



# REGULAR MEETING OF THE MILPITAS CITY COUNCIL

## AGENDA

**TUESDAY, MARCH 20, 2018**

**455 EAST CALAVERAS BOULEVARD, MILPITAS, CA**

**5:30 P.M. (CLOSED SESSION)**

**7:00 P.M. (PUBLIC BUSINESS)**

## SUMMARY OF CONTENTS

- I. **CALL MEETING TO ORDER** by Mayor and **ROLL CALL** by City Clerk
- II. **ADJOURN TO CLOSED SESSION (5:30 PM)**
  - (a) **CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**  
Pursuant to California Government Code Section 54957.6  
City Negotiator: Tina Murphy  
Employee Group: International Association of Fire Fighters  
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
  - (b) **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**  
Pursuant to California Government Code Section 54956.9(d)(1) – City as Defendant
  - (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
- III. **CLOSED SESSION ANNOUNCEMENT:** Report on action taken in Closed Session, if required per 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 March as *American Red Cross Month*
  - Honor Mort Levine, Founder/Publisher of *The Milpitas Post* newspaper

**VII. PUBLIC FORUM**

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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. Council may instruct the City Manager to place the item on a future meeting agenda.

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**VIII. ANNOUNCEMENTS**

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

**X. APPROVAL OF AGENDA**

**XI. CONSENT CALENDAR**

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

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- 1. Accept Schedules of Meetings/City Council Calendars for March and April 2018**
- 2. Approve City Council Meeting Minutes of March 6 and 7, 2018 (Staff Contact: Mary Lavelle, 408-586-3001)**
- 3. Waive the Second Reading and Adopt Ordinance No. 295 to Amend Sections III-1-7.01 III-1-8.01, III-1-10.04 and III-1-14.01 of Chapter 1 of Title III of the Milpitas Municipal Code Relating to Denial, Suspension or Revocation of City Business Licenses for Wage Theft and Other Violations of Law and Updating Procedures for Business Licenses (Staff Contact: Edesa Bitbadal, 408-586-3052)**
- 4. Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for, Street Resurfacing 2017 Project No. 4284 and Grant Authorization to the City Engineer to Issue the Notice of Final Acceptance and to Release the Performance Bond after One-Year Warranty Period (Staff Contact: Steve Erickson, 408-586-3301)**
- 5. Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for, Park Access Improvement and Resurfacing, Project No. 5105 and Americans with Disabilities Act Curb Ramp Transition Program, Project No. 4283, and Granting Authorization to the City Engineer to Issue the Notice of Final Acceptance and to Release the Performance Bond after the One-Year Warranty Period (Staff Contact: Steve Erickson, 408-586-3301)**
- 6. Award the Bid and Approve the Purchase of Fire Hose from L.N. Curtis & Sons for the Fire Department for \$56,466.36 (Staff Contacts: Chris Schroeder, 408-586-3161 and Rui Carapinha, 408-586-2820)**
- 7. Authorize the City Manager to Execute a Contract with Pacific Meter Services, Inc. to Perform Water Meter Replacements Throughout the City for an Amount Not to Exceed \$51,210 (Staff Contacts: Chris Schroeder, 408-586-3161 and Tony Ndah, 408-586-2602)**
- 8. Approve and Authorize the City Manager to Execute an Agreement with Verde Design in the Amount of \$370,000 for Design Services for the Sports Center Skate Park, Project No. 5111 (Staff Contact: Steve Erickson, 408-586-3301)**

9. **Approve Project Plans and Specifications, and Authorize Advertisement for Bid Proposals for Street Resurfacing 2018, Project No. 4287 (Staff Contact: Steve Erickson, 408-586-3301)**
10. **Approve Amendment No. 9 to the Consulting Services Agreement with Vali Cooper & Associates, Inc. Extending the Term to September 30, 2018, and Increasing Compensation Additionally by \$208,000 to Continue Support on the Silicon Valley Rapid Transit Program (BART) Berryessa Extension Project and Montague Expressway Widening Project, CIPs No. 4265 and No. 4179 (Staff Contact: Steve Erickson, 408-586-3301)**
11. **Receive Report of City Council Subcommittee on Commissions and Consider Approving Recommendations for Appointments to Two City of Milpitas Commissions (Contacts: Councilmember Nuñez, 408-586-3023 and Councilmember Phan, 408-586-3032)**

**XII. NEW BUSINESS**

12. **Receive 2017 Annual Housing Element Progress Report and 2017 Housing Successor Agency Annual Report (Staff Contact: Tim Wong, 408-586-3286)**
13. **Receive Update on the San Francisco Public Utilities Commission and the Santa Clara Valley Water District Proposed Wholesale Water Rates for Fiscal Year 2018-19 (Staff Contact: Tony Ndah, 408-586-2602)**
14. **Approve Mid-Year Budget Appropriations and Changes for the FY 2017-18 Operating Budget (Staff Contact: Will Fuentes, 408-586-3111)**
15. **Receive Update on the FY 2018-19 Budget Process (Staff Contact: Will Fuentes, 408-586-3111)**
16. **Receive Update on Silicon Valley Clean Energy Community Outreach Plan (Staff Contact: Edesa Bitbadal, 408-586-3052)**

**XIII. AGREEMENT**

17. **Approve Amendment No. 13 to the Master Agreement Between the Santa Clara Valley Transportation Authority (VTA) and the City of Milpitas Authorizing Payment of a Cost Not to Exceed \$838,100 to VTA for City Utility Infrastructure Upgrades, Montague Widening Project No. 4179 (Staff Contacts: Steve Erickson, 408-586-3301 and Steve Chan, 408-586-3324)**

**XIV. REPORTS OF MAYOR & COUNCILMEMBERS – from assigned Commissions, Committees and Agencies**

**XV. ADJOURNMENT**

**NEXT REGULAR CITY COUNCIL MEETING**

**TUESDAY, APRIL 3, 2018**

**SPECIAL CITY COUNCIL MEETINGS**

**WEDNESDAY, MARCH 21, 2018 – JOINT MEETING with  
SANTA CLARA VALLEY WATER DISTRICT**

**THURSDAY, MARCH 29, 2018  
STUDY SESSION ON LAND USE**

**TUESDAY, APRIL 10, 2018  
BUDGET STUDY SESSION**

**KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review.

For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035  
e-mail: [cdiaz@ci.milpitas.ca.gov](mailto:cdiaz@ci.milpitas.ca.gov) / Phone: 408-586-3040

*The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov) by selecting the Milpitas Municipal Code link.*

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

**APPLY TO SERVE ON A CITY COMMISSION**

Current vacancies on:

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  
Veterans Commission  
Youth Advisory Commission

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

*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 mga 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](mailto:mlavelle@ci.milpitas.ca.gov) prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the City Council Chambers for all meetings.*

## AGENDA REPORTS

### XI. CONSENT CALENDAR

1. **Accept Schedules of Meetings/City Council Calendars for March and April 2018**

**Recommendation:** Receive Council calendars of meetings for the months of March and April, and note any changes or additions needed.

**Attachments:** March 2018 and April 2018 calendars

2. **Approve City Council Meeting Minutes of March 6 and 7, 2018 (Staff Contact: Mary Lavelle, 408-586-3001)**

**Recommendation:** Move to approve the minutes of the March 6 and 7, 2018 City Council meetings.

**Attachments:** Draft meeting minutes 03/06/2018 and 03/07/2018

3. **Waive the Second Reading and Adopt Ordinance No. 295 to Amend Sections III-1-7.01 III-1-8.01, III-1-10.04 and III-1-14.01 of Chapter 1 of Title III of the Milpitas Municipal Code Relating to Denial, Suspension or Revocation of City Business Licenses for Wage Theft and Other Violations of Law and Updating Procedures for Business Licenses (Staff Contact: Edesa Bitbadal, 408-586-3052)**

**Background:** On March 6, 2018, the City Council introduced Ordinance No. 295. Upon adoption of this ordinance, the Milpitas Municipal Code would be revised to allow the City to revoke the business license and issue administrative fines to any employer who refuses to pay its final court order or administrative action of an investigatory agency.

**Fiscal Impact:** The primary fiscal impact is staff time to enforce the wage theft ordinance and procurement policy and conduct outreach to businesses and employees.

**Recommendation:** Waive the second reading and adopt Ordinance No. 295 related to wage theft and business licenses in the City of Milpitas.

**Attachment:** Ordinance No. 295

4. **Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for, Street Resurfacing 2017 Project No. 4284 and Grant Authorization to the City Engineer to Issue the Notice of Final Acceptance and to Release the Performance Bond after One-Year Warranty Period (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** The City Council awarded the Street Resurfacing 2017, Project No. 4284 to O'Grady Paving, Inc. on June 20, 2017. The project consisted of localized repair of failed asphalt concrete pavement, resurface asphalt concrete pavement, install Americans with Disabilities Act (ADA) compliant sidewalk ramps, repair damaged sidewalk, curb and gutter and reinstall pavement delineation on the following street segments:

- 1) Milpitas Boulevard between Hanson Court and northerly City limit
- 2) Dixon Landing between Milpitas Boulevard and 400 feet east of Milmont Drive
- 3) Abbott Avenue between Calaveras Boulevard and Rudyard Drive

This project also included localized repair of failed asphalt concrete pavement on the following street segments:

1. McCarthy Boulevard between Ranch Drive and northerly City limit
2. Main Street between Corning Avenue and Curtis Avenue

3. Yosemite Drive between Milpitas Boulevard and Vista Way
4. Dempsey Road between French Court and Landess Avenue
5. Tasman Drive between Alder Drive and I-880 Overpass
6. Technology Drive between McCarthy Boulevard and Murphy Ranch Road.

The project was successfully completed on time and within budget. Staff recommends that City Council adopt a resolution granting initial acceptance of the project and authorize the reduction of the contractor's faithful performance bond to \$328,166, which is 10% of the final contract value. Staff also recommends that the City Council authorize the City Engineer to issue the Notice of Final Acceptance and to release the performance bond after the one year warranty period without further City Council action, provided all warranty work is completed to the satisfaction of the City Engineer.

**Fiscal Impact:** None.

**Recommendations:**

1. Adopt a resolution granting initial acceptance of the Street Resurfacing 2017 Project No. 4284, subject to a one year warranty period and reduction of the faithful performance bond to \$328,166.
2. Grant authorization to the Director of Engineering/City Engineer to issue the notice of final acceptance and to release and discharge the performance bond after the one-year warranty period, without further City Council action.

**Attachment:** Resolution

5. **Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for, Park Access Improvement and Resurfacing, Project No. 5105 and Americans with Disabilities Act Curb Ramp Transition Program, Project No. 4283, and Granting Authorization to the City Engineer to Issue the Notice of Final Acceptance and to Release the Performance Bond after the One-Year Warranty Period (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** The City Council awarded a construction contract on August 15, 2017 to Alaniz Construction to complete work associates with the Park Access Improvement and Resurfacing Project, Project No. 5105, and the Americans with Disabilities Act (ADA) Curb Ramp Transition Program, Project 4283. The combined project provided for the repair of park parking lots, pathways, and installation of ADA compliant access ramps at Dixon Landing Park, Peter Gill Memorial Park, Milpitas Sports Center and Murphy Park.

The project was successfully completed on time and within budget. Staff recommends the City Council adopt a resolution granting initial acceptance for the project and authorize the reduction of the contractor's faithful performance bond to \$74,193, which is 10% of the final contract value. Staff also recommends that the City Council authorize the City Engineer to issue the Notice of Final Acceptance and to release the performance bond after the one year warranty period without further City Council action, provided all warranty work is completed to the satisfaction of the City Engineer.

**Fiscal Impact:** None.

**Recommendations:**

1. Adopt a resolution granting initial acceptance of the Park Access Improvement and Resurfacing Project No. 5105, and the Americans with Disabilities Act (ADA) Curb Ramp Transition Program, Project No. 4283, subject to the one year warranty period and reduction of the faithful performance bond to \$74,193.

2. Grant authorization to the Director of Engineering/City Engineer to issue the notice of final acceptance and to release and discharge the performance bond after the one-year warranty period without further City Council action.

**Attachment:** Resolution

**6. Award the Bid and Approve the Purchase of Fire Hose from L.N. Curtis & Sons for the Fire Department for \$56,466.36 (Staff Contacts: Chris Schroeder, 408-586-3161 and Rui Carapinha, 408-586-2820)**

**Background:** The Fire Department currently has three Pierce Velocity Pumper Engines and one Pierce 100' Tiller Engine on order, the first two Pumper engines are tentatively scheduled to arrive in June of 2018. The second Pumper Engine is tentatively scheduled to arrive in December of 2018, and the 100' Tiller Engine is tentatively scheduled to arrive in March of 2019. In order to outfit the new engines with fire hose, on January 31, 2018 the City sent Invitation for Bid (IFB) No. 2220 for assorted lengths and diameters of fire hose. Purchasing Department staff worked closely with Fire Department staff to develop the specification and bid package for the IFB. Because the engines are arriving during different fiscal years, the bid was split in two halves with identical quantities of hose, but for delivery timed to match the arrival of the two sets of engines. The IFB was advertised through Public Purchase to 41 registered vendors; 10 of which downloaded the bid and 4 submitted bids, and those are summarized below.

<u>Bidder</u>	<u>Amount</u>
1. L.N. Curtis	<u>\$56,466.36</u>
2. Cascade Fire Equipment Co.	\$56,719.24
3. Fire-Etc., Inc.	\$62,513.68
4. AllStar Fire Equipment, Inc.	\$53,455.78 (DISQUALIFIED)

The first three companies all chose to bid the specified brand. AllStar bid a different brand and was disqualified for failure to follow the bid instructions regarding submission of documentation of the “equal to or better than” status of their product.

**Fiscal Impact:** Funds are available in the Fiscal Year 2017-18 Fire Dept. operating budget for this purchase.

**Recommendation:** Award the bid and authorize purchase of a fire hose from L.N. Curtis & Sons for the Fire Department for \$56,466.36.

**Attachment:** Bid Form from LN Curtis & Sons

**7. Authorize the City Manager to Execute a Contract with Pacific Meter Services, Inc. to Perform Water Meter Replacements Throughout the City for an Amount Not to Exceed \$51,210 (Staff Contacts: Chris Schroeder, 408-586-3161 and Tony Ndah, 408-586-2602)**

**Background:** On February 8, 2018, the City issued an Invitation for Bid (IFB) No. 2211 “Water Meter Replacement” on Public Purchase, the City’s eProcurement platform. IFB 2211 was issued due to a large number of water meters needing replacing and grouping the work as a single contract was deemed most advantageous to the City. A total of 215 bid notifications were sent through Public Purchase, in addition to posting the bid on six construction bid boards, notifying all vendors registered with the City with the appropriate licensing, and posting to the City’s website.

Despite the extensive outreach efforts, no bids were received. As outlined in the City’s Municipal Code I-2-3.03 – ‘Purchases of Twenty Thousand Dollars (\$20,000) or More,’ “If no responsive bid is received after soliciting bids under this section, the Purchasing Agent

may proceed to purchase the supplies, hire or have services performed in the open market.” The Purchasing Agent then went to the open market to secure the services needed.

Pacific Meter Services, Inc. provided a quote to the City to perform replacement of approximately 260 water meters. The one-year contract for up to \$51,210 which includes a 20 percent contingency fund for any unforeseen repairs or alterations of the existing plumbing that are required in order to install the new water meters. This contingency is necessary because until the vendor can examine each meter, it is difficult to know with certainty the condition and work required to replace a meter. Some meters may take more time than normal to repair or replace due to the age of plumbing to the meter and some of the larger meters may have unique issues that take creative solutions to solve. The contingency fund will account for such potential anomalies.

**Fiscal Impact:** Sufficient funding for the service is available in the Public Works Utility Division operating budget under the Water Fund.

**Recommendation:** Authorize the City Manager to execute a contract with Pacific Meter Services, Inc. to perform water meter replacements throughout the City for an amount not to exceed \$51,210.

**Attachment:** Contract with Pacific Meter Services Inc.

**8. Approve and Authorize the City Manager to Execute an Agreement with Verde Design in the Amount of \$370,000 for Design Services for the Sports Center Skate Park, Project No. 5111 (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** The Sports Center Skate Park, Project No. 5111, is listed in the approved 2017-2022 Capital Improvement Program and is currently funded. On March 3, 2015, a previous City Council approved the Milpitas Skate Park Feasibility Study and conceptual plan for a 20,000 square foot Skate Park located at the Milpitas Sports Center, adjacent to the new sports fields. The completed feasibility study and conceptual plan were the result of community input obtained through several public workshops.

Staff completed the City standard Request for Proposal (RFP) process to evaluate potential design architects for the completion of detailed construction plans and specifications for the completion of the skate park. Verde Design is recommended to provide the architectural and engineering design services that include, bidding assistance, and construction support services. Staff negotiated a scope of work and fee for these services not to exceed \$370,000, which is considered reasonable for the work.

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

**Recommendation:** Approve and authorize the City Manager to execute an agreement with Verde Design, in the amount of \$370,000 for the Sports Center Skate Park, Project No. 5111.

**Attachment:** Agreement with Verde Design Inc. + Exhibits A, B, C

**9. Approve Project Plans and Specifications, and Authorize Advertisement for Bid Proposals for Street Resurfacing 2018, Project No. 4287 (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** Staff completed plans and specifications for Street Resurfacing 2018, Project No. 4287. Work will include localized repair of failed asphalt concrete pavement, resurface asphalt concrete pavement, install Americans with Disabilities Act (ADA) compliant sidewalk ramps, repair damaged sidewalk, curb and gutter and reinstall pavement delineation on the following street segments:

- 1) Escuela Parkway between Milpitas Boulevard and Jacklin Road
- 2) Los Coches Street between Milpitas Boulevard and Hillview Drive
- 3) Yosemite Drive between Milpitas Boulevard and Park Victoria Drive
- 4) Vista Way
- 5) Wrigley Way
- 6) Calle Oriente
- 7) Traughber Street between Park Victoria Drive and Wool Drive
- 8) Wool Drive between Traughber Street and Kennedy Drive
- 9) Kennedy Drive between Wool Drive and Park Victoria Drive.

The Engineer's Estimate for the project is \$3,500,000. A copy of the title sheet of the project plans is included in the Council's agenda packet, and the complete set of plans and specifications are available for review in the office of the City Engineer.

**Alternative:** Denying this request would result in not moving forward with the project.

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

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

**Recommendation:** Approve project plans and specifications and authorize advertisement for bid proposals for Street Resurfacing 2018, Project No. 4287.

**Attachment:** Plan title sheet

**10. Approve Amendment No. 9 to the Consulting Services Agreement with Vali Cooper & Associates, Inc. Extending the Term to September 30, 2018, and Increasing Compensation Additionally by \$208,000 to Continue Support on the Silicon Valley Rapid Transit Program (BART) Berryessa Extension Project and Montague Expressway Widening Project, CIPs No. 4265 and No. 4179 (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** On August 3, 2010, the City entered into a Master Agreement with the Santa Clara Valley Transportation Authority (VTA) for reimbursement of City work on the Silicon Valley Berryessa Extension (SVBX) project, related to the BART stations. The Master Agreement allows reimbursement of City consultant costs for support services.

On November 20, 2013, the City entered into a consulting services agreement with Vali Cooper & Associates, Inc. in the amount of \$19,760 to provide support services for the SVBX (BART) project through June 30, 2014. There have been a total of eight amendments to the agreement with Vali Cooper & Associates totaling \$1,376,240, and the term of the agreement is set to expire June 30, 2018.

Several phases of the SVBX work are in progress simultaneously, including relocation of existing utilities, installation of new utilities, track installation, parking garage, roadway, frontage, and station construction. Ongoing Montague Expressway Widening Project construction activities also requires engineering support services until project completion. The services of Vali Cooper & Associate Inc. will be required for at least another year until the BART SVBX and Montague Widening projects are completed to assist staff with project close-out and as-built records related to these projects. The VTA will continue to reimburse the City for the cost of these services related to activities for SVBX work.

The current agreement budget with Vali Cooper & Associates is projected to be exhausted at the end of March 2018. Staff recommends Council approval of Amendment No. 9 with Vali

Cooper & Associates to extend the term of the agreement to September 30, 2018 and increase compensation in the additional amount of \$208,000.

**Fiscal Impact:** Consultant expenses and City staff labor are reimbursable under the VTA Master Agreement. Work performed on the Montague Expressway Widening Project is charged to CIP Project No. 4179. Sufficient funds are available in the project budgets for these services.

**Recommendation:** Approve Amendment No. 9 to the agreement with Vali Cooper & Associates for activity related to the BART Extension projects.

**Attachment:** Amendment No. 9

**11. Receive Report of City Council Subcommittee on Commissions and Consider Approving Recommendations for Appointments to Two City of Milpitas Commissions (Contacts: Councilmember Nuñez, 408-586-3023 and Councilmember Phan, 408-586-3032)**

**Background:** The City Council Subcommittee on Commissions was formed on December 19, 2017 to review and recommend applicants to serve as new Commissioners for final approval by the Mayor and Council; and also to recommend any changes to the existing roster of City Commissions. Per the direction of Council, recommendations to the Mayor on the appointments and reappointments of Commissioners will come from one Subcommittee member and the Commission Council Liaison, with exception of the Planning Commission, which will come from the Subcommittee.

Appointment recommendations are:

**Library Advisory Commission**

Move current Alternate No. 1 Nonie McDonald into a vacant voting Commissioner's term to expire in June 2019.

Newly appoint Dana Arbaugh to serve as Alternate No. 1 with a term to expire in June 2019.

Newly appoint Therese Hoang to serve as Alternate No. 2 with a term to expire in June 2019.

Copies of two applications on file for the Library Commission are included in the agenda packet.

**Parks Recreation and Cultural Resource Commission**

Move current Alternate No. 1 Aakar Shah into a vacant voting Commissioner's term to expire in June 2019.

**Recommendation:** Consider and approve recommendations from the Council Subcommittee on Commissions for final appointment by the Mayor to the Library Advisory Commission (LAC) and the Parks, Recreation and Cultural Resources Commission (PRCRC).

**Attachment:** Commission Applications for LAC (2)

**XII. NEW BUSINESS**

**12. Receive 2017 Annual Housing Element Progress Report and 2017 Housing Successor Annual Report (Staff Contact: Tim Wong, 408-586-3286)**

**Background:** California Government Code Section 65400(a)(2) requires local agencies to provide an Annual Report to the City Council, the California Office of Planning and Research

(OPR) and the California Department of Housing and Community Development (HCD) on the status of the City's Housing Element housing activity. More specifically, the state requests a report describing the community's progress in meeting its fair share of the Regional Housing Needs Allocation (RHNA) efforts to maintain, improve and develop housing. The City's Housing Element was certified by the state when it demonstrated it provided adequate sites to accommodate the City's RHNA requirements. However, the Annual Report reports on the production of housing. The reporting timeframe covers the RHNA period of 2015-2023. In March 2015, a new state reporting requirement mandates that jurisdictions also submit Successor Housing Agency Annual Reports with the Progress Report. Both reports are included in the Council agenda packet for reference.

- Table A is the City new residential building permit activity for calendar year 2017.
- Table A2 is the number of units rehabilitated in the City done through the City's Rehabilitation program and through the CDBG program.
- Table A3 is the City's cumulative new residential building permit activity.
- Table B is the City's progress towards the City's 2015-2023 RHNA requirements.
- Table C is the City's narrative of the City's Program Implementation Status of the Housing Element.

Please note that while the City has approved thousands of housing units in the past two years, those included in this report are units that received final building permit approval (i.e. ready for occupancy).

The Housing Successor Annual Report is a state requirement for Housing Successors of the former redevelopment agencies report on deposits, expenditures and activities of the Low and Moderate Income Assets of the Milpitas Housing Authority, the Housing Successor Agency of the former Milpitas Redevelopment Agency.

Following the City Council receipt of the Housing Report, the report will be sent to the state agencies OPR and HCD.

**Fiscal Impact:** None.

**Recommendation:** Receive the 2017 Annual Housing Element Progress Report and 2017 Housing Successor Annual Report.

**Attachments:**

- a) 2017 Annual Housing Element Progress Report 2017
- b) Housing Successor Annual Report 04-01-2018

**13. Receive Update on the San Francisco Public Utilities Commission and the Santa Clara Valley Water District Proposed Wholesale Water Rates for Fiscal Year 2018-19 (Staff Contact: Tony Ndah, 408-586-2602)**

**Background:** The City of Milpitas operates and maintains a potable water distribution system. Water rates charged to customers for the City's water distribution system are based on:

- 1) the cost of water charged by water wholesalers;
- 2) cost of City services for 24/7 operations: delivering high-quality water;
- 3) routine maintenance and emergency repairs; and
- 4) major infrastructure investments (Capital Improvement Program)

The City's potable water supply system is divided into two distinct service areas, corresponding to the areas served by the City's two water wholesalers: San Francisco Public Utilities Commission (SFPUC) and the Santa Clara Valley Water District (SCVWD). The

City does not blend SFPUC and SCVWD water under normal operating conditions; however, they can be interconnected to provide an emergency water supply, if needed.

The cost to purchase wholesale water from SFPUC and SCVWD is approximately 72% of the City's customer water rate. When water wholesalers increase their cost of water through a rate increase, this directly impacts the City's cost to purchase water. SCVWD is considering additional rate increases through fiscal year 2018-19, while SFPUC is not expecting to increase its wholesale water rates for fiscal year 2018-19.

*Fiscal Year 2018-19 Proposed Wholesale Water Rates*

**SFPUC** is proposing to keep wholesale water rate at \$4.10 per hundred cubic feet (HCF) for fiscal year 2018-19. Wholesale water rates for SFPUC are projected to remain at the current rate through fiscal year 2021-22, and are projected to increase by 9% in fiscal year 2022-23.

**SCVWD** is proposing a maximum municipal and industrial groundwater production charge of \$1,291 per acre-feet or \$2.96 per HCF for fiscal year 2018-19, which reflects a 9.9% increase versus fiscal year 2017-18 rate charges in North County (Zone W-2). Treated water surcharges for fiscal year 2018-19 are expected to remain unchanged at \$100 per acre-feet for contract surcharge and \$50 per acre-feet for non-contract surcharge. Wholesale water rates from SCVWD are projected to increase by about 9.7% each year through fiscal year 2024-25.

SCVWD's rate-setting process includes opportunities for the public to provide input at public hearings scheduled on April 10 (SCVWD Board Room), April 12 (Gilroy City Council Chambers), and April 24 (SCVWD Board Room). SCVWD's rate-setting process also includes a formal protest procedure by which well owners, operators, and owners of land upon which a well is located can object to the proposed increase in rates. The City has two existing groundwater wells; Pinewood Well and Curtis Well.

Staff is currently in the process of completing a water rates study, which will incorporate the proposed wholesale water rates from SFPUC and SCVWD, and will present this information to Council to receive input, comments, and direction to staff for next steps.

**Recommendation:** Accept update on the San Francisco Public Utilities Commission and the Santa Clara Valley Water District Proposed Wholesale Water Rates for Fiscal Year 2018-19.

**Attachment:** None

**14. Approve Mid-Year Budget Appropriations and Changes for the FY 2017-18 Operating Budget (Staff Contact: Will Fuentes, 408-586-3111)**

**Background:** The City's budget policy requires that any additional appropriations to a department's operating budget or re-appropriation of monies from one fund to another must be approved by the City Council. These requests are summarized below and quantified in the schedule included in the agenda packet.

The requested budget adjustments deemed to be necessary at mid-year include the following budget changes and authorizations which fall into the categories of operations and personnel. These changes are requested later than normal so as to allow the new City Manager sufficient time to assess and review the departmental requests and needs.

**Operations:**

- 1) Increase budget appropriation in the amount of **\$16,811 within the Measure I TOT Fund City Council Contractual Services budget** for funding **additional library hours.**

The City has shown a desire to support additional hours at the Santa Clara County Library within Milpitas. As such, the City Council unanimously voted on September 20, 2016 to fund out of the Transient Occupancy Tax (TOT) Fund twelve additional hours per week at the Milpitas Library for at least two years. The initial amount of this annual support in FY 2016-17 was \$470,052. However, due to rising labor costs of 3.6%, the cost of this support has risen to \$486,683 in FY 2017-18; a difference of **\$16,811**. Nevertheless, the adopted budget for FY 2017-18 included the initial annual amount of \$470,052, since the second year required amount was not known in time to place in the proposed budget for Council consideration. This correction rectifies that and aligns the budget with actual current costs incurred by the Santa Clara County Library within Milpitas.

- 2) Increase budget appropriation in the amount of **\$89,000 within the General Fund Finance Contractual Services budget** for funding **new participative budget process**.

In the fall of 2017, the City Council requested that the Finance Department modify its budget development process to be more inclusive of input from the City Council, City employees, community, community organizations, the business community and other public agencies with which the City partners with. As such, after receiving proposals from several companies, the Finance Director chose the firm of Management Partners to facilitate enhanced budget engagement. This resulted in online surveys, in person meetings, community workshops, focus groups, and budget workshops with the stakeholders identified previously. The contract with Management Partners spans from November 2017 to April 2018 at a cost of **\$75,000**. This was not previously in the Finance Department budget and cannot be absorbed.

In addition, in order to make two citywide community workshops successful and to ensure everyone in the community was provided an opportunity to participate, a mailer (translated into 4 languages) was sent to every address within Milpitas. This was done at a cost of **\$13,000** and was not previously in the Finance Department budget and cannot be absorbed. The City also used many forms of social media as well as e-mail to promote these workshops. Direct mail though has always proved to be the most effective means to reach our community.

And lastly, Council expressed desire to reach every community member within Milpitas including those for whom English may not be their first language. Thus, various website postings, online surveys, and mailers were translated into Vietnamese, Spanish, Chinese (Traditional), and Chinese Simplified. This was done at a cost of **\$1,000** and was not previously in the Finance Department budget and cannot be absorbed.

The total cost of all items in this request is **\$89,000**.

- 3) Increase budget appropriation in the amount of **\$50,000 within the General Fund Finance Contractual Services budget** for funding **new Cost Allocation Plan (CAP)**.

The City Council and Water Rates Task Force requested that Finance Department prepare a new Cost Allocation Plan (CAP) with a potentially revised methodology. Thus, the Finance Department will be issuing an informal requests for proposals very shortly with the goal of completing a new CAP in the next several months. The new CAP could also be used for the City's currently ongoing water rate study. The estimated cost of consultant services for this project are **\$50,000** and was not previously in the Finance Department budget and cannot be absorbed.

- 4) Increase budget appropriation in the amount of **\$9,450 within the General Fund Finance Contractual Services budget** for funding a **Disaster Procurement Ordinance and Plan**.

In the event of an emergency or disaster that would require financial reimbursement from the Federal Emergency Management Agency (FEMA), the City would need to modify its procurement ordinance to meet federal guidelines and also develop a plan to properly document and procure conforming expenditures. The City's current procurement ordinance does not meet federal guidelines and could result in a loss of reimbursement in the event of an emergency or disaster. Thus, the Finance department would like to contract with an expert in the field to development a Disaster Procurement Ordinance and Plan. The first phase of this project costing \$9,450 would commence in FY 2017-18 and also address a finding that was discovered in the FY 2016-17 annual audit by the City's external auditors. The second phase of this project would cost \$56,800 and would take most of FY 2018-19. The total project would cost up to \$66,250. Again the estimated cost of consultant services for this project are **\$9,450** and was not previously in the Finance Department budget and cannot be absorbed. Costs for phase 2 will be included in the proposed budget for FY 2018-19.

- 5) Increase budget appropriation in the amount of **\$45,844 within the Supplemental Law Enforcement Services Grant Fund Police Supplies budget** for funding **Citizen Options for Public Safety (COPS) 2017 reimbursable expenditures**.

On December 6, 2016, the City Council accepted the Citizen Options for Public Safety (COPS) 2017 grant from the State of California, and the allocation of \$116,306 was subject to change. In October of 2017, the City of Milpitas received an additional deposit of \$45,844, which will be used within the categories of the spending plan previously authorized by the City Council for the purchase of In-Field Cameras (\$13,344) and Surveillance Equipment (\$32,500); **\$45,844** total. There is no requirement for matching funds, but the funds that the City already received from the COPS grant must be appropriated by City Council. This expenditure appropriation will be offset by a like increase in grant revenue budgeted revenues.

- 6) Increase budget appropriation in the amount of **\$16,238 within the General Fund Police Overtime budget** for funding **reimbursable overtime related to the 2017 Sonoma Fires**.

On October 10, 2017, the Sonoma County Board of Supervisors ratified a proclamation of the existence of a local emergency resulting from the wildfires referred to as the Sonoma Complex Fire, and FEMA declared the emergency a major disaster and made federal assistance available (DR-4344). Between October 12, 2017 and October 15, 2017, the Milpitas Police Department deployed a total of ten (10) police officers to the Sonoma Complex Fire in response to the Law Enforcement Mutual Aid Plan issued by the Sonoma County Sheriff's Office, and the personnel costs incurred totaled approximately **\$16,238**. The Milpitas Police Department has engaged the Sonoma County Sheriff's Office in a post event memorandum of agreement pertaining to the assistance under the Law Enforcement Mutual Aid Plan in order for the Sonoma County Sheriff's Office to reimburse the Milpitas Police Department for all reasonable costs incurred. This budget appropriation to cover expenditures already incurred will be offset by a like increase in reimbursable budgeted revenues.

- 7) Increase budget appropriation in the amount of **\$25,000 within the General Fund Public Works Contractual Services budget** for funding **installation of protective sports field decking prior to the annual July 4<sup>th</sup> celebration**.

Parks Maintenance is requesting an increase to the contractual services line item in the amount of **\$25,000**. These funds will be used to purchase equipment and pay for contractual labor associated with the installation of ultradeck material at the Milpitas Sports Center artificial turf fields in conjunction with the annual July 4th celebration hosted by the Recreation Services Department. The ultradeck material is used to prevent damage to the artificial turf fields that can be caused by heavy foot traffic and food and drink debris. It would be installed on a temporary basis at the end of June 2018.

- 8) Increase budget appropriation in the amount of **\$10,000 within the General Fund Public Works Supplies budget** for funding **weed abatement supply purchases**.

Public Works is requesting a one-time increase of **\$10,000**. The \$10,000 will be applied to weed abatement supplies, of which there is currently \$15,000 set aside, for a total of \$25,000 for weed abatement supplies. The weed abatement program was restored to an in-house service during the FY2017-18 budget process, and while substantial equipment and supplies were purchased under CIP 4273, the majority of these items are considered capital equipment. Other items, such as weed whacker strings, rakes, hoes, etc. are considered operating and maintenance items and, while necessary to perform the work, were not present in the existing Public Works inventory due to the elimination of the weed abatement program in prior years. Because Public Works had no previous inventory of weed abatement supplies, the Trees and Landscape division needed to create its own inventory when the program began anew in FY2017-18.

#### **Personnel/Staffing Authorizations:**

- 1) **Authorize a Principal Planner (Housing) position (an existing classification)** in the Planning and Neighborhood Services department.

Council has established Affordable Housing as one of its top priorities. Thus, Planning and Neighborhood Services department is requesting a new Principal Planner to augment the Housing Division. This position would have would have an estimated annual cost of \$226,068 annually and would be an on-going expense. **The FY 2017-18 budget appropriation amount requested would be approximately \$56,517 for the remainder of the fiscal year and 65% (\$36,736) would come from the Housing Fund and the remaining 35% (\$19,781) would come from the General Fund.** The purpose of the position would be to support the ongoing and expected future demand for the Housing Division to meet the Council's Affordable Housing priorities, changes in State Law, to help with compliance of the Housing Element, and to establish robust policies to ensure production and preservation of Affordable Housing.

- 2) **Reclassify an Assistant City Engineer to a Principal Civil Engineer (an existing classification)** in the Engineering department and authorize funding.

Within Land Development Engineering, the Assistant City Engineer Position has recently become vacant requiring the need to fill with a manager position within the section. It is requested that the vacant Assistant City Engineer Position be defunded and replaced with a Principal Civil Engineer Position that would manage and lead Land Development. This change will allow for a more hands-on project manager that will supervise the daily operations of the section and manage development projects. The Principal Civil Engineer position would require the possession of a valid California Professional Civil Engineer license. **No additional funding is needed for the FY 2017-18 operating budget.**

**Fiscal Impact:** The FY 2017-18 Net Impact (use of funds after any savings or offsetting revenue) of the requests follows:

- General Fund is \$203,231 (\$219,469 total expenditures offset by \$16,238 in reimbursements)
- Measure I TOT Fund is \$16,811;
- Supplemental Law Enforcement Services Grant Fund is \$0 (\$45,844 total expenditures offset by \$45,844 in grant reimbursements; and
- Housing Fund is \$36,736;

The total FY 2017-18 Net Impact for all funds is **\$256,778 (\$318,860 total expenditures offset by \$62,082 in reimbursements)**. There are sufficient fund balances in these various funds to accommodate the budget adjustment requests.

**Recommendation:** Approve the Fiscal Year 2017-18 mid-year budget appropriations as itemized on the Budget Change Form (included in the City Council agenda packet).

**Attachments:**

- a) FY 2017-18 Mid-Year Budget Appropriation Requests (table)
- b) Budget Change Form

**15. Receive Update on the FY 2018-19 Budget Process (Staff Contact: Will Fuentes, 408-586-3111)**

**Background:** Since November 2017, City staff has been working to develop the Proposed Operating Budget for Fiscal Year (FY) 2018-19 and the Proposed Five-Year Capital Improvement Program (CIP) for 2018-2023. Per Council direction, staff has sought to make the current budget development process a much more inclusive one than prior years; seeking input from a number of stakeholders such as the City Council, City employees, City Commissions, community groups, citizens, business leaders and other agencies with which Milpitas partners. To assist in this process, the City contracted with the well-respected firm of Management Partners. As part of its contract with the City of Milpitas, Management Partners has facilitated various City Council budget workshops, community budget workshops, and budget focus groups as well as developed and analyzed online budget priority surveys for employees and the community. The following summarizes key budget milestones achieved by Management Partners and City staff since November 2017:

- November 4: Council Budget Education Workshop
- November 15 – 30: Management Partners Individual Interviews with Executive Staff
- December 12: Management Partners Discussion with Labor Groups
- December 7 – 22: Management Partners Individual Interviews with City Council
- December 21: Commissioners’ Focus Group
- January 5 – 19: Online Employee Budget Survey
- January 9 – 23: Online Community Budget Survey (Translated into 4 languages)
- January 8: Community Group Focus Group
- January 9: Partner Agencies Focus Group
- January 22 and 23: Community Budget Workshops
- February 3: Budgetary Strategic Planning Workshop with City Council
- March 5: Parks, Recreation and Cultural Resources Commission (PRCRC) Review of Park Improvement Projects
- March 7: City Council Introduction to the CIP
- March 14: Council Finance Subcommittee Review of the CIP and Budget Status Update

In addition, the following budget milestones are scheduled in the near future:

- March 28: Planning Commission Review of the CIP to Verify Conformance with General Plan
- April 10, and April 12 (if necessary): City Council Review of Preliminary FY 2018-19 Operating Budget and Five-Year CIP for 2018 – 2023
- May 8 and 10 (if necessary): Public Hearing to Consider Adoption of FY 2018-19 Operating Budget and Five-Year CIP for 2018 – 2023

Now that the budget development process is entering its final stages, the work of Management Partners has come to an end for all intents and purposes and City staff will carry the process through until budget adoption and beyond. As such, in the agenda packet is a copy of the Management Partners final project report summarizing its activities over the past several months, with a focus on the February 3 Budgetary Strategic Planning Workshop with City Council. Management Partners will also be available to assist staff as needed through the end of April 2018, but its work is anticipated to be limited. Management Partners is also available to present its findings and answer questions regarding its final report if City Council wishes during the March 20 Council meeting.

As the report states, Management Partners identified five budget priorities over the course of its budget engagement efforts and discussions with stakeholders such as the City Council, City employees, City commissions, community groups, citizens, business leaders, and other agencies with which Milpitas partners. Here are the priorities (in order of identified importance):

- a) Public Safety
- b) Infrastructure and Community Facilities Maintenance
- c) Transportation and Transit
- d) Economic Development and Job Growth
- e) Fiscal Responsibility

City staff will once again present the City Council with the Preliminary FY 2018-19 Operating Budget and Five-Year CIP for 2018–2023 on April 10 (and, if necessary, April 12). These documents will incorporate the above priorities as much as possible given any fiscal constraints identified. As such, during the April budget meetings, staff will also provide City Council with an updated 5-year forecast as well as any information that City Council may have requested during the February 3 Budgetary Strategic Planning Workshop.

**Fiscal Impact:** None.

**Recommendation:** Receive this staff update on the FY 2018-19 budget process.

**Attachment:** Report from Management Partners

**16. Receive Update on Silicon Valley Clean Energy Community Outreach Plan (Staff Contact: Edesa Bitbadal, 408-586-3052)**

**Background:** Silicon Valley Clean Energy and Economic Development staff will conduct a range of outreach activities aligned with its ongoing, comprehensive communications strategies to inform residents, businesses and community stakeholders in advance of the June 1, 2018 Milpitas enrollment. Prior to conducting the outreach plan, staff wishes to present the current outreach plan to receive input, comments and direction from City Council.

**Fiscal Impact:** None.

**Recommendation:** Accept update on Silicon Valley Clean Energy Community Outreach Plan, and receive input, comments and direction from City Council.

**Attachment:** None

### XIII. AGREEMENT

17. **Approve Amendment No. 13 to the Master Agreement Between the Santa Clara Valley Transportation Authority (VTA) and the City of Milpitas Authorizing Payment of a Cost Not to Exceed \$838,100 to VTA for City Utility Infrastructure Upgrades, Montague Widening Project No. 4179 (Staff Contacts: Steve Erickson, 408-586-3301 and Steve Chan, 408-586-3324)**

**Background:** The extension of the Bay Area Rapid Transit (BART) system into Santa Clara County is being implemented by Santa Clara Valley Transportation Authority's (VTA) Silicon Valley Rapid Transit (SVRT) program. The City and VTA executed a VTA-City Master Agreement in 2010 creating the cooperative framework between the VTA and City for the design and construction of the BART extension through Milpitas including the installation of City improvements related to both the BART project and the widening of Montague Expressway, Project No. 4179.

There have been a total of 12 amendments to the Master Agreement to include additional work on BART related improvements, time extensions, administer the design and construction of the Montague Pedestrian Overcrossing (POC), and Union Pacific railroad crossing protection signal installation at Dixon Landing Road.

The Montague Widening Project cost for installation of City utility improvements has increased above estimated cost by \$838,100. The increase in costs for utility improvements was deemed warranted to address unforeseen construction problems including abandoned utility conflicts, mitigation of contaminated soils, additional soil removal, and pothole exploration. Contract change orders were issued to the contractor to allow for the timely completion of the project and in order to limit potential claims or risk to the City.

Staff recommends City Council approve the execution of Amendment No. 13 to the Master Agreement for an amount not to exceed \$838,100 for contract change order work for installation of City utility improvements. Sufficient funding is available in the project budget for the Montague Widening Project No. 4179.

**California Environmental Quality Act:** The BART extension project is covered under VTA's BART Silicon Valley Extension Project environmental documents.

**Fiscal Impact:** The City has already committed to infrastructure upgrades associated with the SVRT project with the execution of Amendment No. 1 to the Master Agreement in 2011. Sufficient funding is available in Montague Widening Project No. 4179.

**Recommendation:** Approve Amendment No. 13 to the Master Agreement between the Santa Clara Valley Transportation Authority and City of Milpitas for an amount not to exceed \$838,100.

**Attachment:** Amendment No. 13 to Master Agreement with SCVTA

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

### XV. ADJOURNMENT