



**JOINT MEETING OF THE
MILPITAS CITY COUNCIL,
SUCCESSOR AGENCY AND
PUBLIC FINANCING AUTHORITY**

AGENDA

TUESDAY, OCTOBER 17, 2017

455 EAST CALAVERAS BOULEVARD, MILPITAS, CA

5:00 P.M. (CLOSED SESSION)

7:00 P.M. (PUBLIC BUSINESS)

SUMMARY OF CONTENTS

- I. CALL TO ORDER by Mayor and ROLL CALL by City Clerk**
- II. ADJOURN TO CLOSED SESSION (5:00 PM)**
 - (a) CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**
Pursuant to California Government Code Section 54957.6
City Negotiator: Tina Murphy
Employee Group: Milpitas Employees Association
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
 - (b) PUBLIC EMPLOYEE APPOINTMENT/HIRING**
Pursuant to California Government Code Section 54957
Title of position to be filled: City Manager
 - (c) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**
Pursuant to California Government Code Section 54956.9(d)(1)
Tom Williams v. City of Milpitas, et al. - Santa Clara County Superior Court Case No. 17CV309235
 - (d) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**
Pursuant to California Government Code Section 54956.9(d)(1)
First Amendment Coalition v. City of Milpitas – Santa Clara County Superior Court Case No. 17CV310994
 - (e) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**
Pursuant to California Government Code Section 54956.9(d)(1)
Tom Williams v. City of Milpitas, et al. - American Arbitration Case No. 01-17-0003-5823
 - (f) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
Pursuant to Government Code Section 54956.9(d)(2) – City as Defendant
- 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 Nuñez)**

VI. PRESENTATIONS

- Proclaim Domestic Violence Awareness Month for October
- Proclaim Manufacturing Day on October 13, 2017
- Annual Neighborhood Beautification Awards

VII. PUBLIC FORUM

Those in the audience are invited to address City 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.

VIII. ANNOUNCEMENTS

IX. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

X. APPROVAL OF AGENDA

XI. 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.

- *1. **Accept Schedule of Meetings/City Council Calendars for October and November 2017**
- *2. **Approve City Council Meeting Minutes of October 2, 3 and 5, 2017 (Staff Contact: Mary Lavelle, 408-586-3001)**
- *3. **Appropriate \$2,920 from the Senior Center Holding Account to the Senior Center Operating Budget for the Milpitas Community Garden Program (Staff Contact: Lynette Wilson, 408-586-3408)**
- *4. **Approve City Council Regular Meeting Schedule for 2018 (Staff Contact: Mary Lavelle, 408-586-3001)**
- *5. **Waive the Second Reading and Adopt Ordinance No. 38.830 Amending the City's Zoning Map (Staff Contact: Sarah Fleming, 408-586-3278)**
- *6. **CITY COUNCIL/SUCCESSOR AGENCY/PUBLIC FINANCING AUTHORITY
Adopt a Joint Resolution Approving the Adoption of a Debt Management Policy; and, Adopt a City Council Resolution Authorizing the Refinancing of Wastewater System Obligations (Bonds), Appoint Financing Team and Approve Related Matters (Staff Contact: Will Fuentes, 408-586-3111)**
- *7. **Adopt a Resolution Authorizing the Purchasing Agent to Purchase Four City Vehicles from the National Auto Fleet Group for Not-To-Exceed \$148,941.54 through a Cooperative Procurement Contract through the National Joint Powers Alliance (Staff Contact: Chris Schroeder, 408-586-3161 and Henry Kwong, 408-586-2419)**
- *8. **Adopt a Resolution Authorizing the Chief of Police to Execute the Agreement with the California Office of Traffic Safety (OTS) for the 2018 Selective Traffic Enforcement Program (STEP) Grant (Staff Contact: Henry Kwong, 408-586-2419)**

- *9. Award the Bid to BrightView Landscape Service, Inc. and Authorize the City Manager to Execute a Contract with BrightView for City of Milpitas Parks Maintenance Service, Initially Not to Exceed \$1,241,776 (Staff Contacts: Robert Hill, 408-586-2626 and Chris Schroeder, 408-586-3161)
- *10. Approve Amendment No. 2 to Franchise Agreement with Milpitas Sanitation, Inc. for Collection of Solid Waste and Collection and Processing of Recyclable Materials and Organic Materials (Staff Contacts: Leslie Stobbe, 408-586-3352 and Christopher Diaz, 408-586-3040)
- *11. Approve and Authorize the City Manager to Execute an Improvement Agreement for a New Self-Storage Facility at 1 Hanson Court by One Hanson, LLC (Staff Contact: Judy Chu, 408-586-3325)

XII. UNFINISHED BUSINESS

- 12. Adopt a Resolution Approving the Site Development Permit for Construction of a 1,072 square foot Carport with Rooftop Solar Photovoltaic System, Adjacent to an Existing Bungalow and Residence in the Hillside at 430 Evans Road (Staff Contact: Lillian Hua, 408-586-3073)
- 13. Adopt a Resolution Amending the City's Classification Plan to Re-Assign Police Support Services Manager to Unrepresented and Adjust Salary Range (Staff Contact: Tina Murphy, 408-586-3086)
- 14. Approve and Authorize the City Manager to Execute Consultant Services Agreement with RMC Water and Environment for Support on the Bay Area Rapid Transit Project, CIP No. 4265 and Montague Expressway Widening Project, CIP No. 4179 (Staff Contact: Steve Chan, 408-586-3324)
- 15. Approve and Authorize the City Manager to Execute Amendment No. 1 to the Common Interest, Privilege and Confidentiality Agreement with Tributary Agencies of San José/ Santa Clara Regional Wastewater Facility (Staff Contact: Tony Ndah, 408-586-2602)
- 16. Review List for City Council of Items Due Back for Response from City Staff (Staff Contacts: Steve Pangelinan, 408-586-3051 and Mary Lavelle, 408-586-3001)
- 17. Receive Updated Information Responding to Council Input and Consider Adopting a Resolution to Amend the By-Laws of the Milpitas Planning Commission, and Discuss City of Milpitas Commissions and Process for Commission Appointments (Staff Contact: Steve Pangelinan, 408-586-3050)
- 18. Accept Report and Provide Direction to Staff on Community Choice Energy Programs (Staff Contact: Edesa Bitbadal, 408-586-3052)

XIII. REPORT

- 19. Per Request of Mayor, Consider Approving More than 4 Hours of Staff to Return to Council with a Comprehensive Homeless Strategy (Contact: Mayor Tran, 408-586-3029)

XIV. NEW BUSINESS

- 20. Receive Report from Information Services Director Regarding Comcast Cable Store Closure at 597 E. Calaveras Boulevard (Staff Contact: Mike Luu, 408-586-2706)

XV. ORDINANCE

21. **Waive the First Reading and Introduce Ordinance No. 48.21 Amending Title V Chapter 200 of the Milpitas Municipal Code Regarding Solid Waste Management (Staff Contact: Greg Chung, 408-586-3355)**

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

XVII. ADJOURNMENT

NEXT SPECIAL CITY COUNCIL MEETINGS

WEDNESDAY, OCTOBER 18, 2017

SATURDAY, NOVEMBER 4, 2017

NEXT REGULAR CITY COUNCIL MEETING

TUESDAY, NOVEMBER 7, 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
e-mail: 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 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.

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
Bicycle Pedestrian Advisory Commission
Community Advisory Commission
Economic Development Commission
Emergency Preparedness Commission
Library Commission
Parks, Recreation & Cultural Resources Commission
Recycling & Source Reduction Advisory Commission
Sister Cities Commission
Telecommunications Commission
Youth Advisory 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.

For assistance in the following languages, you may call:

Đối với Việt Nam, gọi 408-586-3122

对中国人来说，请用 408-586-3263

Para sa Tagalog, tawagan 408-586-3051

Para español, llame 408-586-3232

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.

AGENDA REPORTS

XI. CONSENT CALENDAR

- *3. Appropriate \$2,920 from the Senior Center Holding Account to the Senior Center Operating Budget for the Milpitas Community Garden Program (Staff Contact: Lynette Wilson, 408-586-3408)**

Background: The Community Garden is located on Milpitas Unified School District property (Weller School) as part of the standing Joint Use Agreement. The Garden hosts 47 individual garden plots that are 100% utilized by Milpitas residents. The Garden, as part of the City's larger Recycled Water Line conversion project, now has new use requirements requiring additional equipment for use by the gardeners. In an effort to meet these requirements and enhance the program at minimal financial cost to the gardeners, Recreation and Community Services is purchasing equipment and supplies including hoses, quick coupler keys, and wheel barrows.

Fiscal Impact: Appropriate funds from the Senior Center holding account to the Recreation and Community Services Senior Center operating budget. This action will not impact the General Fund.

Recommendation: Appropriate \$2,920 from the Senior Center Holding account to the Recreation and Community Services Senior Center operating budget for the City of Milpitas Community Garden program.

Attachment: Budget Change Form

- *4. Approve City Council Regular Meeting Schedule for 2018 (Staff Contact: Mary Lavelle, 408-586-3001)**

Background: The Milpitas Mayor and City Council are requested to consider and adopt their meeting schedule for 2018. Regarding the City Council's summer time meeting dates, it has been tradition to cancel both of the July regular Milpitas City Council meeting dates.

City staff has begun to prepare year-long calendars for next year and have inquired of the City Council as to what schedule will be followed in 2018. Staff requests that the Council act on a confirmed schedule for 2018 for its regular bi-monthly Tuesday business meetings. The proposed schedule is included in the Council agenda packet.

Recommendation: Move to approve the 2018 City Council meeting schedule.

Attachment: 2018 Regular City Council meeting dates

- *5. Waive the Second Reading and Adopt Ordinance No. 38.830 Amending the City's Zoning Map (Staff Contact: Sarah Fleming, 408-586-3278)**

Background: Ordinance No. 38.830 was introduced following waiving of the first reading beyond the title at the October 3, 2017 Council meeting. This Ordinance is now ready for its second reading and adoption. This Ordinance changes the zoning designation of 8.7 acres from industrial park with transit oriented development overlay (MP-TOD) to Multiple Family—High Density with Transit Oriented Development Overlay (R3-TOD) at 551 Lundy Place, 1992 Tarob Court, 2001 Tarob Court and 675 Trade Zone Boulevard.

Recommendation: Waive the second reading and adopt Ordinance No. 38.830 amending the City's Zoning Map.

Attachment: Ordinance No. 38.830 for adoption

*6. **CITY COUNCIL/SUCCESSOR AGENCY/PUBLIC FINANCING AUTHORITY**
Adopt a Joint Resolution Approving the Adoption of a Debt Management Policy; and, Authorize the Refinancing of Wastewater System Obligations (Bonds), Appoint Financing Team and Approve Related Matters (Staff Contact: Will Fuentes, 408-586-3111)

Background: Due to favorable market conditions, the City can refinance the 2006 Series A Certificates of Participation Sewer Financing (“2006 Certificates”) via the issuance, in one or more series, of the Bonds. The Bonds would be issued by the City pursuant to applicable provisions of the California Government Code, and be secured by a pledge of net revenues of the wastewater (sewer) system.

To obtain funds to finance certain capital projects that are part of the wastewater (sewer) system, the City previously entered into an Installment Sale Agreement, dated as of December 1, 2006, between the Milpitas Public Financing Authority and the City (the “2006 Agreement”). Payments by the City under the 2006 Agreement were secured by a pledge of net revenues of the wastewater (sewer) system, and used by the Authority as security for the execution and delivery of the 2006 Certificates, in the initial principal amount of \$9,535,000. The pledge of net revenues of the wastewater (sewer) system in the 2006 Agreement is similar to what is being proposed in the current refinancing.

To assist in the refinancing, staff recommends that the firm of Fieldman, Rolapp & Associates, Inc. (FRA), be hired by the City as municipal advisor, and the firm of Jones Hall, A Professional Law Corporation, be hired by the City as bond counsel and disclosure counsel. Staff, in consultation with the municipal advisor, further recommends that the refinancing of the 2006 Certificates be effectuated via the public offering of the Bonds and a negotiated sale to Stifel, Nicolaus & Company, Incorporated, as underwriter. The sale of Bonds through a negotiated sale will provide greater flexibility in choosing the date and timing of the sale, more flexibility in the structure of the Bonds, and greater expected cost savings.

One of the two resolutions before Council authorizes the refinancing to commence and hires the financing team, as described above. At a subsequent meeting, staff will return to the City Council with a further resolution approving legal documents and a preliminary official statement pursuant to which the Bonds will be offered to the public.

Senate Bill 1029 (SB 1029), which became effective on January 1, 2017, amended California Government Code 8855 to add certain requirements related to the issuance and administration of debt by local agencies, including requiring the adoption of a debt policy meeting the requirements of California Government Code 8855. This impacts the City, the Successor Agency to the former Milpitas Redevelopment Agency, and the Authority.

In connection with the issuance of new debt by City, the City will need to submit to the California Debt and Investment Advisory Commission (CDIAC) a preliminary report of debt issuance which will include a certification that the City has adopted a debt policy that meets the requirements of the new legislation, which are found in California Government Code 8855. Adoption of the debt policies by the City Council (in its role as City Council and as Board of the Successor Agency and Board of the Milpitas Public Financing Authority) is required for compliance with the new legislation.

In accordance with Government Code 8855, a local debt policy must include all of the following:

- A. The purposes for which the debt proceeds may be used.
- B. The types of debt that may be issued.

- C. The relationship of the debt to, and integration with, the issuer’s capital improvement program or budget, if applicable.
- D. Policy goals related to the issuer’s planning goals and objectives.
- E. The internal control procedures that the issuer has implemented, or will implement, to ensure that the proceeds of the proposed debt issuance will be directed to the intended use.

The contemplated debt management policy meets all of these requirements. Thus, two resolutions are presented for City Council adoption:

(1) A joint resolution of the City, Successor Agency to the former Milpitas Redevelopment Agency and Milpitas Public Financing Authority adopting a debt management policy.

(2) A resolution of the City authorizing the refinancing of wastewater system obligations.

Fiscal Impact: Due to favorable market conditions, the City can refinance the 2006 Certificates via the issuance of the Bonds. Net present value (NPV) savings to the City are currently estimated at \$484,608 total or 8.65% of refunded bonds. These savings will be realized over the next nine years and be a benefit to the City and the wastewater (sewer) system ratepayers. Government Finance Officers Association (GFOA) guidance recommends pursuing refinancing opportunities when the NPV savings are greater than 3%. This refinancing exceeds that threshold by 5.65 percentage points. However, potential savings are based on market conditions as of the date of the staff report, and could change. Assuming City Council approval of the resolutions, the refinancing transaction is expected to close in December 2017. All costs of issuance to FRA, Jones Hall, and Stifel will be paid from proceeds of bonds issued and not be a direct expense of the City.

Recommendations:

1. Adopt a joint resolution of the City Council, Successor Agency and Public Financing Authority adopting a Debt Management Policy.
2. Adopt a City Council resolution authorizing the refinancing of Wastewater System Obligations (bonds), appointing the financing team and approving related matters.

Attachments:

- a) Joint Resolution of City, Successor Agency and PFA
- b) City Council Resolution
- c) Agreement with Jones, Hall
- d) Amendment No.1 to Agreement with Fieldman, Rolapp & Associates
- e) Engagement Letter with Stifel, Nicolaus & Co.

- *7. **Adopt a Resolution Authorizing the Purchasing Agent to Purchase Four City Vehicles from the National Auto Fleet Group for Not-To-Exceed \$148,941.54 through a Cooperative Procurement Contract through the National Joint Powers Alliance (Staff Contact: Chris Schroeder, 408-586-3161 and Henry Kwong, 408-586-2419)**

Background: To support the ongoing operational needs of the Police Department, the City needs to purchase two Police Interceptor Utility vehicles for \$36,314.47 each, one Chevrolet Tahoe for \$41,186.97, and one Ford F150 SuperCrew Cab truck for \$35,125.63, for a not-to-exceed amount of \$148,941.54. The vehicles are necessary to support the patrol and investigative services work of the Police Department. The four new vehicles will replace older vehicles that have reached the end of their useful life as police vehicles.

Staff recommends a cooperative purchase 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.” The Purchasing Agent reviewed all of the documentation from the National Joint Powers Alliance Request for

Proposal (RFP) No. 120716 entitled “Vehicles, Cars, Vans, SUVs, and Light Trucks with Related Equipment, Accessories, and Services” and has determined that the underlying purchase was made using competitive bidding procedures at least as restrictive as the City of Milpitas’ Purchasing Division.

Fiscal Impact: Sufficient funds for the purchase are in the Equipment Fund’s operating budget.

Recommendation: Adopt a resolution authorizing the Purchasing Agent to purchase four City vehicles from the National Auto Fleet Group for an amount not to exceed \$148,941.54 through a cooperative procurement contract through the National Joint Powers Alliance.

Attachments: Resolution and National Auto Fleet Group quotes

***8. Adopt a Resolution Authorizing the Chief of Police to Execute the Agreement with the California Office of Traffic Safety (OTS) for the 2018 Selective Traffic Enforcement Program (STEP) Grant (Staff Contact: Henry Kwong, 408-586-2419)**

Background: The California Office of Traffic Safety (OTS) is administering the 2018 Selective Traffic Enforcement Program (STEP) that offers grant funds from the California Office of Traffic Safety to reimburse law enforcement agencies for overtime expenditures specifically directed towards Traffic Safety Operations.

Best practice strategies will be conducted to reduce the number of persons killed and injured in traffic collisions involving impairment and other primary collision factors. The funded strategies may include enforcement operations focusing on impaired driving, distracted driving, night-time seat belt use, motorcycle safety, and pedestrian & bicycle safety. Operations are conducted in areas with disproportionate numbers of traffic collisions. Other funded strategies may include public awareness, educational programs, and training for law enforcement.

The City of Milpitas has been approved for a grant of \$100,000.00 to conduct Driving Under the Influence (DUI) saturation patrols, DUI checkpoints, traffic enforcement operations, distracted driving enforcement, motorcycle safety programs, pedestrian & bicycle safety programs, public education, equipment purchases, and training on an overtime basis in conjunction with the STEP grant between October 1, 2017 and September 30, 2018.

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

Recommendation:

1. Adopt a resolution authorizing the Chief of Police to execute the agreement with the California Office of Traffic Safety for the 2018 Selective Traffic Enforcement Program (STEP) grant.
2. Approve a budget appropriation in the amount of \$100,000 to the Milpitas Police Department overtime budget as a result of the 2018 STEP grant.

Attachments: Resolution and California Office of Traffic Safety Grant Agreement

***9. Award the Bid to BrightView Landscape Service, Inc. and Authorize the City Manager to Execute a Contract with BrightView for City of Milpitas Parks Maintenance Service, Initially Not to Exceed \$1,241,776 (Staff Contacts: Robert Hill, 408-586-2626 and Chris Schroeder, 408-586-3161)**

Background: On April 5, 2017, Request for Proposal (RFP) 2190 was issued for City of Milpitas Parks Maintenance Service. Purchasing staff worked closely with Public Works staff to develop the specification and bid package for the RFP. Services under the contract include

full maintenance, repair and landscape services for 26 City parks. The RFP was advertised in the local newspaper, on City website and through Public Purchase. Six contractors submitted proposals, two of which were disqualified for failure to meet the minimum requirements. The remaining four proposals were evaluated by a committee of three: the Public Works Director and two Public Works Managers. The committee scored proposals based on various criteria including price, technical abilities and qualifications, quality of the proposal, and references. Unfortunately, none of the proposals fell within acceptable budgetary limits for an award.

On June 2, 2017, a request for Revised Pricing based on a reduced scope was sent to the same four Contractors. Revised pricing was received on June 6, 2017 and that did not result in any price reduction sufficient to make a recommendation for award. On June 22, 2017, the City rejected all bids and issued a four month bridge contract to the current parks contractor Terracare Associates, with a significantly reduced scope for \$383,733 for the period July 1, 2017 to October 31, 2017.

On August 28, 2017, an RFP 2210 for City of Milpitas Parks Maintenance Service was issued. Purchasing staff worked closely with Public Works staff to rewrite the specification and bid package for the RFP. Services under the contract include full maintenance, repair and landscape services for 26 City parks. The RFP was advertised in the local newspaper, on City website, and through Public Purchase. Three contractors submitted proposals, one of which was disqualified for failure to meet the minimum requirements. The proposals were evaluated by a committee of three: the Deputy Public Works Director and two Public Works Managers. The committee scored the proposals based on various criteria including price, technical abilities and qualifications, quality of the proposal, and references.

The recommendation for the bid award is to BrightView Landscape Services, Inc. and is based on the offering that is considered to be the best value and most advantageous to the City. The new contract for City of Milpitas Parks Maintenance Service includes an initial one-year period in the amount of \$1,241,776 commencing November 1, 2017 through October 31, 2018. 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, Not Seasonally Adjusted, All Items, San-Francisco-Oakland-San Jose or 5%, whichever is less. Four annual renewal options total an amount not to exceed \$4,967,104 resulting in a total not-to-exceed five year contract of \$6,208,880, excluding CPI compensation adjustments. After posting the Notice of Intent to Award (Pending Bid Results), no protest was filed.

Fiscal Impact: Funds are available in the Public Works operating budget for this purchase.

Recommendations:

1. Award a bid to BrightView Landscape Services Inc. and authorize the City Manager to execute a contract with BrightView for City of Milpitas Parks Maintenance Service, initially not to exceed \$1,241,776.
2. Authorize the Purchasing Agent to extend the term of the contract 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.

Attachment: Summary of contract with Brightview

- *10. **Approve Amendment No. 2 to Franchise Agreement with Milpitas Sanitation, Inc. for Collection of Solid Waste and Collection and Processing of Recyclable Materials and Organic Materials (Staff Contacts: Leslie Stobbe, 408-586-3352 and Christopher Diaz, 408-586-3040)**

Background: On November 14, 2016, the City Council adopted Resolution No. 8602 to award the franchise agreement for collection of solid waste and collection and processing of

recyclable materials and organic materials to Milpitas Sanitation, Inc. (“MSI”). On March 21, 2017, the City Council approved Amendment No. 1 to the Agreement, in order to modify the approved disposal site from Guadalupe Landfill to Kirby Canyon Landfill and to modify the initial maximum rates to reflect that change. The commencement date of the agreement is December 1, 2017, and the transition from the current franchisee to MSI is underway.

During the preparations for the commencement of services, some items have arisen that require clarification to the Agreement to ensure the timely and successful delivery of services. The most significant item involves terms pertaining to facilities to process and transfer the City’s materials.

Per the Agreement, MSI’s approved facilities for transfer of garbage and organics and processing of recyclables and construction and demolition debris are with Greenwaste Recovery, Inc. (“GWR”) located at 625 Charles Street in San Jose. In establishing an agreement for services provided by GWR to MSI, it was determined that certain provisions of the Agreement were unclear with respect to GWR’s status as an approved facility providing “post-collection” services to MSI vs. a subcontractor providing collection services on behalf of MSI.

Proposed changes clarify that in providing post-collection services to MSI, GWR is not a “Subcontractor” but rather an “Approved Facility” as defined in the Agreement. This clarification is consistent with standard practice in the industry, consistent with the relationship of the parties, and enables the City and MSI to secure the use of the GWR facility. The changes to the Agreement on this item as well as other certain changes are included in the attached Amendment No. 2 to Agreement and summarized in the Analysis section below.

On August 21, 2017, the City of Milpitas entered into a professional services agreement with R3 Consulting Group, Inc. (“R3”), a firm qualified in solid waste management consulting, to provide support related to the transition of franchisees and the commencement of the new Agreement with MSI, including review of the proposed Amendment No. 2 to the Agreement.

Analysis: Summary and analysis of the primary changes to the Agreement included in Amendment No. 2 to Agreement are as follows:

1. Amend definition of “Change in Law”.

Analysis: The changes extend the definition to Subcontractors and Approved Facilities, meaning that a Change in Law affecting Subcontractors or Approved Facilities could then trigger an Extraordinary Rate Adjustment per Section 8.4 of the Agreement and/or trigger Proposition 218 Indemnification per Section 9.1.F of the Agreement. To the extent that changes in law do affect costs for Subcontractors or Approved Facilities utilized by MSI in performing the services of the Agreement, then it would not be unreasonable for MSI to request an Extraordinary Rate Adjustment to cover those increased costs.

2. Add definitions for “Related Party Entity” and “Related Party Entity Transaction”.

Analysis: The definitions provide clarification on the terms.

3. Amend definition of “Subcontractor”.

Analysis: The amendments clarify that Approved Facilities are not considered Subcontractors for purposes of the Agreement.

4. Language edits in Section 2.C.1 of each of Exhibit D-1 and Exhibit D-2 of the Agreement in reference to the Approved Disposal Facility and Approved Transfer Facility.

Analysis: The edits are clean-up items.

5. Amend Exhibit L of the Agreement to reflect service changes and establish rates for additional services.

Analysis: The rates that have been previously approved by Council are not being changed. The primary purpose of this amendment is to clarify rates that have already been defined and to provide rate information for services that were previously undefined. MSI is requesting updates to Exhibit L. R3 reviewed the changes from the currently-adopted rates from Amendment No. 1 to proposed changes in Amendment No. 2. The revised rates primarily provide clarifications on rates and rate codes that were discussed in the original Agreement but were not included in the original Exhibit L. The revisions also include clarifications to some of the previously defined rates R3 reviewed the calculation methodology used to derive each rate and finds them to be in alignment with the methodology used to calculate the currently-adopted rates and finds them to be reasonable, appropriate, and acceptable. The most significant changes include:

- a. Establishing a rate of \$27.87 per quarter for backyard/side yard service, calculated using the lowest currently-adopted rate for push pull service.
- b. Clarifying a limit of three (3) Recyclable Materials carts and three (3) Yard Trimmings carts per Single Family customer account.
- c. Specifying parameters for Bulky Bag / Bulky Item Collection and establishing rates for additional material set out during a scheduled Bulky Bag / Bulky Item Collection and additional Bulky Bag / Bulky Item Collections scheduled beyond the number provided to each account at no charge.
- d. Establishing a rate for Single Family Bin for a Day, based on the currently-adopted delivery fee.
- e. Establishing rates for some Multi-Family and Commercial Yard Trimmings service levels that were missing from the currently-adopted rates.
- f. Establishing rates for compacted materials in bins, which are in use in the City but were missing from the currently-adopted rates, based on the same calculation methodology used for the currently-adopted rates.
- g. Establishing late fees and other miscellaneous charges that might come about in certain situations but were missing from the currently-adopted rates.

1. Amend first paragraph in Section 3.9 of the Agreement.

Analysis: The amendments clarify that City-directed changes to scope may affect MSI's agreement(s) with Approved Facilities, for which MSI would need to establish new compensation if City-directed changes result in increased costs at Approved Facilities.

2. Amend Article 4 of the Agreement.

Analysis: There are a variety of service-related amendments which provide language clean-up, clarifications of service levels, containers, service frequency, acceptable materials, processing techniques, and resolution of inconsistencies with regard to customer service hours. R3 reviewed the changes and finds them to be reasonable, appropriate, and acceptable.

3. Amend Exhibit B, Section 3.B.12 of the Agreement.

Analysis: The amendments appropriately clarify that Multi-Family program implementation will include Recycling as required by AB 341 in addition to Yard Trimmings as required by AB 1826.

Changes to the Agreement included in Amendment No. 2 to Agreement are reasonable, appropriate, and acceptable.

California Environmental Quality Act: As stated in the prior memo included in the City Council agenda packet for the meetings of October 17, 2016 and November 14, 2016 entitled “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.”

The changes in draft Amendment No. 2 to Agreement do not alter the services in any significant way relative to CEQA, and CEQA Guideline 15301 would still apply.

Alternative: The ability of MSI to secure an agreement for recyclable materials, yard trimmings and construction and demolition debris processing and solid waste transfer is dependent upon Amendment No. 2 to Agreement. Approval of Amendment No. 2 to Agreement is necessary to ensure continuity of services and provides clarifications to support the ongoing management of the Agreement.

Fiscal Impact: None. The cost of collection of solid waste and collection and processing of recyclable materials and organic materials will be included in the customer rates, and revised rates remain in alignment with the rates that have been agreed to for this new contract.

Recommendation: Approve Amendment No. 2 to the Agreement with Milpitas Sanitation, Inc. for Collection of Solid Waste and Collection and Processing of Recyclable Materials and Organic Materials.

Attachment: Amendment No. 2 to Agreement

***11. Approve and Authorize the City Manager to Execute an Improvement Agreement for a New Self-Storage Facility at 1 Hanson Court by One Hanson, LLC (Staff Contact: Judy Chu, 408-586-3325)**

Background: On October 28, 2015, the City of Milpitas Planning Commission conditionally approved a Site Development Permit and a Conditional Use Permit for construction of a new self-storage facility located at 1 Hanson Court west of Milpitas Boulevard and north of Abel Street by One Hanson, LLC.

The City Engineer has reviewed and approved public improvement plans (E-EN16-0183) pursuant to MMC XI-1-7.09-2. The developer has executed an Improvement Agreement 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 (\$160,000.00 for faithful performance and \$160,000.00 for labor and materials) to guarantee completion of required public improvements.

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

Fiscal Impact: None.

Recommendation: Approve and authorize the City Manager to execute an Improvement Agreement for a new self-storage facility at 1 Hanson Court by One Hanson, LLC

Attachment: Public Improvement Agreement

XII. UNFINISHED BUSINESS

12. Adopt a Resolution Approving the Site Development Permit for Construction of a 1,072 square foot Carport with Rooftop Solar Photovoltaic System, Adjacent to an Existing Bungalow and Residence in the Hillside at 430 Evans Road (Staff Contact: Lillian Hua, 408-586-3073)

Background: The City received an application to construct a 1,072 square foot carport with rooftop solar photovoltaic system, adjacent to an existing bungalow and residence in the hillside. The project site is a developed 5.1 acre parcel located along Evans Road. The property is zoned as R1-H in the Hillside Combining District and the General Plan designation is Hillside Very Low Density.

The Planning Commission unanimously recommended approval of the Site Development Permit for the project on August 23, 2017. Commissioners determined the project is consistent with the policies and guiding principles identified in the General Plan, and satisfies the requirements specified in the Zoning Ordinance. The project's architectural design and site planning is aesthetically compatible with the neighboring homes. The project meets the development standards set forth by the Zoning Code and incorporates earth tone colors, complementing the surrounding color palette.

Environmental: A categorical exemption pursuant to Section 15303(e) of the CEQA Guidelines – New Construction or Conversion of Small Structures, has been applied to this project. Section 15303(e) includes, but limited to, the construction of accessory structures including garages, carports, patios, swimming pools, and fences. The project's proposed new construction of a carport with a rooftop solar photovoltaic system are within a residentially zoned area.

Fiscal Impact: None.

Recommendation: Adopt a resolution approving Site Development Permit No. SD17-0009 to construct a new carport with rooftop solar photovoltaic system on a 5.1 acre site located at 430 Evans Road.

Attachments:

- a) Resolution
- b) Planning Commission Meeting Minutes 8/23/2017
- c) Planning Commission Staff Report 8/23/2017
- d) Project Plans (separate bound document)

13. Adopt a Resolution Amending the City’s Classification Plan to Re-Assign Police Support Services Manager to Unrepresented and Adjust Salary Range (Staff Contact: Tina Murphy, 408-586-3086)

Background: Amendments to the Classification Plan are periodically required to account for organizational changes and changes in job responsibilities. The proposed amendment reflects the following change. The classification of Police Support Services Manager was approved in the Fiscal Year 2017-2018 Operating Budget. This classification was originally assigned to the Mid-Management and Confidential Unit (“Mid-Con”) with an annual salary of \$104,237 - \$138,983.

The job description for Police Support Services Manager was recently finalized and job duties indicate that this position would be best served as an unrepresented position. The Police Support Services Manager classification will be assigned to oversee the 9-1-1 Communications Center and Records Unit at the Milpitas Police Department, which includes 24.5 positions. The classification has administrative and management oversight of employees in the Communications Center and Records Unit, and will prepare and monitor the operating budget for these two sections of the Police Department.

Fiscal Impact: The recommended annual salary range for the position of Police Support Services Manager is \$112,500 - \$157,500. Increasing the salary range to the proposed amount will result in an increase of \$18,517 for FY 2017-18. No change to the funding for this position will be needed since the increase can be covered by salary savings from the position not filled for the full fiscal year.

Recommendation: Adopt a resolution amending the Classification Plan to re-assign the Police Support Services Manager from the Mid-Con bargaining unit to the Unrepresented Employees group and adjust the annual salary range for Police Support Services Manager to \$112,500 - \$157,500.

Attachment: Resolution + Exhibit (job classification)

14. Approve and Authorize the City Manager to Execute Consultant Services Agreement with RMC Water and Environment for Support on the Bay Area Rapid Transit Project, CIP No. 4265 and Montague Expressway Widening Project, CIP No. 4179 (Staff Contact: Steve Chan, 408-586-3324)

Background: Santa Clara Valley Transportation Authority (VTA) continues to move forward on the construction of the BART Extension and Montague Expressway Widening projects. RMC Water and Environment had provided water and sewer utility installation and relocation design review for the City during the design stages of these projects. Water and sewer engineering support services are needed to complete the construction and project close-out phases of these projects. Since RMC Water and Environment is familiar with the project scopes, they are most suited to provide the needed water and sewer engineering services to complete these projects.

The proposed RMC Water and Environment consultant services agreement has a total not-to-exceed sum of \$10,000 and agreement term to December 31, 2018.

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

Alternative: If this agreement is not approved, staff will not be available to provide support to projects which will impact construction and inspection of City infrastructure.

Fiscal Impact: None. There are sufficient funds in the project budgets. The City's Master Agreement with VTA allows reimbursement of City consultant costs for BART extension support services.

Recommendation: Approve and authorize the City Manager to execute Consultant Services Agreement with RMC Water and Environment for support on the Bay Area Rapid Transit Project, CIP No. 4265 and Montague Expressway Widening Project, CIP No. 4179.

Attachment: Agreement with RMC

15. Approve and Authorize the City Manager to Execute Amendment No. 1 to the Common Interest, Privilege and Confidentiality Agreement with Tributary Agencies of San José/ Santa Clara Regional Wastewater Facility (Staff Contact: Tony Ndah, 408-586-2602)

Background: The City of Milpitas currently discharges its wastewater effluent from the City owned and operated collection system to the San José/Santa Clara Regional Wastewater Facility ("RWF"). The City of San José is the majority owner of the RWF, the City of Santa Clara is a minority owner, with the following tributary agencies: West Valley Sanitation District, Burbank Sanitary District, Cupertino Sanitary District, County Sanitation District 2-3 and City of Milpitas ("Tributary Agencies").

The RWF requires significant rehabilitation totaling \$2.2 billion over a 20 year period which is captured in a formal planning document known as the Plant Master Plan. To satisfy the Plant Master Plan, significant financial contributions from City of San José, City of Santa Clara and the Tributary Agencies are required. Milpitas is required to pay its fair share, which based on preliminary information provided by the City of San José, will fluctuate over the 20 year period. Three financing vehicles are being considered by the RWF including long term financing (e.g. Bonds), SRF (state revolving fund) loans, and short term financing (e.g. commercial paper). It is evident given these significant contributions, the City will need to consider these financing vehicles as a means to provide for rate stabilization and inter-generational rate equity among its sewer ratepayers. City of Santa Clara and the Tributary Agencies have been asked to confirm their participation in these financing vehicles so that City of San José can develop Master Agreement Amendments. The City has potential to finance with City of San José, independently or externally with other parties.

On August 11, 2015, City Council authorized the City Manager to enter into a Common Interest, Privilege and Confidentiality Agreement with the Tributary Agencies. City Council authorized litigation against the RWF on September 11, 2017. The proposed amendment updates the terms of the agreement to address the pending litigation as well as to make minor changes to the wording of the current agreement. The Agreement will allow the Parties to exchange legal information and advice regarding the RWF without the risk of waiving or diminishing any applicable privileges or protections. Amendment No. 1 is brought forward to respective governing bodies for approval during the month of October 2017.

Fiscal Impact: There is no fiscal impact associated with this Amendment.

Recommendation: Approve Amendment No. 1 to the Common Interest, Privilege and Confidentiality Agreement with West Valley Sanitation District, Cupertino Sanitary District, County Sanitation District 2-3 and Burbank Sanitary District of the San José/Santa Clara Regional Wastewater Facility and direct the City Manager to execute the amendment in a form approved by the City Attorney.

Attachment: None

16. Review List for City Council of Items Due Back for Response from City Staff (Staff Contacts: Steve Pangelinan, 408-586-3051 and Mary Lavelle, 408-586-3001)

Recommendation: review list (in agenda packet) and provide additional input on the draft document, prepared by City Clerk for the Council.

Attachment: List of Items Requested by City Council

17. Receive Updated Information Responding to Council Input and Consider Adopting a Resolution to Amend the By-Laws of the Milpitas Planning Commission, and Discuss City of Milpitas Commissions and Process for Commission Appointments (Staff Contact: Steve Pangelinan, 408-586-3050)

Background: Per request of the Milpitas Planning Commission in September 2016 to consider potential amendments to its rules and regulations, staff worked with Planning Commissioners to clean up existing language and draft a revised version of the by-laws. On August 1, 2017, the Planning Commission's recommendations were discussed by the Milpitas City Council. Council directed to staff to bring forward a Resolution to effectuate the proposed by-law amendments. Council is requested to adopt a resolution approving all amendments to the by-laws. Included in the agenda packet are copies of the Planning Commission by-laws showing all tracked changes and a final revised version.

In addition, Councilmembers have expressed an interest to discuss the 14 Council-appointed City of Milpitas Commissions, and the process for appointing residents to those bodies.

Recommendations:

- 1) If desired, adopt a resolution approving the updated By-Laws of the Milpitas Planning Commission.
- 2) Discuss City Commissions and process of appointments. Direct staff, as requested.

Attachments:

- a) Resolution
- b) Exhibit to Resolution (amended Planning Commission by-laws)
- c) Red-lined edition of Planning Commission By-Laws

18. Accept Report and Provide Direction to Staff on Community Choice Energy Programs (Staff Contact: Edesa Bitbadal, 408-586-3052)

Background: On May 2, 2017, City Council directed staff to study the Community Choice Energy program and to report back to the Council on possible options for the City of Milpitas.

Community Choice Aggregation (CCA), also commonly referred to as Community Choice Energy (CCE), enables cities, counties, and joint powers authorities (comprised of municipalities) that do not operate municipally-owned electric utilities to pool the electricity demand within their jurisdictions in order to procure and/or generate electrical power supplies on behalf of its residents and businesses while maintaining the existing electricity provider, Pacific Gas and Electric Company (PG&E), for electricity billing, transmission and distribution services.

When a city, county, or combinations thereof, creates a CCE program, it becomes the default provider of electricity for all residents and businesses within its jurisdiction. Customers, however, are provided the ability to opt-out of service from the CCE program and return to the incumbent utility for generation service at any time.

Authorized by California law in 2002, California is currently one of seven states that allow the formation of a CCE program, and presently there is one operational CCE in Santa Clara County: Silicon Valley Clean Energy (SVCE) launched in April 2017. Additionally, both East Bay Community Energy (EBCE) and San Jose Clean Energy (SJCE) anticipate serving customers in spring of 2018, while several more CCEs throughout the state are currently being considered for development. To date, only SVCE has expressed an interest in having the City of Milpitas join.

CCE programs typically provide electricity options with a higher mix of renewable energy than available from the incumbent utility; the percentage of energy from renewable sources currently ranges from 35 percent to 100 percent. Thus, primary reasons for pursuing a CCE program include the ability to achieve climate action plan goals through reductions in greenhouse gas emissions (GHG), and offering customers an alternative energy choice and cost competitive electric services.

Currently, all governance models for operational CCEs are either a joint powers agency or single jurisdiction, an example of each being detailed below:

1. Joint Powers Authority (JPA) Model: The JPA functions as an independent public agency, operating on behalf of its member jurisdictions with shared decision-making authority. This shared structure distributes the risks and liability across multiple jurisdictions, and minimizes risk to its member jurisdictions. Silicon Valley Clean Energy and East Bay Community Energy are examples of Bay Area CCEs using the JPA governance model.
2. Single Jurisdiction Model: A jurisdiction individually establishes and operates a CCE and therefore makes all policy decisions on revenues, power mix, and programs. Any risk and liability associated with the CCE fall solely on this single jurisdiction. In this model, it is recommended that the jurisdiction develop contractual language to minimize risk to the general fund, maintain adequate operating reserves, and proactively track regulatory activities and manage its energy portfolio. CleanPowerSF and San Jose Clean Energy are examples of Bay Area CCEs using the single jurisdiction governance models.

To date, all operational CCEs have conducted a feasibility report and/or a technical study prior to CCE program implementation, although this is not required under Public Utilities Code Section 366.2. Such studies typically include information on CCE formation requirements; evaluate load requirements, risks, and energy procurement using jurisdiction specific load data; analyze CCE program operations under different power mixes and program sizes, rate impacts and environmental benefits; and estimate start-up and other financing costs.

Local governments must pass the required CCA ordinance to join or establish a CCE program, and the CCE agency must update or draft an Implementation Plan that is certified by the California Public Utilities Commission (CPUC). This is typically done after an initial technical study to determine the amount of electricity that will be required, how much clean power can be integrated, and the extent to which a CCE can be cost competitive over time. The Implementation Plan outlines how the CCE will function, how it will set rates, how it will procure electricity, and how it will carry out all other functions required under CPUC regulations.

Based on this report and other Bay Area technical studies, five possible options are provided for the City of Milpitas.

1. Proceed with the steps necessary to join SVCE

Potential benefits of joining SVCE

- Eleven other Santa Clara County communities have already joined
- Program already launched
- Credit capacity and programs in development
- Easier transition/implementation
- Able to enroll customers sooner than EBCE/SJCE

Potential risks/downsides of joining SVCE

- Programs already in place; less/minimal input into their formation

2. Proceed with the steps necessary to join EBCE

Potential benefits of joining EBCE

- Since it hasn't launched yet, more opportunity to influence policy direction and program development
- Working on a local development business plan with emphasis on local power production in the East Bay

Potential risks/downsides of forming EBCE

- Take longer to enroll since programs have yet to be launched
- Take longer for job-creating programs to get up and running
- May be a small fish among some very large fish (Oakland, Hayward)

3. Proceed with the steps necessary to join SJCE

Potential benefits of joining SJCE

- May have opportunity for potential revenue sharing

Potential risks/downsides of joining SJCE

- Commitment of City resources likely needed when joining
- Take longer to enroll since programs have yet to be launched
- May have small influence in decision-making due to customer load

4. Proceed with the steps necessary to establish a Milpitas CCE

Potential benefits of forming Milpitas CCE

- More local control (voting shares not diluted)
- Greatest potential for local economic development (due largely to more local control)

Potential risks/downsides of forming Milpitas CCE

- Commitment of City resources to establish a new CCE agency
- Higher risks due to lack of experience, fewer partners
- Would need to establish programs, contractors, credit, etc.
- Longest time line to begin enrolling customers
- Given SVCE's presence in eleven Santa Clara County communities, potential customer confusion with multiple CCEs in the same county

5. Take no action at this time in pursuit of CCE and remain with PG&E

Potential benefits of remaining with PG&E

- Experienced provider
- State regulatory protection
- Continuity – same firm provides all services

- No action needed by City – status quo
- May be able to join a CCE at a later date (but perhaps at some cost)

Potential risks/downsides of remaining with PG&E

- Higher GHG emissions
- Less local renewable generation
- Higher electricity rates than CCE rates under most scenarios
- Less local control
- Less local input into policies and offerings
- Less local economic development

Fiscal Impact: None. There are no fiscal implications to accepting this report.

Recommendation: Receive staff report; and provide direction on Community Choice Energy programs.

Attachment: None

XIII. REPORT

19. Per Request of Mayor, Consider Approving More than 4 Hours of Staff to Return to Council with a Comprehensive Homeless Strategy (Contact: Mayor Tran, 408-586-3029)

Recommendation: Consider Mayor’s request and if desired, approve more than four hours of staff time toward a plan for a comprehensive homeless strategy for City of Milpitas.

Attachment: None

XIV. NEW BUSINESS

20. Receive Report from Information Services Director Regarding Comcast Cable Store Closure at 597 E. Calaveras Boulevard (Staff Contact: Mike Luu, 408-586-2706)

Background: As part of the franchise agreement between the City of Milpitas and Comcast approved in 2005, Comcast must provide a convenient location within the City for subscriber inquiries, bill payment and equipment transfers until such a time that these services are no longer required. On August 31, 2017, the City received a letter from Comcast notifying the City of pending closure of the cable store in Milpitas at the end of September 2017. Comcast planned to open a large new Xfinity store located at 1065 E. Brokaw Road in San Jose. Comcast will transfer operations from the current location in Milpitas to the new store. The new customer service center is located 5.5 miles from the existing customer service center. Besides going in person to the customer service center, customers can currently pay bills on-line, can get a pre-paid box to return equipment or simply drop off equipment at the closest UPS shipping location. Customers can also pay their bills at the nearest 7-11 or CVS retail locations.

Comcast is requesting an amendment to its franchise agreement to remove the requirement for a customer service center located within the City of Milpitas.

Fiscal Impact: None. The current franchise agreement between the city of Milpitas and Comcast will continue until 2020. Comcast will switch to a Digital Infrastructure Video and Competition Act (statewide) franchise after 2020.

Recommendation: Receive staff report from Information Services Director regarding the Comcast Cable store closure and direct staff to continue working with Comcast on an amendment to the agreement with Council's recommendation.

Attachments:

- a) city's current Franchise Agreement with Comcast Cable
- b) Cable Store Closure Letter to City

XV. ORDINANCE

- 21. Waive the First Reading and Introduce Ordinance No. 48.21 Amending Title V Chapter 200 of the Milpitas Municipal Code Regarding Solid Waste Management (Staff Contact: Greg Chung, 408-586-3355)**

Background: The Milpitas Municipal Code specifies requirements related to Solid Waste Management. On December 1, 2017, a franchise agreement with the City's new solid waste collector, Milpitas Sanitation, will commence. Code was revised to correlate the new solid waste provisions which become effective by the contract start date December 1, 2017.

Fiscal Impact: There is no fiscal impact to the proposed Ordinance adoption.

Recommendations:

1. Following a reading of the title by the City Attorney, move to waive the first reading beyond the title of Ordinance No. 48.21.
2. Introduce Ordinance No. 48.21 amending Chapter 200 of Title V of the Milpitas Municipal Code regarding solid waste management.

Attachment: Ordinance No. 48.21

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

XVII. ADJOURNMENT

NEXT SPECIAL CITY COUNCIL MEETINGS
WEDNESDAY, OCTOBER 18, 2017
SATURDAY, NOVEMBER 4, 2017

NEXT REGULAR CITY COUNCIL MEETING
TUESDAY, NOVEMBER 7, 2017