden City Sanitation, Inc. doing business as Milpitas Sanitation, Inc. Shortly thereafter, the City of San Jose threatened to file suit against the City of Milpitas for planning to dispose of its waste at Guadalupe Landfill and C&D Recovery Facility.

The City of Milpitas does not believe any such lawsuit would have merit. Nevertheless, in order to avoid costly litigation and because an alternative disposal site exists under the terms of the City's existing disposal contract, on December 6, 2017, the City Council directed staff to explore this other disposal site option at Kirby Canyon Landfill.

Analysis: The proposed contract amendments would memorialize the City Council's prior direction to dispose of all waste at Kirby Canyon Landfill in lieu of the Guadalupe Landfill and C&D Recovery Facility. With this change, there will be increased cost as follows:

Disposal Agreement

Under the terms of the City's existing disposal agreement, the approved disposal facility is the Guadalupe Landfill and C&D Recovery Facility. An alternative disposal site is also identified as the Kirby Canyon Landfill. Under the original agreement with disposal occurring at Guadalupe Mines, the per ton rate included in Exhibit "G" is a total per-ton rate of \$42.78 per ton. With the change to Kirby Canyon Landfill, the per-ton rate increases to \$52.85 per ton. Amendment No. 1 to the disposal agreement replaces Exhibit "G" with a new rate sheet reflecting the costs to dispose of waste at Kirby Canyon Landfill.

Solid Waste Agreement

The change in contract terms to relocate waste disposal from Guadalupe Landfill to Kirby Canyon Landfill yields a cost increase of approximately \$1.2 million annually. This reflects transportation and labor cost increases due to the geographic location of Kirby Canyon Landfill. In essence, Waste Management Inc. cannot charge another city less than the charge collect cities who currently contract with Waste Management Inc. for disposal at Kirby Canyon Landfill. The subject revised rate increases only impact commercial rates (12 – 18 %) with no rate increase impacts to residential.

Fiscal Impact: Additional \$1.2 million in annual cost increases.

California Environmental Quality Act: As stated in the prior memo included in City Council agenda packet for the meeting of October 17, 2016 and November 14, 2016 titled "Results of Assessing Air Quality and Greenhouse Gas Emissions Impact of Solid Waste Diversion Scenarios":

"...even when considering the emissions impact associated with the worst case scenario for the City-approved waste disposal contract (disposal project) in conjunction with the diversion project, the total emissions still fall well below the criteria pollutant thresholds. With respect to GHG emissions, recycling and composting provide lifecycle benefits that far outweigh the impacts from transporting and processing of both the landfilled materials and the materials diverted from landfill...the City of

Milpitas' new and proposed contractual arrangements for hauling, landfill disposal, and diversion of solid waste materials (the combined disposal and diversion projects considered herein) are exempt from CEQA per CEQA Guidelines section 15301, as the contracted activities represent the continued operation of existing public facilities that involve "negligible or no expansion of use beyond that existing at the time of the lead agency's determination."

Based on the above, even with the proposed change to dispose of waste at Kirby Canyon Landfill versus Guadalupe Landfill and C&D Recovery Facility, an additional distance of four miles, CEQA Guideline 15301 would still apply as the original analysis analyzed disposal at the furthest distance in Monterey, CA.

Recommendation: Approve Amendment No. 1 to the Agreement with Waste Management for Disposal of Solid Waste, and approve Amendment No. 1 to the Agreement with Garden City for Collection of Solid Waste and Collection and Processing of Recyclable Materials and Organic Materials, for all disposal of waste to occur at Kirby Canyon landfill.

Attachments:

- a) Copy of Agreement and draft Amendment No. 1 to Agreement with Waste Management
- b) Copy of Agreement and draft Amendment No. 1 to Agreement with Garden City

XIX. REPORTS OF MAYOR & COUNCILMEMBERS – from the assigned Commissions, Committees and Agencies

XXI. ADJOURNMENT

NEXT SPECIAL CITY COUNCIL MEETING:
WEDNESDAY, MARCH 29, 2017

NEXT REGULAR CITY COUNCIL MEETING:
TUESDAY, APRIL 4, 2017