



JOINT MEETING OF THE PUBLIC FINANCING AUTHORITY & 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 - REVISED **TUESDAY, MARCH 5, 2019** **COUNCIL CHAMBERS, 455 E. CALAVERAS BLVD., MILPITAS, CA**

7:00 PM

CALL JOINT MEETING TO ORDER by Mayor and ROLL CALL by City Clerk

PLEDGE OF ALLEGIANCE

INVOCATION (Councilmember Montano)

PUBLIC FORUM

Those in the audience are invited to address City Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit spoken remarks to three minutes. As an item not listed on the agenda, no response is required from City staff or the Council and no action can be taken. Council may instruct the City Manager to place the item on a future meeting agenda.

ANNOUNCEMENTS

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

APPROVAL OF AGENDA

CONSENT CALENDAR

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, audience member 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.

C1. **Receive and Accept City Council Calendar for March 2019 (Staff Contact: Mary Lavelle, 408-586-3001)**

Recommendation: Receive Council Calendar of meetings for the month of March 2019.

C2. **Approve City Council Meeting Minutes of February 19 and 22, 2019 (Staff Contact: Mary Lavelle, 408-586-3001)**

Recommendation: Receive and approve Council meeting minutes of the February 19 and 22, 2019 Milpitas City Council meetings.

C3. Adopt a Resolution Initiating Proceedings for the Annual Levy and Collection of Assessments and Ordering the Preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch (Staff Contact: Steve Erickson, 408-586-3301)

Recommendation: Adopt a Resolution Initiating Proceedings for the Annual Levy and Collection of Assessments and Ordering the Preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch.

C4. Adopt a Resolution Initiating Proceedings for the Annual Levy and Collection of Assessments and Ordering the Preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon (Staff Contact: Steve Erickson, 408-586-3301)

Recommendation: Adopt a Resolution Initiating Proceedings for the Annual Levy and Collection of Assessments and Ordering the Preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon.

C5. PUBLIC FINANCING AUTHORITY: Adopt Resolutions of the Milpitas City Council and Milpitas Public Financing Authority Board Authorizing Investment of Monies in the Local Agency Investment Fund and Updating Officers Information (Staff Contact: Jane Corpus, 408-586-3125)

Recommendation: Adopt a Resolution of the Milpitas City Council and a Resolution of the Milpitas Public Financing Authority Board authorizing investment of monies in the Local Agency Investment Fund - to update officers' information and signatures.

C6. Approve Out of State Travel for Assistant Police Chief Kevin Moscuzza to attend the FBI National Academy 275th Session Graduation in Quantico, VA scheduled for March 14, 2019 to March 16, 2019 (Staff Contact: Armando Corpuz, 408-586-2534)

Recommendation: Authorize Out of State Travel for Assistant Police Chief Kevin Moscuzza to attend the FBI National Academy Graduation in Quantico, VA March 14, 2019 to March 16, 2019.

C7. Provide Direction to the City Manager to Issue a Request for Proposals from Qualified Vendors to Construct and Manager a Digital Billboard on City-owned Property Located at the Northern Terminus of Barber Lane (Staff Contact: Ned Thomas, 408-586-3273)

Recommendation: Move to formally direct the City Manager to issue a Request for Proposals from qualified vendors to construct and manage a digital billboard on City-owned property located at the northern terminus of Barber Lane.

PUBLIC HEARINGS

8. Conduct a Public Hearing for 2019 Weed Abatement and Adopt a Resolution to Abate the Weeds (Staff Contact: Albert Zamora, 408-586-3271)

Recommendations: (1) Conduct a public hearing, receive testimony, and move to close the public hearing. (2) Adopt a resolution directing the County of Santa Clara Consumer and Environmental Protection Agency - Weed Abatement Program to abate the nuisance, keep an account of the cost, and embody such account in a report and assessment list to the City Council in accordance with the Milpitas Municipal Code.

9. Conduct a Public Hearing and Adopt a Resolution Establishing Affordable Housing Fees (Staff Contact: Sharon Goei, 408-586-3260)

Recommendations: (1) Conduct a public hearing, receive written and verbal testimony, and move to close the public hearing. (2) Adopt a resolution establishing residential and non-residential affordable housing fees and integrating the fees into the City's Master Fee Schedule and making findings of CEQA exemption.

COMMUNITY SERVICES AND SUSTAINABLE INFRASTRUCTURE

10. Receive Odor Update and Presentation from Staff of the Bay Area Air Quality Management District (Staff Contact: Steve Erickson, 408-586-3301)

Recommendation: Receive odor update and presentation from staff of the Bay Area Air Quality Management District.

11. Adopt a Resolution Awarding a Construction Contract to and Authorize the City Manager to Execute the Contract with the Lowest Responsible Bidder Submitting a Responsive Bid, Southwest Construction and Property Management, in the Amount of \$317,310; and Authorize the Engineering Director/City Engineer to Negotiate and Execute Contract Change Orders in an Aggregate Amount Not to Exceed \$47,600 for Milpitas City Hall Third Floor Improvements, Project No. 3406 (Staff Contact: Steve Erickson, 408-586-3301)

Recommendation: Adopt a Resolution awarding a construction contract to and authorize the City Manager to execute the contract with the lowest responsible bidder submitting a responsive bid, Southwest Construction and Property Management, in the amount of \$317,310; and authorize the Engineering Director/City Engineer to negotiate and execute contract change orders in an aggregate amount not to exceed \$47,600 for the Milpitas City Hall Third Floor Improvements, Project No. 3406.

NEXT AGENDA PREVIEW

12. Receive and Review Preview of Next Regular Council Meeting Agenda: March 19, 2019 (Staff Contact: Mary Lavelle, 408-586-3001)

ADJOURNMENT

NEXT SPECIAL CITY COUNCIL MEETING
MARCH 12, 2019

NEXT REGULAR CITY COUNCIL MEETING
MARCH 19, 2019

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

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

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

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

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

APPLY TO SERVE ON A CITY COMMISSION

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

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

Backup material for agenda item:

Receive and Accept City Council Calendar for March 2019 (Staff Contact: Mary Lavelle, 408-586-3001)

Recommendation: receive Council Calendar of meetings for the month of March 2019.

February 2019						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28		

April 2019						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

Milpitas City Council Calendar

March 2019

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
3	4 7:00 PM -Parks, Recreation & Cultural Resources Commission (AP)	5 6:30 PM -Closed Session 7:00 PM -City Council	6 1:00 PM -Santa Clara VTA Northeast group - monthly (RT) 7:00 PM -Community Advisory Commission (BN)	7 5:30 PM -Santa Clara VTA Board of Directors 5:30 PM -Milpitas Chamber of Commerce Board (CM)	8	9
10	11 9:30 AM -I-680 Sunol Express Lane JPA (RT) 4:00 PM -Economic Development and Trade Commission (KD)	12 6:00 PM - Special City Council Study Session on CIP	13 4:00 PM -City Council Finance Subcommittee (RT/CM) 7:00 PM -Planning Commission 7:00 PM -Silicon Valley Clean Energy Board of Directors (BN) (Cupertino)	14 4:00 PM -Santa Clara VTA Policy Advisory Committee (KD) 4:00 PM -Treatment Plant Advisory Committee (CM) 7:00 PM -Cities Assoc SCC (CM) 7:00 PM -Youth Advisory Commission (AP)	15	16
17	18 7:00 PM -Science, Technology, & Innovation Commission (BN) 7:00 PM -Library and Education Commission (CM)	19 6:00 PM -Closed Session 7:00 PM -City Council	20 6:00 PM -Energy and Environmental Sustainability Commission (BN)	21 6:30 PM -Bay Area Water Supply & Conserv Agency (San Mateo) (CM) 7:00 PM -Public Safety & Emergency Prep. Commission (KD)	22 2:00 PM -VTA Safety, Security & Transit Planning and Ops. (RT)	23
24	25 7:00 PM -Arts Commission (CM)	26	27 12:00 PM -Valley Water District – Water Commission (CM) 7:00 PM -Planning Commission	28 12:00 PM -VTA Capital Program Committee (RT) 12:00 PM -Terrace Gardens Board of Directors (BN) 6:00 PM -special Community Advisory Commission–Community Development Block Grant application review (BN)	29	30
31						

Backup material for agenda item:

Approve City Council Meeting Minutes of February 19 and 22, 2019 (Staff Contact: Mary Lavelle, 408-586-3001)

Recommendation: Receive and approve Council meeting minutes of the February 19 and 22, 2019 Milpitas City Council meetings.

Draft **MEETING MINUTES**
CITY OF MILPITAS

Minutes of: **Regular Meeting of Milpitas City Council**
Date: **Tuesday, February 19, 2019**
Time: **6:00 PM Closed Session**
7:00 PM Open Session
Location: **Council Chambers, Milpitas City Hall,**
455 East Calaveras Blvd., Milpitas

CALL TO ORDER Mayor Tran called the meeting to order at 6:00 PM. City Clerk Mary Lavelle called the roll.

PRESENT: Mayor Tran, Vice Mayor Dominguez, Councilmembers Montano and Nuñez

ABSENT: Councilmember Phan was absent at roll call. He arrived at 6:20 PM in Closed Session.

CLOSED SESSION City Council convened in Closed Session to discuss three matters listed on the agenda.

ANNOUNCEMENT City Attorney Chris Diaz did not have any reportable action out of Closed Session.

City Council convened at the dais for the Open Session regular agenda at 7:27 PM.

PLEDGE Local Boy Scouts from Troops No. 3423 and No. 92 presented the flags and led the pledge of allegiance.

INVOCATION Councilmember Phan deferred to the Mayor, who then offered a brief prayer.

PRESENTATION Mayor Tran commended two student Unity Poetry contest winners, Christina Quan – elementary school winner, and Nicholas Nguyen – high school winner.

PUBLIC FORUM

Evelyn Chua, resident, spoke to the Council about the Environmental Club of Milpitas High School who contacted her about doing a project. Students would work with the Community Advisory Commission, Milpitas Cares and student volunteers to conduct a Clean-Up Day on Saturday, March 19 at Pioneer Mobilehome Park. Mrs. Chua introduced 3 of the students, who spoke at the podium about the club’s efforts.

Robert Marini, resident, felt the city was not open and transparent regarding information provided about bonds for water utilities upgrade work. He alluded to false campaign promises and asked for explanation of costs, and advice from the Citizens Water Rates Task Force. He asked for agenda item No. 3 to be discussed, not on consent.

Rob Means, resident, spoke to the Council about status of “PRT” personal rapid transit, reporting that he’d met with staff on this matter. He’d like to move forward on how to provide staffing, and an agreement for planning it in the future.

Voltaire Montemayor, resident, complimented the poetry contest winners. He discussed homelessness and a need to address those residents in Milpitas.

Ali, resident, requested that item no. C9 traffic signal be removed from consent. He stated he was an anti-war activist and a veteran. He talked about Congress and funding of the military.

Tom Valore, resident, discussed a proposal for gun control in San Jose and asked Milpitas to consider looking at what Mayor Sam Liccardo recommended in that city, for Milptias.

ANNOUNCEMENTS

Mayor Tran encouraged residents to apply to be considered to serve on a City of Milpitas Commission.

Councilmember Montano gave a thumbs up to Police Chief Corpuz for a recent “Coffee with a Cop” event held the previous Saturday. A great success for residents and it was appreciated.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Diaz asked Councilmembers if they had any personal conflicts of interest or reportable campaign contributions. By roll call, none were reported.

Councilmember Montano would recuse herself from agenda item no. 13, due to proximity of her residence to The Pines neighborhood.

APPROVAL OF AGENDA

Motion: to approve the meeting agenda, as submitted

Motion/Second: Councilmember Phan/Councilmember Nunez

Motion carried by a vote of: AYES: 5
NOES: 0

CONSENT CALENDAR

Motion: to approve the Consent Calendar including agenda items no. 1, 2, 5, 6 and 8

Mayor Tran, in reply to residents’ requests, asked to remove items no. 3 and no. 9 from consent.

The Mayor also requested to move up agenda item no. 13 to be heard first, before all other matters for discussion.

Councilmember Nunez requested to remove items no. 4, no. 7 and no. 10 from consent.

Motion/Second: Councilmember Nunez/Councilmember Phan

Motion carried by a vote of: AYES: 5
NOES: 0

* 1. Council Calendars

Accepted City Council calendar for February and March 2019.

* 2. Meeting Minutes

Approved City Council meeting minutes of January 29 and February 5, 2019.

3. Resolution – Amend Water Supply Agreement

Mayor Tran asked for comment from the public.

Robert Marini, resident, said the Council would extend the agreement from 2035 for five more years. He urged City Council to wait until closer to the time frame for the City Council at that time. Why doing so now, when it could be done in future years.

Public Works Director Tony Ndah said there were seven changes in the agreement, as described in the written staff report.

Motion: to adopt a Resolution No. 8846 approving the Amended and Restated Water Supply Agreement between the City and County of San Francisco Wholesale Customers in Alameda County, San Mateo County, and Santa Clara County and authorize the City Manager to execute the agreement

Motion/Second: Councilmember Phan/Councilmember Montano

Motion carried by a vote of: AYES: 5
NOES: 0

4. Agreement with Alta Planning – Trails Plan

Councilmember Nunez asked about this related to the FY 2017-18 surplus in the budget, and why it was requested to be approved at this meeting. Interim Finance Director Jane Corpus

responded regarding this item which was one on a list of items in the MidYear budget report. This one required an agreement to be approved for consultant.

City Engineer Steve Erickson explained the funding in the budget that was included for this agreement for the Trails and Bike Master Plan, and then the project was expanded, with further funding needed to execute the consultant services for development of the Master Plan.

City Manager Edmonds-Mares recommended the City Council may pause on this one, until further discussion on the MidYear budget discussion (item no. 14).

Vice Mayor Dominguez asked when the Master Plan was last updated, and staff responded in 2009. She mentioned deadlines for Measure B funding that the City must pay attention to.

There was no vote on this matter at 9:57 PM.

* 5. Adopt Ordinance 120.48 Waived the second reading and adopted Ordinance No. 120.48 amending Section 6, Chapter 1 of Title VIII of the Milpitas Municipal Code relating to water and recycled water service charges.

* 6. Adopt Ordinance 208.53 Waived the second reading and adopted Ordinance No. 208.53 amending Section 6, Chapter 2 of Title VIII of the Milpitas Municipal Code relating to sewer service charges.

7. Approve Out of State Travel Councilmember Nunez asked staff about Central Square, and its service to the city, since he was concerned with online comments he'd read about this vendor. Information Services Director Mike Luu explained the original company for the City's CAD system was Tri-Tech, and it was bought last year by CentralSquare. The latter is the company that was recently in the news.

Motion: to approve out of state travel for staff from the Police Department and Information Services to attend "CentralSquare 2019" in San Antonio, TX on March 17-20, 2019, and from the Fire Department to conduct final inspection on the new ambulance in Winter Park, FL during March 2019

Motion/Second: Councilmember Nunez/Councilmember Montano

Motion carried by a vote of: AYES: 5
NOES: 0

* 8. Accept MTC P-TAP 20 grant funds Authorized acceptance of Metropolitan Transportation Commission (MTC) Pavement Management Technical Assistance Program (P-TAP 20) grant funding of \$38,500 and authorize payment of \$7,700 to MTC for P-TAP 20 local match.

9. New CIP No. 4292, Traffic Signal Mayor Tran invited a resident to address the Council.

Resident Ali came forward to ask a list of questions 1-7 about this project. Following those, Engineer Steve Chan replied to several of the residents' concerns, including with regard to cameras on which no data was stored.

Motion: to approve the creation of one new FY 2018-19 Capital Improvement Program Project No. 4292, approve project plans and specifications, authorize advertisement for bid proposals for McCarthy Boulevard/Sandisk Drive Traffic Signal, and approve a budget appropriation of \$750,000 from the McCarthy Business Park Traffic Impact Fee fund the new McCarthy Blvd./Sandisk Dr. Traffic Signal, Project No. 4292

Motion/Second: Councilmember Phan/Councilmember Nunez

Motion carried by a vote of: AYES: 5
NOES: 0

10. Next Meeting Agenda Councilmember Nunez would like this in future not to be listed on consent, in future. He'd prefer opportunity to provide comments and request agenda items. City Manager agreed this was the

opportunity for City Council input on City Council meeting agendas.

PUBLIC HEARING

11. Public Hearing – Bingo License Application

City Clerk Mary Lavelle gave an oral report describing the application for a new Milpitas Charity Bingo, Inc. application for bingo to be held at 461 S. Milpitas Blvd. Space C. The goal of the bingo hall was to make donations to local non-profit groups with the bingo game proceeds. All departments had provided appropriate review of the application. Milpitas Planning Commission approved a Condition Use Permit for the entertainment use on an industrial site, with a list of 36 conditions of approval. Game hours in the CUP were Wednesday – Sunday, from 5:00 – 10:30 PM.

Applicant's representative Mr. Bob Livengood gave a brief presentation, describing the business plan and layout of Milpitas Charity Bingo.

Next, Mayor Tran opened the public hearing.

Robert Marini, resident, had a question for Mr. Livengood about volunteers who would help operated the bingo games, and he responded.

Voltaire Montemayor, resident, said he supported bingo in Milpitas.

Victor San Vicente, Milpitas Rotary Club, was very interested in this bingo place, and to have a way to raise funds for Rotary's non-profit charity efforts and also for Chamber of Commerce.

Riza Santoro, bingo manager of St. John the Baptist Church, said their bingo was operating for 10 years. She was concerned that revenue would diminish at the church's bingo, due to a great success anticipated with the \$1 million goal for the new one by Mr. Livengood. Funds were generated for the parish and she hoped St. John would continue to draw lots of players on Monday nights.

Tom Valore, resident, wondered about the difference between 501(c)3 and other charitable organizations. Mr. Livengood responded any group to receive a donation must have tax exempt status. City Attorney Chris Diaz noted that was correct.

(1) Motion: to close the public hearing following five speakers

Motion/Second: Councilmember Montano/Councilmember Phan

Motion carried by a vote of: AYES: 5
NOES: 0

Mayor Tran thanked the St. John's community, and for the bingo group members who came out to the public hearing on this application. The Mayor thought more options for bingo were needed in this community. He supported this new bingo and had faith in St. John's continued success and really liked the non-profit partners list.

Councilmember Nunez asked Chief of Police if there were safety concerns about the daytime hours. Police Chief Corpuz mentioned flexibility in the hours by the applicant.

Councilmember Montano asked Mr. Livengood why it took so long to get the required Franchise Tax Board tax exempt letter (as required by Milpitas Municipal Code). Applicant explained that it was already deemed a non-profit public benefit corporation by the state, but they did not yet get the tax exempt status from the FTB. He was expecting that letter of determination soon. He suggested to Council the applicant was accepting the City Council to approve the bingo license, pending receipt by the City of that letter.

Councilmember Montano asked a variety of questions, including about staff, reporting, tax exempt status, the parent organization and groups receiving the donations. She reviewed the

requirement of Milpitas Charity Bingo to verify the non-profit partners were documented tax exempt charitable organization. There were many nonprofits in Milpitas, so other groups might want to participate and earn donations.

(2) Motion: to receive staff report and approve a new Bingo License for Milpitas Charity Bingo Inc. along with a requirement that applicant shall provide a valid certificate or letter from the applicant from the Franchise Tax Board evidencing exemption consistent with Milpitas Municipal Code III-7-3.00 to the satisfaction of the City Manager

Motion/Second: Councilmember Montano/Vice Mayor Dominguez

Motion carried by a vote of: AYES: 5
NOES: 0

COMMUNITY DEVELOPMENT

12. Residential Short Term Rental Regulations Item was not heard.

COMMUNITY SERVICE

13. The Pines Permit Parking program This matter was heard and discussed first, prior to item no. 4 and prior to public hearing.

Engineer Steve Chan gave a background report and update for the proposed program to have a Parking Permit Program established for The Pines neighborhood in the south of Milpitas. He described parking surveys that were conducted in the past. He provided options and the staff recommendation.

Councilmember Phan asked why new a Capital Improvement Program project would be funded from the General Fund for this new project. Interim Finance Director Jane Corpus responded that anything allocated already for a CIP project was already designated in the budget. This project would be funded with funds that were available. Mr. Phan also asked about signage for this program.

Councilmember Nunez commented on statistics that staff had provided from a 2017 survey analysis. He asked staff how much was in the FY 2017-18 surplus, and Ms. Corpus said \$3.1 million remaining, after some expenditures already approved by Council in December. He talked about weighing all possible avenues for spending that money.

Vice Mayor Dominguez asked some detail questions of staff about which vehicles were noted to be parked longer than 72 hours, and 28 or 29 were vehicles registered in the neighborhood. She expressed her reservations as to whether this program would work, based on her experiences.

Mayor Tran spoke of the residents who'd lived in that neighborhood for many decades, and the struggle with the high density development built in around the area.

The Mayor invited public comments.

Ali, resident, asked why there would be a study on something that was studied before. Check with other nearby cities. There should not be a fee program ever as it would affect low income households disproportionately, who would have to pool resources to pay for the permit. Address the root cause as to why more people packed into houses to afford rent, a focus on prohibiting predatory investment.

Guy Haas, resident of The Pines, thanked the City Council for the effort put into this proposed program. Any provision for residents who have visitors for one week was needed. The Vehicle Code Enforcement cause for concern.

Vice Mayor Dominguez asked the Police Chief if there was a parking enforcement officer. Chief Corpuz would enforce the law and issue violations where necessary, for all matters.

Councilmember Nunez asked if Police could enforce “residents only” if posted. The Chief replied that selective enforcement caused more complaints than anything else.

Mayor Tran invited speakers from the audience.

Tom Valore, resident, was concerned about the best use of funds, as mentioned by Mr. Nunez. He had concerns for homeless and affordability, and did not like taking path of least resistance.

Rob Means, resident, said the problem would be semi-resolved with the plan if adopted. He talked about “commons” and use of that by community members.

Mike Novotny, a 40+ year resident of The Pines, felt it was premature to have this program, since new information came out at this meeting. Cost and impacts on present parking spots were his concerns.

Voltaire Montemayor, resident, described traffic in Milpitas, and heavy road clogging. Perhaps try to avoid problems with this program and help the people, where it was crowded.

Next, Mayor Tran addressed many issues related to this proposal, and expressing his goal to get this program established based on the many concerns he’d heard from residents of The Pines. He commented on parking style in courts in Milpitas (perpendicular, where not allowed). He responded to method of paying for the program, came about from Council discussion and direction. He asked questions about towing of improperly parked vehicles, and the Chief replied when towing was allowed.

Councilmember Phan did not think this was an easy issue for Councilmembers. They need to be pro-active at mitigating traffic. He spoke about his family’s personal story, and about neighbors growing up with concern for working people, their living conditions, as it was not just about parking. He did not support the parking permit program.

Councilmember Nunez said Council was elected to represent everybody in the City, not just The Pines. Parking difficulties where he lived, at north end of the city. He felt there would be a negative impact if this was implemented, so he did not support. He appreciated comments from the speakers and asked staff to bring this item back with all CIP projects (due for discussion next month), and find what could be done to help those living 2 to 3 families in one house or apartment. He said that was his motion.

Councilmember Phan would like the \$130,000 be appropriated, but not for the parking program. Council should appropriate funds to housing fund or anything else more productive. Make housing more affordable with access to jobs, he stated. He wanted to add on to Mr. Nunez’s motion with \$230,000 going to something else.

Vice Mayor Dominguez felt this was a serious vote, as it would set a trajectory for future votes. She had walked the neighborhood. Housing, rent, squeezing in more people, pushing out long-term residents were concerns while there were parking issues across the City. She could support the motion, if this topic would come back.

Motion: to receive a staff report, not to approve a new CIP project for parking permit program in The Pines neighborhood, and to have this item return as part of the CIP presentation on March 12, to explore costs, and later decide then if funding should go to this or another program

Motion/Second: Councilmember Nunez/Councilmember Phan

Motion carried by a vote of: AYES: 4
NOES: 0

LEADERSHIP

14. FY 2018-19 Mid Year Budget review - Resolution

Assistant City Manager Ashwini Katak presented the General Fund Overview for FY 2018-19.

Councilmember Phan responded regarding the change in Transient Occupancy Tax from 11% to 14%. Staff provided details on the recently approved tax increase, and anticipated increased revenue to the General Fund. City Manager explained that the currently had about five months of reserve funds.

Mayor Tran asked about how the PERS stabilization fund was saved and staff said it was in an interest bearing account.

Councilmember Montano asked about investments of the City, and was concern if they were in any immoral or other issues that Councilmembers did not agree with. City Manager replied twice each year, a financial report was given to Council and staff can provide more information to respond to that concern.

Ms. Katak reviewed with a list and funding needed on identified Phase II requests for 6 identified CIPs. Councilmembers commented on some of those projects.

Ms. Katak reviewed next Recommended Funding for One-Time Personnel and Non-Personnel Needs. Mayor Tran commented on the list and believed the need was there, in order to meet the needs of Milpitas residents.

Councilmember Phan wanted to clarify Finance Department requests. Staff explained need for more support on procurement and purchasing tasks, to meet a backlog of work in that area and the need for updating Purchasing ordinance and policies. Human Resources Director Liz Brown came forward with the Fire Chief to answer questions about firefighter turnout equipment costs.

Councilmember Montano asked Public Works about tree maintenance budget increase, wanting to make sure when trees were removed that this was not done on HOA property in the City. She asked for a detailed explanation of the odor monitoring program “electronic” process.

Mayor Tran supported the funds for the odor monitoring program, using technology. He felt the trees maintenance was needed and important, taking care of those.

Vice Mayor Dominguez supported cost for equipment for firefighters and to make sure there was replacement equipment for firefighters planned. She wanted to see mapping of prioritizing trees and where those were maintained.

City Council by consensus was not ready to vote on the staff recommendation at this meeting.

Motion: to continue this discussion of the Mid-Year FY 2018-19 budget and staff recommendations to a future meeting

Motion/Second: Vice Mayor Dominguez/Councilmember Nunez

Motion carried by a vote of: AYES: 5
NOES: 0

15. Mayor’s Appointments to Commissions

Item was not heard.

16. Mayor’s Recommendation for 3 City Council Subcommittee

Item was not heard.

ADJOURNMENT

Mayor Tran adjourned the meeting at 12:04 AM on Wednesday, February 20, 2019.

*Meeting minutes respectfully drafted and submitted by
Mary Lavelle, City Clerk*

**Draft MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Special Meeting of Milpitas City Council
– Council Retreat
Date: Friday, February 22, 2019
Time: 10:00 AM
Location: Sal Cracolice Building at R. McGuire Park
791 Garden St, Milpitas

CALL TO ORDER

Mayor Tran called the meeting to order at 10:12 AM. City Clerk Mary Lavelle called the roll.

PRESENT: Mayor Tran, Vice Mayor Dominguez and Councilmember Nuñez

ABSENT: Councilmembers Montano and Phan were absent at roll call. Mr. Phan arrived in the meeting at 1:10 PM.

City Manager Julie Edmonds-Mares and all department heads were present at this meeting. Consultant Greg Larson from Management Partners was present.

PUBLIC FORUM - None

1. Review of Council-Identified Accomplishments

City Manager Julie Edmonds-Mares introduced the agenda and process for this meeting, and stated that Mr. Greg Larson would lead most of the discussion. Mr. Larson reviewed identified accomplishments of FY 2017-18 with the City Council, and those were displayed on posters.

Mr. Larson then led a communications style exercise with the City Council. He reported results of one on one interviews he had conducted with each Councilmembers. He identified the staff's goal for direction on the City Council Handbook from this meeting.

Councilmember Nuñez and Vice Mayor Dominguez strongly expressed their desire for the City Council to establish a Rules Committee, or something similar, for setting the Council's meeting agendas and for transparency. This was in response to Mr. Larson's identifying Council's need for an established agenda setting process. Among Councilmembers present, there was support for a Rules-type committee, and staff could return to the Council with a way to establish this type of Council committee.

2. Council Staff and Roles

Regarding the City Council Handbook, staff agreed to bring this document back to the Mayor and City Council for further review at an upcoming meeting.

Following a lunch break, the City Council was encouraged to discuss, establish and confirm or adjust its priorities for the new Fiscal Year 2019-20. Housing topics were uniformly desired by Councilmembers, including having a discussion about the Housing Authority, its resources, purpose and funding.

3. Council Priorities

After consultant Mr. Larson conducted an exercise with the City Council, the City Manager asked the Mayor and City Councilmembers to notate the topics viewed as the highest priorities by placing colored dots next to issues each member wished to prioritize. This resulted in seven significant priority issues:

1. Public Safety
2. Transportation and Transit
3. Economic Development
4. Neighborhoods and Housing
5. Community Wellness and Open Space
6. Environment
7. Government and Administration (fiscal responsibility)

At conclusion of the meeting, discussion and priority setting exercise, Mayor Tran thanked staff and the consultant for the productive discussion and meeting. He then adjourned the special meeting at 2:48 PM.

*Meeting minutes respectfully drafted and submitted by
Mary Lavelle, City Clerk*

Backup material for agenda item:

Adopt a Resolution Initiating Proceedings for the Annual Levy and Collection of Assessments and Ordering the Preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 95-1 (McCarthy Ranch)

Recommendation:

Adopt a Resolution Initiation Proceedings for the Annual Levy and Collection of Assessments and Ordering the Preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 95-1 (McCarthy Ranch)



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Initiating Proceedings for the Annual Levy and Collection of Assessments and Ordering the Preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 95-1 (McCarthy Ranch)
Category:	Consent Calendar-Community Development
Meeting Date:	3/5/2019
Staff Contact:	Steve Erickson 408-586-3301
Recommendation:	Adopt a Resolution Initiation Proceedings for the Annual Levy and Collection of Assessments and Ordering the Preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 95-1 (McCarthy Ranch)

Background:

On May 2, 1995, the City Council completed its proceedings in accordance with and pursuant to the Landscaping and Lighting Act of 1972, establishing the Landscaping and Lighting Maintenance Assessment District No. 95-1 (McCarthy Ranch) (LLMD 95-1) to provide for improvement and maintenance of public landscaping, irrigation, pedestrian lighting, gateway columns and entry signs along portions of North McCarthy Boulevard and the Ranch Drive gateway between State Route 237 and Dixon Landing Road.

Analysis:

The Landscaping and Lighting Act of 1972 requires adoption of a resolution directing preparation of the annual engineer's report evaluating LLMD 95-1 maintenance and improvement costs and generally describing any proposed new improvements or any substantial changes in existing improvements. At subsequent meetings, the City Council will be asked to approve the completed engineer's report and to schedule a public hearing for the proposed assessment in May and June 2019. Upon City Council approval, the assessment for the maintenance and improvement work will be added to the 2019-20 property tax bills of property owners within the boundaries of LLMD 95-1.

Policy Alternatives:

Alternative 1:

Not adopt a resolution initiating proceedings for the annual levy and collection of assessments and ordering the preparation of the annual engineer's report for LLMD 95-1.

Pros: None

Cons: The Landscaping and Lighting Act of 1972 requires the legislative body adopt the resolution, not adopting the resolution would jeopardize the City's ability to collect assessments for the maintenance and upkeep of LLMD 95-1.

Reason not recommended: To allow for the continued maintenance for LLMD 95-1, staff recommends ordering the preparation of the annual engineers report to begin the proceedings for the levy and collection of assessments for fiscal year 2019/20.

Fiscal Impact:

The levy and collection of assessments provides a funding resource for the City to improve and maintain public landscaping, irrigation, pedestrian lighting, gateway columns and entry signs within LLMD 95-1.

California Environmental Quality Act:

Levy and collection of assessment is not considered a project under CEQA as there will be no direct or reasonably foreseeable indirect physical change in the environment.

Recommendation:

Adopt a resolution directing the preparation of the annual engineer's report for LLMD No. 95-1.

Attachments:

Resolution

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS, INITIATING PROCEEDINGS FOR THE LEVY AND COLLECTION OF ASSESSMENTS FOR THE LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT NO. 95-1 (MCCARTHY RANCH) FOR FISCAL YEAR 2019/20, ORDERING THE PREPARATION OF THE ANNUAL ENGINEER’S REPORT, AND MAKING CERTAIN FINDINGS RELATED THERETO

WHEREAS, on May 2, 1995, the City Council (the “City Council”) of the City of Milpitas (the “City”) completed its proceedings in accordance with and pursuant to the Landscaping and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (the “Act”) to establish Landscaping and Lighting Maintenance Assessment District No. 95-1 (McCarthy Ranch) (the “Maintenance District”), for the purpose of paying for the installation, construction, maintenance and/or servicing of certain improvements authorized under the Act, and incidental expenses in connection therewith (collectively, the “Improvements”); and

WHEREAS, Section 22620, *et seq.* of the Act provides for the levy of annual assessments after formation of the Maintenance District; and

WHEREAS, the City has retained NBS Government Finance Group as assessment engineer for the purpose of assisting with the annual levy of the Maintenance District, and the preparation and filing of a report in accordance with Section 22565, *et seq.*, of the Act (the “Engineer’s Report”); and

WHEREAS, pursuant to Section 22622 of the Act, the City Council wishes to initiate proceedings to provide for the levy of assessments for Fiscal Year 2019/20 in order to provide for the necessary costs and expenses pertaining to the maintenance of the Improvements within the Maintenance District.

NOW, THEREFORE, the City Council hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. Engineer’s Report: The City Council hereby orders NBS Government Finance Group to prepare and file with the City Clerk the Engineer’s Report concerning the levy and collection of assessments within the Maintenance District for the fiscal year commencing July 1, 2019, and ending June 30, 2020, in accordance with Section 22565, *et seq.*, of the Act.
3. New Improvements or Changes to Existing Improvements: There are no changes to existing Improvements nor are there any items being added to the list of Improvements previously approved at the formation of the Maintenance District.

PASSED AND ADOPTED this ____ day of _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Rich Tran, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

CITY OF MILPITAS
LANDSCAPING MAINTENANCE DISTRICT (LMD) 95-1
(N.T.S.)



2019-2020 FISCAL YEAR LANDSCAPE AREA FUNDED FOR MAINTENANCE

Backup material for agenda item:

Adopt a Resolution Initiating Proceedings for the Annual Levy and Collection of Assessments and Ordering the Preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 98-1 (Sinclair Horizon)

Recommendation:

Adopt a Resolution Initiating Proceedings for the Annual Levy and Collection of Assessments and Ordering the Preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 98-1 (Sinclair Horizon)



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Initiating Proceedings for the Annual Levy and Collection of Assessments and Ordering the Preparation of the Annual Engineer’s Report for Landscaping and Lighting Maintenance Assessment District No. 98-1 (Sinclair Horizon)
Category:	Consent Calendar-Community Development
Meeting Date:	3/5/2019
Staff Contact:	Steve Erickson 408-586-3301
Recommendation:	Adopt a Resolution Initiating Proceedings for the Annual Levy and Collection of Assessments and Ordering the Preparation of the Annual Engineer’s Report for Landscaping and Lighting Maintenance Assessment District No. 98-1 (Sinclair Horizon)

Background:

On June 16, 1998, the City Council completed its proceedings in accordance with and pursuant to the Landscaping and Lighting Act of 1972, establishing the Landscaping and Lighting Maintenance Assessment District No. 98-1 (Sinclair Horizon) (LLMD 98-1) to provide for improvement and maintenance of public landscaping, irrigation, and pedestrian walking path adjacent to Sinclair Frontage Road, Los Coches Creek and Berryessa Creek abutting the Sinclair Horizon residential subdivision. The draft 2019-2024 Capital Improvement Program includes a project for the renovation and upgrade of portions of LLMD 98-1 landscaping and irrigation systems.

Analysis:

The Landscaping and Lighting Act of 1972 requires adoption of a resolution directing preparation of the annual engineer’s report evaluating LLMD 98-1 maintenance and improvement costs and generally describing any proposed new improvements or any substantial changes in existing improvements. At subsequent meetings, the City Council will be asked to approve the completed engineer’s report and schedule a public hearing for the proposed assessment in May and June 2019. Upon City Council approval, the assessment for the maintenance and improvement work will be added to the 2019-20 property tax bills of property owners within the boundaries of LLMD 98-1.

Policy Alternatives:

Alternative 1:

Not adopt a resolution initiating proceedings for the annual levy and collection of assessments and ordering the preparation of the annual engineer’s report for LLMD 98-1.

Pros: None

Cons: The Landscaping and Lighting Act of 1972 requires the legislative body adopt the resolution, not adopting the resolution would jeopardize the City’s ability to collect assessments for the maintenance and upkeep of LLMD 98-1.

Reason not recommended: To allow for the continued maintenance for LLMD 98-1, staff recommends ordering the preparation of the annual engineers report to begin the proceedings for the levy and collection of assessments for fiscal year 2019/20.

Fiscal Impact:

The levy and collection of assessments provides a funding resource for the City to improve and maintain public landscaping, irrigation, and pedestrian walking path within LLMD 98-1.

California Environmental Quality Act:

Levy and collection of assessment is not considered a project under CEQA as there will be no direct or reasonably foreseeable indirect physical change in the environment.

Recommendation:

Adopt a resolution directing the preparation of the annual engineer's report for LLMD No. 98-1.

Attachments:

Resolution

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS, INITIATING PROCEEDINGS FOR THE LEVY AND COLLECTION OF ASSESSMENTS FOR THE LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT NO. 98-1 (SINCLAIR HORIZON) FOR FISCAL YEAR 2019/20, ORDERING THE PREPARATION OF THE ANNUAL ENGINEER’S REPORT, AND MAKING CERTAIN FINDINGS RELATED THERETO

WHEREAS, on June 16, 1998, the City Council (the “City Council”) of the City of Milpitas (the “City”) completed its proceedings in accordance with and pursuant to the Landscaping and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (the “Act”) to establish Landscaping and Lighting Maintenance Assessment District No. 98-1 (Sinclair Horizon) (the “Maintenance District”), for the purpose of paying for the installation, construction, maintenance and/or servicing of certain improvements authorized under the Act, and incidental expenses in connection therewith (collectively, the “Improvements”); and

WHEREAS, Section 22620, *et seq.* of the Act provides for the levy of annual assessments after formation of the Maintenance District; and

WHEREAS, the City has retained NBS Government Finance Group as assessment engineer for the purpose of assisting with the annual levy of the Maintenance District, and the preparation and filing of a report in accordance with Section 22565, *et seq.*, of the Act (the “Engineer’s Report”); and

WHEREAS, pursuant to Section 22622 of the Act, the City Council wishes to initiate proceedings to provide for the levy of assessments for Fiscal Year 2019/20 in order to provide for the necessary costs and expenses pertaining to the maintenance of the Improvements within the Maintenance District.

NOW, THEREFORE, the City Council hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. Engineer’s Report: The City Council hereby orders NBS Government Finance Group to prepare and file with the City Clerk the Engineer’s Report concerning the levy and collection of assessments within the Maintenance District for the fiscal year commencing July 1, 2019, and ending June 30, 2020, in accordance with Section 22565, *et seq.*, of the Act.
3. New Improvements: There are no items being added to the list of Improvements previously approved at the formation of the Maintenance District.
4. Changes to Existing Improvements: The Santa Clara Valley Water District (SCVWD) completed a project to widen Berryessa Creek. The creek widening required the removal of existing Improvements including a trail, landscaping, irrigation, and PAR exercise equipment located on SCVWD property adjacent to Berryessa Creek and installed under a revocable encroachment permit agreement. The removal of Improvements discontinued

maintenance to said portion of the existing Improvements, resulting in a decrease of annual costs.

PASSED AND ADOPTED this _____ day of _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Rich Tran, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

CITY OF MILPITAS
LANDSCAPING MAINTENANCE DISTRICT (LMD) 98-1
(N.T.S.)



2019-2020 FISCAL YEAR LANDSCAPE AREA FUNDED FOR MAINTENANCE

Backup material for agenda item:

Adopt Resolutions of the Milpitas City Council and Milpitas Public Financing Authority Board Authorizing Investment of Monies in the Local Agency Investment Fund and Updating Officers Information.

Jane Corpus, 408-586-3125

Recommendation:

Adopt Resolutions of the Milpitas City Council and Milpitas Public Financing Authority Board authorizing investment of monies in the Local Agency Investment Fund and updating officers' information.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt Resolutions of the Milpitas City Council and Milpitas Public Financing Authority Board Authorizing Investment of Monies in the Local Agency Investment Fund and Updating Officers Information.
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	3/5/2019
Staff Contact:	Jane Corpus, 408-586-3125
Recommendation:	Adopt Resolutions of the Milpitas City Council and Milpitas Public Financing Authority Board authorizing investment of monies in the Local Agency Investment Fund and updating officers' information.

Background:

The City of Milpitas and the Milpitas Public Financing Authority have been participating in the State's Local Agency Investment Fund (LAIF) since 1977. LAIF periodically requests participants to update their investment resolutions. Staff reviewed the existing resolutions of the two entities and determined that these resolutions need to be updated due to administration and personnel changes.

Analysis:

The City of Milpitas, like virtually all California municipalities, invests its short term cash in the State of California's investment pool. LAIF is a very safe investment pool that is completely separate from the State of California, which is, for local governments only and not impacted by the State budget. It is also completely separate from the State pension funds. The City has two LAIF accounts, one for the City, and the second, under the title of the Milpitas Public Financing Authority for transactions related to the Successor Agency to the former Redevelopment Agency.

Periodically it is necessary to update the signatories with LAIF. This occurs when there is either a change of staffing or a change of Councilmembers—the Mayor and Vice Mayor are signatories just in the rare occurrence that a backup signature is needed. The attached Resolutions are required by LAIF to formalize the signature changes. All LAIF investment transactions are made by a City Finance Technician under the review and supervision of the Director of Financial Services. Jane Corpus, the Interim Director of Financial Services, is being added to the signatories list with the departure of the former Finance Director Will Fuentes.

Fiscal Impact:

None. There is no fiscal impact to change authorized persons. There is no change to the status of the investment accounts as governed by state code.

Recommendation:

Adopt Resolutions of the Milpitas City Council and Milpitas Public Financing Authority Board authorizing investment of monies in the Local Agency Investment Fund and updating officers' information.

Attachments:

City Council Resolution

Public Financing Authority Resolution

RESOLUTION NO. PFA ____

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MILPITAS PUBLIC FINANCING AUTHORITY AUTHORIZING INVESTMENT OF MONIES IN THE LOCAL AGENCY INVESTMENT FUND

WHEREAS, Chapter 730 of the statutes of 1976 Section 16429.1 was added to the California Government Code to create a Local Agency Investment Fund in the State Treasury for the deposit of money of a local agency for purposes of investment by the State Treasurer; and

WHEREAS, the Board of Directors of the Milpitas Public Financing Authority (“Authority”) does hereby find that the deposit and withdrawal of money in the Local Agency Investment Fund in accordance with the provisions of Section 16429.1 of the Government Code for the purpose of investment as stated therein is in the best interests of the Authority.

NOW, THEREFORE, the Board of Directors of the Milpitas Public Financing Authority hereby finds, determines, and resolves as follows:

1. The Board of Directors does hereby authorize the deposit and withdrawal of Authority monies in the Local Agency Investment Fund in the State Treasury in accordance with the provisions of Section 16429.1 of the Government Code as stated herein, and verification by the State Treasurer’s Office of all banking information provided in that regard.

2. The following Authority officers or their successors in office shall be authorized to order the deposit or withdrawal of monies in the Local Agency Investment Fund:

Rich Tran, Chair	
Karina R. Dominguez, Vice Chair	
Julie Edmonds-Mares, Authority Director	
Ashwini Kantak, Asst. Authority Director	
Jane Corpus, Interim Director of Financial Affairs	

PASSED AND ADOPTED this ____ day of _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, Authority Secretary

Rich Tran, Chair

APPROVED AS TO FORM:

Christopher J. Diaz, Authority Counsel

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AUTHORIZING
INVESTMENT OF MONIES IN THE LOCAL AGENCY INVESTMENT FUND**

WHEREAS, Chapter 730 of the statutes of 1976 Section 16429.1 was added to the California Government Code to create a Local Agency Investment Fund in the State Treasury for the deposit of money of a local agency for purposes of investment by the State Treasurer; and

WHEREAS, the City Council does hereby find that the deposit and withdrawal of money in the Local Agency Investment Fund in accordance with the provisions of Section 16429.1 of the Government Code for the purpose of investment as stated therein is in the best interests of the City of Milpitas.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council does hereby authorize the deposit and withdrawal of City of Milpitas monies in the Local Agency Investment Fund in the State Treasury in accordance with the provisions of Section 16429.1 of the Government Code as stated herein, and verification by the State Treasurer’s Office of all banking information provided in that regard.
2. The following City of Milpitas officers or their successors in office shall be authorized to order the deposit or withdrawal of monies in the Local Agency Investment Fund:

Rich Tran, Mayor _____

Karina R. Dominguez, Vice Mayor _____

Julie Mares- Edmonds, City Manager _____

Ashwini Katak, Asst. City Manager _____

Jane Corpus, Interim Director of Financial Services _____

PASSED AND ADOPTED this ____ day of _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Rich Tran, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

Backup material for agenda item:

Approve Out of State Travel for Assistant Police Chief Kevin Moscuza to attend the FBI National Academy 275th Session Graduation in Quantico, VA scheduled for March 14, 2019 to March 16, 2019 (Staff Contact, Armando Corpuz, 408-586-2534)

Recommendation: Authorize Out of State Travel for Assistant Police Chief Kevin Moscuza to attend the FBI National Academy Graduation in Quantico, VA March 14, 2019 to March 16, 2019



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve Out of State Travel for Assistant Police Chief Kevin Moscuza to attend the FBI National Academy 275 th Session Graduation in Quantico, VA March 14, 2019 to March
Category:	Consent Calendar-Public Safety
Meeting Date:	3/5/2019
Staff Contact:	Armando Corpuz, 408-586-2534
Recommendation:	Authorize Out of State Travel for Assistant Police Chief Kevin Moscuza to attend the FBI National Academy Graduation in Quantico, VA March 14, 2019 to March 16, 2019

Background: Police Captain Raj Maharaj is attending the FBI National Academy (FBI NA), in Quantico, Virginia, and is scheduled to graduate on March 15, 2019. The FBI NA is a 10-week professional course of study for United States and international law enforcement leaders. The coursework includes intelligence theory, leadership, terrorism, organizational management, and other specialized training.

Assistant Chief Kevin Moscuza is an FBI NA alumni and would attend the graduation to represent the Milpitas Police Department. Assistant Chief Moscuza would leave on March 14, 2019 and return, no later, than March 16, 2019. Assistant Chief Moscuza's attendance will provide the Milpitas Police Department an opportunity to develop new contacts with the FBI, build relationships with executives from other law enforcement agencies, and increase the opportunity for staff professional development. The expense for the trip will not exceed \$1,600 and the Milpitas Police Department's budget has sufficient funds for the expense.

Analysis: The City of Milpitas Travel and Expense Policy requires employee out-of-state be approved by City Council. The out-of-state travel approval will allow Assistant Chief Moscuza to attend the graduation. Continued participation and attendance in FBI NA events is a gateway to future professional development at this prestigious academy.

Policy Alternatives:

Alternative 1: Do Not Approve the Out-of-State Travel

Pros: Assistant Chief Moscuza will resume his normal duties.

Cons: Eliminates the opportunity to continue participation and attendance at FBI NA events. The Milpitas Police Department will not have additional representation at the event.

Reason not recommended: There is high-demand to attend the FBI NA and the waiting list can be several years. Attendance provides an opportunity to celebrate Captain Maharaj's success and continue attendance at NA events.

Fiscal Impact: The City of Milpitas will cover the travel expense, which will not exceed \$1,600.00. The Police Department's budget is budgeted for the expense.

California Environmental Quality Act: Not Applicable.

Recommendation: Authorize Out of State Travel for Assistant Police Chief Kevin Moscuza to attend the FBI National Academy Graduation in Quantico, VA March 14, 2019 to March 16, 2019

Attachments: None

Backup material for agenda item:

Provide Direction to the City Manager to Issue a Request for Proposals from Qualified Vendors to Construct and Manager a Digital Billboard on City-owned Property Located at the Northern Terminus of Barber Lane

Recommendation:

Move to formally direct the City Manager to issue a Request for Proposals from qualified vendors to construct and manage a digital billboard on City-owned property located at the northern terminus of Barber Lane



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Provide Direction to the City Manager to Issue a Request for Proposals from Qualified Vendors to Construct and Manager a Digital Billboard on City-owned Property Located at the Northern Terminus of Barber Lane
Category:	Community Development
Meeting Date:	2/5/2019
Staff Contact:	Chris Diaz, City Attorney, 408-586-3041 Ned Thomas, Planning Director, 408-586-3273
Recommendation:	Move to formally direct the City Manager to issue a Request for Proposals from qualified vendors to construct and manage a digital billboard on City-owned property located at the northern terminus of Barber Lane

BACKGROUND:

On November 20, 2018, the City Council directed the City Manager to conduct a study of potential locations and regulations for digital billboards across the City and to re-evaluate a proposed billboard application at the conclusion of the study. On January 15, 2019, the new Council indicated a desire to reconsider this previous action and directed the City Manager to agendaize this item for discussion at their next meeting.

On February 5, 2019, the Council discussed their previous direction regarding digital billboards in the context of a proposed project by Outfront-Allvision on City-owned property at the northern terminus of Barber Lane. Other parties interested in developing a digital billboard at this location also attended the meeting and appealed to the Council for a fair and transparent process to select a qualified vendor and negotiate a lease agreement with the City. The Council discussed the potential public benefits that could derive from allowing the development of a digital billboard on City-owned property.

ANALYSIS:

On February 5, 2019, the Council reconsidered its previous direction to staff to conduct a study of potential locations and regulations for digital billboards across the City. As part of its deliberations, the Council discussed an earlier situation wherein the City issued requests for proposals (RFP) for a revenue-generating citywide signage program in July 2008. This earlier action resulted in a development agreement between the City and Milpitas Sign Company (a partnership between McCarthy Land Development and Clear Channel Outdoor) to construct two double-sided billboards along the east site of I-880 south of Dixon Landing Road. The current Council considered the benefits of conducting a similar RFP process to select a qualified vendor for the City-owned site at the northern terminus of Barber Lane. The agenda packet includes a map identifying the potential site for the digital billboard.

After receiving input from staff and the public, the Council voted unanimously to rescind the previous direction given to the City Manager on November 20, 2018. The Council then provided new direction to the City Manager, consistent with past practice, to prepare and issue a request for proposals from qualified vendors to construct and manage a digital billboard on City-owned property located at the northern terminus of Barber Lane. The Council further directed that staff should complete the RFP process and return to the Council for consideration and recommendation of a qualified vendor by June 18, 2019 (second Council meeting in June) or earlier, unless notified by the City Manager of extraordinary circumstances.

Consistent with direction from the Council, staff from the office of Economic Development, and departments of Finance, and Planning have developed a draft RFP to solicit proposals from experienced vendors for the design, construction, management, advertising sales, programming and maintenance of a digital billboard. The primary scope of service items include: revenue generation, rent, lease term, branding and advertising, vendor experience, permits and design review, visual and glare analysis, operations and maintenance, and indemnification and risk management. Pending Council's March 5, 2019 consideration, staff is prepared to issue the RFP on March 6, 2019. Once staff identifies a qualified vendor through the RFP process, staff will present the vendor to the Council for consideration and approval. Staff will then negotiate a detailed lease agreement in tandem with the required processing of entitlements, including CEQA clearance, for development of the digital billboard project.

FISCAL IMPACT:

No fiscal impact

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

Not a Project

RECOMMENDATION:

Staff recommends that the Council move to direct the City Manager to issue a Request for Proposals from qualified vendors to construct and manage a digital billboard on City-owned property located at the northern terminus of Barber Lane

Attachment: Map Identifying the Location of City-owned Property for Future Digital Billboard



Barber Billboard
Proposed Location

Legend

- Assessor Parcels
- Building Outlines
- Built Water Features
- Address Unit:
- Building Label:
- Billboard Location

This map is a product of the
City of Milpitas GIS



Backup material for agenda item:

2019 Weed Abatement Public Hearing and Adopt a Resolution to Abate the Weeds (Staff Contact: Albert Zamora, 408-586-3371)

Recommendation: Conduct a Public Hearing and adopt a resolution directing the County of Santa Clara Consumer and Environmental Protection Agency- Weed Abatement Program to abate the nuisance, keep an account of the cost, and embody such account in a report and assessment list to the City Council in accordance with the Milpitas Municipal Code.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	2019 Weed Abatement Public Hearing and Adopt a Resolution to Abate the Weeds
Category:	Public Hearings-Public Safety
Meeting Date:	3/5/2019
Staff Contact:	Albert Zamora, Deputy Fire Chief / Fire Marshal, (408) 586-3371
Recommendation:	Conduct a Public Hearing and adopt a resolution directing the County of Santa Clara Consumer and Environmental Protection Agency- Weed Abatement Program to abate the nuisance, keep an account of the cost, and embody such account in a report and assessment list to the City Council in accordance with the Milpitas Municipal Code.

Background:

On February 2, 1976, an Agreement was established and approved to abate weeds by the County of Santa Clara for the City of Milpitas. The purpose of the Agreement is to promote the efficiency and economy of operations in the abatement of weeds by the City and the County.

The major procedural functions to be performed by the County and / or City shall include but not limited to:

1. The County shall prepare the list of parcels requiring abatement of weeds in the City and transmit the said list to the City for review and approval for processing.
2. The County shall prepare the notice of weed abatement and cause such notice to be mailed to the owners of the parcels requiring weed abatement.
3. The City Council shall conduct public hearings on the proposed removal of weeds pursuant to the provisions of the City Ordinance when the City Fire Marshal presents such appropriate resolutions for adoption. The City Council may by resolution declare the weeds on the respective parcels of the land as nuisance, and make the determination to proceed with the abatement of weeds, and authorize the performance of the service to remove the weeds in accordance with the aforementioned Agreement.
4. Upon proper authorization by the City, the County shall remove the weeds on the designated properties.
5. The County shall render to the City an itemized assessment report for the cost of the weed abatement services performed per the respective parcels.
6. The City Council, after a public hearing, shall require the County Assessor's Office to include the costs of the weed abatement services performed for the City for the current year, as a special assessment on bills for taxes levied against the affected parcels. Such special assessments shall be liens on the respective properties.

Analysis:

On February 5, 2019, the City Council adopted Resolution Number 8842 declaring weeds on certain described properties to be a public nuisance, and to set a public hearing for March 5, 2019. A copy of the resolution was forwarded to the County of Santa Clara Consumer and Environmental Protection Agency- Weed Abatement Program (County). Furthermore, a notice for the public hearing was sent by the City Clerk's Office to the local newspaper for publication, as well as mailed to the affected property owners of the proposed abatement by the City of Milpitas and the County. The purpose of the public hearing is for the parcel owners who object to the removal of the weeds to state their objections before the weeds are removed and the costs made a lien upon the property. A list of properties to be abated is included in the City Council's agenda packet along with a resolution directing the County to abate the weeds.

Policy Alternative:

There are no policy alternatives other than what is outlined under the Recommendations section. Pursuant to the February 2, 1976 Agreement, the County under the provisions of the Health and Safety Code of the State of California and its ordinance has the authority to enforce the abatement of weeds. Likewise, the City under the California Fire Code and Milpitas Municipal Code, Title V, Chapter 202 has the authority to enforce the abatement of weeds.

The County and City will apply their respective standard operating procedures as well as best management practices that is afforded to each agency, and to the extent that ensures public safety with respect to the abatement of weeds.

Fiscal Impact:

At the first City Council meeting in August of each year during a public hearing, the City's municipal code provides that the City Council hear the assessment report for the list of weeds abated within the City, together with any objections of the property owners liable to be assessed, and to make such modifications on the proposed assessment as it deems necessary. Following adoption by the City Council, the resolution will be recorded and charges thereon become a lien on the land involved to be collected in the same manner as property taxes.

California Environmental Quality Act:

This project is exempt from CEQA.

Recommendations:

1. Open the Public Hearing for public comment and close the Public Hearing.
2. Adopt a resolution directing the County of Santa Clara Consumer and Environmental Protection Agency- Weed Abatement Program to abate the nuisance, keep an account of the cost, and embody such account in a report and assessment list to the City Council in accordance with the Milpitas Municipal Code.

Attachment:

Resolution with attached Exhibit A - 2019 Weed Abatement Program Commencement Report (list of parcels) for the City of Milpitas

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AUTHORIZING THE CITY MANAGER TO CONTRACT WITH THE OFFICE OF SANTA CLARA COUNTY AGRICULTURAL AND ENVIRONMENTAL MANAGEMENT TO ABATE WEEDS AND/OR CAUSE THE REMOVAL OF RUBBISH, REFUSE OR DIRT DECLARED TO BE A PUBLIC NUISANCE, TO KEEP AN ACCOUNT OF THE COSTS OF ABATING SUCH NUISANCE, AND TO FILE SUCH ACCOUNT IN A REPORT AND ASSESSMENT LIST WITH THE CITY COUNCIL

WHEREAS, the City Council of the City of Milpitas adopted Resolution No. 8842 on February 5, 2019, declaring weeds and/or the accumulation of rubbish, refuse or dirt on the properties listed on the annual list attached hereto as **Exhibit A** to be a public nuisance and setting a public hearing in accordance with Title V, Chapter 202 of the Milpitas Municipal Code; and

WHEREAS, a public hearing was duly-noticed as required by law and such hearing was held on March 5, 2019, to hear public comments and consider any objections to the proposed removal of the weeds, rubbish, refuse and/or dirt; and

WHEREAS, the City Council duly considered and overruled any objections to the proposed nuisance abatement by the Office of Santa Clara County Agricultural and Environmental Management.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City Manager is hereby ordered and authorized to contract with the Office of Santa Clara County Agricultural and Environmental Management to abate such public nuisances existing on those properties included on the attached **Exhibit A**. The Office of Santa Clara County Agricultural and Environmental Management shall keep an account of the cost of abatement on each listed parcel and submit to the City Clerk, for confirmation by the City Council, an itemized written report showing such costs to be assessed on the listed properties as provided for in the Milpitas Municipal Code, Sections V-202-7.00 through V-202-10.00.

PASSED AND ADOPTED this ____ day of _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Rich Tran, Mayor

APPROVED AS TO FORM:

**2019 WEED ABATEMENT PROGRAM
COMMENCEMENT REPORT
CITY OF MILPITAS**

Situs	APN		CITY/STATE				
7280	MARYLINN	DR 022-07-007	Jer SunLin, Trustee	7548 Donegal Drive	Cupertino	CA	95014
27	MAIN	ST 022-24-024	27 MAIN MILPITAS LLC	1805 DIANA AV	MORGAN HILL	CA	95037-3348
1735	CALIFORNIA	CL 022-37-002	PRENTISS/COPLEY INVESTMENT	1910 PACIFIC AVE STE 400	DALLAS	TX	75201
1301	CALIFORNIA	CL 022-38-002	PATEL, AMEET AND SANGEETA S	1301 CALIFORNIA CL	MILPITAS	CA	95035-3021
	MCCARTHY	022-56-008	HUDSON CAMPUS CENTER LLC	11601 WILSHIRE BL STE 900	LOS ANGELES	CA	90025
0	DIXON	RD 026-05-023	RASHEED, IRSHAD A AND SABIHA	619 FONTES DR	FREMONT	CA	94539
1878	MILPITAS	BL 026-05-024	AIM DEVELOPER ENTS INC	40 PARK VICTORIA DRN A	MILPITAS	CA	95035-4600
51	DIXON	RD 026-05-053	CHANG, CAROL	67 BERLYWOOD LN	MILPITAS	CA	95035-2543
1750	ARIZONA	AV 026-07-044	TRAN, TY AND TRUONG, JACY HONG	2936 WILLIAMS RD	SAN JOSE	CA	95128-3337
0	BOTHELO	LN 028-23-017	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747
0		Av 028-24-006	Linda Allen	1700 Space Park Dr.	SANTA CLARA	CA	95054
980	CALAVERAS	DR 029-03-023	NASCENT INVESTMENT LLC	48660 KATO RD	FREMONT	CA	94538
860	EVANS	RD 029-06-016	TRAN, TU AND DAO, HONG	860 EVANS RD	MILPITAS	CA	95035-3406
814	CALAVERAS	DR 029-06-030	CHEN, WESLEY WUN-SHYONG AND	814 CALAVERAS RIDGE DR	MILPITAS	CA	95035-3445
826	CALAVERAS	DR 029-06-031	DAVE, MOHINI	22356 HARTMAN DR	CUPERTINO	CA	95014-1020
898	CALAVERAS	DR 029-06-038	LIN, JIBING ET AL	3259 HARVEY CT	PLEASANTON	CA	94588
	COUNTRY	029-07-009	1499 COUNTRY CLUB DRIVE LLC	475 SAN ANTONIO RDS	LOS ALTOS	CA	94022-3618
	COUNTRY	029-07-010	1499 COUNTRY CLUB DRIVE LLC	475 SAN ANTONIO RDS	LOS ALTOS	CA	94022-3618
	COUNTRY	029-07-011	1499 COUNTRY CLUB DRIVE LLC	475 SAN ANTONIO RDS	LOS ALTOS	CA	94022-3618
	COUNTRY	029-07-012	1499 COUNTRY CLUB DRIVE LLC	475 SAN ANTONIO RDS	LOS ALTOS	CA	94022-3618
	COUNTRY	029-07-013	1499 COUNTRY CLUB DRIVE LLC	475 SAN ANTONIO RDS	LOS ALTOS	CA	94022-3618
1499	COUNTRY	DR 029-07-014	1499 COUNTRY CLUB DRIVE LLC	475 SAN ANTONIO RDS	LOS ALTOS	CA	94022-3618
322	PARK	DR 029-16-006	MAYO, NESSIM AND GUADALUPE J	0 PO BOX 15058	FREMONT	CA	94539

**2019 WEED ABATEMENT PROGRAM
COMMENCEMENT REPORT
CITY OF MILPITAS**

Situs	APN		CITY/STATE				
1715	CALAVERAS	BL 029-25-008	MILPITAS BAPTIST CHURCH	1715 CALAVERAS BLE	MILPITAS	CA	95035-6061
1049	BLALOCK	ST 029-44-063	BARODIA, BIREN D AND PITALE,	1049 BLALOCK ST	MILPITAS	CA	95035-3414
1220	COUNTRY	DR 029-52-014	HUSSAIN, FARHAT TRUSTEE	1220 COUNTRY CLUB DR	MILPITAS	CA	95035-3451
1039	CAMARILLO	CT 029-52-015	FARSI, PARIVASH O AND ROSTAM D	1132 ONONDAGA WAY	FREMONT	CA	94539-6737
461	VISTA RIDGE	DR 042-30-007	MERCADO, JAVIER R AND MARIA G	461 VISTA RIDGE DR	MILPITAS	CA	95035-7217
489	VISTA RIDGE	DR 042-30-008	QLMD PROPERTY LLC	2 SOUTH PARK VICTORIA DR	MILPITAS	CA	95035
517	VISTA RIDGE	DR 042-30-009	GANDHI, ASHISH R AND VARSHA	675 MURPHY RANCH RD	MILPITAS	CA	95035-0000
519	VISTA RIDGE	DR 042-30-010	GHANI, MAHMOOD M AND EDITHA C	519 VISTA RIDGE DR	MILPITAS	CA	95035-7217
529	VISTA RIDGE	DR 042-30-015	TRIVEDI, ANOOP K AND RAO, AARTHI	2397 TULIP RD	SAN JOSE	CA	95128-1141
490	VISTA RIDGE	DR 042-30-022	WAN, CHIEN MIN TRUSTEE & ET AL	31645 VIA LA ESTRELLA	CARMEL VALLEY	CA	93924
410	VISTA RIDGE	DR 042-30-024	WAN, CHIEN MIN TRUSTEE & ET AL	31645 VIA LA ESTRELLA	CARMEL VALLEY	CA	93624
3547	VISTA NORTE	CT 042-30-026	JETTE, ANTOINETTA R TRUSTEE	3547 VISTA NORTE CT	MILPITAS	CA	95035-7200
531	VISTA RIDGE	DR 042-30-029	CHAN, CLIFFORD J	704 LONGFELLOW DR	FREMONT	CA	94539
Rail	HAMMOND	Wy 086-25-018	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747
0	MAIN	ST 086-25-020	EIGHTY EIGHT HOMES LLC	2186 PASEO DEL ORO	SAN JOSE	CA	95124-2046
0	MAIN	ST 086-25-028	PANCHAL, NATWARLAL M AND GITA	3200 MONTEREY BL	SAN JOSE	CA	95111
	HAMMOND	Wy 086-25-030	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747
0	BOTHELO	LN 086-26-024	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747
	BOTHELO	086-26-032	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747
0	MILPITAS	BL 086-28-006	SAN FRANCISCO CITY AND COUNTY	525 GOLDEN GATE AV 10TH	SAN FRANCISCO	CA	94102
0	VISTA	WY 086-29-005	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747
0	WRIGLEY	WY 086-29-036	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747
0	YOSEMITE	DR 086-29-047	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747

**2019 WEED ABATEMENT PROGRAM
COMMENCEMENT REPORT
CITY OF MILPITAS**

Situs	APN	CITY/STATE
876	YOSEMITE DR 086-30-047 T MARZETTI COMPANY-WEST	380 POLARIS PY STE 400 WESTERVILLE OH 43082-8069
0	YOSEMITE DR 086-30-048 T MARZETTI COMPANY	380 POLARIS PY STE 400 WESTERVILLE OH 43082-8069
0	AMES AV 086-30-060 UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD ROSEVILLE CA 95747
0	086-31-003 UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD ROSEVILLE CA 95747
0	YOSEMITE DR 086-31-044 UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD ROSEVILLE CA 95747
0	086-32-084 UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD ROSEVILLE CA 95747
375	DEMPSEY RD 088-01-002 GUNAPU, SRIDHAR AND	2951 EL SOBRANTE ST SANTA CLARA CA 95051-3715
335	PARK DR 088-03-019 YAO, SHAOPING AND YUE,	335 PARK VICTORIA DRS MILPITAS CA 95035-5722
0	DEMPSEY RD 088-04-060 Z X DEVELOPMENT LLC	346 MERIMONT CL SAN BRUNO CA 94066
0	PARK DR 088-04-062 Z X DEVELOPMENT LLC	346 MERIMONT CL SAN BRUNO CA 94066
0	DEMPSEY RD 088-04-076 Z X DEVELOPMENT LLC	346 MERIMONT CL SAN BRUNO CA 94066
	OLD RD 092-34-008 OLD PIEDMONT DEVELOPMENT INC	456 MONTGOMERY ST STE. SAN FRANCISCO CA 94104-1247
1250	PIEDMONT RD 092-34-014 OLD PIEDMONT DEVELOPMENT INC	456 MONTGOMERY ST STE. SAN FRANCISCO CA 94104-1247
250	PIEDMONT RD 092-37-024 THIND, SATPREET S AND JASPREET K	1833 LEE WY MILPITAS CA 95035-0000
2235	URIDIAS RD 092-37-050 MENG, FAN JIE AND ZHANG, HELEN	35961 COPPER ST UNION CITY CA 94587

Backup material for agenda item:

Conduct a Public Hearing and Adopt a Resolution Establishing Affordable Housing Fees

Recommendation:

1. Conduct a public hearing, receive written and verbal testimony, and move to close the public hearing.
2. Adopt a resolution of the City Council of the City of Milpitas establishing residential and non-residential affordable housing fees and integrating the fees into the City's Master Fee Schedule and making findings of CEQA exemption.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Conduct a Public Hearing and Adopt a Resolution Establishing Affordable Housing Fees
Category:	Public Hearings-Community Development
Meeting Date:	3/5/2019
Staff Contact:	Sharon Goei, 408-586-3260; Alex Andrade, 408-586-3046
Recommendation:	<ol style="list-style-type: none"> 1. Conduct a public hearing, receive written and verbal testimony, and move to close the public hearing. 2. Adopt a resolution of the City Council of the City of Milpitas establishing residential and non-residential affordable housing fees and integrating the fees into the City's Master Fee Schedule and making findings of CEQA exemption.

Background:

The City of Milpitas has been working on a variety of housing strategies and programs to address the City's need for affordable housing, including development impact fees and an inclusionary housing program.

On April 28, 2015, the Milpitas City Council directed staff to issue a Request for Proposal (RFP) for a consultant to prepare a Nexus Study to consider the potential establishment of an affordable housing fee on new residential and non-residential development. Of the proposals, Keyser Marston Associates (KMA) was selected by the City of Milpitas to complete the Nexus Study. The Nexus Study evaluated the relationship or nexus between new development and the impact that these new developments would have on affordable housing in the City of Milpitas. Specifically, the Nexus Study, finalized in December 2016, aims to provide guidance when establishing the maximum fee that could be collected to help mitigate the affordable housing demand while also not discouraging future development.

The proposed non-residential impact fee has been determined by the Nexus Study, which evaluates the nexus or relationship between commercial and industrial development and the need for affordable housing for employees who will work in these developments. For example, as new non-residential development occurs, the demand for service workers working in retail, restaurant, and other similar jobs that support the needs of these new workers will increase. And since, these service workers typically earn lower wages, they generate significant demands for affordable housing that is close to new development. The Nexus Study identifies the impact from each type of new non-residential development and calculates a maximum fee amount for each land use that would mitigate its affordable housing impact. The City of Milpitas can use the Nexus Study to implement an impact fee on non-residential development that is equal to or less than the maximum fee amount specified in the Nexus Study for each land use. While the Nexus Study also calculates a potential residential impact fee for residential development, the City has decided to adopt an inclusionary housing program instead.

On June 12, 2018, the City Council considered introducing an Affordable Housing Ordinance (AHO). As initially proposed, the AHO set an inclusionary requirement that would require a developer to set aside 10% of the units, in any new residential construction of 10 units or more, as affordable. After consideration, the Council requested to increase the inclusionary requirement to 15% of the units in any development of 10 units or more from the initially proposed 10%. The AHO allows developers to meet this 15% inclusionary housing obligation by providing affordable rental units for very low or low income households and affordable ownership units very low, low or moderate income households.

On June 19, 2018, the City Council passed Ordinance 297, an AHO that allows the City to raise funds for affordable housing through residential fees in-lieu of providing on-site affordable housing and non-residential fees. In considering this resolution to set an inclusionary requirement and impact fees, the City Council must balance the need for more affordable housing with a desire for sustained economic growth.

The City is proposing to charge two types of fees: 1) a residential in-lieu fee that could be paid by a developer in lieu of building affordable rental or ownership housing units on-site as part of new development; and 2) an impact fee for non-residential developments.

The residential in-lieu fee does not require a Nexus Study because it is not an impact fee; however, the economic analysis in the Nexus Study provides an economic and police power-based rationale for calculating the residential in-lieu fee. The Nexus Study evaluates the impact of new residential development on affordable housing and analyzes key financial considerations associated with the adoption of alternative inclusionary housing requirements for both rental and ownership housing.

Once fees are adopted and collected, these fees are deposited into the City's Affordable Housing Ordinance Fund, established pursuant to the Affordable Housing Ordinance, Milpitas Municipal Code Section XII-1-9, *et seq.* As specified in the Ordinance, all monies in the fund, together with any interest on such monies less reasonable administrative charges, shall be used or committed to use by the City for the purpose of providing very-low, low and moderate income housing in the City. These funds are typically reinvested to promote new affordable housing development in the community, for example, in the form of a development loan to a developer building affordable housing. This reinvestment will help produce affordable housing, which will in turn limit the level of displacement among the City's lower income residents and workers.

Public Comment/Outreach

Staff conducted extensive public outreach in presenting the AHO prior to June 2018. Two community meetings were held on April 19 and April 26, 2018. The meetings were attended by approximately 35-40 attendees. Flyers advertising the community meetings were circulated in English, Spanish, Vietnamese and Chinese. Flyers were distributed electronically via Nextdoor, Facebook, and the City's email distribution list and posted in the Milpitas Post. Flyers were also displayed in public areas such as Starbucks, Marina Grocery store and other businesses throughout the City.

Per Council's direction in June 2018, three additional outreach meetings were conducted in October and November of 2018 regarding the affordable housing fee levels. The meetings were attended by developers, community members, and representatives of the Building Industry Association (BIA) and SV@Home, an affordable housing advocacy organization.

Community members expressed their desire for the City of Milpitas to implement higher non-residential impact fees than the City of Fremont. Developers requested a fee reduction to encourage Class A office creation and for realistic fees to be implemented so as to not deter new development in Milpitas. Mutually, they agreed that a phase-in schedule be implemented to lessen the immediate impact on new development.

Analysis:

Residential In-Lieu Fee Findings

As described earlier, the residential in-lieu fee is not an impact fee requiring a Nexus Study, but the Nexus Study provides an economic and police power-based rationale for calculating the residential in-lieu fee and evaluates the impact of new residential development on affordable housing. The Nexus Study identifies the impact on affordable housing from each type of new residential development and calculates a maximum fee amount for each residential land use that would mitigate its impact, as shown in the following table:

Maximum Supported Residential Impact Fees Based on Nexus Study

Project Type	Ownership			Rental	
	Single Family Development	Townhome	Condominium	Apartment – Low Density	Apartment-High Density
Per Market Rate Unit	\$69,900	\$52,700	\$39,400	\$35,000	\$40,800
Per Square Foot	\$30.50	\$53.00	\$43.80	\$31.90	\$45.40

For ownership projects, KMA recommended in the Nexus Study that the same residential fee be charged per square foot for all housing types (single family detached, townhome and condominium). Based on the financial feasibility analysis of new housing development performed in the Nexus Study and what fees are being charged by neighboring cities, KMA recommended that the residential ownership fee levels be established in the range of \$15-\$20 per square foot, which is well below the maximum supportable fee levels shown above.

For rental projects, KMA recommended a fee level in the range of \$12-\$17 per square foot based on the fee levels charged by neighboring cities and the financial feasibility analysis in the Nexus Study. Again, the suggested fee is well below the maximum supported fee level. Additionally, the study suggests that City should consider treating higher density condominiums in a similar way to rental projects as they have similar development costs and serve a similar market.

The fee levels and recommendations above are used to justify a maximum fee for a City that is adopting an impact fee for affordable housing. The City of Milpitas is proposing an in-lieu fee to comply with the City’s inclusionary ordinance, meaning the fee would be based on the actual cost for compliance on-site, or the equivalent in-lieu fee, as explained below. Under either rationale, however, the recommended fee does not exceed, and in most cases is well below the maximum amount that justifiably could be charged.

The Nexus Study also provides an analysis that serves as an economic basis for establishing the residential in-lieu fee by calculating the developer’s foregone revenue when a percentage of units are restricted at affordable, below market rates, which is referred to as the “on-site compliance cost” for inclusionary housing. The Nexus Study calculates the developer’s on-site compliance cost for each incremental percentage of units that are affordable to households at specific household income levels. For example, the Nexus Study calculates the on-site compliance cost associated with designating 1% of ownership units as affordable to moderate income households with incomes at 110% Area Median Income (AMI), which ranges from \$1.91 to \$2.71 per net square foot depending on the type of ownership housing.

As the AHO allows developers to meet the 15% on-site inclusionary housing obligation by providing affordable ownership units for very low, low or moderate income households, and affordable rental units for very low and low income households, the potential in-lieu housing fee level is calculated below using the on-site compliance calculations in the Nexus Study assuming that 15% of ownership units would be affordable to households with incomes at 110% Area Median Income and 15% of rental units would be affordable to households with incomes at 80% Area Median Income.

Residential In-Lieu Fees Based on On-site Compliance Cost in Nexus Study for 1% and 15% On-site Requirement

Inclusionary Percentage	Project Type	Ownership @ Moderate Income (110% AMI)			Rental @ Low Income (80% AMI)	
		Single Family Development	Townhome	Condominium	Apartment – Low Density	Apartment-High Density
1%	Per Square Foot (as reported in study)	\$2.71	\$2.23	\$1.91	\$1.36	\$2.82
15%	Per Square Foot (computed)	\$40.65	\$33.45	\$28.65	\$20.40	\$42.30

Affordable Housing Ownership Program and Fee Levels in Nearby Cities

The following table describes the various types of residential programs, including residential impact fees and in-lieu housing fees for ownership residential development, in nearby cities that are most comparable to Milpitas.

City	Ownership Fee Requirements	Fee Level * <i>*Price per square foot, unless noted otherwise</i>												
Fremont	The City of Fremont requires developers to provide a certain percentage of housing units on-site that are affordable to moderate income households (3.5% for attached and 4.5% for detached housing) but charges a fee per habitable square foot of market-rate ownership housing to mitigate the cost of construction for lower income units. If a project applicant chooses to provide on-site moderate-income housing units, the affordable housing fee is reduced by \$8.50 per habitable square foot	<p><u>With on-site units:</u></p> <p>Attached: \$18.50 Detached: \$17.50</p> <p><u>If no on-site units:</u></p> <p>Attached: \$27 Detached: \$26</p>												
Union City	The City of Union City requires that 15% of new ownership units be affordable to low and moderate income households at specific percentages or alternatively that a fee payment be made. The fee levels for small projects (6 units or less) are different than for large projects (7 units or more).	<p><u>Small projects:</u> \$24 for first 1,000 square feet plus \$8/SF for residential area in excess of 1,000 square feet</p> <p><u>Large projects:</u> \$27</p>												
San Jose	The City of San Jose requires all ownership developments with 20 or more units to provide 15% of units that are affordable to moderate income households (price restricted at 120% of Area Median Income). The City offers alternative compliance options, e.g. build units offsite, dedicate land or to pay a fee.	\$167,207/required affordable housing unit in-lieu of building affordable housing (Affordable Housing Impact Fee of \$17.83/SF, which is only applicable to developments in process.)												
Santa Clara	The City of Santa Clara requires all ownership developments with 10 or more units to provide 15% of units that are affordable to a broad range of households such that the average income of the purchasers will not exceed 100% of Area Median Income. Ownership developments with 9 units or less may provide units on-site, or pay an in-lieu fee. The City also allows alternative means of compliance through a Development Agreement.	<p><u>Santa Clara phased in its program over two years with no fees payable in the first year:</u></p> <table border="0"> <thead> <tr> <th></th> <th><u>7-18-18</u></th> <th><u>1-18-19</u></th> </tr> </thead> <tbody> <tr> <td>Single Family Detached</td> <td>\$10</td> <td>\$30</td> </tr> <tr> <td>Townhome</td> <td>\$8.33</td> <td>\$25</td> </tr> <tr> <td>Condominium</td> <td>\$6.67</td> <td>\$20</td> </tr> </tbody> </table>		<u>7-18-18</u>	<u>1-18-19</u>	Single Family Detached	\$10	\$30	Townhome	\$8.33	\$25	Condominium	\$6.67	\$20
	<u>7-18-18</u>	<u>1-18-19</u>												
Single Family Detached	\$10	\$30												
Townhome	\$8.33	\$25												
Condominium	\$6.67	\$20												

Affordable Housing Rental Program and Fee Levels in Nearby Cities

City	Rental Fee Requirements	Fee-Rental* *Price per square foot, unless noted otherwise
Fremont	For rental projects receiving no city incentive or assistance, the City requires that affordable housing fees be paid to mitigate the rental project's impact on the need for affordable housing in the city, except that 100% affordable housing projects with a 55-year rent regulatory agreement are exempt.	\$17.50 for units without a subdivision map that are larger than 700 square feet \$8.75 for units without a subdivision map that are 700 Square Feet or smaller \$27 for units with a subdivision map (all units)
Union City	The City of Union City requires that 15% of new rental units be affordable to very low and low income households at specific percentages or alternatively that a fee payment be made. The fee levels for small projects (6 units or less) are different than for large projects (7 units or more).	<u>Small projects:</u> \$24 for first 1,000 square feet plus \$8/SF for residential area in excess of 1000 square feet <u>Large projects:</u> \$27
San Jose	The City of San Jose requires all rental developments with 20 or more units to provide 15% of units affordable to moderate and very low income households (price restricted at 80% and 50% of Area Median Income). The City offers alternative compliance options, e.g. build units offsite, dedicate land or to pay a fee.	\$125,000/required affordable housing unit in-lieu of building affordable housing
Santa Clara	The City of Santa Clara requires all rental developments with 10 or more units to provide 15% of units that are affordable to a broad range of households such that the average income of the purchasers will not exceed 100% of Area Median Income. Rental developments with 9 units or less may provide units on-site or pay an in-lieu fee. The City also allows alternative means of compliance through a Development Agreement.	<u>Santa Clara phased in its program over two years with no fees payable in the first year:</u> <u>7-18-18</u> <u>1-18-19</u> \$6.67 \$20

Recommended Residential In-Lieu Fee Schedule for Milpitas

Building Permit Application Date	Ownership	Ownership	Ownership	Rental
	Single Family (Fee/Sq Ft)	Townhome (Fee/Sq Ft)	Condominium (Fee/Sq Ft)	Apartment (Fee/Sq Ft)
July 1, 2019 – June 30, 2020	\$33.00	\$33.00	\$20.00	\$20.00
Each Subsequent Fiscal Year	Adjusted by Rate Index per Affordable Housing Ordinance			

As noted above, the KMA study recommends a fee level in the range of \$15-20 per square foot for ownership and \$12-17 per square foot for rental residential development. Based on Council direction, the staff recommendation above is near the maximum supported level of the On-Site Compliance Cost supported by the Nexus Study.

For ownership condominium development, staff recommends that the City charge a residential in-lieu fee comparable to the fee for rental apartment housing at \$20 per square foot. As noted above, the study suggests that the City should consider treating higher density condominiums in a similar way to rental projects as they have similar development costs and serve a similar market.

Non-Residential Impact Fee Findings

The Nexus Study by KMA found very high supportable fee levels per square foot (SF) in its non-residential analysis. KMA notes that this is not an unusual finding when conducting an analysis in a high cost area. The figures below express the maximum supported impact fee per SF for various non-residential building types. The fees cannot be set higher than these rates.

Maximum Supported Non-Residential Impact Fee for Affordable Housing Based on Nexus Study

	Office	Retail	Hotel	Light Industrial	Warehouse
Per Square Foot (SF)	\$142.70	\$268.00	\$128.70	\$149.60	\$47.80

The fees depicted above are not the recommended fees. KMA recommends that the City of Milpitas select a fee level in the range of \$4-\$8/SF based on a combination of the strength of the local real estate development climate for various building types and the fee levels in neighboring jurisdictions that are comparable to the Milpitas real estate market.

According to the most recent quarterly commercial real estate report by Colliers International, commercial rents in Milpitas are most closely aligned with the cities of Fremont and San Jose as opposed to the west side of Silicon Valley. It is important to note that even though commercial rents are similar to markets in San Jose and Fremont, Milpitas has higher vacancy rates in both the Research and Development (R&D) and warehousing real estate markets. Additionally, Milpitas has very little Class A office space as well as a much older industrial building inventory. Based on this information, staff believes that a more modest rate be considered in recognition of the lower rent and higher vacancy rates in Milpitas.

For reference, this table below shows the non-residential fees collected by other jurisdictions near Milpitas. Of note, the City of San Jose and City of Union City have not yet adopted non-residential impact fees.

Non-Residential Impact Fees per Square Foot in Comparable Jurisdictions

Non-Residential Fees	Office \$/SF	Retail \$/SF	Hotel \$/SF	Industrial\$/SF
Palo Alto	\$36.22	\$21.08	\$21.08	\$21.08
Mountain View (1)	\$26.27	\$2.81	\$2.81	\$26.27
City of Santa Clara (2)	\$20.00	\$5.00	\$5.00	\$10.00
Cupertino	\$23.76	\$11.88	\$11.88	\$23.76
Sunnyvale (3)	\$16.50	\$8.25	\$8.25	\$16.50
Fremont (4)	\$6.00	\$6.00	\$6.00	\$3.00
Redwood City	\$20.00	\$10.00	\$10.00	\$20.00
San Jose (5)	N/A	N/A	N/A	N/A

(1) Mountain View's fee is ½ for first 25,000/SF of Retail/Hotel and for first 10,000/SF of Industrial/Office

(2) Santa Clara's fee matured in Jan. 2019; fee is ½ for office/industrial less than 20,000/SF

(3) Sunnyvale's fee for Office/Industrial/R&D is \$8.25 for the first 25,000 net new/SF

(4) Fremont's fee matures in January 2020, phase-in starting in 2018 at \$4.00/\$1.00/SF to \$8.00/\$4.00/SF; see below

(5) San Jose voted to move forward with a nexus and feasibility study in December 2018

As the City of San Jose has not adopted a non-residential impact fee, the City of Fremont serves as the closest comparison in terms of market conditions. On January 1, 2018, Fremont imposed a fee level of \$4/SF for commercial development, while it imposed a fee of \$1/SF for light industrial and warehouse development. Subsequently, the non-residential fees increased to \$6/SF for commercial development and \$3/SF for light industrial and warehouse development on January 1, 2019. Another increase is anticipated on January 1, 2020 consisting of \$8/SF for commercial development and \$4/SF for light industrial and warehouse space. Further increases may be implemented every subsequent January.

Fremont exempts Class A Office space within the Warm Springs Community Plan Area and headquarter office space citywide from payment of the non-residential impact fee through January 1, 2020. Additionally, developers of Advanced Manufacturing space only pay for the first 100,000 gross SF of new space.

Staff believes, based on market similarities and developer input that the City of Fremont serves as the most appropriate model for similar fee levels, fee exemptions and implementation of scheduled increases.

Recommended Non-Residential Impact Fee Schedule for Milpitas

Based on the Nexus Study recommendations, the current market for non-residential development and a review of the fee levels in surrounding jurisdictions, staff recommends the following non-residential impact fee schedule be adopted by the City of Milpitas, which would phase in the non-residential fees over time. The phased in approach is recommended to commence on July 1, 2019 and include subsequent increases on July 1, 2020 and July 1, 2021. Thereafter, each subsequent fiscal year commencing on July 1st, the rate will be adjusted per the Affordable Housing Ordinance. The proposed fees would only apply to new construction of non-residential uses of 5,000+ SF or additions to existing non-residential uses where the increase in square footage is over 5,000 SF based on the following fee schedule.

Building Permit Application Date	Commercial (Retail and Hotel) (Fee/Sq Ft)	Industrial, Office, R&D and Warehouse (Fee/Sq Ft)
July 1, 2019 – June 30, 2020	\$3.00	\$1.00
July 1, 2020 – June 30, 2021	\$5.00	\$2.00
July 1, 2021 – June 30, 2022	\$7.00	\$3.00
Each Subsequent Fiscal Year	Adjusted by Rate Index per Affordable Housing Ordinance	

In the Affordable Housing Ordinance passed by City Council on June 19, 2018, the City Council established the following exemptions:

- New construction of non-residential uses of less than 5,000 SF
- Additions to existing non-residential uses where square footage increase is less than 5,000 SF
- Assembly uses
- Day care, nursery, and school facilities
- Hospitals
- Other commercial uses that have minimal impact for demand of affordable housing as determined by City Council

Staff proposes the following additional exemptions:

- Class A and/or headquarters office space citywide to encourage the development of new high quality office and R&D, and to attract companies to expand or locate in Milpitas.
- Advanced Manufacturing citywide shall only pay for the first 100,000 gross SF of new space in order to spur development and renovation of industrial facilities in Milpitas.

Summary of Recommended Residential and Non-Residential Fees

The Affordable Housing fees may legally take effect no sooner than 60 days from the adoption date of the resolution. To give advance time for developer preparation and for efficient administration, staff recommends the affordable housing fees take effect July 1, 2019 to be integrated into the City's Master Fee Schedule, which takes effect every July 1. In addition, the automatic annual adjustment shall occur every July 1 by the rate index in accordance with the Affordable Housing Ordinance. As the fees are due prior to building permit issuance, per the AHO, the applicable fee levels will be determined by the building permit application date so that developers are aware of the fee levels at the beginning of the building permit process.

Residential Ownership In-Lieu Fee

Staff proposes that the City charge a residential in-lieu fee for ownership single family development and ownership townhome development of \$33 per square foot based on the findings and recommendations in the Nexus Study's on-site compliance cost. For ownership condominium development, staff recommends that the City charge a residential in-lieu fee comparable to the fee for rental housing at \$20 per square foot.

Residential Rental In-Lieu Fee

Staff proposes that the City charge a residential in-lieu fee for rental housing of \$20 per square foot based on the findings and recommendations in the Nexus Study.

Non-Residential Impact Fee – Phased in approach for non-residential development

Staff proposes that the City charge an initial non-residential impact fee of \$3/SF for commercial development and \$1/SF for office, R&D, industrial and warehouse development. Additionally, staff proposes that the non-residential impact fee increase every year for the next 2 years in \$2/SF, per year increments for commercial development until the impact fee reaches \$7/SF, while the fee for office, R&D, industrial and warehouse development would increase by \$1/SF, per year increments until the impact fee reaches \$3/SF. Thereafter both fees would be adjusted each fiscal year in accordance with the provisions in the Affordable Housing Ordinance.

Fiscal Impact:

Establishment of the residential in-lieu and nonresidential impact fees will result in additional affordable housing funds. These funds could be used, for instance, to partner and develop more affordable housing via future projects such as, our recent partnership with Sango Court L.P. to develop 101 affordable housing units.

California Environmental Quality Act:

The City's adoption of this Resolution is exempt from CEQA, each as a separate and independent basis for CEQA compliance because (1) it is not a Project under CEQA and is therefore exempt under CEQA Guidelines Section 15378(b)(4) in that it constitutes a governmental fiscal activity that does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; (2) it is statutorily exempt pursuant to CEQA Guidelines section 15267 (Financial Assistance to Low or Moderate Income Housing); (3) it is not intended to apply to specifically identified affordable housing projects and as such it is speculative to evaluate any such future project now and, moreover, such projects will be subject to appropriate environmental review at such time as approvals for those projects are considered and/or (4) it is not intended to, nor does it, provide CEQA clearance for future development-related projects.

Recommendations:

1. Conduct a public hearing, receive written and verbal testimony, and move to close the public hearing.
2. Adopt a resolution of the City Council of the City of Milpitas establishing residential and non-residential affordable housing fees and integrating the fees into the City's Master Fee Schedule and making findings of CEQA exemption.

Attachment:

Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS ESTABLISHING RESIDENTIAL AND NON-RESIDENTIAL AFFORDABLE HOUSING FEES AND INTEGRATING THE FEES INTO THE CITY'S MASTER FEE SCHEDULE AND MAKING FINDINGS OF CEQA EXEMPTION

WHEREAS, on June 19, 2018, the Milpitas City Council passed Ordinance No. 297 (the "Ordinance"); and

WHEREAS, the Ordinance established the 15% affordability requirement requiring all new residential development projects of 10 units or more to construct 15% of the total dwelling units within the development as affordable units; and

WHEREAS, as extensively articulated in the record before the City Council in considering and adopting the Ordinance, there are extensive legal and policy reasons that amply demonstrate the critical needs and associated goals of the community and the region to facilitate the provision of affordable housing, whose needs and goals are served by the Ordinance and evidence of which is incorporated by reference and supports the City Council actions undertaken herein; and

WHEREAS, Municipal Code Section XII-1-4.00 provides the City the authority to adopt by resolution a Residential Affordable Housing fee, also known as Residential in-lieu fee; and

WHEREAS, the Mitigation Fee Act, codified at Government Code section 66000, et seq., establishes the legal requirements for a jurisdiction to establish and implement a development impact fee program in conformance with constitutional standards; and

WHEREAS, Municipal Code Section XII-1-5.01 provides the City the authority to adopt by resolution a Non-Residential Affordable Housing Impact Fee; and

WHEREAS, to establish a basis for an affordable housing fee program, the City joined a multi-jurisdictional study organized by the Silicon Valley Community Foundation; and

WHEREAS, the Silicon Valley Community Foundation effort resulted in three reports prepared by Keyser Marston Associates, dated December 2016 (collectively, "Nexus Studies"); and

WHEREAS, the Nexus Studies demonstrate that new residential and non-residential development and additions to structures containing these types of uses generate an increased demand for affordable housing and that there is a reasonable relationship between how these can be mitigated through imposition of housing impact fees or fees paid in lieu of development of inclusionary housing; and

WHEREAS, the City Council has fully considered the Nexus Studies, the information and analysis of which is available for review on the City's website and at the Department of Building and Housing at the City Hall located at 455 East Calaveras Boulevard, Milpitas, California 95035; and

WHEREAS, the Nexus Studies identify the impact from each type of new non-residential development and calculates a maximum fee amount for each land use that would mitigate its affordable housing impact; and

WHEREAS, the residential in-lieu fee economic analysis in the Nexus Studies provides an economic and police power-based rationale for calculating the residential in-lieu fee as the study also evaluates the impact of new residential development on affordable housing; and

WHEREAS, notice was provided to interested parties in accordance with Government Code Section 66016-66019 and on February 22, 2019, and a notice of the public hearing to be held on March 5, 2019, to establish the proposed affordable housing fees was published in the Milpitas Post in accordance with Government Code section 65090, et seq.; and

WHEREAS, the Council hereby finds this action is exempt from the California Environmental Quality Act (“CEQA”) because, each as a separate and independent basis for CEQA compliance: (1) it is not a Project under CEQA and is therefore exempt under CEQA Guidelines Section 15378(b)(4) in that it constitutes a governmental fiscal activity that does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; (2) it is statutorily exempt pursuant to CEQA Guidelines section 15267 (Financial Assistance to Low or Moderate Income Housing); (3) it is not intended to apply to specifically identified affordable housing projects and as such it is speculative to evaluate any such future project now and, moreover, such projects will be subject to appropriate environmental review at such time as approvals for those projects are considered and/or (4) it is not intended to, nor does it, provide CEQA clearance for future development-related projects; and

WHEREAS, the City Council considered this resolution and the proposed fees at a duly-noticed public hearing, conducted at a regular meeting of the City Council on March 5, 2019.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, declares and resolves as follows:

1. The City Council has duly considered the full record before it, which includes but is not limited to all City staff reports, including reports presented to commissions, committees and the City Council, the Nexus Studies, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above and found to be true and correct and are an integral part of the Council’s decision and are hereby adopted as findings and incorporated by reference herein.
2. The City of Milpitas adopts the Affordable Housing Fees set forth in **Exhibit A**, attached hereto and incorporated herein.
3. The Affordable Housing Fees set forth in Exhibit A will be incorporated and integrated into the City’s Master Fee Schedule.
4. The applicable fee levels will be determined by the building permit application date as set forth in Exhibit A. The fees are due prior to building permit issuance, in accordance with the Affordable Housing Ordinance.
5. All fees collected pursuant to this Resolution shall be deposited into the Affordable Housing Ordinance Fund, as specified in Milpitas Municipal Code XII-1-9.00, et seq., and administered in accordance with the requirements of the Milpitas Municipal Code and California law, including without limitation Government Code Sections 66000, et seq.
6. This Resolution shall take effect on July 1, 2019, but shall not apply to development projects which obtain a vested right, as defined by California law, before July 1, 2019.

PASSED AND ADOPTED this _____ day of _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Rich Tran, Mayor

APPROVED AS TO FORM:

EXHIBIT “A” to RESOLUTION

Affordable Housing Fees

Residential Projects:

Building Permit Application Date	Ownership	Ownership	Ownership	Rental
	Single Family (Fee/Sq Ft)	Townhome (Fee/Sq Ft)	Condominium (Fee/Sq Ft)	Apartment (Fee/Sq Ft)
July 1, 2019 – June 30, 2020	\$33.00	\$33.00	\$20.00	\$20.00
Each Subsequent Fiscal Year	Adjusted by Rate Index per Affordable Housing Ordinance			

Non-Residential Projects:

Building Permit Application Date	Commercial (Retail and Hotel) (Fee/Sq Ft)	Industrial, Office, R&D and Warehouse (Fee/Sq Ft)
July 1, 2019 – June 30, 2020	\$3.00	\$1.00
July 1, 2020 – June 30, 2021	\$5.00	\$2.00
July 1, 2021 – June 30, 2022	\$7.00	\$3.00
Each Subsequent Fiscal Year	Adjusted by Rate Index per Affordable Housing Ordinance	

Backup material for agenda item:

**Receive Odor Update and Presentation from Staff of the Bay Area Air Quality Management District
(Staff Contact: Steve Erickson, 408-586-3301)**

Recommendation: Receive odor update and presentation from staff of the Bay Area Air Quality Management District.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Receive Odor Update and Presentation from Staff of the Bay Area Air Quality Management District
Category:	Community Services and Sustainable Infrastructure
Meeting Date:	3/5/2019
Staff Contact:	Steve Erickson, 408-586-3301
Recommendation:	Receive odor update and presentation from staff of the Bay Area Air Quality Management District.

BACKGROUND:

During a City Council meeting late last year, staff was directed to provide a report on odor issues to the City Council. Prior to this direction, staff has provided the Council with odor updates through memorandums, the most current of which was issued on October 22, 2018 (see Attachment).

Staff has been working on different fronts to address odor related issues within the City, and this report is an update on the topics presented in the attached October 22, 2018 memorandum to Council.

In addition, Mr. Jack Broadbent, Executive Officer/Air Pollution Control Officer and Mr. Wayne Kino, Deputy Air Pollution Control Officer for Operations for the Bay Area Air Quality Management District (BAAQMD) will provide an update on recent BAAQMD developments and strategies to help resolve odor problems affecting the City of Milpitas and the southern Bay Area.

Enforcement:

Staff from the City of San Jose Local Enforcement Agency (LEA), CalRecycle, and BAAQMD have reached agreement on methods the agencies can better partner and cooperate on odor enforcement including the sharing of investigative data for enforcement referrals. The LEA states this change has resulted in improvement in their enforcement ability and has resulted in the issuance of citations for violations.

The LEA also reports it has started a new program where the LEA is conducting routine odor inspection patrols around areas with the most complaints. Currently four patrols are randomly conducted a week, and they plan to include a night and weekend patrol depending on staffing. The LEA mentioned the new odor inspection program has resulted in the determination of composting odors which are being investigated further.

Republic Services Newby Island Facility Improvements:

Republic Services continues to complete improvements at their Newby Island facility to reduce odors. Improvement plans for the complete enclosure and installation of odor abatement technology for the Materials Recycling Facility (MRF) have been submitted to BAAQMD and the City of San Jose Planning Department for review and approval. The improvement to enclose the MRF building is designed to seal off odorous operations within building, and to treat and scrub air prior to exhaustion from the building. Agency review of the proposed MRF improvements plans will commence in February 2019 and is anticipated to required 24 months to complete.

Regional Odor Study:

The South Bay Odor Stakeholders Group SBOSG met on January 17, 2019. An outstanding meeting issue discussed is the resolution of public agency management of a contract for a Regional Odor Study that is to be funded by Republic Services. BAAQMD staff in attendance at the January meeting announced the BAAQMD has agreed initiate and manage the regional odors study. A Request for Proposal (RFP) will be issued by

BAAQMD to obtain a professional consultant to complete the study. The draft RFP was distributed late January to the SBOSG group, including Milpitas staff for review and comment.

The regional odor study will be a long term science based study that will span over a year to capture changes in seasons and weather. The study will use laboratory analysis to determine chemical compounds within odors, develop odor profiles, and determine chemical markers within odors that could be used to trace odors to their source and help in developing mitigation.

The study will focus on odors from three facilities including Republic Services (Newby Island), ZWED, and the San Jose/Santa Clara Waste Water Treatment Plant. As the study scope of work progresses, additional facilities or locations may be included in the study. BAAQMD is looking to fast-track this study as a means of helping the City of Milpitas.

Community Air Monitoring Program:

As part of the City's ongoing efforts to address odor concerns, Public Works staff have been conducting research on potential odor monitoring equipment and the possibility of developing a local, community odor monitoring program. This research included conversations with odor monitoring professionals, online research and review of odor monitoring equipment, and review of information provided by the California Air Resources Board and Bay Area Air Quality Management District.

Conducting a local community air monitoring program, separate from the Regional Odor Study that is now being led by BAAQMD, could further support the City's interest by:

- Establishing an objective set of data and information on odor conditions and/or local air quality that would supplement community compliant data.
- Augmenting regional data and establishing an objective baseline of local odor and/or air quality conditions at different locations within the Milpitas community in addition to monitoring at the fence line of targeted facilities that would be obtained through the Regional Odor Study.
- Sharing of the additional data with stakeholders, regulators, and community members would improve ongoing coordination efforts and support the potential inclusion of Milpitas in the California Air Resources Board's Community Air Monitoring Program or other emissions reductions programs/grants.

Staff is proposing to implement a Pilot Community Odor Monitoring Program using combination of handheld odor monitoring devices and continuous monitoring sensors placed in different locations throughout the City. This proposed approach would provide a robust set of data that can be analyzed in conjunction with community complaint data and data from the Regional Odor Study. The total cost for the Pilot Community Odor Monitoring Program is \$85,000, which would provide funding for technical support, staff training, and equipment and was approved by City Council on February 26, 2019.

BAAQMD Board Representation

At the October 2, 2018 City Council meeting, the Council had unanimously voted to nominate Councilmember Nuñez for consideration by the Santa Clara County Cities Association (SCCCA) for appointment to the BAAQMD Board of Directors, and directed staff to work on the application process. The SCCCA selection process was held November 8, 2018. Councilmember Nuñez was not appointed to the BAAQMD Board of Directors this time, however staff will continue to complete the application process for the next available opening on the Board.

FISCAL IMPACT: None

California Environmental Quality Act: None

RECOMMENDATION:

Receive odor update and presentation from staff of the Bay Area Air Quality Management District.

Attachment: Memo to City Council October 22, 2018



MEMORANDUM

Engineering Department

DATE: October 22, 2018
TO: Mayor and City Council
THROUGH: Julie Edmonds-Mares, City Manager
FROM: Steve Erickson, Engineering Director/City Engineer
SUBJECT: Milpitas Odor Update

At the August 7, 2018 City Council meeting, staff was directed to bring forward a report on odor issues to the City Council. Subsequent to that meeting, staff has provided interim updates through memorandums of August 14 and August 30, 2018. The following below is an update on staff progress since August 30, 2018.

In addition to any odor complaints submitted through the MyMilpitas app and through direct phone calls and emails, monthly odor complaint reports are received from the Bay Area Air Quality Management District (BAAQMD). A total of 1,031 complaints have been logged to date this year compared to 1,210 same time last year. Although the overall trend in odor complaints received has been downward over the last three years, there was an increase in complaints for the months of July and August 2018.

In order to address this, staff has been working on many fronts including speaking with the enforcement agencies to ensure compliance at odor generating facilities, exploring air monitoring stations, working with the South Bay Odor Group, and pursuing representation on the BAAQMD board.

Enforcement

City staff spoke with Bay Area Air Quality Management District (BAAQMD) staff on September 7, 2018, and met with the supervisor of the San Jose Local Enforcement Agency (LEA) on September 25th to discuss the surge in odor complaints. Both agencies shared they have been working more closely together to enhance agency cooperation to investigate and identify odor complaints. Several complaints were recently investigated and traced back to the Republic Services Newby Island Materials Recycling Facility (MRF) and the Green Waste Composting Facility. In July, BAAQMD identified odors from trailers onsite containing waste that was scheduled to be hauled from the MRF to Zero Waste Energy Development Company (ZWED) for processing and disposal. Republic Services has worked with the LEA and has agreed to move waste containers from the MRF to ZWED sooner.

BAAQMD has odor jurisdiction and enforcement authority at the MRF, and the LEA has authority over the green waste facility. Both the LEA and BAAQMD have issued notices of violation to Republic Services, and stated recent odors traced to the facility have been resolved through the LEA and BAAQMD working together. BAAQMD and the LEA have an enforcement process in place for the investigation and resolution of odor problems. The process is progressive in that after a specified number of notices of violation are issued, the matter escalates to penalties such as listing on the state's webpage as a repeat violator and implementation of fines. The LEA mentioned that notices of violation are taken seriously by companies because they do affect a company's credit rating and stock price.

455 E. Calaveras Blvd., Milpitas, CA 95035

www.ci.milpitas.ca.gov



MEMORANDUM

Engineering Department

Next Steps

Staff will continue to work with both BAAQMD and the LEA to ensure they diligently investigate odor complaints and take enforcement actions for confirmed complaints.

Republic Services Newby Island Facility Improvements

BAAQMD staff and Evan Boyd, General Manager of Republic Services have confirmed that Republic Services has completed a number of structural improvements to the facility as a means of reducing odors. These efforts include installation of additional gas extraction wells and a flaring facility at a cost of over \$6 million, and installation of two and a half miles of odor neutralizing equipment. Last March, the installation of a \$3 million improvement to the composting facility was completed. This improvement converted the windrow composting operation to a Covered, Aerated Static Pile (CASP) system to minimize odors.

As discussed at the South Bay Odor Stakeholders Group (SBOSG) meeting on October 18, 2018, Republic Services is also in the design phase to enclose the MRF facility and to improve its air filtering and odor scrubbing systems. The design will include high-speed roll-up truck doors on the building to enclose the truck access/exit; add partitions and improve air filtering systems for building area that processes wet materials; and will provide a truck trailer enclosure for materials that are to be off-hauled to the Zero Waste Energy Development Company (ZWED) for processing and disposal. Republic expects it will require approximately 24 months to complete the design and permitting phases for the project.

In addition to the structural improvements mentioned above, Republic has conveyed they have implemented operational changes with the intent of reducing odors as much as possible. Several of these changes include on-site processing time limitations for inbound organic materials; closing sections of the landfill nearest receptors; modified hours of operation to shut down green waste grinding during times of unfavorable wind conditions; and initiating composting limits to ensure operations on the landfill surface are furthest away from odor receptors.

South Bay Odor Stakeholders Group (SBOSG) Quarterly Meetings

The South Bay Odor Stakeholders Group SBOSG met on October 18, 2018. An outstanding issue discussed is the resolution of public agency management of a contract for a Regional Odor Study that is to be funded by Republic Services. The study is a requirement of the City of San Jose Planned Development Permit (PD14-014) issued for the vertical expansion of the landfill. A draft scope of work for the study was completed previously by staff from the Cities of Milpitas and Fremont. Unfortunately, the SBOSG is not a public entity and does not have the ability to enter into contracts, and the management of the odor contract would fall on a public agency.

The San Jose Planning Department was requested to manage the odor study contract; however, San Jose has expressed reluctance in accepting this responsibility due to staff shortages and a heavy workload. The City of Fremont does not wish to manage the odor study contract due to the limited number of odor complaints received in Fremont and because they are in a different County.

City staff reached out to BAAQMD, San Jose LEA, and the Santa Clara County Department of Environmental Health to gauge their interest and ability to manage the odor contract. However, these agencies informed us they would not manage the study because they view it as a conflict of interest with their authority and required enforcement role.



MEMORANDUM

Engineering Department

During the October 18th SBOSG meeting, the group was asked if there was concern with the City of Milpitas managing the odor study. A majority of the group was favorable to this idea as a means to move the study forward; however, Republic Services expressed concern if the study would have a high cost, and suggested the study be managed by an unbiased party. Councilmember Nuñez shared with the group that he had discussed management of the regional study contract with Jeff Smith, Santa Clara County CEO and Supervisor Dave Cortese. Mr. Smith has tentatively agreed to a partnership idea with a public agency for the management and administration of the odor contract. Councilmember Nuñez stated he would reach out to Jeff Smith to discuss details of a County-Milpitas partnership for the management of the study. City staff will follow-up with the County to work out the details of partnership and management of a contract.

Regarding odor reporting activities, BAAQMD staff reported there had been a total of 650 odor complaints received since July, and 5% of these had been confirmed to originate from the Republic Services Newby Island composting operations. BAAQMD states notices of violation have been issued to Republic. Republic's General Manager, Evan Boyd, stated there were no operational changes responsible for the increase in odors, but speculated weather changes may be responsible for the increase. Mr. Boyd stated they have started adding additional moisture to the compost product, and they are considering the installation of irrigation and enhanced air blower systems to the composting CASP units as a means to better reduce odors.

Mr. Boyd also reminded the group that between October 3rd and November 2nd, bio solids including sludge pond dredging materials from the wastewater treatment plant are trucked to the Newby Island facility. Mr. Boyd mentioned that historically, this process results in a spike in odor complaints.

Community Air Monitoring Program

As part of the City's ongoing efforts to address odor concerns, City Public Works staff have been conducting research on potential odor monitoring equipment and the possibility of developing a local, community odor monitoring program. This research included conversations with odor monitoring consultants, online research and review of odor monitoring equipment, and review of information provided by the California Air Resources Board and Bay Area Air Quality Management District.

Staff recommends implementing a monitoring program using city staff and purchased equipment. The cost of this monitoring program project is estimated at approximately \$100,000. City Council approval would be required for the creation and funding of a new Capital Improvement Program Project for this effort. Staff still needs to coordinate with BAAQMD staff on confirming the effectiveness of the monitors being selected and will bring back recommendations to Council once that has been completed.

The odor monitoring project would obtain objective data and information on odor conditions and/or local air quality that would supplement community compliant data. The project would also help establish an objective baseline of local odor and/or air quality conditions that could then be shared with stakeholders, regulators, and community members to improve coordination and to advocate for future air quality related grants.



MEMORANDUM

Engineering Department

BAAQMD Board Representation

At the October 2, 2018 City Council meeting, the Council unanimously voted to nominate Councilmember Nuñez for consideration by the Cities Association of Santa Clara County Cities (CASCC) for appointment to the BAAQMD Board of Directors. Council also directed staff to work on the application process. The CASCC selection committee will meet in Sunnyvale City Hall, West Conference Room, 456 West Olive Avenue, Sunnyvale, Ca at 6:45 pm on November 8, 2018 to discuss this matter.

As noted in this report, staff is working on several fronts to address odor issues in the community. Staff will bring back a progress update on these efforts to the City Council in early 2019.

CC: Ashwini Katak, Assistant City Manager
Steve McHarris, Deputy City Manager
Tony Ndah, Public Works Director
Jennifer Yamaguma, Public Information Officer
Elizabeth Koo, Administrative Analyst

Backup material for agenda item:

Adopt a Resolution Awarding a Construction Contract to and Authorize the City Manager to Execute the Contract with the Lowest Responsible Bidder Submitting a Responsive Bid, Southwest Construction and Property Management, in the Amount of \$317,310; and Authorize the Engineering Director/City Engineer to Negotiate and Execute Contract Change Orders in an Aggregate Amount Not to Exceed \$47,600 for Milpitas City Hall Third Floor Improvements, Project No. 3406 (Staff Contact: Steve Erickson, 408-586-3301)

Recommendation: Adopt a Resolution Awarding a Construction Contract to and Authorize the City Manager to Execute the Contract with the Lowest Responsible Bidder Submitting a Responsive Bid, Southwest Construction and Property Management, in the Amount of \$317,310; and Authorize the Engineering Director/City Engineer to Negotiate and Execute Contract Change Order(s) in an Aggregate Amount Not to Exceed \$47,600 for the Milpitas City Hall Third Floor Improvements, Project No. 3406.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Awarding a Construction Contract to and Authorize the City Manager to Execute the Contract with the Lowest Responsible Bidder Submitting a Responsive Bid, Southwest Construction and Property Management, in the Amount of \$317,310; and Authorize the Engineering Director/City Engineer to Negotiate and Execute Contract Change Order(s) in an Aggregate Amount Not to Exceed \$47,600 for the Milpitas City Hall Third Floor Improvements, Project No. 3406.
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	3/5/2019
Staff Contact:	Steve Erickson, 408-586-3301
Recommendation:	Adopt a Resolution Awarding a Construction Contract to and Authorize the City Manager to Execute the Contract with the Lowest Responsible Bidder Submitting a Responsive Bid, Southwest Construction and Property Management, in the Amount of \$317,310; and Authorize the Engineering Director/City Engineer to Negotiate and Execute Contract Change Order(s) in an Aggregate Amount Not to Exceed \$47,600 for the Milpitas City Hall Third Floor Improvements, Project No. 3406.

Background:

On December 18, 2018, the City Council approved the Project plans and specifications and authorized the advertisement for bid proposals for a project to construct new enclosed third floor office spaces, including interior walls, partitions, and furniture. This project is a part of Project No. 3406, City Hall Building Improvements (“Project”), which is funded in the approved FY 2018-2023 Capital Improvement Program (CIP). The four new office spaces will be located along the eastern wall of the building between the Council offices and the Finance Director office (as shown on floor plan included with the Council Agenda packet.)

At the December 18, 2018 City Council meeting, the Council also requested staff return to the Council with a plan for the utilization of the new office spaces for consideration, and Council expressed the desire that the City Attorney’s office remain in close proximity to the City Manager. An Information Memo related to this request was sent to Council on January 31, 2019.

The Engineer’s Estimate for the Project is \$300,000 (base-bid scope of work only). Base-bid project work requires the contractor to work at night to avoid City Hall disruptions during the day, and to finish construction within 90-days. The bid also included an add-alternate bid item. The add-alternate bid item would require the contractor to work on weekends and to finish construction of the project 30-days earlier. The Engineer’s Estimate for the add-alternate bid item is an additional \$30,000. The bid documents specify the contract for the Project would be awarded using the base bid only without consideration of alternate bid items.

Analysis:

On December 21, 2018, the Project was advertised in the Milpitas Post, and bid opening occurred on January 28, 2019. One sealed bid proposal was received from Southwest Construction and Property Management with a base bid total of \$317,310. The bid price for the add-alternate bid item was \$40,000, and no bid protests were filed with the City in regards to this Project. The bid result tabulation is shown below (and included as attachment).

	Base Contract	Add-Alternate Bid Item
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	(Basis for Award)	
City Engineers Estimate:	\$300,000	\$30,000
Contractor:		
Southwest Construction Property Management	\$317,310	\$40,000

The base bid price submitted by Southwest Construction and Property Management exceeds the \$300,000 Engineer's Estimate by \$17,310, or approximately 5%. A 5% variation in bid price over the Engineer's Estimate is reasonable in the current busy construction market. The requirement that contractor work at night starting no earlier than 5 pm also contributes to the higher cost.

The contractor, Southwest Construction and Property Management, is deemed by staff to be the lowest responsible bidder submitting a responsive bid for the Project, and staff recommends the City Council award a construction contract for the base bid amount of \$317,310. Staff is not recommending the award of the additional \$40,000 add-alternate bid item due to value and limited budget. There are sufficient funds available within the Project No. 3406 budget to award a contract for the base bid amount.

As was previously approved for the successful completion of recent projects with tight completion schedules, staff is requesting the use of the same change order policy, see **Attachment 4**. This policy allows for the timely completion of the Project, while addressing the need to respond swiftly to construction conditions and approve necessary change orders in order to limit potential claims or risks to the City. The construction contingency established for this Project is \$47,600; approximately 15% of the total contract value. The change order authority is not anticipated to exceed this amount, and the Project would not require additional appropriation. Once the construction contract is awarded, construction is anticipated to start in April, and would be completed within 90 working days.

Policy Alternative:

Alternative 1: Reject the bid and not move forward with the Project.

Pros: Avoids disruptions to City Hall staff and operations and funding could be utilized for other needs.

Cons: Not moving forward would mean not creating needed enclosed office spaces for City staff.

Reason not recommended: There is a need to create work spaces and enclosed office spaces at City Hall as necessary for senior City staff members to conduct sensitive business matters and routine confidential meetings with staff.

Fiscal Impact: Sufficient funds are available in the Project budget.

California Environmental Quality Act:

This Project is categorically exempt under Section 15301 of the California Environmental Quality Act guidelines; minor alterations to an existing public facility involving no or negligible expansion of use.

Recommendations:

- 1) Adopt a resolution awarding a construction contract to and authorizing the City Manager to execute the contract with the lowest responsible bidder submitting a responsive bid, Southwest Construction and Property Management, in the amount of \$317,310 for Project No. 3406.
- 2) Authorize Engineering Director/City Engineer to negotiate and execute contract change order(s) in an aggregate amount not to exceed \$47,600 for Milpitas City Hall Third Floor Improvements, Project No. 3406.

Attachments:

- a) Resolution
- b) Memo to City Council
- c) Bid Summary
- d) Construction Change Order Policy
- e) Floor plan design

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AWARDING A CONSTRUCTION CONTRACT TO AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT WITH THE LOWEST RESPONSIBLE BIDDER SUBMITTING A RESPONSIVE BID, SOUTHWEST CONSTRUCTION AND PROPERTY MANAGEMENT, IN THE AMOUNT OF \$317,310 FOR THE MILPITAS CITY HALL THIRD FLOOR IMPROVEMENTS, PROJECT NO. 3406; AND AUTHORIZE THE DIRECTOR OF ENGINEERING/CITY ENGINEER TO NEGOTIATE AND EXECUTE CONTRACT CHANGE ORDER(S) IN AN AGGREGATE AMOUNT NOT TO EXCEED \$47,600 FOR THE PROJECT

WHEREAS, on December 18, 2018, the City Council approved the plans and specifications and authorized the advertisement for construction bid proposals for the Milpitas City Hall Third Floor Improvements Project, Project No. 3406 (“Project”), which provides for construction of new enclosed office spaces on the third floor of City Hall. Office construction will include construction of walls and related electrical and mechanical improvements; and

WHEREAS, the Engineer’s Estimate for the Project is \$300,000 (base-bid scope of work only); and

WHEREAS, the Project was advertised on December 21, 2018, and one sealed bid proposal was received from Southwest Construction and Property Management on January 28, 2019, in the amount of \$317,310; and

WHEREAS, no bid protest was filed with the City within five (5) days of the bid opening as set forth in the Project specifications; and

WHEREAS, sufficient funds to award the Project are available in the Project budget; and

WHEREAS, staff recommends the City Council award a construction contract to Southwest Construction and Property Management, the lowest responsible bidder submitting a responsive bid for the Project, and authorize the City Manager to execute a contract in the amount of \$317,310; and

WHEREAS, staff recommends the City Council authorize the Director of Engineering/City Engineer to negotiate and execute change order(s) in an amount not to exceed \$47,600, approximately fifteen percent (15%) of the total contract value, due to the Project’s tight completion schedule and staff’s capability to respond swiftly to unanticipated construction conditions to limit potential claims or risk to the City.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City Council hereby awards the construction contract to and authorizes the City Manager to execute the contract and related documents with the lowest responsible bidder submitting a responsive bid, Southwest Construction and Property Management, in the amount of \$317,310 for the Project.

3. The Director of Engineering/City Engineer is hereby authorized to negotiate and execute contract change order(s) in an aggregate amount not to exceed \$47,600 for the Project.

PASSED AND ADOPTED this _____ day of _____, 2019 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Rich Tran, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

MEMORANDUM

Engineering Department



DATE: January 31, 2019

TO: Mayor and City Council

FROM: Steve Erickson, Engineering Director / City Engineer

THROUGH: Julie Edmonds-Mares, City Manager *J Edmonds-Mares*
Ashwini Kantak, Assistant City Manager *Ashwini Kantak*

SUBJECT: City Hall 3rd Floor Office Construction & Staff Move Plan

The purpose of this Information Memorandum is to follow up on Council direction on a project for the construction of offices on the third floor of City Hall. This project is a part of Project No. 3406, City Hall Building Improvements, and is funded in the approved FY 2018-2023 Capital Improvement Program (CIP).

As discussed at the December 18, 2018 City Council meeting, the Project provides for the design and construction of four enclosed office spaces on 3rd floor of City Hall. The four new enclosed spaces will be located along the eastern wall of the building, between the Council offices and the Finance Director's office – see exhibit attached.

Staff had previously proposed relocating the City Attorney's office so as to allow better proximity to administrative support staff and to enable the re-conversion of the City Attorney's office to a large conference room that could be used by the Mayor, Council, and other staff. During the discussion on December 18, the Council expressed a desire to have the City Attorney's office remain in close proximity to the City Manager and the City Council and directed staff to return with an updated plan.

Based on Council feedback, staff has updated the plans and the City Attorney will continue to be located in his current office. Two of the new enclosed spaces will be used as offices for executive and management staff and the remaining two will be used as small conference rooms to enable better collaboration between project teams.

On December 21, 2018, the Project was advertised in the Milpitas Post, and bid opening occurred on January 28, 2019. Staff will be bringing forward a recommendation for construction contact award to the City Council shortly.



CITY OF MILPITAS
ENGINEERING DIVISION
 BID SUMMARY

Project Name: Milpitas City Hall Third Floor Improvements
Project No.: 3406
Bid Date: 01/28/19 @ 2:00 PM

ITEM		DESCRIPTION	Qty.	UNIT	Engineer's Estimate		Southwest Construction & Property Management, South San Francisco	
					Unit Cost	Extension	Unit Cost	Extension
1		Base Contract	1	LS	\$300,000.00	\$300,000.00	\$317,310.00	\$317,310.00
TOTAL BASE BID						\$300,000.00		\$317,310.00
APPARENT LOW BIDDER								

ADD ALTERNATE BID ITEMS

ITEM		DESCRIPTION	Qty.	UNIT	Engineer's Estimate		Southwest Construction & Property Management, South San Francisco	
					Unit Cost	Extension	Unit Cost	Extension
Add	Alternate #1	Weekend work for early completion	1	LS	\$30,000.00	\$30,000.00	\$40,000.00	\$40,000.00
Total						\$30,000.00		\$40,000.00

List of Sub-Contractors

	Description
Mechanical	Q4 Mechanical Corporation
Electrical	Mirnada Security Systems

ATTACHMENT 4

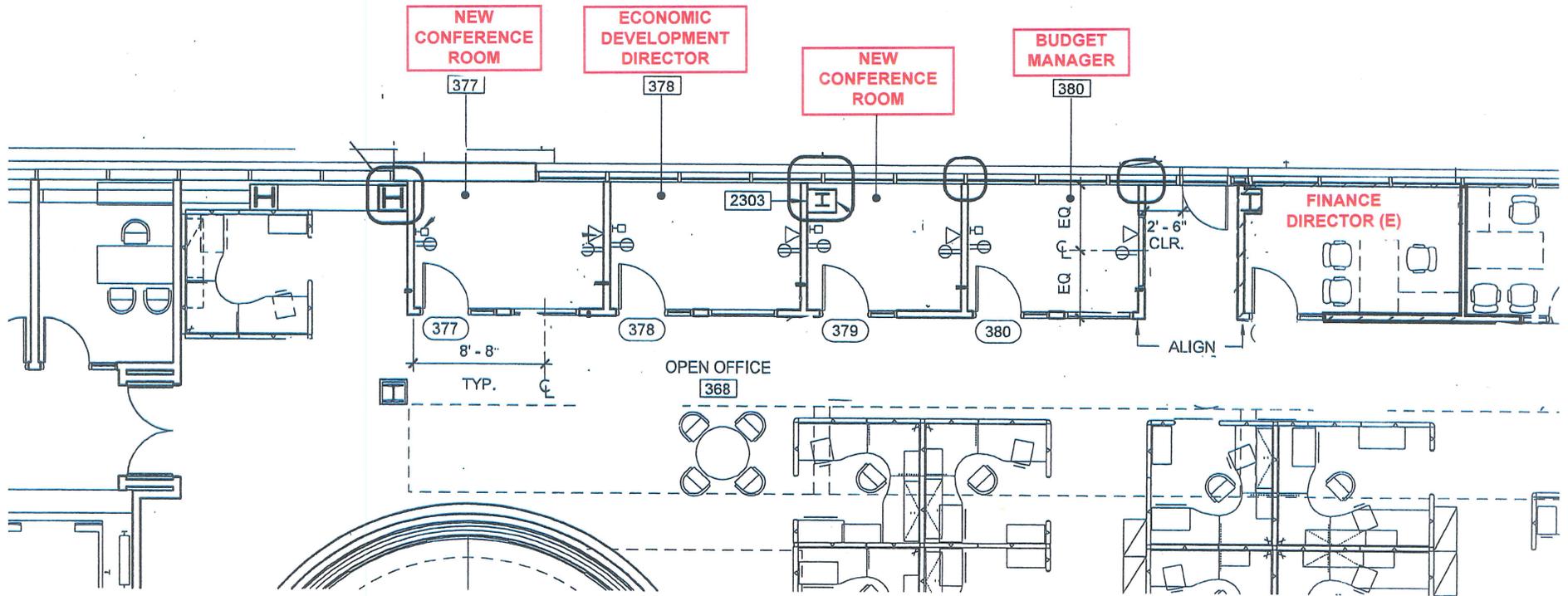
Construction Change Order Policy for Milpitas City Hall Third Floor Improvements, Project No. 3406

2007 City Council Approved Construction Change Order Policy

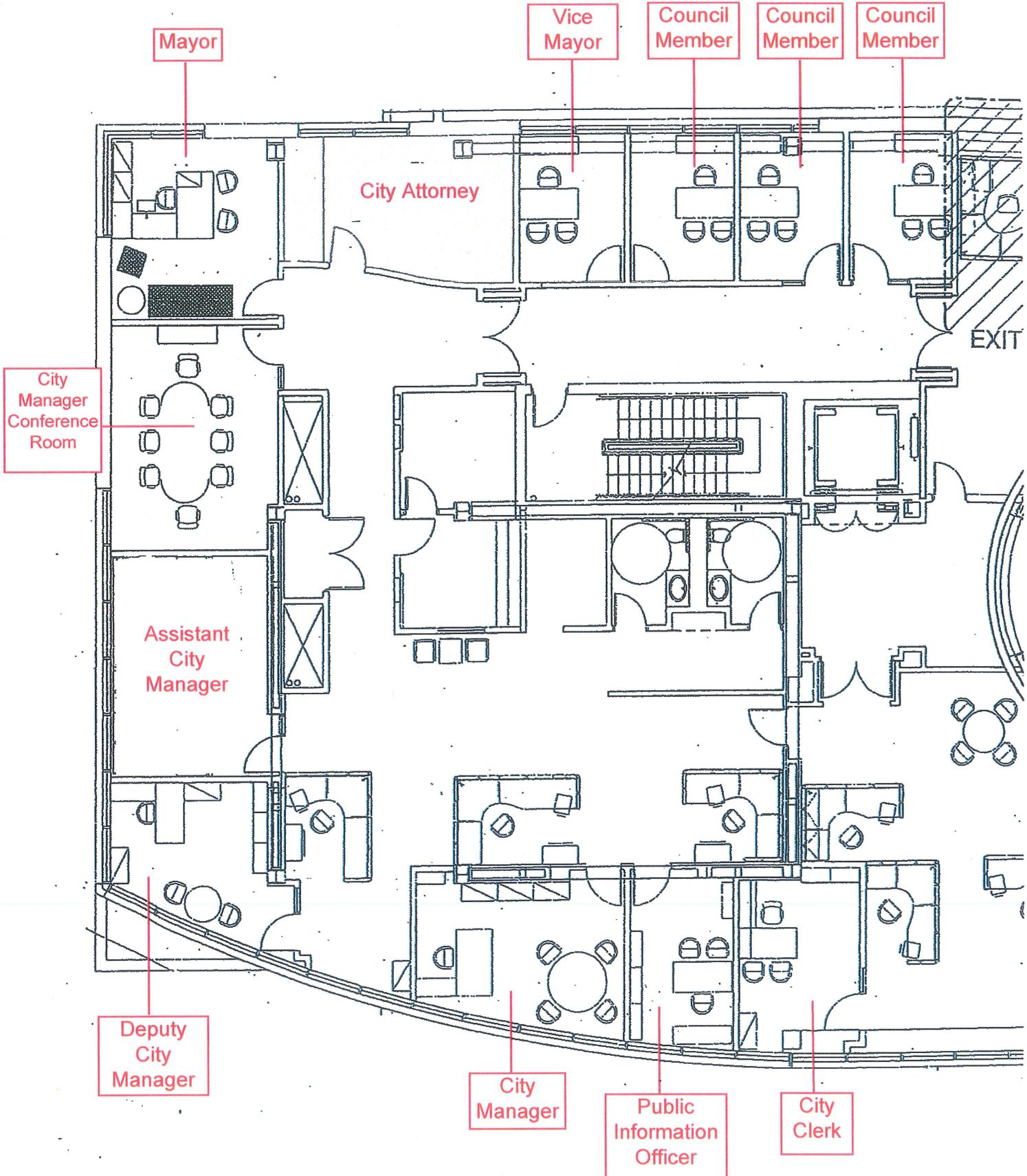
<u>Construction Award Award Amount</u>	<u>Individual Administrative Change Order Authority</u>	<u>Cumulative Change Order Authority</u>
Under \$50,000	\$5,000	\$7,500
Over \$50,000	10% of Award or \$25,000 whichever is smaller	15% of Award or \$100,000 whichever is smaller

Milpitas City Hall Third Floor Improvements, Project No. 3406 Change Order Policy

<u>Construction Award Award Amount</u>	<u>Individual Administrative Change Order Authority</u>	<u>Cumulative Change Order Authority</u>
\$317,310	N/A	\$47,600



1 THIRD FLOOR PLAN



Third Floor Executive Management Suite

Backup material for agenda item:

Receive and Review Preview of Next Regular Council Meeting Agenda: March 19, 2019 (Staff Contact: Mary Lavelle, 408-586-3001)

PREVIEW MILPITAS CITY COUNCIL REGULAR MEETING AGENDA

TUESDAY, MARCH 19, 2019

CONSENT CALENDAR

1. City Council Calendar for April 2019 (Mary Lavelle)
2. Meeting Minutes for meetings of: February 26 and March 5, 2019 (Mary Lavelle)
3. Adopt a Resolution to Execute Agreement with Santa Clara County for 2018 Emergency Management Performance Grant (EMPG) Funds (Toni Charlop)
4. Adopt a Resolution Authorizing Purchase of 3 New Vehicles for Fire Department (Rick Frawley)
5. Adopt a Resolution to Approve Sole Source Contract with Storm Water Inspection & Maintenance Services, Inc. (SWIMS) in amount of \$290,195 for Trash Removal Devices, Project No. 3713 (Steve Erickson)
6. Approve Out of State travel to Utility Engineering and Surveying Institute (UESI) Pipelines 2019 Conference in Nashville, TN on July 21–24, 2019 (Tony Ndah)
7. Approve Amendment No. 2 to Piggyback Agreement with BMI for scanning needs & software (Mike Luu)
8. Approve Amendment No. 1 to Agreement with ProjectDox Test Environment + Assurance Services with Avolve Software (Mike Luu)
9. Approve Agreements with Dryco Construction Inc. for Tennis Court Rehab at Pinewood and Browne Parks (Tony Ndah and Christopher Schroeder)
10. Authorize City Manager to Execute a Master Funding Agreement between City and VTA for 2016 Measure B Local Streets and Roads Program (Steve Erickson)
11. Approve Amendment No. 11 to Consulting Services Agreement with Vali Cooper & Assoc/TRC (Steve Erickson)

PUBLIC HEARING

12. Adopt a Resolution to approve time extension for 1316 South Main St (Michael Fossati)

COMMUNITY SERVICES

13. Adopt a Resolution Approving purchase of NO-DES vehicle \$500,000+ for Public Works (Tony Ndah)

PUBLIC SAFETY

14. Police Department staffing needs assessment (Armando Corpuz)

LEADERSHIP

15. New Commission By-Laws (Renee Lorentzen, City Attorney)

PREVIEW NEXT REGULAR MEETING AGENDA

16. City Council Meeting of April 2, 2019 (Mary Lavelle)