



## REGULAR MEETING OF THE MILPITAS CITY COUNCIL

For assistance in the following languages, you may call:

Đối với Việt Nam, gọi 408-586-3122

Para sa Tagalog, tumawag sa 408-586-3051

Para español, llame 408-586-3232

### AGENDA

**TUESDAY, DECEMBER 4, 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**
  - (a) 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
  - (b) CONFERENCE WITH REAL PROPERTY NEGOTIATOR**  
Pursuant to California Government Code Section 54956.8  
Potential Property: APN 086-036-030 and APN 086-036-012  
Agency negotiator: Julie Edmonds-Mares  
Under negotiation: Price and terms of payment
- 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 (Mayor Tran)**
- VI. PRESENTATIONS**
  - Certificates to Milpitas STEM winners of Santa Clara Valley Science and Engineering Fair
  - Swear in new Milpitas Fire Chief Brian Sherrard

**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 and limit spoken remarks to 3 minutes. As an item not listed on the agenda, no response is required from City staff nor 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 (Items No. 1 through No. 15)**

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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. | <b>Accept Schedule of Meetings/City Council Calendar December 2018 (Staff Contact: Mary Lavelle, 408-586-3001)</b>  |
| 2. | <b>Approve City Council Meeting Minutes of November 20, 2018 (Staff Contact: Mary Lavelle, 408-586-3001)</b>  |
| 3. | <b>Waive the Second Reading and Adopt Uncodified Ordinance 218.4 to Set the Transient Occupancy Tax Rate in the City of Milpitas Effective January 3, 2019 in Anticipation of the Santa Clara County Registrar of Voters Certifying Results of the November 6, 2018 Election including Adoption of Milpitas Measure R (Staff Contact: Will Fuentes, 408-586-3111)</b>                                       |
| 4. | <b>Adopt a Resolution Reviewing and Accepting the Annual Developer Fee Disclosure Information for the Traffic Impact Fee, the Transit Area Specific Plan (TASP) Impact Fee, and the Storm Drain Fee for the Fiscal Year Ended June 30, 2018 (Staff Contact: Will Fuentes, 408-586-3111)</b>   |
| 5. | <b>Approve the Agreement with Group 4 Architecture, Research &amp; Design for Space Planning and Design of Office Spaces at City Hall for an Amount Not to Exceed \$150,000 (Staff Contacts: Will Fuentes, 408-586-3111 and Tony Ndah, 408-586-2602)</b>  |
| 6. | <b>Approve the Two Year Initial Agreement with Nova Commercial Co. Inc. in an Amount Not to Exceed \$1,336,326.96, Authorize the Purchasing Agent to Exercise Up to Three Contract Options Without Further Action from City Council and Approve a Budget Amendment (Staff Contacts: Chris Schroeder, 408-586-3161 and Tony Ndah, 408-586-2602)</b>  |
| 7. | <b>Authorize the City Manager to Execute Amendment No. 2 to the Agreement between the City of Milpitas and Retired Annuitant Joseph Minton for Employment in the Milpitas Police Department for One Additional Year in an annual amount not to exceed \$56,438.40 and a Total Agreement Amount Not to Exceed \$141,096.00 (Staff Contacts: Chris Schroeder, 408-586-3161 and Henry Kwong, 408-586-2419)</b> |
| 8. | <b>Authorize the City Manager to Execute Amendment No. 2 to the Agreement with Page &amp; Turnbull to Increase the Agreement in the Amount of \$187,700 for the Alviso Adobe Restoration, Project No. 5055 (Staff Contact: Steve Erickson, 408-586-3301)</b>  |

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| 9.  | <b>Approve and Authorize the City Manager to Execute a Design Services Agreement with Shah Kawasaki Architects and Approve Budget Appropriation of \$320,000 for Fire Station No. 2 Replacement Project No. 3447 (Staff Contact: Steve Erickson, 408-586-3301)</b>  |
| 10. | <b>Approve Amendment No. 14 to the Master Agreement Between the Santa Clara Valley Transportation Authority and the City of Milpitas to Extend the Term of the Agreement to June 30, 2019, Relating to the Silicon Valley Rapid Transit Program Berryessa (BART) Extension Project (Staff Contact: Steve Erickson, 408-586-3301)</b>  |
| 11. | <b>Authorize the City Manager to Execute Amendment No. 3 to the Franchise Agreement with Milpitas Sanitation, Inc. for Citywide Collection and Hauling of Solid Waste, Organics, and Recycling Materials and Provide an Update on the Annual Rate Adjustment Process (Staff Contacts: Steve Erickson, 408-586-3301 and Leslie Stobbe, 408-586-3352)</b>   |
| 12. | <b>Receive Report on Recommendation to the Mayor to Reappoint Four City Commissioners, Appoint One New Planning Commissioner and Move to Approve those Appointments (Council Contacts: Councilmembers Nuñez, 408-586-3023 and Phan, 408-586-3032)</b>   |
| 13. | <b>Approve an Amended and Restated Subdivision Improvement Agreement with Milpitas-District 2 Associates, LLC for The District-Lot 2 Building at 1415 McCandless Drive (Tract No. 10447) and an Amendment to the Subdivision Improvement Agreement with Milpitas-District 1 Associates, LLC for The District-Lot 1 Building at 1315 McCandless Drive (Tract No. 10140) (Staff Contact: Michael Fossati, 408-586-3274)</b> |
| 14. | <b>Approve the Parks, Recreation and Cultural Resources Commission FY 2018-19 Work Plan (Staff Contact: Renee Lorentzen, 408-586-3409)</b>  |
| 15. | <b>Approve the Veterans Commission FY 2018-19 Work Plan (Staff Contact: Dale Flunoy, 408-586-3228)</b>  |

**XII. PUBLIC SAFETY**

- 16. **Adopt a Resolution Approving the Cooperative Purchase of Motorola Solutions, Inc. Dispatch Consoles Equipment, APX Subscriber Equipment, a Local NICE Logging Solution, and the Sole Source Purchase of a Matching Locution Systems Inc. Fire Station Alerting System, and Relevant Implementation Services for an Amount Not to Exceed \$2,350,591 (Staff Contact: Henry Kwong, 408-586-2419)**
- 17. **Accept and Receive the Armored Rescue Vehicle (Medevac) Policy (Staff Contacts: Kevin Moscuza, 408-586-2412 or Jared Hernandez, 408-586-2406)**

**XIII. LEADERSHIP & SUPPORT SERVICES**

- 18. **Accept the City’s Comprehensive Annual Financial Report and Other Related Annual Audited Reports for the Fiscal Year Ended June 30, 2018 (Staff Contacts: Will Fuentes, 408-586-3111 and Jane Corpus, 408-586-3125)**
- 19. **Receive a Report on Updated Five-Year Forecast and General Fund Surplus for Fiscal Year Ended June 30, 2018, Approve Phase I Mid-Year Budget Appropriations and Changes for the FY 2018-19 Operating Budget, and Adopt a Resolution**

**Amending the Classification Plan (Staff Contacts: Will Fuentes, 408-586-3111 / Feliser Lee, 408-586-3143)**

20. **Receive a Report on Fiscal Year 2019-20 Operating Budget and 2019-2024 Capital Improvement Program Development Process, Validate Process, and Provide Further Direction if Necessary (Staff Contacts: Will Fuentes, 408-586-3111 and Feliser Lee, 408-586-3143)**

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

**XV. NEXT AGENDA PREVIEW**

21. **Next Regular City Council meeting: December 18, 2018**

**XVI. ADJOURNMENT**

**NEXT REGULAR CITY COUNCIL MEETING**  
**TUESDAY, DECEMBER 18, 2018**

**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**

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

*If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, please 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**

|           |   |
|-----------|---|
| <b>1.</b> | <p><b>Accept Schedule of Meetings/City Council Calendar –December 2018 (Staff Contact: Mary Lavelle, 408-586-3001)</b></p> <p><b><u>Recommendation:</u></b> Receive and accept City Council calendar of meetings for December 2018. Note any changes or additions, if needed.</p> <p><b><u>Attachment:</u></b> <a href="#">December 2018 Calendar</a></p>   |
| <b>2.</b> | <p><b>Approve City Council Meeting Minutes of November 20, 2018 (Staff Contact: Mary Lavelle, 408-586-3001)</b></p> <p><b><u>Recommendation:</u></b> Move to approve the November 20, 2018 City Council meeting minutes.</p> <p><b><u>Attachment:</u></b> <a href="#">Draft meeting minutes November 20, 2018</a></p>   |
| <b>3.</b> | <p><b>Waive the Second Reading and Adopt Uncodified Ordinance 218.4 to Set the Transient Occupancy Tax Rate in the City of Milpitas Effective January 3, 2019 in Anticipation of the Santa Clara County Registrar of Voters Certifying Results of the November 6, 2018 Election including Adoption of Milpitas Measure R (Staff Contact: Will Fuentes, 408-586-3111)</b></p> <p><b><u>Background:</u></b> City Council introduced Uncodified Ordinance 218.4, following waiving of the first reading beyond the title at the November 20, 2018 Council meeting. This Uncodified Ordinance sets the Transient Occupancy Tax (TOT) rate within the City of Milpitas to be 14% effective January 3, 2019 in anticipation of the Santa Clara County Registrar of Voters certifying results of the November 6, 2018 election including adoption of Milpitas Measure R. The Uncodified Ordinance was introduced following extensive analysis and a presentation provided by staff and consultants at the November 20 meeting relating to potential business impacts resulting from a TOT rate increase and expected City TOT revenue.</p> <p><b><u>Recommendation:</u></b> Waive the second reading and adopt Uncodified Ordinance No. 218.4 to set the Transient Occupancy Tax Rate within the City of Milpitas at 14% effective January 3, 2019 in anticipation of the Santa Clara County Registrar of Voters certifying election results including adoption of Milpitas Measure R.</p> <p><b><u>Attachment:</u></b> <a href="#">Uncodified Ordinance No. 218.4</a></p> |
| <b>4.</b> | <p><b>Adopt a Resolution Reviewing and Accepting the Annual Developer Fee Disclosure Information for the Traffic Impact Fee, the Transit Area Specific Plan (TASP) Impact Fee, and the Storm Drain Fee for the Fiscal Year Ended June 30, 2018 (Staff Contact: Will Fuentes, 408-586-3111)</b></p> <p><b><u>Background:</u></b> California Government Code Section 66000 et seq. (“Mitigation Fee Act”) requires local agencies to provide an accounting of fees charged for development projects. The City has two basic accounting and reporting responsibilities under the Government Code. Section 66001(d) requires that, five years after collecting a development fee subject to this Code section and every five years thereafter, the local agency shall make findings with respect to any portion of the fee remaining unexpended, whether committed or</p>   |

uncommitted. If the required findings are not made, the unexpended funds shall be refunded to the current property owners.

Findings must:

1. Identify the purpose of the fee;
2. Demonstrate a reasonable relationship between the fee and the purpose for which it was charged;
3. Identify all sources and amounts of funding anticipated to complete financing of incomplete improvements; and
4. Designate the approximate dates on which these funding sources can be expected to be deposited into the appropriate account or fund.

When sufficient funds have been collected to complete financing on incomplete public improvements, the local agency has 180 days to identify an approximate date by which the construction of the public improvement will begin or else is required to refund the unexpended fees, including accrued interest, to the current owner of lots or units of the development project.

In Fiscal Year 2017-18, there are no development fees that the City needs to make a finding for with respect to any portion of the fee remaining unexpended.

The second requirement set forth under Government Code Section 66006(b)(1) provides that the City shall establish separate capital improvement accounts or funds for each improvement funded by project development fees. Any interest income earned by funds in such an account shall be deposited in such account. Each local agency is required on an annual basis, within 180 days after fiscal year end, for each separate account, to make available to the public the following information:

1. Brief description of the type of fee in the account;
2. The amount of the fee;
3. The account's beginning and ending balance;
4. The amount of fees collected and the interest earned;
5. A description of the improvements on which the funds were expended and the amount expended on each improvement including the percentage of the improvement funded with development fees;
6. An approximate date by which the construction of a public improvement will begin if the local agency determines that sufficient funds have been collected to complete financing on the incomplete improvement;
7. A description of each inter-fund transfer or loan made from the account; and
8. The amount of any refunds made pursuant to Code Section 66001.

The City deposits mitigation fees subject to the above disclosure in the Traffic Impact Fee Fund, Transit Area Specific Plan (TASP) Impact Fee Fund, and Storm Drain Development Fund to track these development related fees. Interest income is allocated to the funds based on their respective monthly cash balances. Expenditures from these funds were in the form of capital improvement projects to either renovate existing facilities or maintain the existing level of service, consistent with the General Plan and approved Capital Improvement Plan due to increased demand related to the development projects.

Status reports (included in the agenda packet as Exhibits to the resolution) summarize the Fiscal Year 2017-2018 fund activity for Traffic Impact Fee (Exhibit 1); Transit Area Specific Plan (TASP) Impact Fee (Exhibit 2); and Storm Drain Development Fee (Exhibit 3). The reports show the amount of fees collected in fiscal year 2017-2018, interest income, a brief description of the projects funded, the percentage of the projects funded by the development fees, and the beginning and ending balance of the funds.

Fund balances at the end of June 30, 2018 are:

| <b>Fund</b>                 | <b>Beginning Fund Balance</b> | <b>FY 2017-18 Revenues Collected</b> | <b>FY 2017-18 Expenditures</b> | <b>Ending Fund Balance</b> |
|-----------------------------|-------------------------------|--------------------------------------|--------------------------------|----------------------------|
| Traffic Impact Fee          | \$1,697,233                   | \$336,964                            | \$0                            | \$2,034,197                |
| TASP Impact Fee             | \$27,747,79                   | \$28,057,291                         | \$24,811,505                   | \$30,993,582               |
| Storm Drain Development Fee | \$2,063,248                   | \$964,974                            | \$1,115,000                    | \$1,913,220                |

**Fiscal Impact:** None. There is no fiscal impact for the recommended action.

**Recommendation:** Adopt a resolution reviewing and accepting the Annual Developer Fee Disclosure Information for the Traffic Impact Fee, the Transit Area Specific Plan (TASP) Impact Fee, and the Storm Drain Fee for the Fiscal Year ended June 30, 2018.

**Attachment:** [Resolution including Status Reports as Exhibits](#)

**5. Approve the Agreement with Group 4 Architecture, Research & Design for Space Planning and Design of Office Spaces at City Hall for an Amount Not to Exceed \$150,000 (Staff Contacts: Will Fuentes, 408-586-3111 and Tony Ndah, 408-586-2602)**

**Background:** Milpitas City Hall was completed in 2003 and the floorplan of City Hall has remained largely unchanged over the years. As the City has grown, staffing levels have changed as well to match. Recently, the City has increased recruitment of employees to fill vacant positions, increase responsiveness and service levels to the public and reorganize departments to better respond to the current duties and demands.

With these changes, the need for an evaluation of existing workspaces was identified as an area of need to bring departments together and better utilize the area available at City Hall. The Department of Public Works worked with the Purchasing Division to issue RFP No. 2253 on PublicPurchase.com, the City’s eProcurement website, to solicit proposals from qualified firms provide professional architectural and space planning services for Milpitas City Hall as well as evaluate the current parking areas in and around City Hall. The goal of the project is to re-design its existing workspace for a variety of reasons, including but not limited to: improving efficiencies, improved workflow and modernizing the design to meet the needs of current and future employees.

The RFP was issued on August 10, 2018. Staff conducted a pre-proposal meeting and walkthrough of the City Hall and parking areas with interested firms on August 27 attended by seven firms. The RFP closed on September 26, 2018, at 2:00 p.m. and four proposals were received. After evaluation by three members of the Public Works staff, Group 4 Architecture, Research & Design was selected as the recommended successful proposer. The table below shows the tabulation of the evaluation committee:

| <b>Proposer</b>                           | <b>Evaluation Score</b> |
|---|-------------------------|
| Group 4 Architecture, Research & Design   | 77.24                   |
| SVA Architects                            | 64.17                   |
| KRJ Design Group                          | 57.87                   |
| Indigo (Hammond + Playle Architects, LLP) | 43.36                   |

Pending approval, the agreement with Group 4 Architecture, Research & Design would begin by meeting with departments to review space utilization, discuss current and projected staffing levels, measure and calculate existing cubicle space, and evaluate the parking at City Hall in early 2019. Numerous meeting with senior staff would also occur, and the Department of Public Works will work closely with each department to assist in the space planning process. Project completion is expected in late 2019.

**California Environmental Quality Act:** This project is exempt from CEQA under Class 1 - Section 15301 - Existing Facilities because they relate to the operation, repair, maintenance or minor alterations to a public facility involving no or negligible expansion of use.

**Fiscal Impact:** Sufficient funds are available in Capital Improvement Project No. 3406 for this work.

**Recommendation:** Approve the agreement with Group 4 Architecture, Research & Design for space planning and design of office spaces at City Hall for an amount not to exceed \$150,000.

**Attachment:** [Agreement with Group 4](#)

6. **Approve the Two Year Initial Agreement with Nova Commercial Co. Inc. in an Amount Not to Exceed \$1,336,326.96, Authorize the Purchasing Agent to Exercise Up to Three Contract Options Without Further Action from City Council and Approve a Budget Amendment (Staff Contacts: Chris Schroeder, 408-586-3161 and Tony Ndah, 408-586-2602)**

**Background:** The City’s current contract for janitorial services at various City buildings was awarded to Varsity Facilities Service on January 7, 2014. The contract is nearing the end of its five year term and thus required the City to issue Request for Proposals (RFP) 2255 - Janitorial Services at Various City Facilities to secure janitorial services when the current contract expires on January 6, 2019. The Purchasing Division worked closely with the Facilities and Fleet Maintenance Division to update the required janitorial tasks for each of the service locations. As part of the RFP, the City also directed interested proposers to assign a dedicated site supervisor and commit to monthly coordination meetings to ensure a high level of service.

The RFP was issued on September 11, 2018 on PublicPurchase.com, the City’s eProcurement website. Notification of the RFP was sent to 198 firms and 32 downloaded the bid documents. Staff conducted a pre-proposal meeting and walkthrough of various City buildings and parking areas with interested firms on September 20, 2018 attended by 14 interested firms. Interested firms were able to ask clarifying questions through PublicPurchase.com and staff issued answers to all 37 questions posted.

The RFP closed on October 22, 2018, at 2:00 p.m. and 12 proposals were received, four of which were deemed responsive. After evaluation by four members of Department of Public Works staff, Nova Commercial Co., Inc. was selected as the recommended successful proposer providing the great value to the City in consideration of all scoring criteria. The table below shows the tabulation of the evaluation committee scores as well as each proposal’s cost:

| Proposer                    | Proposal Annual Cost | Evaluation Score |
|-----------------------------|----------------------|------------------|
| Nova Commercial Co., Inc.   | \$668,163.48         | 78.18            |
| Universal Building Services | \$892,092.00         | 68.75            |
| Bamcor, Inc.                | \$800,784.00         | 60.53            |
| Olympic Cleaning Services   | \$591,600.00         | 57.0             |

Pending approval, the two-year initial agreement with Nova Commercial Co., Inc. would begin on January 7, 2019 through January 6, 2021 for the amount not to exceed \$1,336,326. The City could elect to execute up to three additional one-year options to continue services to extend services through January 6, 2024.

The California Labor Code contains a provision called the Displaced Janitor Opportunity Act. Among other things, the Act calls for a successor contractor or successor subcontractor to retain, for a 60-day transition employment period, employees who have been employed by the terminated contractor or its subcontractors, if any, for the preceding four months or longer at the site or sites covered by the successor service contract unless the successor contractor or successor subcontractor has reasonable and substantiated cause not to hire a particular employee based on that employee's performance or conduct while working under the terminated contract.

Pursuant to the Displaced Janitor Opportunity Act, staff will work with Nova Commercial Co. to retain all janitors on staff at the end of the current contract period. The janitors are familiar with the maintenance needs of the City's buildings; therefore, their continued employment will provide continuity during the various contract periods.

**Fiscal Impact:** \$492,000 is budgeted for janitorial services in the FY 2018-19 Public Works Operating Budget. For the remainder of FY 2018-19, it is estimated that an additional \$90,000 will be needed in the Department of Public Works Operating Budget to allow for increases due to the recommended contract award to Nova Commercial Co. Inc.

**Recommendations:**

1. Approve the two year initial agreement with Nova Commercial Co. Inc. in the amount not to exceed \$1,336,326.96 for janitorial services, in response to RFP No. 2255.
2. Authorize the Purchasing Agent to Exercise up to three contract options without further action from City Council.
3. Approve a budget amendment to appropriate \$90,000 to the Department of Public Works FY 2018-19 Operating Budget.

**Attachments:**

- a) [Agreement with Nova Commercial Co.](#)
- b) [Budget Change Form](#)

7. **Authorize the City Manager to Execute Amendment No. 2 to the Agreement between the City of Milpitas and Retired Annuitant Joseph Minton for Employment in the Milpitas Police Department for One Additional Year in an annual amount not to exceed \$56,438.40 and a Total Agreement Amount Not to Exceed \$141,096.00 (Staff Contacts: Chris Schroeder, 408-586-3161 and Henry Kwong, 408-586-2419)**

**Background:** On June 21, 2017 the City of Milpitas and Joseph Minton, a retired Police Officer, entered into a Retired Annuitant Employment Agreement. The term of the agreement was from August 1, 2018 to June 30, 2018. The services specified in the Agreement, including assistance with the implementation of a new Records Management System (RMS), Computer Aided Dispatch (CAD), and Silicon Valley Regional Communications Systems (SVRCS) for the Police Department. The initial contract was for 960 hours over the course of ten months at the rate of \$58.79 per hour for a total first year contract amount of \$56,438.40.

On July 1, 2018, the parties entered into Amendment No. 1 to the Retired Annuitant Employment Agreement, which extended the agreement for six months from July 1, 2018 to December 31, 2018 and increased dollar value by \$28,219.20 for a new total agreement amount not to exceed \$84,657.60.

The parties desire to extend the agreement for 960 hours over the course of the next year from January 1, 2019 to December 31, 2019, and increase the value of the agreement by \$56,438.40; for a total not-to-exceed \$141,096.00.

**Fiscal Impact:** The total cost not to exceed amount of the agreement is \$141,096. In Fiscal Year 2018-19, this agreement will cost \$56,438.40. Funds for this service are available in the Police Department FY 2018-19 operating budget, contractual services.

**Recommendation:** Authorize the City Manager to execute Amendment No. 2 to the Agreement between the City of Milpitas and Retired Annuitant Joseph Minton for employment in the Police Department for one additional year in the amount not to exceed annually \$56,438.40 and a total agreement amount not to exceed \$141,096.

**Attachment:** [Amendment No. 2 to the Retired Annuitant Employment Agreement](#)

**8. Authorize the City Manager to Execute Amendment No. 2 to the Agreement with Page & Turnbull to Increase the Agreement in the Amount of \$187,700 for the Alviso Adobe Restoration, Project No. 5055 (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** On August 16, 2016, the City entered into a consultant agreement with Page & Turnbull, a historic preservation consultant, for the Alviso Adobe Restoration, Project No. 5055, for a contract amount of \$350,000. The scope of services included preparing plans and specifications to restore the first floor interior of the historic Alviso Adobe building to Monterey style architecture of the Spanish-Mexican Era. On August 15, 2017, the City Council approved Amendment No. 1 to the Agreement in the amount of \$197,485, for the design of the exhibits that include period correct interior furnishings, interactive displays, and interpretative signage which will allow the public to view and experience what life was like in the Alviso Adobe building in 1840s to 1940s.

An assessment of the existing wallpaper was completed as part of the exhibit design work. The original wallpaper has deteriorated over time due to alterations and environmental conditions. The wallpaper shows accumulation of dust grime, water stains, discoloration, humidity stains, and abrasion marks. Some sections of the wallpaper are peeling or missing due to the breakdown of the adherence between the wallpaper and the wall plaster support. A wallpaper stabilization work is required in the immediate future to prevent further deterioration and damage to the adobe portion and original wallpaper of the house. This work will include restoration, stabilization, and protection of the historic wallpaper on both the first and second floors of the Adobe building. The restoration work is recommended to be completed prior to the start of the interior restoration work anticipated to begin in the late summer of 2019.

As part of Amendment No. 2, the consultant shall perform the wallpaper stabilization specialty work. Staff negotiated an additional services fee of not to exceed \$187,700, which is considered reasonable for the desired services. Staff recommends the approval of Amendment No. 2 with Page & Turnbull to perform these additional services. Approval of Amendment No. 2 brings the total Agreement amount to \$735,185.00.

**Alternate:** Not proceeding with this work will result in further deterioration of the historic wallpaper. Not moving forward with this work will subsequently delay the installation of the historic exhibits and the opening of the Alviso Adobe house to the Public.

**California Environmental Quality Act:** A finding of Mitigated Negative Declaration for the Project was declared and certified in 2009.

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

**Recommendation:** Authorize the City Manager to execute Amendment No. 2 to the Agreement with Page & Turnbull to increase the agreement by an amount not to exceed \$187,700 for additional consultant services for the Alviso Adobe Restoration, Project No. 5055.

**Attachment:** [Amendment No. 2 to Agreement with Page & Turnbull](#)

9. **Approve and Authorize the City Manager to Execute a Design Services Agreement with Shah Kawasaki Architects and Approve Budget Appropriation of \$320,000 for Fire Station No. 2 Replacement Project No. 3447 (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** The design and construction of Fire Station No. 2 Replacement, Project No. 3447, is approved as part of the 2018-2023 Capital Improvement Program (CIP). Fire Station No. 2 at 1263 Yosemite Drive was constructed in 1968 and has reached the end of its service life. The project will provide for the design and construction of a replacement fire station.

Design of fire stations is a specialized field that requires the services of an architectural firm with experience working on public safety and essential services buildings. Through the City's consultant evaluation and selection process, staff recommends the firm of Shah Kawasaki Architects (SKA) to provide the required professional fire station architectural design services including design of furnishings, fixtures, and equipment for the new station. SKA will also assist City staff with bidding and construction support services. Staff negotiated a scope and fee for these service not-to-exceed \$913,494, which is considered reasonable for the work. The design and permitting process will require approximately one year. Upon completion of the design, the station plans and specifications will be publically advertised for contractor bid proposals. Following award of a construction contract, construction is anticipated to require a year to complete.

Due to the busy Bay Area construction market, costs for design services and construction have increased. Staff recommends approval of a budget appropriation of \$320,000 from the General Fund into the project budget to award this design services contract to SKA.

**Alternative:** Denial of the recommendation would result in delays to the Fire Station No. 2 Replacement Project.

**Fiscal Impact:** Recommend approval of a budget appropriation of \$320,000 from the General Government CIP Fund into the Fire Station No. 2 Replacement Project.

**Recommendations:**

1. Approve and authorize the City Manager to execute a Design Services Agreement with Shah Kawasaki Architects in an amount not to exceed \$913,494.00 for Fire Station No. 2 Replacement, Project No. 3447.
2. Approve the additional appropriation of \$320,000.00 from the General Government CIP Fund needed for Design Services Agreement with Shah Kawasaki Architects.

**Attachments:**

- a) [Agreement with Shah Kawasaki](#)
- b) [Budget Change Form](#)

10.

**Approve Amendment No. 14 to the Master Agreement Between the Santa Clara Valley Transportation Authority and the City of Milpitas to Extend the Term of the Agreement to June 30, 2019, Relating to the Silicon Valley Rapid Transit Program Berryessa (BART) Extension Project (Staff Contact: Steve Erickson, 408-586-3301)**

**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. This agreement allows for reimbursement to the City for engineering and inspection costs related to a variety of coordination efforts; including but not limited to design approval and inspection of City facilities; encroachment permit oversight; easement dedications; utility maintenance operations; resolution of construction issues; and consultant support.

There have been a total of 13 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.

VTA and City staff negotiated a work plan to extend the term of the agreement to June 30, 2019, allowing City staff and consultants to continue to support the BART extension project. City staff and consultant resources expended on BART project activities will be reimbursed by VTA per the hourly rates approved as part of the Master Agreement.

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

**Fiscal Impact:** None. City staff and consultant resources expended on BART project will be reimbursed by VTA.

**Recommendation:** Approve an Amendment No. 14 to the Master Agreement between the Santa Clara Valley Transportation Authority and the City of Milpitas to extend the term of the agreement to June 30, 2019, relating to the Silicon Valley Rapid Transit Program Berryessa BART Extension Project.

**Attachment:** [Amendment No. 14 to Master Agreement with Valley Transportation Authority](#)

11.

**Authorize the City Manager to Execute Amendment No. 3 to the Franchise Agreement with Milpitas Sanitation, Inc. for Citywide Collection and Hauling of Solid Waste, Organics, and Recycling Materials and Provide an Update on the Annual Rate Adjustment Process (Staff Contacts: Steve Erickson, 408-586-3301 and Leslie Stobbe, 408-586-3352)**

**Background:** The City entered into a Franchise Agreement with Milpitas Sanitation, Inc. (MSI) for the citywide collection and hauling of solid waste, organics, and recycling materials on November 14, 2016. The term of the agreement was for 15 years from September 6, 2017 to August 31, 2032. Two amendments to the agreement were previously executed. Amendment No. 1 changed the program start date from September 6, 2017 to December 1, 2017 and Amendment No. 2 clarified an entity providing post-collection services to MSI as an "Approved Facility."

The Franchise Agreement allows for annual rate adjustments, and the process and schedule for rate adjustments are specified in Exhibit D of the Agreement. Rate Year 2 (RY2) will commence January 1, 2019. Rate adjustments are index based for all Rate Years except

Rate Years 4, 7 and 12, which are Cost Based Adjustments. The contract allows for Index Based Rate Adjustments to be approved administratively by City staff. Rate adjustment applications are to be submitted to the City Manager or designee with sufficient supporting documentation to permit the City Manager or designee to ensure the calculation of rate adjustments has been performed in strict conformance to the requirements of Exhibit D. The City is required to make a good faith effort to approve the rate adjustment by December 1 of each year, and new rates become effective on January 1 of the following year. In the case of delayed approval or agreement of a rate adjustment, MSI has the right to retroactively bill customers.

**Analysis:** This staff report provides an update to the Council on the rate adjustment for RY2 commencing January 1, 2019 and seeks Council approval for amendments to the contract.

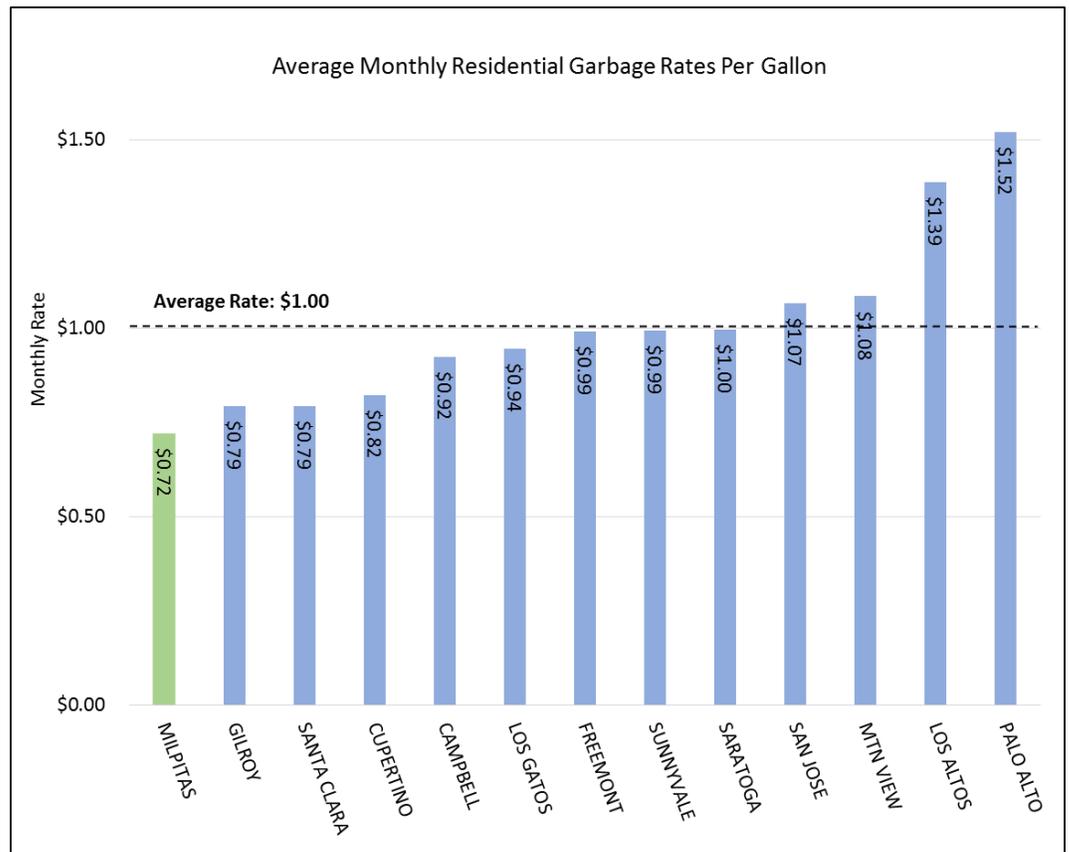
**Rate Year 2 Adjustment for 2019**

The second year of the Agreement, or Rate Year 2, begins January 1, 2019, and the maximum index-based rate increase allowed by the Agreement annually is 5%. MSI submitted the application for an index-based rate adjustment on October 1, 2018. The initial application included a rate increase of 5.53%, but capped at 5% as required by the Agreement. City staff and its consultant, R3 Consulting Group, reviewed the application and determined corrections were required in the process and calculations used by MSI. MSI submitted a revised and corrected application resulting in a lower rate increase of 4.26% which City staff and R3 have approved. The approved 4.26% index-based rate increase is for collection and processing services including Waste Management's disposal at the Kirby Canyon Landfill. The revised rate adjustment and supporting calculations conform to the requirements of the Agreement and will become effective January 1, 2019.

The 4.26% rate adjustment will result in a cost increase for residential and commercial customers. Billing for single family residential service occurs on a quarterly basis. The amount of the increase for residential customers will range from \$2.06 to \$6.05 per quarter depending upon the size of cart selected. For example, the most popular garbage cart in Milpitas is the 45 gallon cart, and the 4.26% rate adjustment will increase the quarterly service cost from \$123.57 to \$128.83, which is an increase of \$5.26. The attached Exhibit L outlines the rate increase for all customer types and services.

Milpitas continues to have the lowest residential solid waste rate within Santa Clara County. The average monthly per gallon rate for 12 cities in Santa Clara County and the City of Fremont is \$1.00 for single family residential service.

*(see table of rates for cities in Santa Clara County – on next page)*



Proposed Contract Amendments

Minor amendments to the contract are required to update rate calculation sources, secure collection services for City operations, and revise the rate tables in Exhibit L. Staff recommends the approval of Amendment No. 3 to the Franchise Agreement to incorporate the approved rate adjustment for RY2, and to incorporate minor changes to the contract which do not result in cost impacts to the City.

Summary of the changes:

1. Section 4.5.A: Collection Services to City Facilities  
Clarification that a) collection services for all City facilities are offered at no additional cost and include disposal and processing of all collected materials, and; b) Contractor will pay direct haul of City-owned vehicles to Approved Facilities and, for purposes of calculating Rate adjustments for the succeeding Rate Period, will include such amounts incurred during the most-recently completed 12-month period ending June 30 in Net C&D Materials Processing Costs and Disposal Costs regardless of whether rate adjustments are determined by the index-based rate adjustment methodology (Exhibit D-1) or the cost-based rate adjustment methodology (Exhibit D-2) and no caps on rate adjustments in either such Exhibit will apply to such amounts.
2. Exhibit D, Table 2 – Detailed Index Information  
Changes from the US Bureau of Labor Statistics (BLS) require updates of measurement indices specified in Exhibit D to match current BLS information.
3. Exhibit D-1 – Index-Based Rate Adjustment Methodology  
Correct the direct depreciation, start-up costs and interest expense amounts to account for amortization over the full 15 year term of the agreement.

4. Exhibit F – List of City Facilities  
Add the McCarthy Pump Station and a storage area under SR-237 to the list of City facilities for collection of materials.
5. Exhibit L – Maximum Rates Approved by City for Rate Year 2  
Revised schedule of rates for all customer types and services, includes the 4.26% rate increase for all MSI Inc. customers.

Community Outreach

MSI will provide information about the rate increase to all residential, multi-family and businesses account holders in bills and on its website. The January – March newsletters will outline rates by customer type and provide referrals to view rates online. Notice of the rate increase has been posted on the City’s website since early October, will be updated accordingly and community meetings will be held in January 2019 to review the factors of the rate adjustment and discuss the program.

**Fiscal Impact:** There is no fiscal impact to City operations. All solid waste customers will experience a rate increase of 4.26% in 2019. Franchise Fee revenue will increase with the amount of gross receipts.

**Recommendations:**

- 1) Accept staff report on rate adjustment for Rate Year 2, with a rate increase of 4.26% becoming effective on January 1, 2019.
- 2) Authorize the City Manager to execute Amendment No. 3 to the Franchise Agreement with Milpitas Sanitation, Inc. to amend exhibits listed above and to update terms for collection at City facilities.

**Attachment:** [Amendment No. 3 to Agreement with Milpitas Sanitation Inc.](#)

12.

**Receive Report on Recommendation to the Mayor to Reappoint Four City Commissioners, Appoint One New Planning Commissioner and Move to Approve those Appointments (Council Contacts: Councilmembers Nuñez, 408-586-3023 and Phan, 408-586-3032)**

**Background:** The Mayor and Council formed the City Council Subcommittee on Commissions on December 19, 2017 to review and recommend applicants to serve as Commissioners for final approval. The subcommittee has recommended 32 successful commissioner appointments and reappointments.

Reappointments to Commissions and one new Commission appointment are recommended for final appointment by the Mayor:

**Energy and Environmental Sustainability Commission**

Reappoint Christopher Salian to a term to expire in October 2020.

**Parks, Recreation and Cultural Resources Commission**

Reappoint Rohit Sharma to a term to expire in June 2021.

**Library and Education Commission**

Reappoint Hellie Mateo to a term to expire in June 2020.

**Senior Advisory Commission**

Reappoint Jenny Berryhill to a term to expire in December 2019.

**Planning Commission**

Newly appoint Marty Riker to a term to expire in December 2021. This is an appointment to the seat currently held by Commissioner Gurdev Sandhu, who is respectfully termed out in December 2018. If approved, Mr. Riker would assume the seat and begin attending meetings in January 2019.

**Recommendation:** Per recommendation for final appointment by the Mayor, move to re-appoint four current Commissioners to new terms on their respective City of Milpitas Commissions, and appoint one new member to the Milpitas Planning Commission.

**Attachment:** [Applications for the Planning Commission](#)

13.

**Approve an Amended and Restated Subdivision Improvement Agreement with Milpitas-District 2 Associates, LLC for The District-Lot 2 Building at 1415 McCandless Drive (Tract No. 10447) and an Amendment to the Subdivision Improvement Agreement with Milpitas-District 1 Associates, LLC, for The District-Lot 1 Building at 1315 McCandless Drive (Tract No. 10140) (Staff Contact: Michael Fossati, 408-586-3274)**

**Background:** On March 20, 2012, the City Council approved a Major Tentative Map, Site Development Permit, and Conditional Use Permit to allow development of The District, a project comprised of four mixed-use buildings on 13 acres located at 1315-1600 McCandless Drive (Resolution No. 8165). At that time, the applicant informed the City that one of the four mixed-use buildings (Lot 1) would include the development of a grocery store on the ground floor.

A Subdivision Improvement Agreement (SIA) for Lot 1 was subsequently approved by the City Council on May 5, 2015. The SIA stipulated that the developer, Lyon Living (Lyon), must fully construct the retail and commercial component of the project and provide evidence of a signed lease agreement for a grocery store tenant prior to issuance of Certificates of Occupancy for more than 187 units (approximately 50% of total units) on Lot 1. To date, Lyon has completed the retail and commercial space within Lot 1, but a written lease agreement for a grocery store tenant has not yet been secured.

In October 2018, Lyon requested that the City waive the requirement for evidence of a written lease agreement for a grocery store prior to issuance of Certificates of Occupancy for more than 187 units on Lot 1. According to Lyon, all 371 units on Lot 1 will be completed by the end of the year, and they need to obtain Certificates of Occupancy for all of the units to continue leasing activities at the building. They assert that full occupancy will bolster their efforts to secure a grocery store tenant for the project. In place of the lease requirement, Lyon offered to provide the City Council with quarterly updates detailing their ongoing efforts to secure a lease agreement with a grocery store tenant.

At the City Council meeting on November 20, 2018, the Council considered Lyon's request for a waiver of the Lot 1 unit cap and directed staff to allow the issuance of up to 15 additional Certificates of Occupancy on Lot 1. This allowed Lyon to receive the required certificates for up to 202 units (i.e., all of the units completed to date) and to continue leasing activities on the site until the Council could take additional action. The Council also directed staff to place a new 50% unit cap on the SIA for Lot 2, and Lyon agreed to accept this change. An amendment to the SIA for Lot 1 is needed to remove the new 202-unit cap. A summary of Council actions related to this item at the November 20<sup>th</sup> meeting is included in the agenda packet.

**Analysis:** As discussed above, the Subdivision Improvement Agreement (SIA) for The District-Lot 1 project requires that the developer, Lyon Living (Lyon), fully construct the retail and commercial component of the project to a “cold dark shell” condition prior to the issuance of a Certificate of Occupancy for more than 187 residential units on Lot 1. The SIA also requires the developer to provide evidence of a written lease agreement for a grocery store tenant before Certificates of Occupancy may be issued for more than 187 units on Lot 1. When completed, Lot 1 will include a total of 371 units.

Lyon previously requested that the City waive the requirement for evidence of a written lease agreement for a grocery store prior to issuance of Certificates of Occupancy for more than 187 units on Lot 1. In place of the lease requirement, Lyon has offered to provide the City Council with quarterly updates detailing their ongoing efforts to secure a lease agreement with a grocery store tenant. A letter detailing Lyon’s request is included in the agenda packet.

As discussed above, the City Council approved the issuance of 15 additional Certificates of Occupancy on Lot 1. The Council indicated that it would like to retain a unit cap within the SIA for The District until the developer is successful in securing a written lease agreement with a grocery store tenant on Lot 1. To this end, staff recommends replacing the current 202-unit cap on Lot 1 with a new 104-unit cap (50% of total units) on Lot 2. This will allow Lyon to receive Certificates of Occupancy for all 371 residential units on Lot 1 and up to 104 additional units on Lot 2 prior to securing a written lease agreement with a grocery store tenant. Staff further recommends that the SIA for Lot 2 should include a requirement for quarterly written updates from the developer detailing their efforts to secure a lease agreement for a grocery store tenant. An amended and restated SIA for Lot 2 is included in the meeting packet.

An amendment to the SIA for Lot 1 is also needed to remove the new 202-unit cap that was created by the Council on November 20, 2018, when approval was granted for the issuance of 15 additional Certificates of Occupancy over the original 187-unit cap on Lot 1. Consistent with City Council direction, an amendment to the SIA for Lot 1 is included in the meeting packet. A memo from Councilmembers Nuñez and Phan regarding the occupancy restriction is also included in the agenda packet.

**Environmental Review:** The revised Subdivision Improvement Agreement for The District-Lot 2 and the amendment to the Subdivision Improvement Agreement for The District-Lot 1 and are Exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) for actions where the activity in question will have no significant effect on the environment and Section 15183 for projects consistent with an adopted Community Plan, General Plan, or Zoning. The proposed action area is consistent with the Transit Area Specific Plan (TASP) and the TASP Final Environmental Impact Report, as amended.

**Fiscal Impact:** None

**Recommendation:** Consider the exemption in accordance with California Environmental Quality Act and approve an amended and restated Subdivision Improvement Agreement between the City of Milpitas and Milpitas-District 2 Associates, LLC for The District-Lot 2 Building located at 1415 McCandless Drive (Tract No. 10447) and an Amendment to the Subdivision Improvement Agreement between the City of Milpitas and Milpitas-District 1 Associates, LLC for The District-Lot 1 Building located at 1315 McCandless Drive (Tract No. 10140).

**Attachments:**

- a) [Revised Subdivision Improvement Agreement for The District – Lot 2](#)
- b) [Amended Subdivision Improvement Agreement for The District - Lot 1](#)
- c) [Letter from Lyon Living, November 6, 2018](#)
- d) [Memo from Councilmembers Phan and Nuñez, November 2, 2018](#)
- e) [Summary of Council Actions, pg. 5, November 20, 2018](#)

14.

**Approve the Parks, Recreation and Cultural Resources Commission FY 2018-19 Work Plan (Staff Contact: Renee Lorentzen, 408-586-3409)**

**Background:** At the November 5, 2018 Park, Recreation and Cultural Resources Commission meeting, the Commissioners created and approved a 2018-19 Work Plan proposal. The Commission’s Work Plan identifies the Commission’s goals, projects and ongoing tasks they would like to accomplish for the year.

**Recommendation:** Approve the Parks, Recreation and Cultural Resources Commission 2018-19 Work Plan.

**Attachment:** [Commission 2018-19 Work Plan](#)

15.

**Approve the Veterans Commission FY 2018-19 Work Plan (Staff Contact: Dale Flunoy, 408-586-3228)**

**Background:** At the August 1, 2018 Veterans Commission meeting, the Commissioners created and approved a 2018-19 Work Plan proposal. The Commission’s Work Plan identifies the Commission’s goals, projects and ongoing tasks they would like to accomplish for the year.

**Recommendation:** Approve the Veterans Commission 2018-19 Work Plan.

**Attachment:** [Commission 2018-19 Work Plan](#)

**XII. PUBLIC SAFETY**

16.

**Adopt a Resolution Approving the Cooperative Purchase of Motorola Solutions, Inc. Dispatch Consoles Equipment, APX Subscriber Equipment, a Local NICE Logging Solution, and the Sole Source Purchase of a Matching Locution Systems Inc. Fire Station Alerting System, and Relevant Implementation Services for an Amount Not to Exceed \$2,350,591 (Staff Contact: Henry Kwong, 408-586-2419)**

**Background:** The City of Milpitas is a participant in the Silicon Valley Regional Interoperability Authority (SVRIA). In 2001, the Santa Clara County/City Managers Association (including the City of Milpitas) agreed to jointly fund a countywide radio interoperability and public safety radio & data communications network to improve public safety and emergency services, which is referred to as the Silicon Valley Regional Communications System (SVRCS). In 2012, a vendor solicitation and selection process was completed by SVRIA, and as a result, a contract was awarded to Motorola Solutions, Inc. Section I-2-3.08 of the Milpitas Municipal Code authorizes the City Council to award contracts without competition when the purchase is pursuant to a cooperative agreement by another public agency in California that used competitive negotiation or bidding procedures at least as restrictive as those of the City of Milpitas. The City of Milpitas is an Eligible Purchaser on the Motorola Solutions, Inc., cooperative contract, which is still current.

The Locution Systems, Inc., Fire Station Alerting System will provide a network-based alerting system specifically matched to the SVRCS for each of the four fire stations at a cost of \$297,965. Optional elements at Fire Station #1 include the EZ Zone alerting solution to alert specific rooms and bedrooms within the Fire Station as opposed to alerting the entire Fire Station, wall-mounted night vision illuminators using red LED lights for hallways and egress areas, and a ceiling-mounted strobe light at a combined cost of \$8,951. Optional elements at Fire Station #4 include wall-mounted night vision illuminators using red LED lights for hallways & egress areas and a ceiling-mounted strobe light at a combined cost of \$3,023. The total cost of optional elements is \$11,974, which brings the total cost of all the Fire Station Alerting components to \$309,939. The costs for the interface to the existing Computer Aided Dispatch (CAD) system and for the installation of the optional elements is not included but can still be borne by the funding of the assigned CIP No. 3421.

Section I-2-3.09 of the Milpitas Municipal Code authorizes the Purchasing Agent to award contracts without competition when there is only one source for the required supply or service. Purchase of the Fire Station Alerting System manufactured by Locution Systems, Inc., a dedicated Motorola partner that builds fire station alerting systems designed to directly interface with the aforementioned Motorola radio equipment, is in the City's best interest because it will:

- Minimize implementation time: Having one vendor responsible for the implementation of both the dispatch consoles and the Fire Station Alerting System ensures that the two systems operate as designed. If there is a problem, there is no finger pointing that occurs when there are multiple vendors.
- One vendor to interface with simplifies the procurement from a scheduling perspective, system operation perspective, financial perspective, and deployment perspective.
- Minimize dispatch center disruptions: Having one vendor responsible for the dispatch consoles and the Fire Station Alerting System will minimize the disruptions in the Dispatch Center because one vendor can manage the entire implementation and limit the number of people in the center at one time.
- Maintenance: Having one vendor responsible for maintenance of the entire solution from the radios in the field to the radio infrastructure, the dispatch consoles, and the Fire Station Alerting System will minimize downtime.
- Repair disruptions: Having one vendor responsible for repairs would also minimize disruptions to the Dispatch Center by minimizing the time it would take to troubleshoot problems and assign repair responsibilities between different vendors. This problem is eliminated by having only a single vendor to schedule and carry out the necessary work.

Based on the foregoing, it is highly important for the City to have one vendor for the Fire Station Alerting system and the dispatch consoles. Motorola Solutions, Inc. is the sole provider of both systems.

The SVRCS infrastructure in the majority of Santa Clara County is essentially completed, and the City of Milpitas is preparing to implement the new system in 2019 by accepting the proposal by Motorola Solutions, Inc. to provide dispatch consoles equipment, APX subscriber equipment, and a local NICE Logging Solution, Locution Systems, Inc., Fire Station Alerting System equipment, and relevant implementation services for the amount not to exceed \$2,350,591.

**Fiscal Impact:** Funding for this purchase is available from CIP No. 3415 for the majority of the proposal components and from CIP No. 3421 for the Fire Station Alerting System components.

**Recommendation:** Adopt a resolution approving the cooperative purchase of Motorola Solutions, Inc. Dispatch Consoles Equipment, APX Subscriber Equipment, a Local NICE Logging Solution, and the sole source purchase of a matching Locution Systems, Inc. Fire Station Alerting System, and relevant implementation services for an amount not to exceed \$2,350,591.

**Attachments:**

- a) [Resolution](#)
- b) [Proposal from Motorola 11-07-2018](#)

**17. Accept and Receive the Armored Rescue Vehicle (Medevac) Policy (Staff Contacts: Kevin Moscuzza, 408-586-2412 or Jared Hernandez, 408-586-2406)**

**Background:** On August 15, 2017, City Council approved the purchase of an armored rescue vehicle and directed staff to create a policy governing the use of the vehicle. The Police Department held three community meetings in September of 2018 and, in October 2018, published an online survey to solicit community input on the deployment policy. The Police Department presented the armored rescue vehicle policy to the Public Safety Emergency Preparedness Commission on November 15, 2018.

The armored rescue vehicle policy was developed in consideration of community input and best practices that includes accountability, supervisory oversight, the preservation of life, and training requirements. The policy allows the vehicle to be deployed in natural disasters, hostile situations, or rescue operations to protect first responders and the public.

**Fiscal Impact:** None.

**Recommendation:** Accept and receive the armored rescue vehicle (Medevac) policy.

**Attachment:** [Milpitas Police Department Policy](#)

**XIII. LEADERSHIP & SUPPORT SERVICES**

**18. Accept the City's Comprehensive Annual Financial Report and Other Related Annual Audited Reports for the Fiscal Year Ended June 30, 2018 (Staff Contacts: Will Fuentes, 408-586-3111 and Jane Corpus, 408-586-3125)**

**Background:** The Comprehensive Annual Financial Report (CAFR) of the City of Milpitas, Agreed Upon Procedures Report on Compliance with the Appropriations Limit Increment, Required Communications, and the Memorandum on Internal Control (MOIC) for the fiscal year ended June 30, 2018 are presented to the City Council for review.

The CAFR presents the operations and financial activity of all the City's various funds, including the General Fund. It includes an unqualified ("clean") audit opinion from Maze & Associates, the City's external auditors that the financial statements present fairly the results of operations for the fiscal year ended June 30, 2018, in conformance with Generally Accepted Accounting Principles (GAAP).

Highlights and items to note from the CAFR for the fiscal year ended June 30, 2018:

- **General Fund Surplus** – For the fiscal year ended June 30, 2018, the City’s General Fund realized revenues of \$99,123,231, other financing sources of \$3,658,154 (indirect cost payments from utility funds offset by transfers out to capital projects and equipment maintenance funds) , and expenditures of \$82,711,704. This resulted in a General Fund surplus of \$20,069,681 and is shown on page 28 of the CAFR as Net Change in Fund Balance. General Fund revenues that significantly exceeded expectations include the following:
  - Property Taxes: \$3.1 million over budgetary estimates
  - Sales Taxes: \$2.3 million over budgetary estimates
  - Other Taxes (includes franchise fees, hotel taxes, etc.): \$1.6 million over budgetary estimates.
  - License and fines (includes building permits): \$4.0 million over budgetary estimates.

General fund expenditures that were significantly under budgetary appropriations by department include the following:

- Building and Safety: under budget by \$1.0 million
- Police: under budget by \$3.0 million
- Non-Departmental (includes utilities, contingency reserve expenditures, leave payouts, insurance settlements, etc.): under budget by \$2.4 million

The surplus was caused by better than expected economic conditions, vacancy savings in several departments related to difficulties in filling positions and a tightening labor supply, and overall fiscal restraint citywide. While economic conditions are largely outside of the City’s control, staff is examining ways to reduce the variance between budgeted and actual amounts at the end of the fiscal year. This will enable available funds to be more fully programmed by City Council in a timely manner to meet community needs. Methods for improvement may include, but are not limited to, engagement of qualified consultants to better estimate significant tax revenues, increased communication amongst all departments to develop more accurate revenue projections and ensure that requested budgetary appropriations are necessary based on past, current, and future needs and trends, and more frequent periodic review and adjustment of budgetary appropriations during the fiscal year so as to react more timely to emerging economic conditions and needs.

The City Council has established several reserve policies in the event of a General Fund surplus. Some policies contain required assignment of reserve balances and others require additional Council direction. Reserve policies with required assignments are summarized in relation to the General Fund surplus for the fiscal year end June 30, 2018. Any further Council direction needed for the use of the General Fund surplus as it relates to optional reserve assignments or other needs will be requested by staff in a subsequent staff report:

**REQUIRED RESERVE SURPLUS ASSIGNMENTS:**

|  |                            |                               |
|--|----------------------------|-------------------------------|
| General Fund Surplus Beginning Balance | \$20,069,681               |                               |
| <b>Reserve Policy</b>                  | <b>Addition to Reserve</b> | <b>Balance After Addition</b> |
| #35 – PERS Stabilization               | \$10,013,076               | \$29,852,501                  |
| #45 – Artificial Turf Replacement      | \$250,000                  | \$1,000,000                   |
| General Fund Surplus Ending Balance    | \$9,806,605                |                               |

- **Unfunded Pension and Other Post Employment Benefit (OPEB) Liabilities** – The City contracts with CalPERS for pension plans relating to its safety and miscellaneous employees. The City also provides retiree healthcare benefits for its employees, which are formally called other post-employment benefits (OPEB). As Note 11 (page 77) shows, the City has a Net Pension Liability of \$186,770,421 across both its safety and miscellaneous pension plans for the fiscal year ended June 30, 2018. The City continues to make its required annual contributions to CalPERS, but most of this payment is amortized over a 30 year period and it will take considerable time to pay down the City’s Net Pension Liability by making only the actuarially calculated annual required contribution. In January 2019, staff, with the assistance of a qualified actuary, will present Council with options to address the City’s Net Pension Liability so as to reduce long-term interest costs. As the previous section stated, the City currently has approximately \$29.9 million in a PERS Stabilization Reserve as established by Reserve Policy #35 so as to address and stabilize pension costs.

As Note 12 (page 87) shows, the City has a Net OPEB Liability of \$44,413,773 as of the fiscal year ended June 30, 2018. Per new guidance provided by Governmental Accounting Standards Board (GASB) Statement #75, public agencies must now reflect the full amount of their Net OPEB Liability directly on the face of their Government-wide Financial Statements. In year’s past, the full amount of a city’s Net OPEB Liability only had to be shown in the Notes to the Basic Financial Statements and not on the face of the financial statements. Only the City’s Net OPEB Obligation, which represented the amount of the City’s required annual contribution had to be shown on the face of the City’s financial statements. While this does not impact the amount of the City’s actual liability, it does add \$42.6 million in liabilities to the City’s Government-wide Statement of Net Position. The implementation of GASB #75 is required for the City’s financial statements ending June 30, 2018 and is now reflected in the CAFR of the same period.

***Memorandum on Internal Control (MOIC)*** - Under generally accepted auditing standards, the City’s auditors are encouraged to report certain matters regarding the City’s internal control structure. The City’s auditors have provided such a report in their Memorandum on Internal Control (“Management Letter”) for the Year Ended June 30, 2018. This report includes management’s response to the auditor’s recommendations on:

- **Timely Review of Monthly Treasurer’s Reports:** Timely review and approval is an important element of the City’s internal control structure. In order to be an effective control, the Treasurer’s Report should be prepared and subsequently reviewed for accuracy in within 30-45 days after month-end. During the audit, it was discovered that some Treasurer’s Reports were not reviewed within this timeframe. This was due to a lack of adequate staff resources. The City will develop procedures to ensure investment reconciliations are reviewed in a timely manner, and the date of preparation will be documented. The Finance Department is also hiring new analytical staff and the preparation of the Treasurer’s Report can be one of their responsibilities so as to ensure timely preparation and review.
- **Quarterly Review of Investment Securities and Documentation of the Review:** The Safekeeping and Securities Section of the City’s Investment Policy adopted on August 1, 2017 requires that securities held in custody for the City be reviewed and verified quarterly by Finance staff that has not been assigned to the investment section. The City has complied with this section of the Investment Policy, but approval was only made verbally and no written documentation was prepared to

support the review and approval. The City will develop procedures to ensure that investments held in custody for the City are reviewed and verified quarterly by a staff member that is not involved with the investment function, and that evidence of the review is documented in a formal manner. The City will also explore shifting staffing duties so that there is time to prepare written approval documentation and come into compliance.

- **Compliance with CAL-Card Manual – Periodic Audits of Credit Card Statements:** The City has a Manual and a number of Standard Operating Procedures (SOPs) that govern the use of City-issued credit cards. In response to the prior year issues related to the City’s CAL-Card program, the City adopted a new CAL-Card Manual dated August 25, 2017. The new Manual requires that the Finance Department periodically perform audits on all credit card statements to determine compliance with the City of Milpitas policies and procedures. Accounts Payable staff in the Finance Department does review and check all statements monthly to determine compliance with the new Manual, but they did not understand that this was part of the audit function when they were asked by the City’s auditors. Thus, the City will work to ensure that their role in the auditing process is better understood and strengthen training and procedures where necessary to ensure the periodic audits of all credit card statements are completed and documented.
- **Retention of Retiree Personnel Files to Support Pension and Other Post-Employment Benefits (OPEB) Census Data File:** The City must maintain personnel records to ensure the accuracy of City pension and OPEB census data files when compared to data files held by CalPERS. During testing the City’s auditors could not find several personnel records that were beyond the City’s records retention policy. However, City staff located information to support that the retiree or separated employee had been previously employed by the City. Thus, the City will develop record keeping, review and reconciliation procedures to ensure that pension and OPEB census data is supported, up to date and accurate. The City’s current Records Retention Schedule provides for retention of hard copy personnel files for 3 years after separation. However, for verification of prior employment purposes, electronic records will be kept of all current and future employees in the City’s Enterprise Resource Planning (ERP) system.

While these identified items are significant deficiencies, the City’s auditors do not view any of their comments as material weaknesses on the City’s internal control structure and management has provided appropriate responses on how each will be addressed. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. A material weakness is a deficiency, or a combination of deficiencies, in internal control such that there is reasonable possibility that a material misstatement of the City’s financial statements will not be prevented, or detected and correct on a timely basis. Again, no material weaknesses in internal control were discovered by the City’s auditors.

***Required Communications Report*** – Our auditors are required to communicate information related to our audit and financial statements under generally accepted auditing standards and *Government Auditing Standards*. The City’s auditors have provided such a report in their Required Communications for the Year Ended June 30, 2018. Note the following from the Required Communications Report:

- 1) The City’s auditors noted no transactions entered into by the City during the year for which there was a lack of guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

- 2) The City’s auditors encountered no significant difficulties in dealing with management in performing and completing their audit.
- 3) The City’s auditors discovered no material misstatements, either individually or in their aggregate, to each opinion unit’s financial statements taken as a whole, except for the entry to accrue accounts payable in the Transit Area Impact Fee and to post the City’s post-closing adjustments to correct the GASB Statement 75-related activity. Staff corrected this misstatement during the audit and it is now reflected properly in the City’s financial statements.
- 4) The City’s auditors encountered no disagreements with management during the course of their audit.

***Agreed Upon Procedures Report on Compliance with the Appropriations Limit***

***Increment*** - This report shows that the auditor applied specific procedures to validate the City’s Appropriations Limit (“Gann Limit”) calculations. The appropriations limitation imposed by Propositions 4 (1979) and later amended by Proposition 111 (1990) creates a restriction on the amount of government revenue which may be appropriated in any fiscal year. The Appropriations Limit is based on actual appropriations during the base year (1986-87 or the first full year of operation), and increases each year using specified growth factors. The Appropriations Limit applies only to those revenues defined as “proceeds of taxes.” Certain expenditures of tax proceeds do not count as Appropriations Subject to Limit including those for voter approved debt, qualified capital outlay, and the costs of complying with court orders and federal mandates. Staff prepares an updated Appropriations Limit in May of each year and presents to Council for review and approval during the budget preparation process.

**Fiscal Impact:** None.

**Recommendation:** Accept the City’s Comprehensive Annual Financial Report and other related Annual Audited Reports for the fiscal year ended June 30, 2018.

**Attachments:**

- a) [Comprehensive Annual Financial Report - FY 2017-18](#)
- b) [Agreed Upon Procedures report on Compliance with Appropriations Limit](#)
- c) [Required Communications - FY 2017-18](#)
- d) [Memorandum on Internal Control - FY 2017-18](#)

19. **Receive a Report on Updated Five-Year Forecast and General Fund Surplus for Fiscal Year Ended June 30, 2018, Approve Phase I Mid-Year Budget Appropriations and Changes for the FY 2018-19 Operating Budget, and Adopt a Resolution Amending the Classification Plan (Staff Contacts: Will Fuentes, 408-586-3111 / Feliser Lee, 408-586-3143)**

**Background:** As noted in the Fiscal Year 2017-18 CAFR staff report, there was a surplus of \$20.07 million in FY 2017-18. In order to minimize the variance between budgeted and actual amounts in any given fiscal year, staff is making process improvements such as more accurate revenue and expenditure projections and continued tracking and timely adjustment of the budget throughout the fiscal year. This report provides a financial status for this fiscal year as of October 31, 2018, and also an updated Five-Year Forecast for the City’s General Fund.

The City has been experiencing significant growth in the past year, and the impact of this growth is reflected in the increased need for services, especially in Fire and Building and Housing Departments. This has also resulted in an increased need for support services in Finance and Human Resources. Given the significant remaining surplus from FY 2017-18 and better than projected revenues from FY 2018-19, staff is recommending specific appropriations for both one-time and ongoing urgent needs as part of Phase I Mid-Year

Budget Requests. This is a unique request and staff does not anticipate the need to bring this type of request outside of the annual or standard mid-year budget process in future years.

**Analysis:**

***General Fund Financial Status for the Four Months ended October 31, 2018***

*Revenues*

As of October 31, 2018 with 33.3% and four months of the fiscal year completed, the General Fund received approximately \$21.3 million in total revenue. This amount represents 20.9% of revenues originally projected in the Adopted FY 2018-19 Budget. Below is a summary of significant revenues received through the first four months of FY 2018-19 as compared to the FY 2018-19 Adopted Budget:

- Property Taxes and RPTTF: \$1.8 million, or 5.7% of the \$31.4 million budget has been received. Adopted revenues for FY 2018-19 were budgeted to increase 8.9% from FY 2017-18 budgeted revenue based upon inflationary factors allowed under Proposition 13 and new residential units added to the assessed valuation of secured properties. It also factored in an increase for the City's share of remaining RDA property tax revenue from Assembly Bill (AB)x1 26. Due to timing of property tax revenue receipts, the City has only received one payment in the first four months. Main property tax payments are received in December and April. However, property tax is projected to trend at a higher rate than last year and year end projections have been revised upward, as will be discussed in a subsequent section.
- Sales & Use Tax: \$6.8 million, or 23.7%, of the \$28.5 million budget has been received. FY 2018-19 adopted sales tax revenues of \$28.5 million, an 11.8% increase over FY 2017-18 budgeted revenues, were based on continuing economic growth in the region and population growth in the City, consistent with the projection of the City's sales tax consultant. This is trending slightly below the originally budgeted revenue due to the CDTFA (California Department of Tax and Fee Administration) experiencing technical difficulties that may have affected the first two payments in the current fiscal year from the State. Staff is currently monitoring the status of these missed payments in conjunction with its contracted sales tax consultant.
- Franchise Fees: \$846,000, or 17.9% of the \$4.7 million budget has been received. The FY 2018-19 adopted franchise fee revenue was an 18.8% increase over FY 2017-18 budgeted revenues, primarily due to anticipated rate increases for garbage franchise fees.
- Hotel/Motel (TOT) Tax: \$3.1 million, or 24.7% of the \$12.7 million budget has been received. The FY 2018-19 adopted hotel/motel (TOT) tax revenue was a 13.9% increase over FY 2017-18 budgeted revenues, primarily due to the anticipated opening of one new hotel for half the fiscal year and a continued strong lodging market. TOT revenue is expected to meet its FY 2018-19 adopted budget target for the year.
- Building Permits: \$3.5 million, or 48.4% of the \$7.3 million budget has been received. The FY 2018-19 adopted revenues of \$7.3 million was a 15.6% increase over FY 2017-18 budgeted revenues due to continued strong growth in residential developments and in the TASP (Transit Area Specific Plan).
- Charges for Services: \$1.8 million, or 24.1%, of the \$7.5 million budget has been received. This is trending below budget primarily due to the cyclical nature of

demand for recreation service and the shift of collecting fees earlier in the spring for summertime classes.

#### *Expenditures*

As of October 31, 2018 with 33.3% and four months of the fiscal year completed, General Fund expenditures are trending slightly below budget at 29.6%. These are mostly due to position vacancies and the cyclical nature of services in the first four months of the year. Below is a summary to highlight departments that have significantly spent above or below their budget through the first four months of FY 2018-19 as compared to the FY 2018-19 Adopted Budget:

- City Attorney's Office: \$126,000, or 14.9%, of the budget has been spent through the first four months of the fiscal year, primarily due to pending processing of invoice payments relating to recently approved contract amendments and a new agreement. It is expected that expenditures in the City's Attorney's Office will reach their budgeted appropriations by the end of FY 2018-19.
- The City Manager's Office, Economic Development, Building and Housing, and Engineering: these departments are all tracking below 25.0% of their budget primarily due to position vacancies. The citywide vacancy rate as October 31, 2018 is 11%.
- Planning Department: this department has spent slightly above budget at 36.2% due to a leave cash out paid for the departure of the previous department director.

#### *Estimated 2018-19 year-end projection*

After reviewing the financial status for the four months ended October 31, 2018, staff performed additional analysis to provide a year-end projection of the General Fund's revenues and expenditures in FY 2018-19. Major revenues, including property tax, sales tax, licenses and permits, and charges for services, were analyzed and updated using the most recent information available. This is shown in Exhibit 1 of this staff report and the information will again be updated at the February 5, 2019 Council meeting.

- Property Taxes and RPTTF: This is currently estimated to be \$33.3 million, or approximately \$1.9 million higher than the FY 2018-19 original projection of \$31.4 million. Property tax was updated based upon the November 2018 projection from the County of Santa Clara which factors in the latest property tax roll corrections and activity through October 31, 2018. Staff is also currently working on obtaining consultant services to provide projections for property taxes that will include more robust and detailed analysis and also factor in the latest trends such as Milpitas specific planned development activity.
- Sales & Use Tax: This is estimated to be \$30.2 million, or approximately \$1.7 million higher than the FY 2018-19 original projection of \$28.5 million. Note that the \$30.2 million estimated for FY 2018-19 includes \$1.2 million of estimated one-time "clean up" from the CDTFA for unprocessed First and Second Quarter sales tax returns due to previously referenced technical difficulties. These payments, which will be recorded in FY 2018-19 due to the lateness of their receipt by the City, are actually for FY 2017-18 sales tax activity.
- Licenses & Permits: These revenues are estimated to be \$10.4 million, or \$600,000 higher than the FY 2018-19 original projection of \$9.8 million. This is primarily due to an increase of \$1.7 million in Building Permits and Plan Check fees offset with a \$1.1 million reduction in Dedicated Building Services and Life Safety Construction Permit/Inspection fees reflected in current year actual trends.

- Charges for Services: These are estimated to be \$6.7 million, or \$780,000 lower than the FY 2018-19 original projection of \$7.5 million. Reimbursements for overhead and labor associated with billable staff time were adjusted downward to be closer to actual reimbursements in the last two years.

Overall, updated revenues in FY 2018-19 are expected to total \$105.3 million, or approximately \$3.3 million higher than the FY 2018-19 original total revenue projection of \$102.0 million. Expenditures were updated by adding a total of \$606,000 in costs that were approved by Council during the first four months of the year (July 1, 2018 through October 31, 2018). These expenditures primarily include the following:

- \$236,010 - Fire SAFER Grant expenditures of \$359,425, offset by City match of \$123,415 from the General Fund balance (City Council approved 9-18-18)
- \$266,475 - CMO – One-time expenditure for Matrix Consulting (Service Delivery/Organizational Assessment and Fee Study) (City Council approved 10-2-18)
- \$97,350 - Legal services (BBK) for City Attorney - \$97,350 budget adjustment (City Council approved 9-18-18)

When combined, updated revenue and expenditure projections net to an overall increase of \$2.7 million to the General Fund Balance from the FY 2018-19 Adopted General Fund Operating Budget. Excluding both \$266,475 of one-time Service Delivery/Organizational Assessment and Fee Study costs and \$1.2 million of estimated one-time “clean up” payments from the CDTFA in sales tax, the addition to the General Fund balance for FY 2018-19 is estimated to be approximately \$1.8 million.

#### ***Updated Five-Year Forecast***

As shown in Exhibit 1, the updated FY 2018-19 year end projections of revenues and expenditures were used as the new base to update the Five-Year General Fund Forecast for FY 2019-20 through 2023-24. Overall, updated revenues are projected to increase a total of \$7,998,600 over the original Five-Year forecast due primarily to the following factors:

- A total of \$12.3 million increase in higher Sales Tax and Property Tax revenues (\$6.4 million and \$5.9 million, respectively) for the five-year term, offset by:
  - A reduction of \$3.7 million in reimbursements for overhead and labor associated with billable staff time that were trued down to be closer to actual reimbursements in the last two years,
  - \$400,000 from eliminating the County Contribution for BART in the last four years of the forecast, and
  - A net decrease of \$450,000 in Licenses and Permits due to a downward adjustment of forecast assumptions from recent trends

Updated expenditures are projected to increase a total of \$981,189 over the original Five-Year Forecast primarily due to increased salary and benefit costs from SAFER Grant related positions. When compared against revenues over this Five-Year Forecast period, the General Fund Balance is expected to increase by \$7,017,411.

Other revenue adjustments that are pending and which have not been factored into the updated Five-Year General Fund Forecast are:

- The Transient Occupancy Tax (TOT) rate is expected to increase from 10% to 14% (subject to the second reading of Uncodified Ordinance 218.4 on December 4, 2018 and Council acceptance of election results on December 18, 2018). The City can expect to receive between \$5.1 million and \$5.8 million per year over the Five-Year Forecast period, with \$2.9 million expected for half of FY 2018-19. These revenues will be programmed into the FY 2019-20 budget and will be

incorporated into future Five-Year Forecasts. They are not included in this Five-Year Forecast since the new TOT rate is not officially approved and will not be effective until January 3, 2019.

- The Quill/Wayfair Supreme Court decision that now requires online retailers to collect and remit sales tax. The City's sales tax consultant has estimated this to be \$587,000 to \$955,000 per year in additional revenues to the City. However, it is expected that the City will not start receiving this until at least June 2019 and thus, it will be programmed into the FY 2019-20 budget during either the proposed budget process or the mid-year adjustments process once more information is known.
- As presented to Council on November 29, 2018, there is an estimated negative impact in FY 2018-19 of \$640,043 from decreased transfers from the Water and Sewer funds as a result of the updated Cost Allocation Plan (CAP) (if approved by Council on November 29, 2018). The negative impact is estimated to be approximately \$3.2 million over the Five-Year Forecast period. Staff will return to Council on February 5, 2019 to present final plans to offset any negative General Fund revenue due to the updated CAP and provide an update to the General Fund Five-Year Forecast. The negative impact could potentially be fully mitigated by a development fee study discussed below.
- Matrix Consulting Group is currently conducting a development fee study to assess user fees charged to developers and other parties. This fee study will look to capture the full cost of services and as a result, it is anticipated that development based fees could increase. The projected revenue increase as a result of the fee study is unknown at this time, but any increased revenue will be factored into the FY 2019-20 Budget and updated Five-Year Forecast presented to Council with that budget during the development process. This could mitigate any negative impacts as a result of the updated CAP.

Note that while these additions to the General Fund balance are favorable news, the previous Five-Year Forecast showed a deficit of \$881,000 starting in FY 2018-19 and increasing to a deficit of \$3.4 million by FY 2023-24; to be mitigated by incremental and justifiable drawdowns of the PERS Stabilization Reserve due to rising pension costs. The updated Five-Year Forecast shows a surplus of \$1.1 million starting in FY 2018-19 and changing to a deficit of \$2.7 million by FY 2023-24. Thus, there will be less of a need to draw from the PERS Stabilization Reserve and this reserve could be used for other purposes such as paying down unfunded pension liabilities. A full pension funding plan will be presented to Council on January 15, 2019.

### ***FY 2017-18 General Fund Operating Surplus***

As discussed in a companion staff report for the December 4, 2018 City Council meeting, the General Fund had an operating surplus of \$20.07 million as of the fiscal year ended June 30, 2018. \$10.3 million is automatically assigned to #35 – PERS Stabilization (\$10,013,076) and #45 – Artificial Turf Replacement (\$250,000) per adopted reserve policies; thereby leaving a remaining surplus balance of \$9.8 million. In addition to required reserve assignments, adopted reserve policies also recommend the following optional reserve assignments pending further City Council direction annually:

**Table 1 – Recommended Optional Reserve Surplus Assignments:**

|   |                                   |                                      |
|---|-----------------------------------|--------------------------------------|
| General Fund Surplus Balance after Required Assignments | \$9,806,605                       |                                      |
| <b><u>Reserve Policy</u></b>                            | <b><u>Addition to Reserve</u></b> | <b><u>Balance After Addition</u></b> |
| #34 – Budget Stabilization                              | \$1,000,000                       | \$5,000,000                          |
| #44 – Facilities Replacement                            | \$500,000                         | \$2,500,000                          |
| <b><i>Total Reserves:</i></b>                           | <b><i>\$1,500,000</i></b>         | <b><i>\$7,500,000</i></b>            |
| General Fund Surplus End. Balance                       | \$8,306,605                       |                                      |

The Budget Stabilization Reserve has a long-term target of \$8.3 million and was established to provide budget stability when there are fluctuations that result in lower than projected revenues and/or higher than projected expenditures that cannot be re-balanced within existing budget resources in any given fiscal year. This reserve is intended to provide a buffer, or bridge funding, to protect against reducing service levels when these fluctuations occur. Any use of the General Fund Budget Stabilization Reserve shall require majority vote by the City Council through the adoption of the Operating Budget or by appropriation action during the fiscal year. The City Council sets the reserve amount annually after the results of the prior fiscal year’s Comprehensive Annual Financial Report (CAFR) are known. With the results of the fiscal year ending June 30, 2018 now known, staff recommends that Council place an additional \$1 million in the reserve so as to move closer to the long-term target and mitigate the impacts of a recession in the future. There is no consensus amongst leading economists about the timing of the next recession, but all agree that the economy is due for a limited correction based on the normal economic cycle and approximately nine and a half years growth since mid-2009. The Budget Stabilization Reserve helps the City to ensure long-term fiscal sustainability and meet the Council established budgetary priority of Fiscal Responsibility.

The Facilities Replacement Reserve has a long-term target of \$10.0 million and is meant to accrue funding for major rehabilitation or replacement of City facilities (buildings/ structures). Eligible uses of this reserve may include both the direct funding of public facility improvements and the servicing of related debt. The City Council will set the reserve amount annually after the results of the prior fiscal year’s CAFR are known. With the results of the fiscal year ending June 30, 2018 now known, staff recommends that Council place an additional \$500,000 in the reserve so as to move closer to the long-term target. These funds could be used as seed money for needed infrastructure projects such as those at the City’s Fire Stations, Police Station, Corporation Yard or elsewhere. The Facilities Replacement Reserve help the City to mitigate the rising costs of deferred facilities maintenance and also meets the Council established budgetary priority of Fiscal Responsibility.

Budget Recommendations for Other Urgent Needs

With a remaining balance of \$8.3 million after staff recommended reserve surplus assignments, staff also recommends use of the FY 2017-18 General Fund surplus for the following high-priority capital projects that need additional funding in order to be started or completed.

Budget Recommendations for One-Time Capital Improvement Needs

**Table 2 – Recommend Capital Project Reserve Surplus Assignments:**

|   |                                |
|---|--------------------------------|
| <b>General Fund Surplus Balance after Recommended Assignments</b> | <b>\$8,306,605</b>             |
| <b><u>Capital Project</u></b>                                     | <b><u>Requested Amount</u></b> |
| Project 5102 McCandless Park (all access playground grant match)  | \$1,000,000                    |
| Project 5111 Sports Center Skate Park (additional restrooms)      | \$1,500,000                    |
| Project 3447 Fire Station #2 Replacement (for design)             | \$320,000*                     |
| Project 5055 Alviso Adobe Renovation                              | \$300,000                      |
| Project 3442 Main Fire Station #1 Assessment (for design)         | \$50,000                       |
| Project 3444 Police/PW Bldgs Assessment (for design)              | \$50,000                       |
| Project 3713 Trash Removal Devices (for construction)             | \$250,000                      |
| New Project - LAN/WAN Network Upgrade                             | \$854,245                      |
| <b>Total Capital Projects:</b>                                    | <b>\$4,324,245</b>             |
| <b>FY 2017-18 General Fund Surplus End Balance</b>                | <b>\$3,982,360</b>             |

*\*additional costs for this project will be appropriated as part of a separate agenda item (Approve and Authorize the City Manager to Execute a Design Services Agreement with Shah Kawasaki Associates and Approve Budget Appropriation of \$320,000 for Fire Station No. 2 Replacement Project, Project No. 3447) on December 4, 2018*

Projects 3447, 3442, and 3444 meet the City Council established priorities of Public Safety and Infrastructure and Community Facilities Maintenance. Projects 5055, 5102 and 5111 meet the City Council established priority of Infrastructure and Community Facilities Maintenance and the need for additional funding has been recently discussed with Council. Project 3713 also meets the City Council established priority of Infrastructure and Community Facilities Maintenance. New Project – LAN/WAN Network Upgrade is to fund a project to replace the local area network (LAN)/wide area network (WAN) infrastructure that is past its useful life and prone to failure; thereby threatening critical city services reliant on the City’s telephone and computer systems such as public safety. City staff recently selected a vendor after a lengthy Request for Proposal (RFP) process and expects to bring before Council for approval at its December 18, 2018 meeting. \$98,000 was already budgeted for this project in FY 2018-19 and staff is recommending using \$854,245 from the one time surplus to fund the remainder of the total project costs of \$952,245.

In addition to the capital improvement items discussed above, staff is also requesting funding for personnel and consulting costs to meet urgent service needs. The urgency of the need is based on three key factors:

1. One-time needs to supplement a service or to enable succession planning for retirements;
2. Resources needed for increased demands in specific cost recovery services such as Fire Prevention and Building and Housing;
3. Resources needed in support service departments such as Finance and Human Resources to enable the front line departments to deliver timely and effective service;

Budget Recommendations for One Time Personnel and Non-Personnel Needs

In addition to the items discussed above, the following urgent one-time operating budget requests in Table 3 below are also recommended for funding from the remaining FY 2017-18 surplus of \$3,982,360. Funding all of the items in Table 3 below would still leave a

remaining surplus balance of \$3,165,912. Staff recommends discussing the use of this remaining surplus of \$3,165,912 during the FY 2019-20 Operating and 2019-2024 CIP Budget process so as to enable a comprehensive discussion about the community's priorities and the City's funding needs. This will also ensure that input is received from the community and all stakeholders.

**Table 3 – Recommended Operating One-Time Surplus Assignments:**

|   |                   |   |                    |
|---|-------------------|---|--------------------|
| <b>FY 2017-18 General Fund Surplus End. Balance after Capital Project Reserve Surplus Assignments</b> |                   |   | <b>\$3,982,360</b> |
| <b>No.</b>  | <b>Department</b> | <b>Request</b>  | <b>Cost</b>        |
| FR2   | Fire              | Remaining IAFF MOU Funding Needs                                    | \$230,937          |
| FR3   | Fire              | Add three (3) Entry Level Firefighters for 6 months                 | \$280,130          |
| HR3   | Human Resources   | Add consultant for citywide classification and compensation studies | \$100,000          |
| PD1   | Police            | Add two (2) Police Officers for 3 months                            | \$205,381          |
| <b>Total Operating One-Time Assignments:</b>  |                   |   | <b>\$816,448</b>   |
| <b>FY 2017-18 General Fund Surplus End Balance after All One-Time Assignments</b>                     |                   |   | <b>\$3,165,912</b> |

Fire

This request is a one-time request for six months to allow the hiring of 3 Entry Level Firefighters (overstrength positions). If approved, these positions will be placed in a joint fire academy scheduled to begin January 20, 2019. Upon completion of the fire academy in May 2019, these positions will fill vacancies that are anticipated in April 2019 due to staff retirements. These positions will also assist with forecasting for staffing discussions upon the completion of the standards of cover assessment in early 2019. Entry Level Firefighters cost the City less versus lateral hires on both retirement and initial salary. The planned January 2019 Fire Academy at Milpitas Fire allows these new hires to attend and save the cost of having to put on a second academy in the future. Additionally, funding needed for the new and recently agreed to IAFF MOU, above and beyond what was already appropriated in the FY 18-19 Adopted Budget, is \$230,937. This amount will ensure that the agreement is fully funded for FY 18-19. The total FY 18-19 cost of the IAFF MOU is \$806,653. \$575,716 is already budgeted in the FY 18-19 Non-Departmental Operating Budget and will be transferred to the FY 18-19 Fire Operating Budget; thereby leaving a remaining balance of \$230,097 to fund.

Human Resources

This request is to fund consulting services to conduct Classification and Compensation studies citywide, including those for Police and Fire positions, to ensure that all positions are classified properly and that compensation is fair and equitable when compared to other positions inside the organization as well as those at agencies with which Milpitas uses for comparison. In addition studies will be conducted based on priority and urgency working in coordination with bargaining units. Approximately 15-20 miscellaneous classifications will be reviewed per fiscal year and staffing reviews will be conducted every 5 to 7 years or as needed.

Police

This request is a one-time request for three months to allow the hiring of two (overstrength) Police Officers in Patrol Services in anticipation of three anticipated retirements before the end of FY 18-2019. Adding these two positions ahead of the

retirements will enable the new hires to complete their training in advance of the positions becoming vacant. Any long term staffing requests to address the rapid growth in the City and the opening of BART in 2019 will be brought forward as part of the annual FY 19-20 budget process.

***FY 2018-19 Mid-year Phase I Budget Ongoing Adjustments***

In light of the Net Estimated FY 2018-19 General Fund Balance Addition in the amount of \$1,759,335 and the Estimated 5 Year General Fund Balance Addition of \$7,017,411, staff reviewed urgent needs for funding, in advance of the budget process for FY 2019-20. It should again be noted that the Net Estimated FY 2018-19 General Fund Balance Addition and the Estimated 5 Year General Fund Balance Addition does not include either \$266,475 of one-time Service Delivery/Organizational Assessment and Fee Study costs and \$1.2 million of estimated one-time “clean up” payments from the CDTFA in sales tax. In addition, as discussed within the Updated Five-Year Forecast section previously, these numbers also do not include ongoing expected revenues from an adjustment in TOT rate, ongoing expected revenues from the Quill/Wayfair decision, ongoing negative revenue impacts from an updated CAP, and ongoing potential revenues from a development fee study. These revenues will be programmed into the FY 2019-20 budget and will be incorporated into future Five-Year Forecasts.

Budget Recommendations for Urgent Ongoing Personnel Needs

The urgent budget requests for ongoing needs are outlined in Table 4 below:

**Table 4 – FY 2018-19 Midyear Phase I Budget Ongoing Adjustments:**

| No.   | Department           | Request  | 18-19 Fiscal Impact       | Average On-Going Annual Impact |
|---|----------------------|--|---------------------------|--------------------------------|
| <b>Services for Fee Based Programs</b>                          |                      |  |                           |                                |
| BH1   | Building and Housing | Add one (1) Building Official  | \$151,765                 | \$332,000                      |
| BH2   | Building and Housing | Add one (1) Administrative Analyst II  | \$93,053                  | \$203,000                      |
| BH3   | Building and Housing | Add one (1) Plan Review Manager  | \$126,653                 | \$277,000                      |
| BH4   | Building and Housing | Add two (2) Permanent Plan Check Engineer positions and Remove two (2) Temporary Plan Check Engineer positions | \$0                       | \$0                            |
| BH5   | Building and Housing | Add four (4) Permanent Building Inspector positions and Remove four (4) Temporary Building Inspector positions | \$0                       | \$0                            |
| FR1   | Fire                 | Add one (1) Fire Prevention Inspector  | \$116,548                 | \$255,000                      |
| <b><i>Sub-Total Costs - Services for Fee Based Programs</i></b> |                      |  | <b><i>\$488,019</i></b>   | <b><i>\$1,067,000</i></b>      |
| <b><i>Fee Revenue Offset</i></b>                                |                      |  | <b><i>\$(488,019)</i></b> | <b><i>\$(1,067,000)</i></b>    |
| <b><i>Net Costs - Services for Fee Based Programs</i></b>       |                      |  | <b><i>\$0</i></b>         | <b><i>\$0</i></b>              |
|   |                      |  |                           |                                |

| No.                                   | Department      | Request  | 18-19 Fiscal Impact | Average On-Going Annual Impact |
|---------------------------------------|-----------------|--|---------------------|--------------------------------|
| <b>Support Services</b>               |                 |  |                     |                                |
| HR1                                   | Human Resources | Add one (1) Assistant Human Resources Director | \$144,993           | \$314,000                      |
| HR2                                   | Human Resources | Add one (1) Human Resources Technician         | \$60,418            | \$128,000                      |
| FN1                                   | Finance         | Add one (1) Buyer in Purchasing                | \$84,752            | \$185,000                      |
| <b>Total Costs – Support Services</b> |                 |  | <b>\$290,193</b>    | <b>\$627,000</b>               |

### Services for Fee Based Programs

Ongoing resources needed to provide services to fee based programs are a top priority so as to ensure the City is providing services at the levels the City is charging the fees.

#### Building and Housing

These requests are primarily due to the need to keep pace with the increase in development activities. Added expenditures are expected to be fully offset by increased building permit revenue generated due to acceleration of projects. The level of permit and construction activities has increased significantly as well as the complexity of the projects over the years. For reference, the City has deferred building permit revenue of \$7.2 million as of June 30, 2018 and these revenues are only realized once staff work supporting the fee collected is performed. It is expected that additional personnel will speed up the realization of this revenue annually and be reflected as increased revenue on the City's financial reports.

Construction valuation of building permits reflects the size as well as the complexity of projects.

Over the past eleven years from FY 2007-18, the overall permit construction valuation from the first four years (FY 2007-08 to FY 2010-11) averaged \$150 million per year. For the next four years (FY 2011-12 to FY 2014-15), the average construction valuation per year nearly doubled to \$294 million. For the past three years (FY 2015-16 to FY 2017-18), the average construction valuation per year again doubled to \$607 million. In the past decade, construction valuation has increased four-fold. The permit fees collected parallel this trend. This level of activity reflects that development projects in the recent years have been transforming the City of Milpitas to the status and demands of a large community. These large, complex developments will also continue to increase the baseline of permit activities throughout the City as existing building owners will desire renovations, expansions, or redevelopment to stay competitive with other businesses.

Staffing resources have not kept up with the growth in development activities. The department has not been meeting timeliness for plan review, permitting, and inspection services. As a result, turnaround times have been deficient. Developers consistently request priority service and allocated staff time for plan review and inspection, which has been challenging to provide due to the low staffing level. The ability to meet demands by providing timely services is critical for developers and businesses in the community. The requests in the department are part of a realignment plan and will increase efficiency by providing consistency and continuity, and enhance customer service and overall economic development in the City.

The requests include three positions. Adding a Building Official that will essentially serve as an assistant director will assist the director with complex projects and sensitive matters

as well as updating policies, procedures, and programs in the department. This position will also provide staff training in the department. An Administrative Analyst is necessary as the department lacks administrative staff. This position will help shift some of the analytical work from plan review and other staff to allow them to focus on development projects. This position will address a variety of analytical work, such as data analysis, budget, contract administration, studies, and websites. Adding a Plan Review Manager will address the plan review functional area that has been in need of improvement for some years. This position will expand the capacity of the plan review function and improve the plan review and permitting turnaround times.

The requests also include adding several permanent plan review and inspection positions and removing an equal amount of temporary plan review and inspection positions. The department has a large number of plan review and inspection staff and vacancies that are currently classified as temporary staff with full benefits. This creates an instability in staffing as trained temporary staff continue to leave for other opportunities that provide more job security. As a result the department experiences frequent turnover, leading to lower productivity and inefficiency. Many retirements have been occurring and additional retirements are also expected in the next several years. As additional retirements occur in the near future, it is important to fill the vacancies and have stable staffing so that experienced staff can train and mentor new staff prior to retirement. Staffing levels will be continually balanced with the workload and managed with attrition through retirement.

### Fire

This request is a direct response to the steady increase in fire prevention inspection workload relative to the influx of development within the City. Added expenditures are expected to be offset by increased inspection revenue. The department has identified deficiencies in customer service, newly adopted fire code mandates, increasing overtime expenditures related to work load, and significant increases in pending projects as the key elements supporting the request for an additional Fire Prevention Inspector.

1. Current turnaround time for fire department inspection request is running approximately 10 days on average. With the additional inspector, customer service delivery will be enhanced by reducing turnaround times significantly.
2. The Fire Prevention office is also falling behind on the plan reviews and fire permit issuance due dates by an average of 10 days. The new inspector can assist with some minor plan checks, thereby improving customer service.
3. Senate Bill 1205 was recently adopted by the State of California where there are specific State Fire Marshal Regulated Occupancies that must be performed annually.
4. With the heavy work load, the current overtime utility is running ahead of the budgeted amount by roughly 50%. The additional inspector will help in the reduction and savings in overtime expenses.
5. Several large high density projects are underway, including seven large multi-residential apartment buildings, one hotel, one assisted living complex, and two townhouse developments require plan reviews and inspections.

### **Support Services**

In order to provide much needed support for front line departments to provide a high level of service to the community as well as general internal service to our City staff, additional resources are recommended to be added at this time in the Human Resources and Finance departments.

### Human Resources

The request for an Assistant Human Resources Director and an additional Human Resources Technician in Human Resources is to address the volume of work in Human

Resources (HR) across the board. HR provides the following necessary services for all City departments:

- 1. Recruitment, Testing and Selection:** HR recruits, screens applications, tests and interviews candidates before having a background check conducted and providing a final offer of employment. As of last month the City had 43.5 vacant positions which equates to an 11% vacancy rate, by adding HR positions we would like to establish a goal vacancy rate of 5% by the end of the fiscal year. Currently HR has one Analyst to oversee recruitments.
- 2. Benefits:** HR has one Analyst to oversee Benefits Administration and one HR Technician to support this work.
- 3. Employee Relations:** HR works with department Managers and Supervisors on performance appraisals, step or merit increases, and performance management and employee discipline issues. The HR Director is the main point of contact for Employee Relations although all HR staff support this area.
- 4. Training:** HR coordinates mandated Federal and State trainings. In addition to mandated training, HR would also like to offer professional development training programs to staff, which was a practice before the Great Recession. Currently, the HR Director provides training or the HR team assists in outsourcing any mandated training.
- 5. Labor Relations:** HR leads labor negotiations and is responsible for meeting and conferring on labor topics with the City's five (5) bargaining units. Negotiations typically require several months of work. Given the sensitivity and complexity of these negotiations, the HR Director has to lead this area of work.
- 6. Classification and Compensation:** HR should routinely review job descriptions and salary ranges to ensure job duties and requirements are current as well as to maintain competitive salaries. Staff is recommending using a consultant for this work but will need at least one to two HR staff to participate in the process and manage the consultants workload.
- 7. Workers Compensation:** HR ensures compliance with state and federal laws and is also required to maintain an Injury Illness Prevention Program. The same HR Analyst that supports Benefits also supports Workers Compensation.

In addition to these subject matter areas, HR needs to work on the procurement of an HR technology module, the City Personnel Rules and Regulations, which have not been updated since 1991, and several Standard Operating Procedures and Forms.

The HR Department's resources have not kept up with the growth of the other departments in the City, just in 2018/2019 alone we added nineteen (19) positions. The ability for HR to provide the necessary level of services is not efficient and puts the City at unnecessary risk. Currently Human Resources is staffed with Five (5) Full Time Equivalent (FTE) positions. In a City with 389 benefited positions and 85 temporary positions serving a population of approximately 75,000 residents, HR should have at least Eight (8) FTE. This comparison is based on a preliminary survey of ten (10) of our neighboring jurisdictions. Additional detail will be provided as part of the citywide staffing analysis report which will be included in the FY 2019-2020 budget process. Staff believes it is important to add the two positions recommended below to deliver the critical services needed to support the organization. To date, in this fiscal year (2018/2019), HR has completed 28 recruitments, including five executive recruitments, filled 23 permanent and 50 part time vacancies, negotiated an agreement with IAFF, provided orientation and benefit services to 73 new hires, handled 10 new workers comp cases since July 1, 2018. However, this volume and pace of work is not sustainable on an ongoing basis, with the current resources in HR.

An Assistant HR Director will assist the HR Director with complex, sensitive matters including labor negotiations, implementing a new HR Information System, ensuring that the City is current with Federal and State mandates over employment and benefit laws, and

updating policies and procedures. In addition having an Assistant HR Director provides for succession and leadership in HR, which is a highly depended upon function in the City.

Adding an additional HR Technician will provide support to Recruitment. The single HR Technician is mostly dedicated to Benefits and Payroll and when available assist with a recruitment or other special assignments. Having an additional HR Technician will not only assist with recruitments, but it will also allow cross training between the two HR Technicians to allow for continuity when one of the positions is absent or when there is a specific need for additional assistance with special assignments.

#### Finance

The Purchasing Division has only two positions (a Purchasing Agent and a Buyer) and has seen a significant increase in activity the past year, with over 80 active projects such as agreements, Requests for Proposal (RFPs), and Invitations for Bid (IFBs), with activity not expected to decrease in the near future. The Purchasing Division also has the need to install a new contracts management database system and needs staffing resources to support this and other upcoming efforts. To offer comparison, the City of Mountain View has 5.5 full-time equivalents (FTEs) in its Purchasing Division, while the City of Santa Clara has 7.2, the City of Palo Alto has 9.0, and the City of Sunnyvale has 12.75. The City of Mountain View most closely compares to Milpitas in terms of population size, but the other cities are also shown for illustrative purposes.

#### **Policy Alternative:**

Some members of the Council have requested the City Manager to explore additional staffing to support the Mayor and Council. There is a substantial amount of work related to Mayor and Council support, including:

1. Coordinating scheduling and attendance at over 12 regional board or committee meetings, 16 special Council meetings, 36 Council Subcommittee meetings, over 95 community events, and weekly/bi-weekly Councilmember briefings
2. Staffing several Subcommittee meetings which includes the preparation of the agenda and meeting minutes
3. Coordinating and reconciling travel for the Mayor and Council
4. Coordinating special events such as swearing-in ceremonies and preparing over 350 certificates to be presented to various community members and organizations
5. Providing other ongoing support as needed

Staff recommends evaluating this request as part of overall administrative needs in the City Manager's Office, during the annual FY 2019-20 budget process. However, if Council wishes to move forward with this earlier, staff will bring this back for Council consideration as part of the Phase II Mid-Year Budget requests on February 5, 2019. The budget request at that time would be to add one Office Specialist to the City Manager's Office at a cost of \$43,850 for four months in FY 2018-19 (assuming a March 1, 2019 hire date). The ongoing annual cost of an Office Specialist position is approximately \$144,000 per year.

**Fiscal Impact:** Taking into account the latest revenue and expenditure information and trends, as discussed in the first section "***General Fund Financial Status for the Four Months ended October 31, 2018***" above, the General Fund Balance is estimated to add \$1,759,335 by the end of FY 2018-19 due primarily to better than expected revenues; excluding both \$266,475 of one-time Service Delivery/Organizational Assessment and Fee Study costs and \$1.2 million of estimated one-time "clean up" payments from the CDTFA in sales tax.

FY 2018-19 Midyear Phase I Adjustments total approximately \$290,163 in net, and funding all of them will leave FY 2018-19 with an estimated surplus of approximately \$2.4 million. The current Five-Year Forecast shows a deficit in out years, which is planned to be

mitigated by drawing down on the PERS Stabilization Reserve. This proposed staffing plan before Council would still require a justifiable draw on PERS Stabilization Reserve, but at a slightly reduced level due to higher than expected revenues.

However, as noted above, additional revenues from the TOT rate increase, additional sales tax from online retailers as well as any adjustments to CAP rates that could impact the General Fund are not factored into this analysis:

The analysis for the FY 2018-19 Budget also does not include any factor for normal vacancies that occur throughout the year. A standard vacancy savings rate is 2-3% and this is normally shown as a cost savings when budgeting. A 2% vacancy savings rate equals approximately \$1.7 million. And a 3% vacancy savings rate equals approximately \$2.5 million. In future budgets and Five-Year Forecasts, this will be added so as to show a truer and more accurate forecast of City costs. For reference, the City's vacancy rate as of October 31, 2018 is 11% of all approved full-time equivalent (FTE) positions.

Although the City is anticipating additional ongoing TOT and sales tax revenues, it would be prudent for Council to discuss the use of this revenue in the context of community priorities and needs during the FY 2019-20 budget process. A citywide staffing analysis is currently underway, as are more detailed staffing analysis studies for Fire, Police, and Development Services (Planning, Building, Fire, and Engineering). Any staffing recommendations that result from the detailed studies may also require additional support staff to be added. Based on the current growth in the City, the opening of the new BART station, and the anticipated population growth, staff is anticipating the need for Council consideration of additional staffing needs in the FY 2019-20 budget process.

For context, it is important to note that in FY 2008-09, there were 498 full time authorized positions to serve a population of 69,000. Current staffing levels are at 389 full time authorized positions to serve a population of 75,000. Thus, at a time when development activity in the City has quadrupled and population has grown by approximately 9 percent, number of authorized FTEs are 109 or 22 percent less than a decade ago.

**Recommendations:**

1. Receive a report on Updated Five-Year Forecast and General Fund Surplus for Fiscal Year Ended June 30, 2018 and approve Phase I Mid-Year Budget Appropriations and changes for the FY 18-19 Operating Budget.
2. Approve a budget amendment to update FY 2018-19 Revenues.
3. Approve recommended Optional Reserve Surplus Assignments of \$1.5 million (shown in Table 1).
4. Approve a budget amendment to transfer \$4,324,245 of the remaining FY 2017-18 surplus to the General Government CIP Fund and appropriate funds to projects (detailed in Table 2) with a transfer of \$98,000 currently budgeted for Networking Equipment in the Information Services FY 2018-19 operating budget to the New Project – LAN/WAN Network Upgrade for a total project appropriation of \$952,245.
5. Approve a budget amendment to appropriate recommended operating one-time surplus assignments of \$816,448 (detailed in Table 3) from the FY 2017-18 surplus and transfer \$575,716 from the FY 2018-19 Non-Departmental Operating Budget to the FY 2018-19 Fire Operating Budget as planned so as to fully fund the Memorandum of Understanding with the International Association of Fire Fighters, Milpitas local.
6. Approve a budget amendment to appropriate FY 18-19 Midyear Phase I Budget Ongoing Adjustments netting \$290,163 in FY 2018-19 as detailed in Table 4 above from the estimated FY 2018-19 increased base revenues.
7. Adopt a resolution amending the Classification Plan for budgetary position authorizations and to establish new classifications.

**Attachments:**

- a) [Exhibit 1: General Fund Updated 5 Year Forecast for FY 19-20 through 23-24](#)
- b) [Resolution to Amend Classification Plan](#)
- c) [Budget Change Forms](#)

**20. Receive a Report on Fiscal Year 2019-20 Operating Budget and 2019-2024 Capital Improvement Program Development Process, Validate Process, and Provide Further Direction if Necessary (Staff Contacts: Will Fuentes, 408-586-3111 and Feliser Lee, 408-586-3143)**

**Background:** The development process for the Fiscal Year (FY) 2019-20 and 2019-2024 Capital Improvements Program (CIP) will commence in December 2018 and staff is currently making preparations for both processes as well as associated processes, such as update of the Master Fee Schedule, the development fee study, compensation and classification studies, and staffing analyses. City Council will find a calendar of key dates, for Council and the public to be aware of, included in the agenda packet. The proposed calendar includes both regular and special City Council meetings and study sessions in which the Operating Budget, CIP, or fees will be discussed as well as community engagement efforts, City Council Finance Subcommittee meeting dates, and key dissemination dates of Operating and CIP materials. The proposed calendar is presented for Council review and Council may wish to revise. Staff asks Council for validation of the proposed calendar or to provide further direction if necessary.

Of note, staff proposed to hold a Budget Study Session with City Council on January 29, 2019. This study session would provide the City Council the opportunity to validate or update City Council Priorities established with community, employees, and staff input during the FY 2018-19 budget process, discuss service levels and performance measures, receive a report regarding citywide staffing, discuss policy of fee and charges cost recovery for services and utilities, discuss community service area (CSA) workplans, and receive a presentation regarding debt financing and options for infrastructure projects including utilities. The proposed Budget Study Session topics are presented for Council review and Council may wish to revise. Staff asks Council for validation of the Budget Kickoff topics or to provide further direction if necessary.

Additionally, during the FY 2018-19 budget process, staff initiated a new participative budget process as requested by City Council. This participative process leveraged the experience of a consultant and provided staff with much needed support due to limited time and resources. Staff take over this process for the FY 2019-20 Operating Budget and 2019-2024 CIP and is planning to conduct community engagement during February 2019. During this process, staff seek input from the general public, business community, agencies with which Milpitas partners, and nonprofits and volunteer organizations through various in person community meetings and online and telephone surveys. In person meetings are tentatively planned to be held at the Community Center (meeting for the general public), a Milpitas Unified School District (MUSD) site (meeting for the general public), and City Hall (one meeting for the business community, one meeting for agencies with which Milpitas partners, and one meeting with nonprofit and volunteer organizations). The various audiences and in person meeting locations were requested by Council during the FY 2018-19 budget process.

The proposed community engagement plan is presented for Council review and Council may wish to revise. Staff asks Council for validation of the community engagement plan or to provide further direction if necessary.

And lastly, staff will hold various study sessions with City Council relating to the Operating Budget, CIP, and fees in March, April, and May 2019 with adoption of fees

sought on April 30, 2019 and adoption of the Operating Budget and CIP sought on June 4, 2019. Staff will provide Council with updates on the process and financial forecasts throughout so that Council may make informed and timely decisions regarding staffing and services levels, capital projects, and fees. These updates and forecasts may be presented during City Council meetings or Council Finance Subcommittee meetings as well as presented to City Council by way of informational memos.

Staff thanks City Council for its validation, input, and direction and looks forward to another successful budget process; one which will seek broad stakeholder input and continue the City's progress towards long-term fiscal sustainability.

**Recommendation:** Receive a report on Fiscal Year 2019-20 Operating Budget and 2019-2024 Capital Improvement Program development process, validate the process, and provide further direction, if necessary.

**Attachment:** [Key Dates 2019-20 Operating Budget and 2019-2024 CIP Preparation](#)

- XIV. **REPORTS OF MAYOR & COUNCILMEMBERS – from the assigned Commissions, Committees and Agencies**
  
- XV. **NEXT AGENDA PREVIEW**
  - 21. [Next Regular Council meeting: December 18, 2018](#)
  
- XVI. **ADJOURNMENT**

**NEXT REGULAR CITY COUNCIL MEETING**  
**TUESDAY, DECEMBER 18, 2018**