



JOINT MEETING OF THE MILPITAS CITY COUNCIL AND HOUSING AUTHORITY

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

City Council meeting will be held via TELECONFERENCE zoom webinar only (no physical meeting space) Submit any Public Forum or agenda item comments in writing submitted online, to be read aloud.

Meeting shall be livestreamed - Go to:

Facebook: <https://www.facebook.com/CityofMilpitas/>
YouTube: <https://www.ci.milpitas.ca.gov/youtube>
Web Streaming: <https://www.ci.milpitas.ca.gov/webstreaming>

Virtual public comments may be submitted on a form from the City website:
<http://www.ci.milpitas.ca.gov/publiccomment>

For Public Hearing Items No. 10 and 11 only, voicemail message comments may be submitted to telephone number 408-586-3010 until 3:00 PM on June 2.

AGENDA
TUESDAY, JUNE 2, 2020
MILPITAS, CA
6:00 PM (CLOSED SESSION)
7:00 PM (PUBLIC BUSINESS)

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

ADJOURN TO CLOSED SESSION (6:00 PM)

(a) CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to California Government Code §54957.6
Agency designated representative: Rick Bolanos of Liebert Cassidy Whitmore
Employee Group: Milpitas Employees Association

(b) CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Pursuant to California Government Code §54956.8
Potential Property: Assessor Parcel Numbers 028-34-001 through 028-34-094
Agency negotiator: Steven McHarris
Under negotiation: Price and terms of payment

CLOSED SESSION ANNOUNCEMENT: Report on action taken in Closed Session, if required per Government Code Section 54957.1, including the vote or abstention of each member present

PLEDGE OF ALLEGIANCE (7:00 PM)

INVOCATION

PRESENTATION

- Proclaim June 1 - 7, 2020 as *Milpitas High School Senior Recognition Week*

PUBLIC FORUM (7:05 – 7:15 PM)

Those interested may address the Mayor and City Council on any subject not on tonight's agenda. People can submit comments in writing via the form available online, may list their name and city of residence for the Clerk's record. Remarks read aloud by the City Clerk may be limited to three minutes, or less. 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.

Virtual public forum comments may be submitted on a form from the City website:

<http://www.ci.milpitas.ca.gov/publiccomment>

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

Members of the City Council may make brief announcements or suggest future agenda items at this time. For future agenda items, the City Council shall not debate the topic or engage in discussion, but shall simply state a "yes" or "no" as to whether to direct the City Manager to place the item on a future meeting agenda. If a majority of the City Council agrees to place an item on a future meeting agenda, the City Manager shall place the item on a subsequent agenda for City Council discussion.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

APPROVAL OF AGENDA

CONSENT CALENDAR (7:15 – 7:20 PM)

Consent calendar items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a City Councilmember, member of the public or staff requests the Council to remove an item from (or be added to) the consent calendar. Any person desiring to address any item on the consent calendar may request City Council (in writing) to remove it from the consent calendar.

C1. Receive City Council Calendar of Meetings for June 2020 (Staff Contact: Mary Lavelle, 408-586-3001)

C2. Approve City Council Meeting Minutes of the May 12, 15, and 19, 2020 Special and Regular Meetings (Staff Contact: Mary Lavelle, 408-586-3001)

Recommendation: Approve draft meeting minutes of the Special City Council meetings held on May 12 and 15, 2020 and the Joint Regular City Council and Housing Authority meeting held on May 19, 2020.

C3. Adopt Ordinance No. 305 Establishing Fees for Ambulance and Emergency Medical Services (Staff Contact: Geoffrey Maloon, 408-586-2818)

Recommendation: Waive the second reading and adopt Ordinance No.305 Establishing Fees for Ambulance and Emergency Medical Services.

C4. Adopt a Resolution Authorizing the Purchase of a RapidView IBAK PANORAMO 150 4K 360-Degree Camera System for the Public Works Department Sanitary Sewer System from Jack

Doheny Companies Through a Sourcewell Cooperative Contract in the Amount of \$147,777.04 (Staff Contacts: Tony Ndah, 408-586-2602 and Chris Schroeder, 408-586-3161)

Recommendation: Adopt a resolution authorizing the purchase of a RapidView IBAK PANORAMO 150 4K 360-Degree Camera System for the Public Works Department Sanitary Sewer System from Jack Doheny Companies through a Sourcewell cooperative contract in the amount of \$147,777.04.

C5. Adopt a Resolution Approving the Purchase from Axon Enterprise, Inc. of 10 Body Worn Cameras, Conducted Electrical Weapons, Accessories and a Supplemental Subscription to Evidence.com, Cloud-Based Storage, for a Total Two-Year Cost of \$53,965.45, Approving Standardization of Axon Enterprise, Inc. Equipment as the Standard Brand for the City of Milpitas, and Authorizing the City Manager to Execute Amendment No. 2 to the Agreement with Axon Enterprise, Inc. (Staff Contacts: Jared Hernandez, 408-586-2406 and Chris Schroeder, 408-586-3161)

Recommendation: Adopt a Resolution approving the purchase from Axon Enterprise, Inc. of 10 Body Worn Cameras, Conducted Electrical Weapons, Accessories and a Supplemental Subscription to Evidence.com cloud-based storage, for a total two-year cost of \$53,965.45, approving standardization of Axon Enterprise, Inc. equipment as the standard brand for the City of Milpitas, and authorizing the City Manager to execute Amendment No. 2 to the Agreement with Axon Enterprise, Inc.

C6. Authorize the City Manager to Execute a Five-Year Agreement between the County of Santa Clara and the City of Milpitas for Emergency Medical Dispatch (EMD) Services in an Amount Not to Exceed \$328,736.37, subject to annual appropriations (Staff Contacts: John Clum, 408-586-2415 and Chris Schroeder, 408-586-3161)

Recommendation: Authorize the City Manager to execute a five-year agreement between the County of Santa Clara and the City of Milpitas for Emergency Medical Dispatch (EMD) services in an amount not to exceed \$328,736.37, subject to annual appropriations.

C7. Authorize the City Manager to Execute an Agreement with Invoice Cloud, Inc. for Electronic Bill Presentment and Payment of Utility and Miscellaneous Invoices for a Five-Year Period Not to Exceed \$207,109.59 (Staff Contact: Walter C. Rossmann, 408-586-3111)

Recommendation: Authorize the City Manager to execute an Agreement with Invoice Cloud for e-bill presentment and e-payment of utility and miscellaneous invoices for a five-year period not to exceed \$207,109.59, subject to the annual appropriation of funds.

C8. Approve Accounts Receivable Write-offs for the Fiscal Year Ending June 30, 2020 (Staff Contact: Walter Rossmann, 408-586-3111)

Recommendation: Approve Accounts Receivable write-offs for the Fiscal Year ending June 30, 2020.

C9. Approve and Authorize the City Manager to Waive the Preclusion Against Seeking Re-Employment with the City Contained in the Settlement Agreement with Carmen Valdez (Staff Contact: Steve McHarris, 408-586-3059)

Recommendation: Approve and authorize the City Manager to waive the preclusion against seeking re-employment with the City contained in the Settlement Agreement with Carmen Valdez.

PUBLIC HEARINGS (7:20 – 9:00 PM)

Virtual public comments may be submitted online: <http://www.ci.milpitas.ca.gov/publiccomment>
For Public Hearing Items No. 10 and 11 only, voicemail message comments may be submitted to telephone number 408-586-3010 until 3:00 PM on June 2.

10. Open the Public Hearing and Adopt Resolutions to Approve the Fiscal Year 2020-21 Operating Budget and the 2020-2025 Capital Improvement Program for the City of Milpitas and the Milpitas Housing Authority, Approve the Fiscal Year 2020-21 Gann Appropriations Limit, Authorize Various Financial Actions, Approving Various Financial Policies and Budget Guidelines, Amend the Classification Plan for Alignment with the FY 2020-21 Budget and the Minimum Wage Increase, Amend the Fringe Benefits for Unrepresented and Limited Services Employees, Amend the FY 2020-21 Master Fee Schedule (Staff Contact: Walter Rossmann, 408-586-3111)

Recommendations:

(1) Open the public hearing and move to close the hearing following any speakers.

(2) Adopt the following Resolutions:

- a) Joint Resolution of the City Council and Milpitas Housing Authority to approve the Fiscal Year 2020-21 Operating Budget and the 2020-2025 Capital Improvement Program for the City of Milpitas and the Milpitas Housing Authority, approve the Appropriations Limit, and authorize various financial actions by the City Manager, including Approval of Contracts and Payments over \$100,000.
- b) Amend the Classification Plan to adjust the number of positions on the Authorized Position List, amend specific budgeted, allocated positions, and establish classification title changes.
- c) Amend the Classification Plan to adjust the hourly rate and ranges for classifications due to a minimum wage increase pursuant to the minimum wage ordinance.
- d) Amend the List of Fringe Benefits and Eligibility for such Benefits for Limited Term Employees.
- e) Amend the Classification Plan to authorize fringe benefits for Unrepresented Management Employees.
- f) Amend the Classification Plan to adjust the Salary Schedules for all IAFF, Mid-Management Confidential, ProTech, Miscellaneous Unrepresented and Fire Unrepresented Classifications consistent with previous Council Action.
- g) Amend the Master Fee Schedule for FY 2020-21 for revised user and regulatory fees for various City Services.

11. Conduct a Public Hearing and Introduce Ordinance No. 38.840 Amending Sections of Chapter 10, Title XI, of the Milpitas Municipal Code Relating to Accessory Dwelling Units (Staff Contact: Rozalynne Thompson, 408-586-3278)

Recommendations:

- a) Conduct a public hearing and move to close the hearing following comments.
- b) City Attorney shall read aloud title of Ordinance No. 38.840.
- c) Move to waive the first reading beyond the title and introduce Ordinance No. 38.840 amending Sections of Chapter 10, Title XI of the Milpitas Municipal Code relating to Accessory Dwelling Units and determine that the Municipal Code (zoning) amendment is statutorily exempt from California Environmental Quality Act pursuant to CEQA Guidelines Section 15282(h).

COMMUNITY DEVELOPMENT (9:00 – 10:15 PM)

12. Receive Report and Presentation on Application Process and Timeline for Development Projects (Staff Contact: Sharon Goei, 408-586-3260)

Recommendation: Receive report and presentation on application process and timeline for development projects.

- 13. Housing Authority: Approve and Authorize the Executive Director to execute a term extension to the predevelopment loan agreement entered into by Resources for Community Development and the City of Milpitas Housing Authority for 355 Sango Court (Staff Contact: Sharon Goei, 408-586-3260)**

Recommendation: Approve and authorize the Executive Director to execute a term extension to the predevelopment loan agreement entered into by Resources for Community Development and the City of Milpitas Housing Authority for 355 Sango Court.

- 14. Approve and Authorize the City Manager to Execute Amendment No. 1 to the Agreement with De Novo Planning Group for the General Plan Update Extending the Term of Service Date from February 28, 2019 to December 31, 2021 (Staff Contacts: Jessica Garner, 408-586-3284 and Chris Schroeder, 408-586-3161)**

Recommendation: Approve and authorize the City Manager to execute Amendment No. 1 to the agreement with De Novo Planning Group for the General Plan update to extend the term of service date from February 28, 2019 to December 31, 2021.

REPORTS OF MAYOR & COUNCILMEMBERS - from assigned Commissions, Committees and Agencies

(10:15 – 11:00 PM)

- 15. Receive and Direct Staff on Scheduling Agenda Items Requested by City Councilmembers (Contact: Mayor Tran, 408-586-3029)**

Recommendation: Review list of items presented (list in agenda packet) that have been requested by Mayor or City Councilmembers on a form, at a Council meeting, or through the City Manager. Direct items to Rules or other City Council Subcommittee, to be placed onto a specific meeting date, or specify alternate direction to staff. No substantive discussion about any specific item shall occur and the City Council shall hold all debate about the item until the item is scheduled as a full agenda item.

- 16. Approve Milpitas Small Business Loan Program and Enterprise Foundation and Kiva as proposed Fiscal Agent (Contacts: Subcommittee Chair Carmen Montano, 408-586-3024 and Councilmember Karina Dominguez, 408-586-3031)**

Recommendation: Approve a \$200,000 Milpitas Small Business Loan Program and authorize the City Manager, or his designee, to execute a contract with Enterprise Foundation and Kiva to act as fiscal agent of the small business loan program.

NEXT AGENDA PREVIEW

- 17. Receive Preview List of Anticipated Items for the next Regular City Council Meeting Scheduled on June 16, 2020 (Staff Contact: Mary Lavelle, 408-586-3001)**

ADJOURNMENT

MILPITAS CITY COUNCIL CODE OF CONDUCT

- Be respectful and courteous (words, tone, and body language).
- Model civility.
- Avoid surprises.
- Praise publicly and criticize privately.
- Focus on the issue, not the person.
- Refrain from using electronic devices while on the Council dais.
- Share information with all Councilmembers in advance of Council meetings.
- Disclose conflicts of interest and affiliations related to agenda items.
- Separate governing from campaigning.
- The Council speaks with one voice after making policy on issues.
- Respect the line between policy and administration.
- Council will hold one another accountable to comply with this Code of Conduct.

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 City agencies exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and 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 City website. City Council agendas and related materials can be viewed online: 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.

May 2020						
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Milpitas City Council Calendar

June 2020

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1 <i>7:00 PM-Parks, Recreation & Cultural Resources Commission (AP)</i>	2 <i>4:00 PM-Special City Council</i> <i>6:00 PM-Closed Session</i> <i>7:00 PM-City Council</i>	3 <i>2:00 PM-Santa Clara VTA Monthly Briefing - Northeast Group (BN) (Santa Clara)</i> <i>5:30 PM-Veterans Commission (RT)</i> <i>7:00 PM-Community Advisory Commission (BN)</i>	4 <i>5:30 PM-Milpitas Chamber of Commerce Board (CM)</i> <i>5:30 PM-Santa Clara VTA Board of Directors (BN)</i>	5	6
7	8 <i>4:30 PM-Economic Development and Trade Commission (KD)</i>	9	10 <i>1:30 PM-Bay Area Water Supply & Conservation Agency (CM)</i> <i>4:30 PM-City Council Transportation Subcommittee (RT/CM)</i> <i>7:00 PM-Silicon Valley Clean Energy Board of Directors (CM) (Cupertino)</i> <i>7:00 PM-Planning Commission</i>	11 <i>11:00 AM- ABAG General Assembly Special Business Meeting (KD)</i> <i>4:00 PM-Treatment Plant Advisory Committee (CM)</i> <i>4:00 PM-Santa Clara VTA Policy Advisory Committee (KD)</i> <i>7:00 PM-Youth Advisory Commission (AP)</i> <i>7:00 PM-Cities Assoc of SCC (CM)</i>	12 <i>*4:30 PM-City Council Finance Subcommittee (RT/CM)</i>	13
14	15 <i>7:00 PM-Science, Technology, and Innovation Commission (BN)</i>	16 <i>?:00 PM-Closed Session</i> <i>7:00 PM-City Council</i>	17 <i>6:00 PM-Energy and Environmental Sustainability Commission (BN)</i>	18	19	20
21	22 <i>7:00 PM-Special Arts Commission (CM)</i>	23 <i>1:30 PM-Senior Advisory Commission (AP)</i>	24 <i>7:00 PM-Planning Commission</i>	25 <i>12:00 PM-Santa Clara County Library JPA (CM)</i>	26	27
28	29	30 <i>?:00 PM-Special City Council</i>				

Draft **MEETING MINUTES**
CITY OF MILPITAS

Minutes of: Special Meeting of the Milpitas City Council
Date: Tuesday, May 12, 2020
Time: 5:00 PM
Location: Meeting held via teleconference
Milpitas, CA

CALL TO ORDER

Mayor Tran called the special meeting to order at 5:01 PM. City Clerk called the roll. The meeting took place via teleconference and webinar.

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

ABSENT: None

PLEDGE

Mayor Tran led the pledge of allegiance.

CLOSED SESSION

City Council went to Item No. 1 Closed Session regarding potential litigation.

**ANNOUNCEMENT
OUT OF CLOSED SESSION**

City Attorney Chris Diaz stated the City Council would re-agendize item no.11 from May 5, 2020 Regular City Council meeting and read aloud this statement:

“The City Council has unanimously agreed to re-agendize Item 11 from the May 5th City Council meeting regarding the sales tax measure, including the cannabis sales tax, for a special meeting to be held this Friday, May 15th. Although the City takes Brown Act compliance seriously, and does believe it has complied with the law, because of the confusion created at the last City Council meeting and a strong desire from the City Council to hear from the public and ensure full public transparency, the City Council has directed staff to re-agendize the item exactly as it was to be presented at the May 5th City Council meeting. On behalf of the City and City Council, I wanted to thank the public for expressing their concerns. We take those concerns seriously. We look forward to hearing from you when this item returns. Thank you.”

Mr. Diaz said he would depart this meeting, and attorney Martin de los Angeles from his law firm BB&K would fill in as City Attorney for the remainder of the Council meeting.

**ANNOUNCEMENT OF
CONFLICT OF INTEREST**

Mr. de los Angeles asked Councilmembers if they had any personal conflicts of interest or reportable campaign contributions. By roll call, none were reported.

PUBLIC FORUM

City Clerk Mary Lavelle read aloud written comments submitted by residents Tom Valore, Jackie Romero and Voltaire Montemayor.

Vice Mayor Nuñez asked staff to reach out to the Milpitas Parents Coalition about concerns with difficulty submitting comments during past City Council meetings.

DISCUSSION

**2. FY 2020-21 Budget Study
Session**

City Manager Steve McHarris provided opening remarks on the economic outlook in the face of the coronavirus and the current shelter-in-place scenario.

Finance Director Walter Rossmann reviewed the budget topic, including more data provided on the economic outlook, and efforts made online for community outreach.

Vice Mayor Nuñez asked for a study to support proposed reclassification of positions requested in the Milpitas Police Department.

Mr. Rossmann continued with Fiscal Policies and Budget Guidelines recommended for the new budget year, detailing General Fund Budget surplus allocation and Unanticipated Expenditure Reserve. The calendar of required actions for budget adoption was reviewed.

The Mayor and Councilmembers commented on the proposed FY 2020-21 budget.

City Clerk read aloud public comments from two residents, Jackie Romero and Voltaire Montemayor.

Mr. McHarris said staff would bring back the final version of the proposed budget and Capital Improvement Program for adoption on June 2, following the public hearing.

3. Amphitheater proposals

Recreation Director Renee Lorentzen presented various options related to a possible performing arts facility, following a study that was discussed with City Council on April 14. Three vacant parcels on Main Street were identified as sites to be considered (acquired) for outdoor amphitheater.

Mayor Tran commented, stating the City Council would need to be patient with this proposed future project and that project should be included in year 5 of the proposed five-year CIP.

Councilmember Montano requested the City pursue the purchase of the land parcel adjacent to the Milpitas Library on N. Main Street, in order to prepare to have an amphitheater in the future.

Motion: per staff recommendation, proceed to: Explore site options and possible land acquisition analysis; Evaluate financing and funding options; Assign project into Capital Improvement Program (CIP) priorities

Motion/Second: Vice Mayor Nuñez/Councilmember Dominguez

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

ADJOURNMENT

Mayor Tran adjourned the special meeting at 8:19 PM.

*Meeting minutes submitted by
Mary Lavelle, City Clerk*

Draft **MEETING MINUTES**
CITY OF MILPITAS

Minutes of: Special Meeting of the Milpitas City Council
Date: Friday, May 15, 2020
Time: 4:00 PM Open Session
Location: Meeting held via teleconference/zoom meeting
Milpitas, CA

CALL TO ORDER

Mayor Tran called the regular meeting to order at 4:03 PM. City Clerk called the roll. The meeting took place via teleconference and zoom webinar.

PRESENT: Mayor Rich Tran, Vice Mayor Bob Nuñez and Councilmembers Karina Dominguez, Carmen Montano and Anthony Phan

ABSENT: None

PLEDGE OF ALLEGIANCE

Mayor Tran led the pledge of allegiance.

APPROVAL OF AGENDA

Motion: to approve the City Council agenda, as submitted

Motion/Second: Vice Mayor Nuñez / Councilmember Phan

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

**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, no conflicts of interest were reported. In terms of campaign contributions, Councilmember Dominguez reported to have received two contributions in 2018 from individuals affiliated with the cannabis industry.

PUBLIC FORUM

City Clerk Mary Lavelle informed the City Council that hundreds of comments were coming in, with an assessment that most of the comments were for Item No. 1. Mayor Tran stated that the public comments would be read after the Staff Report.

REPORTS

1. Sales Tax / Cannabis Tax

Assistant City Manager Ashwini Kantak provided background for the topic.

Finance Director Walter Rossmann described the difference in types and steps to bring about a “general purpose” versus “specific purpose” tax ballot measure. He also explained the requirements of placing a quarter-cent / one-fourth-cent sales tax measure on the ballot and anticipated revenues generated if successful. In March 2020 election, 68 percent of City General Tax measures were approved by voters.

Assistant City Manager Kantak explained that two ballot measures could be potentially needed for cannabis. The first ballot measure pertains to the implementation of a General Cannabis Tax and the second one, a regulatory ordinance to allow the operations of cannabis businesses within the City.

Councilmember Phan asked for clarification on action allowing cannabis in the City. Ms. Kantak explained that there would only be one ballot measure if City Council would validate buffer zones, types, and number of cannabis establishments allowed to opera

within the City. If the validation of such parameters would be left for the voters to decide, then two ballot measures would be needed.

Discussion continued regarding taking a “test” question to the voters, inquiring whether they would like to allow cannabis establishments to operate within the City. Staff said a “test” question posed to the voters on the ballot was possible. Ms. Kantak said staff recommended deferring discussion of these two measures for a future ballot, possibly for two years, to give time for additional analysis and outreach unless City Council deemed that data collected by staff from 2018 would be sufficient to proceed to the next steps.

PUBLIC COMMENTS

Public comments were read aloud continuously from 4:35 PM to 7:35 PM.

City Clerk and other staff read a total of 456 public comments sent via e-mail with 111 remarks in favor and 345 opposed to a possible cannabis sales tax measure as well as concerns pertaining to cannabis-related business.

REMARKS FROM CITY COUNCIL

Sales Tax

Mayor Tran asked current City sales tax rate and the projected revenue should voters approve the quarter-cent additional tax. Mr. Rossman said 9% was the current City sales tax rate where 1% only was collected by the City as revenue – amounting to approximately \$28 million. Should the quarter-cent additional tax be approved, the increase would amount to an additional \$7 million in revenue for the City. Mayor Tran supported having a public safety sales tax measure.

Councilmember Dominguez requested clarification on what infrastructure the public safety tax revenue would support. The Finance Director replied that public safety tax revenues would fund building structures in the future.

Councilmember Dominguez inquired to the age of the Milpitas Police station and priority for replacement. City Engineer Steve Erickson stated the building was constructed in 1980. Chief Corpuz replied that the priority was to have a safe structure with the greatest cost benefit.

Vice Mayor Nuñez questioned costs, taxation methods, different percentages and types of sales tax measures. Mr. Rossmann replied that the cost was approximately \$90,000 for one ballot measure and would have to come from reserves.

Councilmember Montano supported a general purpose sales tax increase to generate additional revenue into the City’s General Fund.

Councilmember Phan asked about the success rate of general purpose tax measures at the polls. Mr. Phan wished to have at least one tax measure on the ballot to generate City revenues.

Vice Mayor Nuñez inquired about parcel taxes. Finance Director Rossmann clarified that two-thirds of voter approval was required in order for the measure to pass, and the generated revenue could only be used for infrastructure.

Assistant City Manager Katak reported that most of the special sales tax measures for special purposes in March 2020 failed at the ballot box. Only two out of 11 proposed ballot measures passed.

Vice Mayor Nuñez pointed out that having an additional sales tax on the ballot was a good move because it protected the City's best interests as a preventive measure since the economic state would be worse before matters got better.

Councilmember Montano wanted to move forward with the general sales tax measure as it was good to have visitors coming to the City help by paying the sales tax.

Motion to direct staff to proceed based on Council direction on a general sales tax increase for voters on the November 3, 2020 General Election

Motion/Second: Councilmember Montano / Councilmember Dominguez

AYES: 5

NOES: 0

Cannabis Sales Tax

Mayor Tran expressed his withdrawal from supporting a proposed cannabis sales tax. He wanted residents and voters to decide on having cannabis businesses in the City without charging additional taxes in the future.

Councilmember Dominguez desired public transparency on this issue.

Councilmember Phan pointed out the City's projected shortfalls, and that additional revenue sources were needed. He shared his viewpoints on cannabis regulation including the sizable revenue that the City of San Jose was receiving from cannabis businesses.

Motion to direct staff not to continue to explore cannabis sales tax

Motion/Second: Vice Mayor Nuñez / Councilmember Montano

AYES: 4

NOES: 1 (Phan)

ADJOURNMENT

Mayor Tran adjourned the special meeting at 9:20 PM.

Meeting minutes submitted by Pam Caronongan, Deputy City Clerk

Draft **MEETING MINUTES**
CITY OF MILPITAS

Minutes of: Joint Meeting of the Milpitas City Council and Milpitas Housing Authority
Date: Tuesday, May 19, 2020
Time: 6:00 PM Closed Session
7:00 PM Open Session
Location: Meeting held via teleconference/zoom webinar
Milpitas, CA

CALL TO ORDER

Mayor Tran called the joint meeting to order at 6:12 PM. City Clerk called the roll. The meeting took place via teleconference and zoom webinar.

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

ABSENT: Councilmember Montano. She arrived later in the Closed Session.

CLOSED SESSION

City Council convened into Closed Session to discuss two items listed on the agenda, one labor negotiations and one anticipated litigation.

By phone conference, Mayor Tran called to order the open session/regular joint meeting at 7:35 PM.

ANNOUNCEMENT

City Attorney Chris Diaz reported no action out of Closed Session.

PLEDGE

Mayor Tran led the pledge of allegiance.

INVOCATION

Vice Mayor Nuñez led a prayer to start the meeting.

PRESENTATIONS

Mayor Tran proclaimed May 2020 as *Teacher Appreciation Month* and *Affordable Housing and Building Safety Month*. He also proclaimed May 17 - 23, 2020 as *Public Works Week*.

PUBLIC FORUM

City Clerk Mary Lavelle read aloud comments from residents Voltaire Montemayor, Tom Valore, Inderjit Mundra, and Warren Wettenstein.

ANNOUNCEMENTS

Mayor Tran and Vice Mayor Nuñez requested to light up City Hall with blue and gold colors to celebrate local High School Seniors graduation. He requested using City funds from the Community Promotions budget, in the coming month. The Mayor asked all Councilmembers if they agreed and consensus was heard.

Vice Mayor Nuñez had ideas for the City Council Small Business Assistance Subcommittee: consider use of Community Development Block Grant funds for loans, establish parklets, use Arts funding for restaurants to do something artistic, and other ideas to help small businesses in Milpitas.

Councilmember Dominguez thanked Second Harvest, staff and volunteers who in the recent food distribution for Milpitas families. She also thanked Isert group, which collected food for the distribution.

**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, no conflicts or contributions were reported.

APPROVAL OF AGENDA

Motion: to approve the City Council agenda, as submitted

Mayor Tran asked to hear item No. 15 (Agreement with City Manager) after the Public Hearings.

Motion/Second: Vice Mayor Nuñez Councilmember Dominguez

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

CONSENT CALENDAR

Motion: to approve consent calendar including items no. C1, C2, C4, C5, C7, C8 and C9

Vice Mayor Nuñez asked to removed agenda items no. C3 (Housing Authority loan term extension) and no. C6 (Amendment with De Novo Planning Group) from consent.

City Clerk read aloud one comment on item no. C5, from resident Puneet Sandhu.

Motion/Second: Vice Mayor Nuñez/Councilmember Montano

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

- C1. Council Calendars Received the calendar of upcoming meetings for May 2020.
- C2. Meeting Minutes Approved City Council meeting minutes of April 14 and 21 (2), 2020.
- 3. Loan Term Extension This Housing Authority topic was pulled from consent, and was not heard.
- C4. COPS Grant Accepted the 2020 Citizen Options for Public Safety Grant in the amount of \$115,531 and approve a budget appropriation to the Police Department’s operating budget.
- C5. Report to HCD Received the 2019 General Plan Annual Progress Report and authorized submittal of the report to the Governor’s Office of Planning and Research (OPR).
- 6. Amendment No. 1 with De Novo Planning Item was removed from consent and was not heard.
- C7. Reappoint Two Commission members Re-appointed Commissioner Casey McNeil and Alternate Member No. 2 Juliette Gomez to new 3-years terms on the Economic Development and Trade Commission. Terms would expire at the end of April of 2023.
- C8. Amendment No. 1 to MOU with Valley Water Approved and authorized the City Manager to execute Amendment No. 1 to the Memorandum of Understanding with the Valley Water District Establishing a mutual waiver of fees for City and District Capital Improvement Program projects.
- C9. Suspension of Carry Out Bags law Received and accepted the report on suspension of the state’s Carry-Out Bag (including grocery shopping bags at no charge) law under Executive Order N-54-20.

PUBLIC HEARINGS

- 10. McCarthy Ranch LLMD No. 95-1 City Engineer Steve Erickson provided a report on the McCarthy Ranch Landscape and Lighting Maintenance District, for the landscaped area along N. McCarthy Blvd., and reviewed the need for assessment annually to cover costs of maintenance.

Mayor Tran opened the public hearing and no comments were submitted.

Motion: to close the public hearing, after hearing no comments

Motion/Second: Councilmember Montano/Vice Mayor Nuñez

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

Motion: to adopt Resolution No. 8971 confirming the assessment and ordering the levy for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch for Fiscal Year 2020-21

Motion/Second: Councilmember Phan/Councilmember Montano

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

**11. Sinclair Horizon LLMD
No. 98-1**

Mr. Erickson next provided a report on the Sinclair Horizon Landscape and Lighting Maintenance District, for the neighborhood developed near Los Coches and Sinclair Frontage Road, and reviewed the need for assessment annually to cover costs of maintenance.

Mayor Tran opened the public hearing.

City Clerk read aloud comments from two residents, Voltaire Montemayor and Urvishkumar Mehta.

Motion: to close the public hearing, following two comments

Motion/Second: Vice Mayor Nuñez/Councilmember Dominguez

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

Motion: to adopt Resolution No. 8972 confirming the assessment and ordering the levy for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon for Fiscal Year 2020-21

Motion/Second: Councilmember Dominguez/Councilmember Phan

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

**12. Ordinance No. 305 for
medical billing fees**

Milpitas Fire Department Battalion Chief Geoff Maloon described the proposed ordinance, in order to impose appropriate fees for transport via the Fire Department's new ambulance. Standard transport fee was \$1,710.12, established by the County, and most often was billed to an insurance carrier (not the patient). The fee would be added to the City's Master Fee Schedule.

Mayor Tran opened the public hearing and heard no comments.

Motion: to close the public hearing, following no public comment

Motion/Second: Councilmember Montano/Councilmember Dominguez

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

City Attorney Diaz read aloud the title of Ordinance No. 305, "An Uncodified Ordinance of the City Council of the City of Milpitas Establishing Fees for Ambulance and Emergency Medical Services."

Motion: to waive the first reading beyond the title and introduce Ordinance No. 305 to establish ambulance and emergency medical services fees

Motion/Second: Councilmember Phan/Councilmember Dominguez

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

COMMUNITY DEVELOPMENT

13. Community ID and Branding Study

Assistant City Manager Ashwini Kantak introduced a summary of the study done for community identification and branding of the City of Milpitas. Articulate Solutions consultants made a presentation to the City Council. Staff recommended proceeding with Phase II after the end of the COVID-19 emergency.

City Clerk read aloud comments from three residents, Inderjit Mundra, Voltaire Montemayor, and Urvishkumar Mehta.

Motion: to receive the report from staff and consultant firm Articulate Solutions on Phase I of the Community Identification and Branding Study, and directed staff to proceed on to Phase II

Motion/Second: Councilmember Montano/Councilmember Dominguez

Motion carried by a vote of: AYES: 3
NOES: 2 (Nuñez, Phan)

At 11:00 PM, Mayor Tran agreed with the Vice Mayor's suggestion to complete items numbered 18, 17 and 16, and then to adjourn the meeting.

LEADERSHIP

14. IT Strategic Plan

Item was not heard.

15. Agreement with City Manager

Item was heard following the public hearings.

City Attorney Chris Diaz introduced the negotiated agreement for the City Council to confirm its hiring of Steve McHarris on a full-time basis as the permanent City Manager for the City of Milpitas. Mayor and City Councilmembers offered words of support and appreciation to Mr. McHarris.

City Clerk read aloud comments from two residents, Voltaire Montemayor and Urvish Mehta.

Mr. McHarris thanked the Mayor and Councilmembers for the permanent appointment, following his one year as the Interim City Manager of Milpitas.

Motion: to approve an Employment Agreement with Steven McHarris to serve as City Manager and directed staff to make minor modifications to the Unrepresented Employee Benefits Handbook

Motion/Second: Vice Mayor Nuñez/Councilmember Dominguez

AYES: 5
NOES: 0

REPORTS

16. Agenda Item requests

Item was not heard.

17. Support for Laura's Law Councilmember Phan addressed his colleagues, explaining the purpose of Laura's Law regarding citizens' mental health issues and need for conservatorship under specific conditions, in cooperation with the County mental health services.

City Clerk read aloud one public comment from Voltaire Montemayor.

Motion: to support "Laura's Law" and to direct staff to send a letter of support to the County Board of Supervisors

Motion/Second: Councilmember Phan/Vice Mayor Nuñez

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

18. Resolution (CEDAW) Councilmember Dominguez asked for this resolution, along with Councilmember Phan, in order to support the U.N. effort to reduce or eliminate all discrimination against women.

Vice Mayor Nuñez wanted a specific date per Resolution (item No. 3 on page 2), when the City Manager would come back to City Council with a report and actions. City Attorney Diaz said he could work with Councilmember Dominguez to finalize the resolution with a firm date for the ordinance.

Motion: to adopt Resolution No. 8973 in support of the principles of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, known as CEDAW, and include the date for report back by June 16, 2020

Motion/Second: Councilmember Montano/Vice Mayor Nuñez

AYES: 5
NOES: 0

AGENDA PREVIEW

19. Preview next Agenda City Council received the preview list of anticipated agenda items for June 2, 2020.

ADJOURNMENT

Mayor Tran adjourned the joint meeting at 11:14 PM.

Meeting minutes submitted by Mary Lavelle, City Clerk



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt Ordinance No. 305 Establishing Fees for Ambulance and Emergency Medical Services
Category:	Public Safety
Meeting Date:	6/2/2020
Staff Contact:	Geoffrey Maloon, 408-586-2818
Recommendation:	Waive the second reading and adopt Ordinance No.305 Establishing Fees for Ambulance and Emergency Medical Services

Background:

Ordinance No. 305 was introduced at the May 19 City Council meeting. The ordinance is now ready for its second reading and adoption. While considering this ordinance, Council inquired about the budgeting of estimated ambulance fee revenue.

Analysis:

As part of bringing the various ambulance fees for Council consideration, the City's fee consultant worked with the Fire Department to establish the cost recovery level for the per transport fee of \$1,710.12. Per the staff report, with the fee of \$1,710.12, the City is expected to recover 24% of the estimated cost to provide medical transport services. In other words, for every transport, on the average, the City's General Fund subsidizes the service with an estimated amount of \$5,363 or 76% of the total cost of \$7,073. Since the General Fund pays for the majority cost of the service, the estimated revenue of \$150,000 is allocated to the General Fund. Once the ambulance service is financially self-sufficient and fully recovers the costs for services provided, an enterprise fund for ambulance service could be established and all revenues would be allocated to such a fund.

Recommendation:

Waive the second reading and adopt Ordinance No. 305 establishing fees for ambulance and emergency medical services.

Attachments:

Ordinance Number 305

REGULAR

NUMBER: 305

TITLE: AN UNCODIFIED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS ESTABLISHING FEES FOR AMBULANCE AND EMERGENCY MEDICAL SERVICES

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of May 19, 2020, upon motion by Councilmember Phan, and was adopted (second reading) by the City Council at its meeting of _____, upon motion by _____. The Ordinance was duly passed and ordered published in accordance with law 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

RECITALS AND FINDINGS:

WHEREAS, cities and counties may contract with one another for the provision of municipal services, including ambulance services (Cal. Government Code, § 54980 et seq.); and

WHEREAS, the County of Santa Clara Emergency Medical Services Agency is responsible for system coordination, medical oversight, and support of the delivery of all emergency medical services of provider agencies within Santa Clara County (Cal. Health and Safety Code, §§ 1797.204 and 1798 et seq.); and

WHEREAS, the City of Milpitas Fire Department provides 911 emergency medical and ambulance services pursuant to a 911 Emergency Medical Services Provider Agreement between the City of Milpitas and the County of Santa Clara Emergency Medical Services Agency; and

WHEREAS, the County of Santa Clara has established the rates of ambulance and emergency medical services fees and billing requirements as set forth in **Exhibit “A”** incorporated herein by this reference, and are calculated so as not to exceed the estimated cost to provide ambulance services; and

WHEREAS, the City is authorized to charge a fee to cover the cost of any service which the City provides (Cal Const art XI, §§ 7 and 9) and to adopt an ordinance establishing such fees at a meeting conducted by the City Council following notice of the City Council’s intention to establish such fees (Cal. Government Code, § 66018); and

WHEREAS, the City has provided notice of the fees set forth herein and has made available to the public, at least ten (10) days in advance hereof, the data indicating the estimated cost required to provide the services.

NOW, THEREFORE, the City Council of the City of Milpitas does ordain as follows:

SECTION 1. RECORD AND BASIS FOR ACTION

The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2. FEES FOR AMBULANCE AND EMERGENCY MEDICAL SERVICES ADOPTED

The fees for ambulance and emergency medical services set forth in Exhibit “A” are hereby adopted. The City Council may, from time to time, amend the fees, increase or decrease the fees, add new fees for ambulance and emergency services, or delete fees, by a resolution of the City Council. The fees shall not exceed the costs reasonably borne by the City in providing ambulance-related and emergency medical services.

SECTION 3. RESPONSIBLE PARTY

Any and all charges will be billed to the responsible party and/or party receiving assistance as applicable. In the event that the responsible party is a minor, that minor’s parent or legal guardian will be billed. When charges are not collected through the City’s normal billing procedure, collection may occur by any means permitted by law.

SECTION 4. CITY MASTER FEE SCHEDULE

The City Council hereby directs City staff to incorporate the fees and charges approved in Section 1 of this Ordinance to the FY 2020-21 Master Fee Schedule, as approved by Resolution No. 8969. All other provisions of the FY 2020-21 Master Fee Schedule shall remain in full force and effect.

SECTION 5. SEVERABILITY

The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

SECTION 6. EFFECTIVE DATE AND POSTING

In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.

EXHIBIT A



Fee Schedule

City of Milpitas

AMBULANCE

Activity Description	Fee	Charge Basis	Y'rly In'fltr	Note
SERVICE FEES				
1 ALS-1 (Advanced Life Support)	\$1,710.12		N	
2 ALS-2 (Advanced Life Support)	\$1,710.12		N	
3 Mileage	\$55.42		N	
4 Hourly Ambulance Standby	\$216.41		N	
5 Hourly Paramedic – Individual	\$108.21		N	
6 Hourly EMT – Individual	\$72.14		N	
EQUIPMENT/SUPPLIES				
7 Airway/Nasal	\$33.25		N	
8 Airway/Oral	\$18.14		N	
9 Bag Valve Mask	\$110.34		N	
10 Bandage, Elastic	\$8.91		N	
11 Bandages Triangular	\$15.11		N	
12 Bed Pan	\$15.11		N	
13 Blanket, Disposable	\$36.28		N	
14 Blood Glucose Test	\$30.23		N	
15 Burn Sheet	\$55.92		N	
16 Cervical Collar	\$108.83		N	
17 Cold/Hot Pack	\$22.67		N	
18 Cpap Procedure	\$468.56		N	
19 Defib Pads	\$66.50		N	
20 Dressing - Major	\$15.11		N	
21 Dressing - Minor	\$15.11		N	
22 Ekg Electrodes	\$28.72		N	
23 Ekg Monitor 12 Lead	\$143.59		N	
24 Emesis Basin/Bag	\$11.78		N	
25 Endotracheal Tube Introducer/Gum Elastic Bougie	\$100.97		N	
26 Headbed Immobilizer	\$25.69		N	
27 Hepa Mask	\$37.79		N	
28 Hood, Spit Sock	\$24.89		N	
29 Intravenous Saline Lock	\$79.58		N	
30 Intravenous Infusion Set	\$134.52		N	
31 Intravenous Start Kit	\$60.41		N	
32 Intubation Supplies	\$68.02		N	
33 IO Supplies	\$450.42		N	
34 King Vision Video Larynoscope Channel Blade	\$25.00		N	
35 Lma Supreme - Supraglottic Airway	\$30.00		N	
36 Meconium Aspirator	\$13.44		N	
37 Nebulizer	\$71.04		N	
38 Non-Rebreather Mask	\$16.63		N	
39 O2 Cannula With End-Tidal	\$51.35		N	
40 O2 Mask/Cannula	\$34.76		N	
41 OB Pack	\$120.92		N	
42 Patient Mover	\$48.51		N	
43 Plueral Decompression	\$102.85		N	
44 Pulse Oximetry	\$63.48		N	
45 Razor, Disposable	\$1.26		N	
46 Splint Arm	\$22.67		N	
47 Splint Leg	\$22.67		N	

City of Milpitas

AMBULANCE

Activity Description	Fee	Charge Basis	Y'rly In'fltr	Note
48 Splinting (Extremity)	\$108.83		N	
49 Strap, 5 Foot Immobilization	\$16.73		N	
50 Suction Tube	\$46.86		N	
51 Suctioning	\$95.22		N	
52 Temperature Measurement	\$25.52		N	
53 Tourniquet, Combat	\$90.88		N	
54 Universal Precautions	\$42.32		N	
55 Urinal	\$15.11		N	
MEDICATIONS				
56 Acetaminophen (Ofirmev)	\$183.00		N	
57 Activated Charcoal	\$30.71		N	
58 Adenosine	\$87.67		N	
59 Albuterol	\$36.28		N	
60 Amiodarone	\$58.31		N	
61 Aspirin	\$9.07		N	
62 Atrophine	\$25.69		N	
63 Atrophine High Dose	\$121.21		N	
64 Benadryl	\$25.69		N	
65 Calcium Chloride	\$25.69		N	
66 Dextrose 10% 25G In 250ML Bag	\$36.63		N	
67 Dopamine Drip	\$81.62		N	
68 Duodote Autoinjector	\$75.95		N	
69 Epi 1:1,000 1Mg/1Cc	\$42.32		N	
70 Epi 1:10,000	\$42.32		N	
71 Glucagon	\$430.77		N	
72 Glucose Paste	\$13.16		N	
73 Lidocaine 2%	\$33.25		N	
74 Midazole	\$2.40		N	
75 Morphine	\$25.69		N	
76 Narcan	\$48.37		N	
77 Nitroglycerin Tablet	\$1.29		N	
78 Nitropaste	\$11.77		N	
79 Normal Saline Flush Pls 10Cc	\$22.60		N	
80 Normal Saline 1000Cc	\$146.61		N	
81 Ondansetron Injectable	\$52.60		N	
82 Ondansetron Oral Dissolving Tablet	\$43.44		N	
83 Sodium Bicarb	\$45.34		N	
84 Sterile Water	\$36.28		N	

* All fees shown are intended to mirror Santa Clara County fee schedule.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Authorizing the Purchase of a RapidView IBAK PANORAMO 150 4K 360-Degree Camera System for the Public Works Department Sanitary Sewer System from Jack Doheny Companies Through a Sourcewell Cooperative Contract in the Amount of \$147,777.04
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	6/2/2020
Staff Contacts:	Tony Ndah, 408-586-2602 Chris Schroeder, 408-586-3161
Recommendation:	Adopt a resolution authorizing the purchase of a RapidView IBAK PANORAMO 150 4K 360-Degree Camera System for the Public Works Department Sanitary Sewer System from Jack Doheny Companies through a Sourcewell cooperative contract in the amount of \$147,777.04.

Background:

As part of the City’s Capital Improvement Program, the City Council approved Project No. 6119 – Sanitary Sewer Condition Assessment Program, which provides funding to assess the condition of the City’s sanitary sewer system. There are currently over 175 miles of sanitary sewer pipeline owned and maintained by the City of Milpitas. The State Water Resources Control Board Order No. 2006-0003-DWQ requires sanitary sewer operators to develop a rehabilitation and replacement program to identify and prioritize system deficiencies and implement short-term and long-term rehabilitation actions to address each deficiency. The program should include regular visual and TV inspections of manholes and sewer pipes, and a system for ranking the structural condition of sewer pipes and scheduling rehabilitation.

A tried and tested method for accurately determining the structural condition of sewer system conditions is through Closed-Circuit Television (CCTV) survey. CCTV survey involves passing a small CCTV camera through the sanitary sewer pipes and recording the information. The video assessment is then reviewed by a certified field technician to identify defects and deficiencies in the pipelines, which translates to a score for each segment of the pipe surveyed.

Panoramic or fisheye cameras are capable of documenting a 360-degree view of existing sewer pipe or manhole and can zoom in on specific defects that are of concern. With the purchase of this technology, pipe defect evaluation can be performed back in the office rather than in the field by the CCTV technician, which will significantly improve the number of miles of sewer pipeline that can be inspected in the field.

Analysis:

On May 2, 2017, the City Council, in accordance with section I-2-3.09 “Sole Source Procurement” of the Milpitas Municipal Code, approved the designation of Jack Doheny Companies as the sole source for the purchase of the RapidView IBAK CCTV all-in-one sewer inspection vehicle. Jack Doheny Companies is RapidView IBAK North America’s only distributor for the contractor and municipal markets in California and the only source for advanced fiber optic mainline pipe inspection systems, including the RapidView IBAK PANORAMO 150 4K 360-degree camera system for sewer pipelines and manholes. RapidView equipment is now available through a competitively bid cooperative contract. Therefore, staff recommends a cooperative

purchase through Sourcewell for the RapidView IBAK PANORAMO 150 4K 360-degree camera system from Jack Doheny Companies.

Cooperative purchasing through Sourcewell is specifically authorized pursuant to Milpitas Municipal Code Section I-2-3.08 "Cooperative Procurement." The Purchasing Agent reviewed all of the documentation from the Sourcewell Request for Proposal No. 122017 entitled "Sewer Vacuum, Hydro-Excavation, and Street Sweeper Equipment with Related Accessories and Supplies" and has determined that the underlying purchase was made using competitive bidding procedures at least as restrictive as the City of Milpitas' Purchasing Division. Contract #122017-RVL is current through February 20, 2022. Sourcewell contracts provide nationally bid volume pricing not otherwise available for a single purchase.

The RapidView IBAK PANORAMO system is a unique scanner technology for highly efficient sewer pipe inspections. Not only will the RapidView IBAK PANORAMO 150 4K 360-degree camera system provide higher resolution and capture every inch of the manhole from multiple angles, it will also enable timely, effective, and efficient evaluation of the City's sanitary sewer pipeline system. The purchase of the camera system includes the costs for retrofitting the City's RapidView IBAK CCTV inspection vehicle.

Policy Alternative:

Alternative: City Council does not approve the purchase.

Pros: The City does not spend funds to purchase the RaidView IBAK PANORAMO 150 4K 360-Degree Camera System.

Cons: The City will not be equipped with the resources to operate the CCTV camera truck in an effective and efficient manner. The RapidView IBAK PANORAMO 150 4K 360-degree camera system will enable staff to take video and perform inspections more effectively and efficiently, resulting in the prevention of sewer backups and better asset management and evaluation of the City's sanitary sewer system.

Reason not recommended: The City purchased RapidView IBAK CCTV Inspection Vehicle in 2017 with the intention of upgrading the camera to a PANORAMO 360-degree camera system. The purchase of a panoramic camera for the existing CCTV unit will enable timely, effective, and efficient evaluation of the City's sanitary sewer pipeline system per the City's Sanitary Sewer Management Plan.

Fiscal Impact:

The total cost for the purchase of the RapidView IBAK PANORAMO 150 4K 360-degree camera system is \$147,777.04. There is sufficient funding available in CIP No. 6119 – Sanitary Sewer Condition Assessment Program for the purchase of the panoramic camera system.

California Environmental Quality Act:

By the definition provided in the CEQA Guidelines Section 15378, this action does not qualify as a "project" for the purpose of CEQA as this action has no potential to result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

Recommendation:

Adopt a resolution authorizing the purchase of a RapidView IBAK PANORAMO 150 4K 360-Degree Camera System for the Public Works Department Sanitary Sewer System from Jack Doheny Companies through a Sourcewell cooperative contract in the amount of \$147,777.04.

Attachments:

1. Resolution
2. Jack Doheny Companies Sourcewell Quote #14760 dated 4/20/20

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING THE PURCHASE OF A RAPIDVIEW IBAK PANORAMO 150 4K 360-DEGREE CAMERA SYSTEM FOR THE PUBLIC WORKS DEPARTMENT FROM JACK DOHENY COMPANIES THROUGH A SOURCEWELL COOPERATIVE CONTRACT IN THE AMOUNT OF \$147,777.04

WHEREAS, as part of the City’s Capital Improvement Program, the City Council approved Project No. 6119 – Sanitary Sewer Condition Assessment Program, which provides funding to assess the condition of the City's sanitary sewer system; and

WHEREAS, there are currently over 175 miles of sanitary sewer pipeline owned and maintained by the City of Milpitas; and

WHEREAS, the State Water Resources Control Board Order No. 2006-0003-DWQ requires sanitary sewer operators to develop a rehabilitation and replacement program to identify and prioritize system deficiencies and implement short-term and long-term rehabilitation actions to address each deficiency; and

WHEREAS, the program should include regular visual and TV inspections of manholes and sewer pipes, and a system for ranking the structural condition of sewer pipes and scheduling rehabilitation; and

WHEREAS, a tried and tested method for accurately determining the structural condition of sewer system conditions is through Closed-Circuit Television (CCTV) survey; and

WHEREAS, with the purchase of this technology, pipe defect evaluation can be performed back in the office rather than in the field by the CCTV technician, which will significantly improve the number of miles of sewer pipeline that can be inspected in the field; and

WHEREAS, on May 2, 2017, the City Council, in accordance with Milpitas Municipal Code Section I-2-3.09 (Sole Source Procurement), approved the designation of Jack Doheny Companies as the sole source for the purchase of the RapidView IBAK CCTV all-in-one sewer inspection vehicle; and

WHEREAS, Jack Doheny Companies is RapidView IBAK North America’s only distributor for the contractor and municipal markets in California and the only source for advanced fiber optic mainline pipe inspection systems, including the PANORAMO 150 4K 360-degree camera system for sewer pipelines and manholes; and

WHEREAS, RapidView equipment is now available through a competitively bid cooperative contract; and

WHEREAS, staff recommends a cooperative purchase through Sourcewell for the RapidView IBAK PANORAMO 150 4K 360-degree camera system from Jack Doheny Companies; and

WHEREAS, cooperative purchasing through Sourcewell is specifically authorized pursuant to Milpitas Municipal Code Section I-2-3.08 (Cooperative Procurement); and

WHEREAS, the Purchasing Agent reviewed all of the documentation from the Sourcewell Request for Proposal No. 122017 entitled “Sewer Vacuum, Hydro-Excavation, and Street Sweeper Equipment with Related Accessories and Supplies” and has determined that the underlying purchase was made using competitive bidding procedures at least as restrictive as the City of Milpitas’ Purchasing Division; and

WHEREAS, Sourcewell contract #122017-RVL is current through February 20, 2022 and Sourcewell contracts provide nationally bid volume pricing not otherwise available for a single purchase; and

WHEREAS, the total cost for the purchase of the RapidView IBAK PANORAMO 150 4K 360-degree camera system is \$147,777.04 and the funding to cover the purchase of the camera system has been included in CIP No. 6119 – Sanitary Sewer Condition Assessment Program.

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 approves the purchase of the RapidView IBAK PANORAMO 150 4K 360-degree camera system from Jack Doheny Companies through a Sourcewell cooperative contract in the amount of \$147,777.04.

PASSED AND ADOPTED this ____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Rich Tran

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney



Date: 4/20/2020
Branch: 04-Antioch



Sourcewell Contract #122017-RVL

CUSTOMER: _____ City of Milpitas
ADDRESS: _____ 455 East Calaveras Blvd.
CITY, STATE, ZIP: _____ Milpitas, CA 95035
PHONE: _____ 408/586-3135

PROPOSAL ID: 14760

JACK DOHENY COMPANY

Reels:

1	V8029022	FO X2 4K Conversion kit from KW505.2 to KW505.2 4K	\$ 6,023.00	\$ 6,023.00
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Camera Cable:

1	80071200	FOX2 4K Camera Cable Type 00/20 - 1640 feet	\$ 16,146.00	\$ 16,146.00
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HD Systems:

1	800628140	KKA-16-12 HD to Standard Cable adapter (required if using non-HD)	\$ 3,510.00	\$ 3,510.00
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Panorama 150 Sytem and Accessories:

1	V9055004	PANORAMO 150 4K 360 Degree Camera System	\$ 103,213.00	\$ 103,213.00
1	905501631	Additional Weight Kit for PANO150 (Heavy and Light)	\$ 1,075.00	\$ 1,075.00

1	Repair	Labor	\$ 1,500.00	\$ 1,500.00
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Wincan Software:

1	2210+225	Scan Explorer PANORAMO	\$ 8,300.00	\$ 8,300.00
1	IBAK-2225-PANO	IBAK Panorama License	\$ 2,800.00	\$ 2,800.00

Sourcewell Build-Quote Summary

Module/Options/Chassis Total:	\$ 131,467.00
Options Sourcewell Discount 4%:	\$ 5,258.68
Module/Options Total per Sourcewell Price Schedule:	\$ 126,208.32
Additional	\$ 11,100.00
Total with Module, Chassis and All Options:	\$ 137,308.32
Freight and PDI:	\$ 700.00
Field Training:	\$ 2,000.00
Total:	\$ 140,008.32
JDC Discount:	\$ (4,433.05)
Total with Discount:	\$ 135,575.27
Sales Tax - Milpitas, CA 9%:	\$ 12,201.77
Total:	\$ 147,777.04

Terms and Conditions

- Acceptance of this Proposal is subject to availability of the Equipment listed above.
- Sales Price does not include any applicable sales taxes. Buyer is responsible for and agrees to pay all applicable sales tax.
- The Sale of New Equipment Terms and Conditions are incorporated into and made a part of this Proposal upon acceptance and execution of this Proposal by both parties.
- Execution of this Proposal by Seller and Buyer constitutes a binding agreement between the parties.
- All payments to be sent by Wire/ACH or mailed to Jack Doheny Companies, ATTN: Accounts Receivable, P.O. 609, Northville, Michigan 48167. Please reference the Invoice No. on all payments.
- If this Proposal is not executed by both parties within thirty (30) calendar days from the Proposal Date, this Proposal shall become null and void, unless subsequently executed by both Buyer and Seller.

Thank you for your consideration of this proposal.

Sincerely yours,

Stephanie Prescott

Stephanie Prescott
Regional Sales Representative
760/644-5147

StephaniePrescott@dohenycompany.com

This proposal becomes a contract for delivery and payment of the merchandise listed above only when signed by the customer or one of its officers.

Customer: _____

By: _____

Date: _____



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Approving the Purchase from Axon Enterprise, Inc., of 10 Body Worn Cameras, Conducted Electrical Weapons, Accessories and a Supplemental Subscription to Evidence.com, Cloud-Based Storage, for a Total Two-Year Cost of \$53,965.45, Approving Standardization of Axon Enterprise, Inc., Equipment as the Standard Brand for the City of Milpitas, and Authorizing the City Manager to Execute Amendment No. 2 to the Agreement with Axon Enterprise, Inc.
Category:	Consent Calendar-Public Safety
Meeting Date:	6/2/2020
Staff Contacts:	Jared Hernandez, Milpitas Police Captain 408-586-2406 Chris Schroeder, Purchasing Agent, 408-586-3161
Recommendation:	Adopt a Resolution approving the purchase from Axon Enterprise, Inc., of 10 Body Worn Cameras, Conducted Electrical Weapons, Accessories and a Supplemental Subscription to Evidence.com cloud-based storage, for a total two-year cost of \$53,965.45, approving standardization of Axon Enterprise, Inc., equipment as the standard brand for the City of Milpitas, and authorizing the City Manager to execute Amendment No. 2 to the Agreement with Axon Enterprise, Inc.

Background:

On May 6, 2008, City Council pursuant to Municipal Code Section I-2-3.13 approved standardization of TASER International, Inc. conducted electrical weapons (tasers/stun guns) and accessories as the brand of choice for the City of Milpitas Police Department for ten years. Since March of 2007, the City of Milpitas Police Department has purchased 47 conducted electrical weapons including supplies, parts and training from TASER International, Inc. Nine years after the purchase of the original 47 conducted electrical weapons reached the end of their useful life and were replaced under the approved standardization. On May 5, 2018, the standardization designation expired.

On February 7, 2017, the City entered into a Master Services and Purchasing Agreement with TASER International, Inc., effective December 31, 2016, and pursuant to Municipal Code Section I-2-3.09 approved the sole source purchase of 65 body worn cameras, conducted electrical weapons, accessories and a subscription to Evidence.com a cloud-based storage solution, for a total five year cost \$444,982.03 (the "Agreement").

On April 5, 2017, TASER International formally changed its business name to Axon Enterprise, Inc., to reflect the evolution of the company from a weapons manufacturer to a full solutions provider of cloud and mobile software, connected devices, wearable cameras, and conducted electrical weapons.

On April 16, 2019, City Council approved Amendment No. 1 to the Agreement, allowing the sole source purchase of an additional 15 Axon Enterprise, Inc., body worn cameras, conducted electrical weapons, accessories and a supplemental subscription to Evidence.com, a cloud-based storage solution, for \$85,734.83, for a new total maximum Agreement amount of \$530,716.86.

Analysis:

The Police Department now requests the purchase of an additional 10 Axon body worn cameras, conducted electrical weapons, accessories and a supplemental subscription to Evidence.com, a cloud-based storage to

accommodate an increase in staffing and maintain a sufficient surplus of equipment in the event of damage or malfunction. The total additional cost is \$53,965.45 over the remaining two years of the contract.

In June 2017, 65 units were deployed to 58 sworn staff assigned to patrol services. Seven units were held in reserve as immediate replacements for lost, damaged or malfunctioning units. Since the initial deployment of the 65 Axon Body Worn Cameras, Tasers, and Taser cameras, the Milpitas Police Department's sworn staffing has increased. Additionally, four Community Service Officer (CSO) positions were added to the police department. To accommodate the increase in staffing and to broaden the deployment of body worn camera units to the Community Service Officers and Detectives assigned to the Bureau of Investigations, the Milpitas Police Department requests to purchase an additional ten Axon body worn cameras, conducted electrical weapons, accessories and a supplemental subscription to Evidence.com, a cloud-based storage solution.

The Milpitas Municipal Code Section I-2-3.13 requires that the City Council approve the Standardization of supplies, materials or equipment based on the determination of the Purchasing Agent that the standardization of the supplies, materials or equipment is required for purposes of matching existing supplies, materials or equipment for proper operation of a particular piece of equipment or a City program for up to ten years. Standardization will also reduce repair and maintenance costs, simplify user training, increase the availability of spare part and eliminate the need for modifications to existing equipment.

Axon International, Inc., is the only known entity that manufactures and distributes this type of body worn cameras and conducted electrical weapons, both of which use the Evidence.com platform. No other vendor or manufacturer offers the same or similar products.

Policy Alternative:

Alternative: Do not adopt resolution approving purchase of additional Axon Body Worn Cameras.

Pros: No additional City funds would be expended for the purchase or ongoing maintenance of Axon Body Worn Cameras.

Cons: Approximately ten Milpitas Police Officers and/or Community Service Officers would be working without Body Worn Cameras. Body Worn Cameras have supported police operations in memorializing statements and been beneficial in collecting evidence related to police performance and conduct. The use of Body Worn Cameras helps to support or refute claims of misconduct and, therefore, helps to reduce City liability.

Reason alternative not recommended: Axon Body Worn Cameras are fully integrated into police operations and the use of this technology will continue to help in gathering evidence in both criminal and civil cases.

Fiscal Impact:

Sufficient funds are available in the Police Department's FY 2019-20 budget to purchase ten additional body worn cameras, conducted electrical weapons, accessories and a supplemental subscription to Evidence.com, a cloud-based storage solution for \$38,113.64 and the first year service agreement for \$15,851.81. The Master Services and Purchasing Agreement for the remaining one year in the amount of \$15,851.81 is subject to appropriation of funds. The total two-year contract is \$53,965.45.

California Environmental Quality Act:

By the definition provided in the California Environmental Quality Act (CEQA) Guidelines Section 15378, this action does not qualify as a "project" for the purpose of CEQA.

Recommendation:

Adopt a Resolution approving the purchase from Axon Enterprise, Inc., of 10 Body Worn Cameras, Conducted Electrical Weapons, Accessories and a supplemental subscription to Evidence.com cloud-based storage, for a total two-year cost of \$53,965.45, approving standardization of Axon Enterprise, Inc., equipment as the standard brand for the City of Milpitas, and authorizing the City Manager to execute Amendment No. 2 to the Agreement with Axon Enterprise, Inc.

Attachments:

- 1) Resolution
- 2) Exhibit A – Quotation from Axon Enterprise
- 3) Amendment No. 2 to the Master Services and Purchasing Agreement
- 4) Amendment No. 1 to the Master Services and Purchasing Agreement
- 5) TASER International, Inc. Master Services and Purchasing Agreement

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING THE PURCHASE FROM AXON ENTERPRISE, INC., OF TEN BODY WORN CAMERAS, CONDUCTED ELECTRICAL WEAPONS, ACCESSORIES AND A SUPPLEMENTAL SUBSCRIPTION TO EVIDENCE.COM CLOUD-BASED STORAGE SOLUTION FOR A TOTAL TWO-YEAR COST OF \$53,965.45 , APPROVING THE STANDARDIZATION OF THE AFOREMENTIONED AXON ENTERPRISE, INC., EQUIPMENT AS THE STANDARD BRAND FOR THE CITY OF MILPITAS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 2 TO THE AGREEMENT WITH AXON ENTERPRISE, INC., FOR A NEW TOTAL MAXIMUM AGREEMENT AMOUNT OF \$584,682.31

WHEREAS, section I-2-3.09 of the Milpitas Municipal Code authorizes the City Council to award contracts without competition when the Purchasing Agent determines that there is only one source for the required supply or service; and

WHEREAS, on May 6, 2008, the City Council pursuant to Municipal Code Section I-2-3.13 approved the Standardization of TASER International, Inc., conducted electrical weapons (tasers/stun guns) and accessories as the brand of choice for the City of Milpitas Police Department.

WHEREAS, since March of 2007, the City of Milpitas Police Department has purchased 47 conducted electrical weapons, including supplies, parts and training from TASER International, Inc.; and

WHEREAS, over the next nine years, the original 47 conducted electrical weapons reached the end of their useful life and were replaced, and the standardization designation expired on May 5, 2018; and

WHEREAS, on February 7, 2017, the City entered into a five-year Master Services and Purchasing Agreement with TASER International, Inc., effective December 31, 2016, and pursuant to Municipal Code Section I-2-3.09 approved the Sole Source purchase of 65 body worn cameras, conducted electrical weapons, accessories and a supplemental subscription to Evidence.com, a cloud-based storage solution, for a total five-year cost of \$444,982.03 (the "Agreement"); and

WHEREAS, on April 5, 2017, TASER International, Inc., formally changed its business name to Axon Enterprise, Inc., to reflect the evolution of the company from a weapons manufacturer to a full solutions provider of cloud and mobile software, connected devices, wearable cameras, and conducted electrical weapons; and

WHEREAS, on April 16, 2019, the City Council approved Amendment No. 1 to the Agreement, and authorized the Sole Source Purchase of an additional fifteen Axon Enterprise, Inc., body worn cameras, conducted electrical weapons, accessories and a supplemental subscription to Evidence.com, a cloud-based storage solution, for \$85,734.83, resulting in a new total maximum Agreement amount of \$530,716.86; and

WHEREAS, Axon Enterprise, Inc., is the only known entity that manufactures and distributes this type of body-worn camera and conducted electrical weapons, both of which use the Evidence.com platform, and no other vendor or manufacturer offers the same or similar products; and

WHEREAS, Milpitas Municipal Code Section I-2-3.13 authorizes the City Council to approve the Standardization of supplies, materials or equipment based on the determination of the Purchasing Agent that the standardization of the supplies, materials or equipment is required for purposes of matching existing supplies, materials or equipment for proper operation of a particular piece of equipment or a City program for up to ten years. Standardization will also reduce repair and maintenance costs, simplify user training, increase the availability of spare part and eliminate the need for modifications to existing equipment and, as the previous standardization designation has expired, a new standardization designation must be authorized by City Council; and

WHEREAS, staff now desires to further amend the Agreement to allow for the purchase of an additional ten Axon Enterprise, Inc., body worn cameras, conducted electrical weapons, accessories and a supplemental subscription to Evidence.com, a cloud-based storage solution, to accommodate an increase in staffing and maintain a sufficient surplus in the event of damage or malfunction over the remaining two years of the contract for \$53,965.45, for a new total maximum Agreement amount \$584,682.31.

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 approves the standardization of Axon Enterprise, Inc., equipment as the Standard Brand for the City of Milpitas.
3. The City Council hereby approves the purchase of an additional ten Axon Enterprise, Inc., body worn cameras, conducted electrical weapons, accessories and a supplemental subscription to Evidence.com, a cloud-based storage solution, for a total two-year cost of \$53,965.45.
4. The City Council hereby authorizes the City Manager to execute Amendment No. 2 to the Agreement with Axon Enterprise, Inc., for said purchase, thereby increasing the Agreement amount of \$530,716.86 by \$53,965.45, for a new total maximum Agreement amount of \$584,682.31.

PASSED AND ADOPTED this ____ day of _____, 2020, 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



EXHIBIT A

Axon Enterprise, Inc.
17800 N 85th St.
Scottsdale, Arizona 85255
United States
Phone: (800) 978-2737

Q-239381-43944.745KP

Issued: 04/23/2020

Quote Expiration: 07/31/2020

Account Number: 105711

Payment Terms: Net 30 Delivery
Method: Fedex - Ground
Contract Number: 00010392

SALES REPRESENTATIVE

Kyle Panasewicz Phone:
(480) 905-2071 [Email: kylep@axon.com](mailto:kylep@axon.com) Fax: (480)
658-0673

PRIMARY CONTACT John

Torrez Phone: (408) 586-
2408 [Email: itorrez@ci.milpitas.ca.gov](mailto:itorrez@ci.milpitas.ca.gov)

SHIP TO

John Torrez
Milpitas Police Dept. - CA
1275 N. Milpitas Boulevard
Milpitas, CA 95035
US

BILL TO

Milpitas Police Dept. - CA
1275 N. Milpitas Boulevard
Milpitas, CA 95035
US

Year 1

Item	Description	Term (Months)	Quantity	List Unit Price	Net Unit Price	Total (USD)
Axon Plans & Packages						
80075	OFFICER SAFETY PLAN STANDARD BWC AND CEW BUNDLE: YEAR 1 PAYM		10	872.00	858.92	8,589.20
85110	EVIDENCE.COM INCLUDED STORAGE		400	0.00	0.00	0.00
80012	BASIC EVIDENCE.COM LICENSE: YEAR 1 PAYMENT		5	120.00	118.20	591.00
80022	PRO EVIDENCE.COM LICENSE: YEAR 1 PAYMENT		2	312.00	307.32	614.64
85110	EVIDENCE.COM INCLUDED STORAGE		50	0.00	0.00	0.00
85110	EVIDENCE.COM INCLUDED STORAGE		60	0.00	0.00	0.00
85115	OFFICER SAFETY PLAN STANDARD CEW TRUE UP PAYMENT		10	800.00	788.00	7,880.00
Hardware						
73202	AXON BODY 3 - NA10		10	699.00	688.52	6,885.20
73300	5 Year Officer Safety Plan AB3 Camera		10	0.00	0.00	0.00
11004	WARRANTY, 4 YEAR, X26P		10	0.00	0.00	0.00
70116	SPPM, SIGNAL CONNECTED BATTERY PACK, X2/X26P		10	0.00	0.00	0.00
11504	LEFT-HAND HOLSTER, X26P, BLACKHAWK		10	0.00	0.00	0.00
74028	WING CLIP MOUNT, AXON RAPIDLOCK		10	0.00	0.00	0.00
74020	MAGNET MOUNT, FLEXIBLE, AXON RAPIDLOCK		10	0.00	0.00	0.00
11534	USB-C to USB-A CABLE FOR AB3 OR FLEX 2		10	0.00	0.00	0.00

Year 1 (Continued)

Item	Description	Term (Months)	Quantity	List Unit Price	Net Unit Price	Total (USD)
Hardware (Continued)						
26810	TASER CAM, TCHD		10	570.00	561.45	5,614.50
26762	KIT, USB DOWNLOAD, TASER CAM HD		5	18.00	17.73	88.65
26763	WARRANTY, 4 YEAR, TASER CAM HD		10	150.00	147.75	1,477.50
11002	BLACK X26P CEW, HANDLE		10	0.00	0.00	0.00
Other						
73660	OSP AXON BODY 3 TRUE UP PAYMENT		10	350.00	344.75	3,447.50
					Subtotal	35,188.19
					Estimated Shipping	0.00
					Estimated Tax	2,925.45
					Total	38,113.64

Year 2

Item	Description	Term (Months)	Quantity	List Unit Price	Net Unit Price	Total (USD)
Axon Plans & Packages						
80076	OFFICER SAFETY PLAN STANDARD BWC AND CEW BUNDLE: YEAR 2 PAYM		10	1,308.00	1,288.38	12,883.80
85110	EVIDENCE.COM INCLUDED STORAGE		400	0.00	0.00	0.00
80013	BASIC EVIDENCE.COM LICENSE: YEAR 2 PAYMENT		5	180.00	177.30	886.50
80023	PRO EVIDENCE.COM LICENSE: YEAR 2 PAYMENT		2	468.00	460.98	921.96
85110	EVIDENCE.COM INCLUDED STORAGE		50	0.00	0.00	0.00
85110	EVIDENCE.COM INCLUDED STORAGE		60	0.00	0.00	0.00
					Subtotal	14,692.26
					Estimated Tax	1,159.55
					Total	15,851.81
Grand Total						53,965.45

Discounts (USD)

Quote Expiration: 07/31/2020

List Amount	50,640.00
Discounts	759.55
Total	49,880.45

**Total excludes applicable taxes*

Notes

This quote is co-termed with quote Q-61512 (executed contract #00010392). Year one has been pro-rated to 8 months to align with agency annual billing dates. This has been done according to an anticipated ship date range of 7/15/2020-7/31/2020 as the end date of these subscriptions is subject to change if the ship/start date changes.

Axon BWC hardware contained in this quote will be covered under the Technology Assurance Plan (TAP) and will be eligible for 1 replacement at the same time as the equipment originally deployed on this existing contract as determined by quote Q-61512. This will take place at the end of the contract on 4/14/2022.

Tax is subject to change at order processing with valid exemption.

Axon's Sales Terms and Conditions

This Quote is limited to and conditional upon your acceptance of the provisions set forth herein and Axon's Master Services and Purchasing Agreement (posted at www.axon.com/legal/sales-terms-and-conditions), as well as the attached Statement of Work (SOW) for Axon Fleet and/or Axon Interview Room purchase, if applicable. Any purchase order issued in response to this Quote is subject solely to the above referenced terms and conditions. By signing below, you represent that you are lawfully able to enter into contracts. If you are signing on behalf of an entity (including but not limited to the company, municipality, or government agency for whom you work), you represent to Axon that you have legal authority to bind that entity. If you do not have this authority, please do not sign this Quote.

Signature: _____ **Date:** _____
Name (Print): _____ **Title:** _____
PO# (Or write N/A): _____

Please sign and email to Kyle Panasewicz at kylep@axon.com or fax to (480) 658-0673

Thank you for being a valued Axon customer. For your convenience on your next order, please check out our online store buy.axon.com

The trademarks referenced above are the property of their respective owners.*** Axon

		SFDC Contract #: Order Type: RMA #: Address Used: SO #:
Review 1	Review 2	
Comments:		



**AMENDMENT NO. 2
TO THE
MASTER SERVICES AND PURCHASING AGREEMENT
WITH
AXON ENTERPRISE, INC.**

This Amendment No. 2 is entered into this _____ day of June 2020, by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "City"), and Axon Enterprise, Inc., a Delaware corporation (hereafter referred to as "Vendor"). City and Vendor are sometimes individually referred to as "Party" and collectively as "Parties" in this Amendment No 2.

RECITALS

WHEREAS, on May 6, 2008, City Council pursuant to Municipal Code Section I-2-3.13 approved the Standardization of TASER International, Inc., conducted electrical weapons (tasers/stun guns) and accessories as the brand of choice for the City of Milpitas Police Department. Since March of 2007, the City of Milpitas Police Department has purchased forty-seven (47) conducted electrical weapons, including supplies, parts and training from TASER International, Inc. Over the next nine (9) years, the original forty-seven (47) conducted electrical weapons reached the end of their useful life and were replaced; and

WHEREAS, on February 7, 2017, the City entered into a Master Services and Purchasing Agreement with TASER International, Inc., effective December 31, 2016, and pursuant to Municipal Code Section I-2-3.09 approved the Sole Source purchase of sixty-five (65) body worn cameras, conducted electrical weapons, accessories and a supplemental subscription to Evidence.com, a cloud-based storage solution, for a total five (5) year cost of \$444,982.03 (the "Agreement"); and

WHEREAS, on April 5, 2017, TASER International, Inc., formally changed its business name to Axon Enterprise, Inc., to reflect the evolution of the company from a weapons manufacturer to a full solutions provider of cloud and mobile software, connected devices, wearable cameras, and conducted electrical weapons; and

WHEREAS, on April 16, 2019, the Milpitas City Council approved the Sole Source Purchase of an additional fifteen (15) Axon Enterprise, Inc., body worn cameras, conducted electrical weapons, accessories and a supplemental subscription to Evidence.com, a cloud-based storage solution, for \$85,734.83, for a new total not-to-exceed contract amount of \$530,716.86 pursuant to Amendment No. 1 dated April 24, 2019; and

WHEREAS, Axon International, Inc., is the only known entity that manufacturers and distributes this type of body worn cameras and conducted electrical weapons, both of which use the Evidence.com platform. No other vendor or manufacturer offers the same or similar products; and

WHEREAS, the Parties now desire to amend the Agreement to approve the purchase of an additional ten (10) Axon Enterprise, Inc., body worn cameras, conducted electrical weapons, accessories and a supplemental subscription to Evidence.com, a cloud-based storage solution, to accommodate an increase in staffing and maintain a sufficient surplus in the event of damage or malfunction over the remaining two years of the contract for \$53,965.45 for a new total contract amount not to exceed \$584,682.31.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, the Parties agree to amend the Agreement as follows:

1. Increase the total not-to-exceed contract amount from Five Hundred Thirty Thousand Seven Hundred Sixteen Dollars and Eighty-Six Cents (\$530,716.86) by Fifty-Three Thousand Nine Hundred Sixty-Five Dollars and Forty-Five Cents (\$53,965.45), for a new total not-to-exceed contract amount of Five Hundred Eighty-Four Thousand Six Hundred Eighty-Two Dollars and Thirty-One Cents (\$584,682.31).
2. Exhibit A — Axon Enterprise, Inc. Quotation No. Q199765-43510.933CM, is attached hereto and incorporated herein, and shall be a “Quote” subject to all the terms, conditions, warranties and other rights set forth in the Master Services Agreement.
3. All other provisions of the Agreement not amended by this Amendment No. 2 shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Amendment No. 2 as of the date first written above.

[SIGNATURES ON THE FOLLOWING PAGE]

CITY OF MILPITAS

Approved By:

Steven G. McHarris, City Manager

Date

Approved As To Form:

Christopher J. Diaz, City Attorney

Approved:

Walter C. Rossmann, Risk
Manager/Director of Finance

Approved As To Content:

Armando Corpuz, Chief of Police

AXON ENTERPRISES, INC.

Signature

Name

Title

Date

DIR Registration Number (If
Applicable)

EXHIBIT A-1

(SEE ATTACHED: AXON ENTERPRISES QUOTE Q-239281-43944.745KP)



AMENDMENT NO. 1 TO THE AGREEMENT
WITH
AXON ENTERPRISES, INC.
FOR

THE SOLE SOURCE PURCHASE OF BODY WORN CAMERAS, CONDUCTED
ELECTRICAL WEAPONS WITH ASSOCIATED EQUIPMENT, AND A
SUPPLEMENTAL SUBSCRIPTION TO EVIDENCE.COM

This Amendment No. 1 is entered into this 24th day of April, 2019, by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "City") and AXON Enterprises, Inc., a Delaware corporation (hereafter referred to as "Vendor"). City and Vendor are jointly referred to hereinafter as the "Parties."

RECITALS:

WHEREAS, on May 6, 2008, the Milpitas City Council approved the standardization of TASER International, Inc., conducted electrical weapons (tasers/stun guns) and accessories as the brand of choice for the City of Milpitas Police Department, pursuant to Municipal Code Section I-2-3.13. Since March of 2007, the City of Milpitas Police Department has purchased forty seven (47) conducted electrical weapons, including supplies, parts and training from TASER International; and

WHEREAS, on February 24, 2017, the City entered into a Master Services and Purchasing Agreement with TASER International, Inc., effective December 31, 2016, for body worn cameras, conducted electrical weapons with associated equipment, and a subscription to Evidence.com, a cloud-based storage solution, for a total five (5) year cost of Four Hundred Forty Four Thousand Nine Hundred Eighty Two Dollars and Three Cents (\$444,982.03) (the "Agreement"); and

WHEREAS, on April 5, 2017, **TASER International, Inc.**, formally changed its business name to **AXON Enterprises, Inc.**, to reflect the evolution of the company from a weapons manufacturer to a full solutions provider of cloud and mobile software, connected devices, wearable cameras, and conducted electrical weapons; and

WHEREAS, the Milpitas Police Department requires the Sole Source Purchase of 15 AXON Enterprises, Inc., body worn cameras, 15 conducted electrical weapons with associated equipment, and a supplemental subscription to Evidence.com, a cloud-based storage solution.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, the Parties agree to amend the Agreement as follows:

1. Increase the total contract amount from **Four Hundred Forty Four Thousand Nine Hundred Eighty Two Dollars and Three Cents (\$444,982.03)** by **Eighty Five Thousand Seven Hundred Thirty Four Dollars and Eighty Three Cents (\$85,734.83)** for a new total contract amount **Not-to-Exceed Five Hundred Thirty Thousand Seven Hundred Sixteen Dollars and Eighty Three Cents (\$530,716.86)** for the sole source purchase of 15 body worn cameras, 15 conducted electrical weapons with associated equipment, and a supplementary subscription to Evidence.com, a cloud-based storage solution, as set forth in

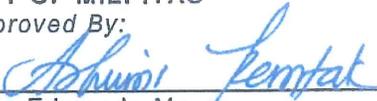
Exhibit A – AXON Enterprises, Inc. Quotation No. Q199765-43510.933CM, attached hereto.

- 2. All other provisions of the Agreement not amended by this Amendment No. 1 shall remain in full force and effect.

APPROVED BY:

CITY OF MILPITAS

Approved By:

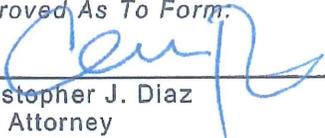


 Julie Edmonds-Mares
 City Manager

4/24/19

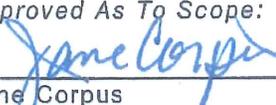
 Effective Date

Approved As To Form:



 Christopher J. Diaz
 City Attorney

Approved As To Scope:



 Jane Corpus
 Interim Director of Financial Services

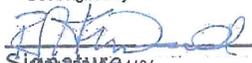
Approved As To Content:



 Armando Corpuz
 Chief of Police

*KEVIN MOSCIZZA
 ACTING CHIEF*

AXON ENTERPRISES, INC.

DocuSigned by:


 Signature

Robert Driscoll

Name

VP, Assoc. General Counsel

Title

4/29/2019 | 12:33 PM MST

Date

EXHIBIT A



Axon Enterprise, Inc.
 17800 N 85th St.
 Scottsdale, Arizona 85255
 United States
 Phone: (800) 978-2737

Q-199765-43551.996CM

Issued: 03/27/2019

Quote Expiration: 04/30/2019

Account Number: 105711

Start Date: 05/01/2019
 Payment Terms: Net 30
 Delivery Method: Fedex - Ground
 Contract Number: 00010392

SALES REPRESENTATIVE

Chris Morton
 Phone: (206) 310-6165
 Email: cmorton@axon.com
 Fax:

PRIMARY CONTACT

John Torrez
 Phone: (408) 586-2408
 Email: jtorrez@ci.milpitas.ca.gov

SHIP TO

John Torrez
 Milpitas Police Dept. - CA
 1275 N. Milpitas Boulevard
 Milpitas, CA 95035
 US

BILL TO

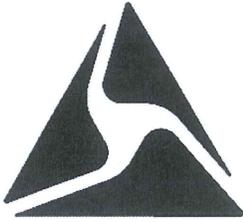
Milpitas Police Dept. - CA
 1275 N. Milpitas Boulevard
 Milpitas, CA 95035
 US

Year 1 (Est. Ship Date 4/1/2019)

Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
Axon Plans & Packages					
85130	OFFICER SAFETY PLAN YEAR 1 PAYMENT	15	1,308.00	0.00	0.00
85115	OFFICER SAFETY PLAN CEW TRUE UP PAYMENT	15	500.00	180.27	2,704.05
Hardware					
74001	AXON CAMERA ASSEMBLY, ONLINE, AXON BODY 2, BLK	15	499.00	499.00	7,485.00
74020	MAGNET MOUNT, FLEXIBLE, AXON RAPIDLOCK	15	0.00	0.00	0.00
74021	MAGNET MOUNT, THICK OUTERWEAR, AXON RAPIDLOCK	15	0.00	0.00	0.00
11553	SYNC CABLE, USB A TO 2.5MM	15	0.00	0.00	0.00
74008	AXON DOCK, 6 BAY + CORE, AXON BODY 2	3	1,495.00	1,495.00	4,485.00
70033	WALL MOUNT BRACKET, ASSY, EVIDENCE.COM DOCK	3	42.00	42.00	126.00
11004	WARRANTY, 4 YEAR, X26P	15	0.00	0.00	0.00
70116	SPPM, SIGNAL CONNECTED BATTERY PACK, X2/X26P	15	0.00	0.00	0.00
22013	KIT, DATAPORT DOWNLOAD, USB, X2/X26P	1	200.00	199.95	199.95
11501	RIGHT-HAND HOLSTER, X26P, BLACKHAWK	14	0.00	0.00	0.00
11504	LEFT-HAND HOLSTER, X26P, BLACKHAWK	1	0.00	0.00	0.00
26810	TASER CAM, TCHD	15	570.00	0.00	0.00
26763	WARRANTY, 4 YEAR, TASER CAM HD	15	150.00	0.00	0.00
26762	KIT, USB DOWNLOAD, TASER CAM HD	1	18.00	0.00	0.00

Q-199765-43551.996CM

Protect Life.



Axon Enterprise, Inc.
 17800 N 85th St.
 Scottsdale, Arizona 85255
 United States
 Phone: (800) 978-2737

Q-199765-43551.996CM

Issued: 03/27/2019

Quote Expiration: 04/30/2019

Account Number: 105711

Start Date: 05/01/2019
 Payment Terms: Net 30
 Delivery Method: Fedex - Ground
 Contract Number: 00010392

SALES REPRESENTATIVE

Chris Morton
 Phone: (206) 310-6165
 Email: cmorton@axon.com
 Fax:

PRIMARY CONTACT

John Torrez
 Phone: (408) 586-2408
 Email: jtorrez@ci.milpitas.ca.gov

SHIP TO

John Torrez
 Milpitas Police Dept. - CA
 1275 N. Milpitas Boulevard
 Milpitas, CA 95035
 US

BILL TO

Milpitas Police Dept. - CA
 1275 N. Milpitas Boulevard
 Milpitas, CA 95035
 US

Year 1 (Est. Ship Date 4/1/2019)

Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
Axon Plans & Packages					
85130	OFFICER SAFETY PLAN YEAR 1 PAYMENT	15	1,308.00	0.00	0.00
85115	OFFICER SAFETY PLAN CEW TRUE UP PAYMENT	15	500.00	180.27	2,704.05
Hardware					
74001	AXON CAMERA ASSEMBLY, ONLINE, AXON BODY 2, BLK	15	499.00	499.00	7,485.00
74020	MAGNET MOUNT, FLEXIBLE, AXON RAPIDLOCK	15	0.00	0.00	0.00
74021	MAGNET MOUNT, THICK OUTERWEAR, AXON RAPIDLOCK	15	0.00	0.00	0.00
11553	SYNC CABLE, USB A TO 2.5MM	15	0.00	0.00	0.00
74008	AXON DOCK, 6 BAY + CORE, AXON BODY 2	3	1,495.00	1,495.00	4,485.00
70033	WALL MOUNT BRACKET, ASSY, EVIDENCE.COM DOCK	3	42.00	42.00	126.00
11004	WARRANTY, 4 YEAR, X26P	15	0.00	0.00	0.00
70116	SPPM, SIGNAL CONNECTED BATTERY PACK, X2/X26P	15	0.00	0.00	0.00
22013	KIT, DATAPORT DOWNLOAD, USB, X2/X26P	1	200.00	199.95	199.95
11501	RIGHT-HAND HOLSTER, X26P, BLACKHAWK	14	0.00	0.00	0.00
11504	LEFT-HAND HOLSTER, X26P, BLACKHAWK	1	0.00	0.00	0.00
26810	TASER CAM, TCHD	15	570.00	0.00	0.00
26763	WARRANTY, 4 YEAR, TASER CAM HD	15	150.00	0.00	0.00
26762	KIT, USB DOWNLOAD, TASER CAM HD	1	18.00	0.00	0.00

Year 1 (Est. Ship Date 4/1/2019) (Continued)

Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
Hardware (Continued)					
11002	BLACK X26P CEW, HANDLE	15	0.00	0.00	0.00
				Subtotal	15,000.00
				Estimated Shipping	0.00
				Estimated Tax	1,350.01
				Total	16,350.01

Year 2

Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
Axon Plans & Packages					
85131	OFFICER SAFETY PLAN YEAR 2 PAYMENT	15	1,308.00	2,121.86	31,827.90
				Subtotal	31,827.90
				Estimated Tax	2,864.51
				Total	34,692.41

Year 3

Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
Axon Plans & Packages					
85132	OFFICER SAFETY PLAN YEAR 3 PAYMENT	15	1,308.00	2,121.86	31,827.90
				Subtotal	31,827.90
				Estimated Tax	2,864.51
				Total	34,692.41

Grand Total	85,734.83
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Discounts (USD)

Quote Expiration: 04/30/2019

List Amount	89,474.00
Discounts	10,818.20
Total	78,655.80

**Total excludes applicable taxes*

Summary of Payments

Payment	Amount (USD)
Year 1 (Est. Ship Date 4/1/2019)	16,350.01
Year 2	34,692.41
Year 3	34,692.41
Grand Total	85,734.83

Notes

This quote is co-termed with quote Q-61512 (executed contract #00010392). Year one has been pro-rated to 11.5 months to align with agency annual billing dates. This has been done according to an anticipated ship date range of 4/1/2019-4/15/2019. The end date of these subscriptions is subject to change if the ship/start date changes.

Axon BWC hardware contained in this quote will be covered under the Technology Assurance Plan (a.k.a. Taser Assurance Plan) and will be eligible for 1 replacement at the same time as the equipment originally deployed on this existing contract as determined by quote Q-61512.

Officer Safety Plan Includes:

- Evidence.com Pro License
- Upgrades to your purchased AXON cameras and Docks at years 2.5 and 5 under TAP
- Extended warranties on AXON cameras and Docks for the duration of the Plan
- Unlimited Storage for your AXON devices and data from the Evidence Mobile App
- One TASER CEW of your choice with a 4 year extended warranty (5 years total of warranty coverage)
- One CEW holster and battery pack of your choice
- 40 GB of included storage for other digital media
- Additional terms apply. Please refer to the Evidence.com Master Service Agreement for a full list of terms and conditions for the Officer Safety Plan.

Axon's Sales Terms and Conditions

This Quote is governed by the MSPA between Axon and Milpitas Police Department with an effective date of December 31, 2016. Any purchase order issued in response to this Quote is subject solely to the above referenced terms and conditions. By signing below, you represent that you are lawfully able to enter into contracts. If you are signing on behalf of an entity (including but not limited to the company, municipality, or government agency for whom you work), you represent to Axon that you have legal authority to bind that entity. If you do not have this authority, please do not sign this Quote.

Signature:

for Julie Edmonds-Mares

Date:

4/24/19

Name (Print):

Julie Edmonds-Mares

Title:

City Manager

PO# (Or write
N/A):

Please sign and email to Chris Morton at cmorton@axon.com or fax to

Thank you for being a valued Axon customer. For your convenience on your next order, please check out our online store buy.axon.com

Quote: Q-199765-43551.996CM

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EXHIBIT A



MASTER SERVICES AND PURCHASING AGREEMENT

between

TASER INTERNATIONAL, INC.

and

Milpitas Police Dept. - CA

CITY Agreement Number:



EXHIBIT A

MASTER SERVICES AND PURCHASING AGREEMENT

This Master Agreement (the **Agreement**) by and between TASER International, Inc., (**TASER or Party**) a Delaware corporation having its principal place of business at 17800 N 85th Street, Scottsdale, Arizona, 85255, and Milpitas Police Dept. - CA, (**Agency, Party** or collectively **Parties**) having its principal place of business at 1275 N. Milpitas Boulevard, Milpitas, CA, 95035, is entered into as of December, 31, 2016 (**the Effective Date**).

This Agreement sets forth the terms and conditions for the purchase, delivery, use, and support of TASER products and services as detailed in Quote # Q-61512 (the **Quote**), which is hereby incorporated by reference. It is the intent of the Parties that this Agreement shall act as a master agreement governing all subsequent purchases by Agency of TASER Products and all subsequent quotes accepted by Agency shall be also incorporated by reference as a Quote. In consideration of this Agreement the Parties agree as follows:

1 **Term.** This Agreement will commence on the Effective Date and will remain in full force and effect until terminated by either Party. TASER services will not be authorized until a signed Quote or Purchase Order is received, whichever is first.

1.1 **Evidence.com Subscription Term:** The Initial Term of the Subscription services will begin after shipment of the Product. If shipped in 1st half of the month, the start date is on the 1st of the following month. If shipped in the last half of the month, the start date is on the 15th of the following month. Subscription Services will automatically renew for additional successive Terms of one (1) year after completion of the initial Term at the list price then in effect, unless the Agency gives TASER written notice of termination within sixty (60) days prior to the end of a one (1) year period.

1.2 **Professional Services Term:** Amounts pre-paid for professional services as outlined in the Quote and the Professional Service Appendix must be used within 6 months of the Effective Date.

2 **Definitions.**

"Business Day" means Monday through Friday, excluding holidays.

"Confidential Information" means all nonpublic information disclosed by TASER, TASER affiliates, business partners of TASER or their respective employees, contractors or agents that is designated as confidential or that, given the nature of the information or circumstances surrounding its disclosure, reasonably should be understood to be confidential. Confidential Information also means all nonpublic information of Agency including but not limited to Agency Content.

"Documentation" means the (i) specifications, explanatory or informational materials, whether in paper or electronic form, that relate to the Services provided under this Agreement, or (ii) user manuals, technical manuals, training manuals, warnings, specification or other explanatory or informational materials, whether in paper or electronic form, that relate to the Products provided under this Agreement.

"Evidence.com Service" means TASER web services for Evidence.com, the Evidence.com site, EVIDENCE Sync software, EVIDENCE Mobile App, Axon® Mobile App, other software, maintenance, storage, and product or service provided by us under this Agreement for use with Evidence.com. This does not include any Third Party Applications, hardware warranties, or the my.evidence.com services.

"Installation Site" means the location(s) where the Products are to be installed.

"Policies" means the Trademark Use Guidelines, all restrictions described on the TASER website, and any other policy or terms referenced in or incorporated into this Agreement. Policies do not include whitepapers or other marketing materials.

Title: Evidence.com Master Service Agreement with Exhibits
Department: Legal
Version: 11.0
Release Date: 7/31/2015

Page 2 of 21



EXHIBIT A

"Products" means all TASER equipment, software, cloud based services, Documentation and software maintenance releases and updates provided by TASER under this Agreement.

"Quote" is an offer to sell, is valid only for products and services listed on the quote at prices on the quote. All Quotes referenced in this Agreement or issued and accepted after the Effective Date of this Agreement will be subject to the terms of this Agreement. Any terms and conditions contained within the Agency's purchase order in response to the Quote will be null and void and shall have no force or effect. TASER is not responsible for pricing, typographical, or other errors in any offer by TASER and TASER reserves the right to cancel any orders resulting from such errors. TASER reserves the right to adjust prices or Products unless otherwise specified in the Quote.

"Resolution Time" means the elapsed time between TASER's acknowledgment of an issue until the problem in the Services has been resolved, which does not include time delays caused by the Agency or by third parties outside of TASER's reasonable control.

"Services" means all services provided by TASER pursuant to this Agreement.

"Agency Content" means software, data, text, audio, video, images or other Agency content or any of the Agency's end users (a) run on the Evidence.com Services, (b) cause to interface with the Evidence.com Services, or (c) upload to the Evidence.com Services under the Agency account or otherwise transfer, process, use or store in connection with the Agency account.

3 **Payment Terms.** Invoices are due to be paid within 30 days of the date of invoice. All orders are subject to prior credit approval. Payment obligations are non-cancelable and fees paid are non-refundable and all amounts payable will be made without setoff, deduction, or withholding. If a delinquent account is sent to collections, the Agency is responsible for all collection and attorneys' fees.

4 **Taxes.** Unless TASER is provided with a valid and correct tax exemption certificate applicable to the purchase and ship-to location, the Agency is responsible for sales and other taxes associated with the order.

5 **Shipping; Title; Risk of Loss; Rejection.** TASER reserves the right to make partial shipments and products may ship from multiple locations. All shipments are E.X.W. via common carrier and title and risk of loss pass to the Agency upon delivery to the common carrier by TASER. The Agency is responsible for all freight charges. Any loss or damage that occurs during shipment is the Agency's responsibility. Shipping dates are estimates only. The Agency may reject nonconforming Product by providing TASER written notice of rejection within 10 days of receipt. Failure to notify TASER within the 10 day rejection period will be deemed as acceptance of Product.

6 **Returns.** All sales are final and no refunds or exchanges are allowed, except for warranty returns or as provided by state or federal law.

7 **Warranties.**

7.1 **Hardware Limited Warranty.** TASER warrants that its law enforcement hardware products are free from defects in workmanship and materials for a period of ONE (1) YEAR from the date of receipt. Extended warranties run from the date of purchase of the extended warranty through the balance of the 1-year limited warranty term plus the term of the extended warranty measured after the expiration of the 1-year limited warranty. CEW cartridges and Smart cartridges that are expended are deemed to have operated properly. TASER-Manufactured Accessories are covered under a limited 90-DAY warranty from the date of receipt. Non-TASER manufactured accessories are covered under the manufacturer's warranty. If TASER determines that a valid warranty claim is received within the warranty period, TASER agrees to repair or

replace the Product. TASER's sole responsibility under this warranty is to either repair or replace with the same or like Product, at TASER's option.

7.2 **Warranty Limitations.**

7.2.1 The warranties do not apply and TASER will not be responsible for any loss, data loss, damage, or other liabilities arising from: (a) damage from failure to follow instructions relating to the Product's use; (b) damage caused by use with non-TASER products or from the use of cartridges, batteries or other parts, components or accessories that are not manufactured or recommended by TASER; (c) damage caused by abuse, misuse, intentional or deliberate damage to the product, or force majeure; (d) damage to a Product or part that has been repaired or modified by persons other than TASER authorized personnel or without the written permission of TASER; or (e) if any TASER serial number has been removed or defaced.

7.2.2 **To the extent permitted by law, the warranties and the remedies set forth above are exclusive and TASER disclaims all other warranties, remedies, and conditions, whether oral or written, statutory, or implied, as permitted by applicable law. If statutory or implied warranties cannot be lawfully disclaimed, then all such warranties are limited to the duration of the express warranty described above and limited by the other provisions contained in this Agreement.**

7.2.3 **Except for the indemnity obligations provided in Section 13 and except for TASER's willful misconduct, recklessness or gross negligence, each Party's cumulative liability to the other Party for any loss or damage resulting from any claims, demands, or actions arising out of or relating to any TASER product will not exceed \$1 million.**

7.3 Warranty Returns. If a valid warranty claim is received by TASER within the warranty period, TASER agrees to repair or replace the Product which TASER determines in its sole discretion to be defective under normal use, as defined in the Product instructions. TASER's sole responsibility under this warranty is to either repair or replace with the same or like Product, at TASER's option.

7.3.1 For warranty return and repair procedures, including troubleshooting guides, please go to TASER's websites www.taser.com/support or www.evidence.com, as indicated in the appropriate product user manual or quick start guide.

7.3.2 Before delivering product for warranty service, it is the Agency's responsibility to upload the data contained in the product to the EVIDENCE.com services or download the product data and keep a separate backup copy of the contents. TASER is not responsible for any loss of software programs, data, or other information contained on the storage media or any other part of the product services.

7.3.3 A replacement product will be new or like new and have the remaining warranty period of the original product or 90 days from the date of replacement or repair, whichever period is longer. When a product or part is exchanged, any replacement item becomes Purchaser's property and the replaced item becomes TASER's property.

8 Product Warnings. See our website at www.TASER.com for the most current product warnings.

9 Design Changes. TASER reserves the right to make changes in the design of any of TASER's products and services without incurring any obligation to notify the Agency or to make the same change to products and services previously purchased.

10 Insurance. TASER shall maintain at TASER's own expense and in effect during the Term, insurance as provided in the Insurance Appendix, attached hereto and incorporated herein by reference. For purposes

of the Insurance Appendix, the "Contractor" or "Consultant" shall refer to TASER, and the "City" shall refer to the "Agency."

11 **Indemnification.** To the fullest extent permitted by law, TASER shall defend (with counsel reasonably approved by the Agency), indemnify and hold the Agency, its officials, officers, employees, agents and volunteers ("the Agency Indemnitees") free and harmless from any and all claims, demands, causes of action, suits, actions, proceedings, costs, expenses liability, judgments, awards, decrees, settlements, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, (collectively, "Claims") in any manner arising out of, pertaining to, or incident to any alleged negligent acts, errors or omissions, or willful misconduct of TASER, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the TASER'S services, the equipment or this Agreement, including without limitation the payment of attorneys' fees and other related costs and expenses. Notwithstanding the foregoing, to the extent TASER'S services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to Claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the TASER. TASER'S obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the Agency, its officials, officers, employees, agents or volunteers.

11.1 **Additional Indemnity Obligations.** TASER shall defend, with counsel of Agency's choosing and at TASER'S own cost, expense and risk, any and all Claims covered by this section that may be brought or instituted against the Agency, its officials, officers, employees, agents or volunteers. TASER shall pay and satisfy any judgment, award or decree that may be rendered against the Agency, its officials, officers, employees, agents or volunteers as part of any such claim, suit, action or other proceeding. TASER shall also reimburse Agency for the cost of any settlement paid by the Agency, its officials, officers, employees, agents or volunteers as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for the Agency's attorney's fees and costs. TASER shall reimburse the Agency, its officials, officers, employees, agents and volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. TASER's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the Agency, its officials officers, employees, agents and volunteers.

TASER employs experts in technology and information security, who can testify in court for the Agency. TASER will send an employed expert to testify in court matters free of expert fee charges (capped at 100 hours per year and excluding reasonable travel expenses) limited to expert testimony in relation to the Evidence.com product lines regarding data security and chain of custody matters. Agency must provide TASER with reasonable notice, in no event less than five business days. If Agency requires more than 100 hours per year during the term of the Agreement, an hourly rate will be negotiated by the parties and travel expenses will be reimbursed by Agency at GSA per diem rates. Anything outside the scope of the limited expert testimony described above is subject to TASER's expert witness terms and conditions and fee schedule.

12 **IP Rights.** TASER owns and reserves all right, title, and interest in the TASER Products and related software, as well as any suggestions made to TASER.

13 **IP Indemnification.** TASER will defend, indemnify, and hold the Agency Indemnitees harmless from and against any claims, damages, losses, liabilities, costs, and expenses (including reasonable attorneys' fees) arising out of or relating to any third-party claim alleging that use of TASER Products or Services as permitted under this Agreement infringes or misappropriates the intellectual property rights of a third party. The Agency must provide TASER with prompt written notice of such a claim, tender to us the defense or settlement of such a claim at our expense, and cooperate fully with us in the defense or settlement of such a claim.

TASER has no liability to the Agency or any third party if any alleged infringement or claim of infringement is to any extent based upon: (a) any modification of the Evidence.com Services by the Agency or any third party not approved by TASER; (b) use of the Evidence.com Services in connection or in combination with equipment, devices, or services not approved or recommended by TASER; (c) the use of Evidence.com Services other than as permitted under this Agreement or in a manner for which it was not intended; or (d) the use of other than the most current release or version of any software provided by TASER as part of or in connection with the Evidence.com Services. Nothing in this Section will affect any warranties in favor of the Agency that are otherwise provided in or arise out of this Agreement.

- 14** **Agency Responsibilities.** The Agency is responsible for (i) use of TASER Products (including any activities under the Agency Evidence.com account and use by Agency employees and agents), (ii) breach of this Agreement or violation of applicable law by the Agency or any of the Agency's end users, (iii) Agency Content or the combination of Agency Content with other applications, content or processes, including any claim involving alleged infringement or misappropriation of third party rights by Agency Content or by the use of Agency Content, (iv) a dispute between the Agency and any third party over Agency use of TASER products or the collection or use of Agency Content, (v) any hardware or networks that the Agency connects to the Evidence.com Services, and (vi) any security settings the Agency establishes to interact with or on the Evidence.com Services.
- 15** **Prohibited Interests.** TASER warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for TASER, to solicit or secure this Agreement. Further, TASER warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for TASER, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, Agency shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of Agency, during the term of his or her service with Agency, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.
- 16** **Termination.**
- 16.1** **By Either Party.** Either Party may terminate for cause upon 30 days advance notice to the other Party if there is any material default or breach of this Agreement by the other Party, unless the defaulting Party has cured the material default or breach within the 30-day notice period, or for any reason or no reason. In the event that the Agency terminates this Agreement under this Section and TASER fails to cure the material breach or default, TASER will issue a refund of any prepaid amounts on a prorated basis.
- 16.2** **By Agency.** The Agency is obligated to pay the fees under this Agreement as may lawfully be made from funds budgeted and appropriated for that purpose during the then current fiscal year. In the event that sufficient funds will not be appropriated or are not otherwise legally available to pay the fees required under this Agreement, this Agreement may be terminated by the Agency. The Agency agrees to deliver notice of termination under this Section at least 90 days prior to the end of the then current fiscal year.
- 16.3** **Effect of Termination.** Upon any termination of this Agreement: (a) all Agency rights under this Agreement immediately terminate; (b) the Agency remains responsible for all fees and charges incurred through the date of termination; and (c) Payment Terms, Warranty, Product Warnings, Indemnification, and Agency Responsibilities Sections, as well as the Evidence.com Terms of Use Appendix Sections on Agency Owns Agency Content, Data Storage, Fees and Payment, Software Services Warranty, IP Rights and License Restrictions will continue to

apply in accordance with their terms.

16.4 After Termination. TASER will not delete any Agency Content as a result of a termination during a period of 90 days following termination. During this 90-day period the Agency may retrieve Agency Content only if all amounts due have been paid (there will be no application functionality of the Evidence.com Services during this 90-day period other than the ability to retrieve Agency Content). The Agency will not incur any additional fees if Agency Content is downloaded from Evidence.com during this 90-day period. TASER has no obligation to maintain or provide any Agency Content after this 90-day period and will thereafter, unless legally prohibited, delete all of Agency Content stored in the Evidence.com Services. Upon request, TASER will provide written proof that all Agency Content has been successfully deleted and fully removed from the Evidence.com Services.

16.5 Post-Termination Assistance. TASER will provide Agency with the same post-termination data retrieval assistance that TASER generally makes available to all customers. Requests for TASER to provide additional assistance in downloading or transferring Agency Content will result in additional fees and TASER will not warrant or guarantee data integrity or readability in the external system.

17 General.

17.1 Confidentiality. Both Parties will take all reasonable measures to avoid disclosure, dissemination or unauthorized use of either Party's Confidential Information and Agency's Content. Except as required by applicable law, neither Party will disclose either Party's Confidential Information during the Term or at any time during the 5-year period following the end of the Term. All TASER Pricing is considered confidential and competition sensitive. TASER expressly understands that Agency is a public agency subject to applicable state law, including but not limited to, the California Public Records Act (Cal. Gov. Code § 6250 et seq.) and that Agency may receive a public records act request seeking the disclosure of TASER's Confidential Information. In the event Agency receives a request for TASER's Confidential Information, Agency shall notify TASER and TASER shall be allowed to take any action not adverse to Agency to preserve the confidentiality of such information. Further, TASER understands that Agency is subject to the Ralph M. Brown Act (Cal. Gov. Code § 54950 et seq.) and the requirement that writings distributed to the members of a legislative body of a local agency in connection with a matter subject to discussion or consideration at an open meeting of the body, are disclosable public records (Cal. Gov. Code § 54957.5).

17.2 Excusable delays. TASER will use commercially reasonable efforts to deliver all products and services ordered as soon as reasonably practicable. In the event of interruption of any delivery due to causes beyond TASER's reasonable control TASER has the right to delay or terminate the delivery with reasonable notice.

17.3 Force Majeure. Neither Party will be liable for any delay or failure to perform any obligation under this Agreement where the delay or failure results from any cause beyond the Parties' reasonable control, including acts of God, labor disputes or other industrial disturbances, systemic electrical, telecommunications, or other utility failures, earthquake, storms or other elements of nature, blockages, embargoes, riots, acts or orders of government, acts of terrorism, or war.

17.4 Proprietary Information. The Agency agrees that TASER has and claims various proprietary rights in the hardware, firmware, software, and the integration of ancillary materials, knowledge, and designs that constitute TASER products and services, and that the Agency will not directly or indirectly cause any proprietary rights to be violated.

- 17.5 Independent Contractors.** The Parties are independent contractors. Neither Party, nor any of their respective affiliates, has the authority to bind the other. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the Parties.
- 17.6 No Third Party Beneficiaries.** This Agreement does not create any third party beneficiary rights in any individual or entity that is not a party to this Agreement.
- 17.7 Non-discrimination and Equal Opportunity.** During the performance of this Agreement, neither the Parties nor the Party's employees will discriminate against any person, whether employed by a Party or otherwise, on the basis of race, color, religion, gender, age, national origin, handicap, marital status, or political affiliation or belief. In all solicitations or advertisements for employees, agents, subcontractors or others to be engaged by a Party or placed by or on behalf of a Party, the solicitation or advertisement shall state all qualified applicants shall receive consideration for employment without regard to race, color, religion, gender, age, national origin, handicap, marital status, or political affiliation or belief.
- 17.8 U.S. Government Rights.** Any Evidence.com Services provided to the U.S. Government as "commercial items," "commercial computer software," "commercial computer software documentation," and "technical data" will have the same rights and restrictions generally applicable to the Evidence.com Services. If the Agency is using the Evidence.com Services on behalf of the U.S. Government and these terms fail to meet the U.S. Government's needs or are inconsistent in any respect with federal law, the Agency will immediately discontinue use of the Evidence.com Services. The terms "commercial item," "commercial computer software," "commercial computer software documentation," and "technical data" are defined in the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement.
- 17.9 Import and Export Compliance.** In connection with this Agreement, each Party will comply with all applicable import, re-import, export, and re-export control laws and regulations.
- 17.10 Assignment.** Neither Party may assign or otherwise transfer this Agreement without the prior written approval of the other Party. TASER may assign or otherwise transfer this Agreement or any of our rights or obligations under this Agreement without consent (a) for financing purposes, (b) in connection with a merger, acquisition or sale of all or substantially all of our assets, (c) as part of a corporate reorganization, or (d) to a subsidiary corporation. Subject to the foregoing, this Agreement will be binding upon the Parties and their respective successors and assigns.
- 17.11 No Waivers.** The failure by either Party to enforce any provision of this Agreement will not constitute a present or future waiver of the provision nor limit the Party's right to enforce the provision at a later time.
- 17.12 Severability.** This Agreement is contractual and not a mere recital. If any portion of this Agreement is held to be invalid or unenforceable, the remaining portions of this Agreement will remain in full force and effect.
- 17.13 Governing Law; Venue.** The laws of the state where the Agency is physically located, without reference to conflict of law rules, govern this Agreement and any dispute of any sort that might arise between the Parties. The United Nations Convention for the International Sale of Goods does not apply to this Agreement.
- 17.14 Notices.** All communications and notices to be made or given pursuant to this Agreement must



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be in the English language. Notices provided by posting on the Agency's Evidence.com site will be effective upon posting and notices provided by email will be effective when the email was sent. Notices provided by personal delivery will be effective immediately. Contact information for notices:

TASER: TASER International, Inc.
ATTN: Contracts
17800 N. 85th Street
Scottsdale, Arizona 85255
contracts@taser.com

AGENCY:

17.15 Entire Agreement. This Agreement, including the APPENDICES attached hereto, and the Policies and the quote provided by TASER, represents the entire agreement between the Parties. This Agreement supersedes all prior or contemporaneous representations, understandings, agreements, or communications between the Parties, whether written or verbal, regarding the subject matter of this Agreement. No modification or amendment of any portion of this Agreement will be effective unless in writing and signed by the Parties to this Agreement. If TASER provides a translation of the English language version of this Agreement, the English language version of the Agreement will control if there is any conflict.

17.16 Counterparts. If this Agreement form requires the signatures of the Parties, then this Agreement may be executed by electronic signature in multiple counterparts, each of which is considered an original.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed. Each Party warrants and represents that its respective signatories whose signatures appear below have been and are, on the date of signature, duly authorized to execute this Agreement.

TASER International, Inc.

Signature: [Signature]
Name: Josh Svec
Title: EVP, Global Sales
Date: 2/22/17
Address: 17800 N. 85th Street Scottsdale, AZ 85255

Milpitas Police Dept. - CA

Signature: [Signature]
Name: Thomas D. Williams
Title: CITY MANAGER
Date: 2/24/17
Address: 1275 N. Milpitas Boulevard, Milpitas, CA, 95035

Attn: Contracts

Email: contracts@taser.com



EXHIBIT A

Evidence.com Terms of Use Appendix

- 1 **Access Rights.** Upon the purchase or granting of a subscription from TASER and the opening of an Evidence.com account the Agency will have access and use of the Evidence.com Services for the storage and management of Agency Content during the subscription term (**Term**). The Evidence.com Service and data storage are subject to usage limits. The Evidence.com Service may not be accessed by more than the number of end users specified in the Quote. If Agency becomes aware of any violation of this Agreement by an end user, the Agency will immediately terminate that end user's access to Agency Content and the Evidence.com Services.

- 2 **Agency Owns Agency Content.** The Agency controls and owns all right, title, and interest in and to Agency Content and TASER obtains no rights to the Agency Content and the Agency Content are not business records of TASER. The Agency is solely responsible for the uploading, sharing, withdrawal, management and deletion of Agency Content. TASER will have limited access to Agency Content solely for the purpose of providing and supporting the Evidence.com Services to the Agency and Agency end users. The Agency represents that the Agency owns Agency Content; and that none of Agency Content or Agency end users' use of Agency Content or the Evidence.com Services will violate this Agreement or applicable laws.

- 3 **Evidence.com Data Security.**
 - 3.1. **Generally.** TASER will implement commercially reasonable and appropriate measures designed to secure Agency Content against accidental or unlawful loss, access or disclosure. TASER will maintain a comprehensive Information Security Program (**ISP**) that includes logical and physical access management, vulnerability management, configuration management, incident monitoring and response, encryption of digital evidence uploaded, security education, risk management, and data protection. The Agency is responsible for maintaining the security of end user names and passwords and taking steps to maintain appropriate security and access by end users to Agency Content. Log-in credentials are for Agency internal use only and Agency may not sell, transfer, or sublicense them to any other entity or person. The Agency agrees to be responsible for all activities undertaken by the Agency, Agency employees, Agency contractors or agents, and Agency end users which result in unauthorized access to the Agency account or Agency Content. Audit log tracking for the video data is an automatic feature of the Services which provides details as to who accesses the video data and may be downloaded by the Agency at any time. The Agency shall contact TASER immediately if an unauthorized third party may be using the Agency account or Agency Content or if account information is lost or stolen.

 - 3.2. **FBI CJIS Security Addendum.** For customers based in the United States, TASER agrees to the terms and requirements set forth in the Federal Bureau of Investigation (**FBI**) Criminal Justice Information Services (**CJIS**) Security Addendum for the Term of this Agreement.

- 4 **Our Support.** TASER will make available updates as released by TASER to the Evidence.com Services. Updates may be provided electronically via the Internet. TASER will use reasonable efforts to continue supporting the previous version of any API or software for 6 months after the change (except if doing so (a) would pose a security or intellectual property issue, (b) is economically or technically burdensome, or (c) is needed to comply with the law or requests of governmental entities. The Agency is responsible for maintaining the computer equipment and Internet connections necessary for use of the Evidence.com Services.

- 5 **Data Privacy.** TASER shall not disclose Agency Content or any information about the Agency except as compelled by a court or administrative body or required by any law or regulation. TASER will give notice

if any disclosure request is received for Agency Content so the Agency may file an objection with the court or administrative body. The Agency agrees to allow TASER access to certain information from the Agency in order to: (a) perform troubleshooting services for the account upon request or as part of our regular diagnostic screenings; (b) enforce this agreement or policies governing use of Evidence.com Services; or (c) perform analytic and diagnostic evaluations of the systems.

- 6 **Data Storage.** TASER will determine the locations of the data centers in which Agency Content will be stored and accessible by Agency end users. For United States customers, TASER will ensure that all Agency Content stored in the Evidence.com Services remains within the United States including any backup data, replication sites, and disaster recovery sites. TASER may transfer Agency Content to third parties for the purpose of storage of Agency Content. Third party subcontractors responsible for storage of Agency Content are contracted by TASER for data storage services and TASER shall ensure that such third parties abide by the terms of this Agreement, including but not limited to the duty to maintain the confidentiality of Agency Content. Ownership of Agency Content remains with the Agency. For use of an Unlimited Evidence.com License unlimited data may be stored in the Agency's Evidence.com account if the data originates from a TASER device. For use of Totally Unlimited Evidence.com Licenses TASER reserves the right to limit the types of content the Agency can store and share using the Services.
- 7 **Fees and Payment.** Additional end users may be added during the Term at the pricing in effect at the time of purchase of additional end users, prorated for the duration of the Term. Additional end user accounts will terminate on the same date as the pre-existing subscriptions. TASER reserves the right to charge additional fees for exceeding purchased storage amounts or for TASER's assistance in the downloading or exporting of Agency Content.
- 8 **Suspension of Evidence.com Services.** TASER may suspend Agency access or any end user's right to access or use any portion or all of the Evidence.com Services immediately upon notice in accordance with the following:
- 8.1. The Termination provisions of the Master Service Agreement apply;
 - 8.2. The Agency or an end user's use of or registration for the Evidence.com Services (i) poses a security risk to the Evidence.com Services or any third party, (ii) may adversely impact the Evidence.com Services or the systems or content of any other customer, (iii) may subject TASER, TASER's affiliates, or any third party to liability, or (iv) may be fraudulent;
 - 8.3. If TASER suspends the right to access or use any portion or all of the Evidence.com Services, the Agency remains responsible for all fees and charges incurred through the date of suspension without any credits for any period of suspension. TASER will not delete any of Agency Content on Evidence.com as a result of a suspension, except as specified elsewhere in this Agreement.
- 9 **Software Services Warranty.** TASER warrants that the Evidence.com Services will not infringe or misappropriate any patent, copyright, trademark, or trade secret rights of any third party. TASER disclaims any warranties or responsibility for data corruption or errors before the data is uploaded to the Evidence.com Services.
- 10 **License Restrictions.** Neither the Agency nor any Agency end users may, or attempt to: (a) permit any third party to access the Evidence.com Services except as permitted in this Agreement; (b) modify, alter, tamper with, repair, or otherwise create derivative works of any of the Evidence.com Services; (c) reverse engineer, disassemble, or decompile the Evidence.com Services or apply any other process or procedure to derive the source code of any software included in the Evidence.com Services, or allow any others to do the same; (d) access or use the Evidence.com Services in a way intended to gain unauthorized access, avoid incurring fees or exceeding usage limits or quotas; (e) copy the Evidence.com Services in whole or part, except as expressly permitted in this Agreement; (f) use trade secret



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information contained in the Evidence.com Services, except as expressly permitted in this Agreement; (g) resell, rent, loan, or sublicense the Evidence.com Services; (h) access the Evidence.com Services in order to build a competitive product or service or copy any features, functions, or graphics of the Evidence.com Services; (i) remove, alter, or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of ours or our licensors on or within the Evidence.com Services or any copies of the Evidence.com Services; or (j) use the Evidence.com Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, to store or transmit material in violation of third party privacy rights, or to store or transmit malicious code. All licenses granted in this Agreement are conditional on continued compliance this Agreement, and will immediately and automatically terminate if the Agency does not comply with any term or condition of this Agreement. The Agency may only use our trademarks in accordance with the TASER Trademark Use Guidelines (located at www.TASER.com).



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Professional Services Appendix

1 **Scope of Services.** The project scope will consist of the Services identified on the Quote.

1.1. The Package for the Axon and Evidence.com related Services are detailed below:

<p>System set up and configuration Setup Axon® Mobile on smart phones (if applicable). Configure categories & custom roles based on Agency need. Troubleshoot IT issues with Evidence.com and Evidence.com Dock (Dock) access. Work with IT to install EVIDENCE Sync software on locked-down computers (if applicable). Virtual Assistance Included</p>
<p>Dock installation Work with Agency to decide ideal location of Dock setup and set configurations on Dock if necessary. Authenticate Dock with Evidence.com using "admin" credentials from Agency. Work with Agency's IT to configure its network to allow for maximum bandwidth and proper operation within Agency's network environment. Virtual Assistance Included</p>
<p>Dedicated Project Manager Assignment of a specific TASER representative for all aspects of planning the Product rollout (Project Manager). Ideally, the Project Manager will be assigned to the Agency 4-6 weeks prior to rollout.</p>
<p>Weekly project planning meetings Project Manager will develop a Microsoft Project plan for the rollout of Axon camera units, Docks and Evidence.com account training based on size, timing of rollout and Agency's desired level of training. Up to 4 weekly meetings leading up to the Evidence.com Dock installation of not more than 30 minutes in length.</p>
<p>Axon instructor training Prior to general user training on Axon camera systems and Evidence.com services, TASER's on-site professional services team will provide training for instructors who can support the Agency's subsequent Axon camera and Evidence.com training needs.</p>
<p>End user go live training and support sessions Provide individual device set up and configuration assistance; pairing with viewers when applicable; and training on device use, Evidence.com and EVIDENCE Sync.</p>
<p>Implementation document packet Evidence.com administrator guides, camera implementation guides, network setup guide, sample policies, and categories & roles guide</p>
<p>Post go live review session</p>

1.2. Additional training days may be added on to any service package for additional fees set forth in the Quote.

2 **Out of Scope Services.** TASER is responsible to perform only the Services described on the Quote. Any additional services discussed or implied that are not defined explicitly by the Quote will be considered out of the scope.

3 **Delivery of Services.**

3.1. **Hours and Travel.** TASER personnel will work within normal business hours, Monday through Friday, 8:30 a.m. to 5:30 p.m., except holidays unless otherwise agreed in advance. All tasks on-site will be performed over a consecutive timeframe unless otherwise agreed to by the Parties in



EXHIBIT A

advance. Travel time by TASER personnel to Agency premises will not be charged as work hours performed.

3.2. Changes to Services. Changes to the scope of Services must be documented and agreed upon by the Parties in a change order. Changes may require an equitable adjustment in the charges or schedule.

- 4 **Authorization to Access Computer Systems to Perform Services.** The Agency authorizes TASER to access relevant Agency computers and network systems solely for the purpose of performing the Services. TASER will work diligently to identify as soon as reasonably practicable the resources and information TASER expects to use, and will provide an initial itemized list to the Agency. The Agency is responsible for, and assumes the risk of any problems, delays, losses, claims, or expenses resulting from the content, accuracy, completeness, and consistency of all data, materials, and information supplied by the Agency.
- 5 **Site Preparation and Installation.** Prior to delivering any Services, TASER will provide 1 copy of the then-current user documentation for the Services and related Products in paper or electronic form (**Product User Documentation**). The Product User Documentation will include all environmental specifications that must be met in order for the Services and related Products to operate in accordance with the Product User Documentation. Prior to the installation of Product (whether performed by the Agency or TASER), the Agency must prepare the Installation Site in accordance with the environmental specifications set forth in the Product User Documentation. Following the installation of the Products, the Agency must maintain the Installation Site where the Products have been installed in accordance with the environmental specifications set forth in the Product User Documentation. In the event that there are any updates or modifications to the Product User Documentation for any Products provided by TASER under this Agreement, including the environmental specifications for the Products, TASER will provide the updates or modifications to Agency when they are generally released by TASER to TASER customers.
- 6 **Acceptance Checklist.** TASER will present an Acceptance Checklist (**Checklist**) upon completion of the Services that will exactly mirror the description of services within this Section. The Agency will sign the Checklist acknowledging completion of the Services once the on-site service session has been completed. If the Agency reasonably believes that TASER did not complete the Services in substantial conformance with this Agreement, the Agency must notify TASER in writing of the specific reasons for rejection of the Services within 7 calendar days from delivery of the Checklist. TASER will address the issues and then will re-present the Checklist for approval and signature. If TASER does not receive the signed Checklist or a written notification of the reasons for the rejection of the performance of the Services within 7 calendar days of delivery of the Checklist, the absence of the Agency response will constitute affirmative acceptance of the Services, and a waiver of any right of rejection.
- 7 **Liability for Loss or Corruption of Data.** The Agency is responsible for: (i) instituting proper and timely backup procedures for Agency software and data; (ii) creating timely backup copies of Agency software or data that may be damaged, lost, or corrupted due to our provision of Services; and (iii) using backup copies to restore any Agency software or data in the event of any loss of, damage to, or corruption of the operational version of Agency software or data, even if such damage, loss, or corruption is due to TASER negligence. However, regardless of any assistance provided by TASER: (i) TASER will in no way be liable for the accuracy, completeness, success, or results of efforts to restore Agency software or data; (ii) any assistance provided by TASER under this Section is without warranty, express or implied; and (iii) in no event will TASER be liable for loss of, damage to, or corruption of Agency data from any cause.



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TASER Assurance Plan Appendix

The TASER Assurance Plan or "TAP" has been purchased as part of the Quote attached to this Agreement. TAP provides hardware extended warranty coverage, Spare Products, and Upgrade Models at the end of the TAP Term. TAP only applies to the TASER Product listed in the Quote with the exception of any initial hardware or any software services offered for, by, or through the Evidence.com website. The Agency may not buy more than one TAP for any one covered Product.

1. **TAP Warranty Coverage.** TAP includes the extended warranty coverage described in the current hardware warranty. TAP warranty coverage starts at the beginning of the TAP Term and continues as long as the Agency continues to pay the required annual fees for TAP. The Agency may not have both an optional extended warranty and TAP on the Axon camera/Dock product. TAP for the Axon camera products also includes free replacement of the Axon flex controller battery and Axon body battery during the TAP Term for any failure that is not specifically excluded from the Hardware Warranty.
2. **TAP Term.** TAP Term start date is based upon the shipment date of the hardware covered under TAP. If the shipment of the hardware occurred in the first half of the month, then the Term starts on the 1st of the following month. If the shipment of the hardware occurred in the second half of the month, then the Term starts on the 15th of the following month.
3. **SPARE Product.** TASER will provide a predetermined number of spare Products for those hardware items and accessories listed in the Quote (collectively the "Spare Products") to keep at the Agency location to replace broken or non-functioning units in order to improve the availability of the units to officers in the field. The Agency must return to TASER, through TASER's RMA process, any broken or non-functioning units for which a Spare Product is utilized, and TASER will repair or replace the non-functioning unit with a replacement product. TASER warrants it will repair or replace the unit which fails to function for any reason not excluded by the TAP warranty coverage, during the TAP Term with the same product or a like product, at TASER's sole option. The Agency may not buy a new TAP for the replacement product or the Spare Product.
 - 3.1. Within 30 days of the end of the TAP Term the Agency must return to TASER all Spare Products. The Agency will be invoiced for and are obligated to pay to TASER the MSRP then in effect for all Spare Products not returned to TASER. If all the Spare Products are returned to TASER, then TASER will refresh the allotted number of Spare Products with Upgrade Models if the Agency purchases a new TAP for the Upgrade Models.
4. **TAP Officer Safety Plan (OSP).** The Officer Safety Plan includes the benefits of the Evidence.com Unlimited License (which includes unlimited data storage for Axon camera and Evidence Mobile generated data in the Evidence.com Services and TAP for the Axon Camera), TAP for Evidence.com Dock, one TASER brand CEW with a 4-year Warranty, one CEW battery, and one CEW holster. At any time during the OSP term the Agency may choose to receive the CEW, battery and holster by providing a \$0 purchase order. At the time elected to receive the CEW, the Agency may choose from any current CEW model offered. The OSP plan must be purchased for a period of 5 years. If the OSP is terminated before the end of the term and the Agency did not receive a CEW, battery or holster, then we will have no obligation to reimburse for those items not received. If OSP is terminated before the end of the term and the Agency received a CEW, battery and/or holster then (a) the Agency will be invoiced for the remainder of the MSRP for the Products received and not already paid as part of the OSP before the termination date; or (b) only in the case of termination for non-appropriations, return the CEW, battery and holster to TASER within 30 days of the date of termination.

- 5 **TAP Upgrade Models.** Upgrade Models are to be provided as follows during and/or after the TAP Term: (i) an upgrade will provided in year 3 if the Agency purchased 3 years of Evidence.com services with Ultimate Licenses or Unlimited Licenses and all TAP payments are made; or (ii) 2.5 years after the Effective Date and once again 5 years after the Effective Date if the Agency purchased 5 years of Evidence.com services with an Ultimate License or Unlimited Licenses or OSP and made all TAP payments.

Any products replaced within the six months prior to the scheduled upgrade will be deemed the Upgrade Model. Thirty days after the Upgrade Models are received, the Agency must return the products to TASER or TASER will deactivate the serial numbers for the products received unless the Agency purchases additional Evidence.com licenses for the Axon camera products the Agency is keeping. The Agency may buy a new TAP for any Upgraded Model.

5.1. TAP Axon Camera Upgrade Models.

5.1.1. If the Agency purchased TAP for Axon Cameras as a stand-alone service, then TASER will upgrade the Axon camera (and controller if applicable), free of charge, with a new on-officer video camera that is the same product or a like product, at TASER's sole option. TASER makes no guarantee that the Upgrade Model will utilize the same accessories or Dock. If the Agency would like to change product models for the Upgrade Model, then the Agency must pay the price difference in effect at the time of the upgrade between the MSRP for the offered Upgrade Model and the MSRP for the model that will be acquired. No refund will be provided if the MSRP of the new model is less than the MSRP of the offered Upgrade Model.

5.1.2. If the Agency purchased Unlimited License or OSP, then TASER will upgrade the Axon camera (and controller if applicable), free of charge, with a new on-officer video camera of the Agency's choice.

5.2. TAP Dock Upgrade Models. TASER will upgrade the Dock free of charge, with a new Dock with the same number of bays that is the same product or a like product, at TASER's sole option. If the Agency would like to change product models for the Upgrade Model or add additional bays, then the Agency must pay the price difference in effect at the time of the upgrade between the MSRP for the offered Upgrade Model and the MSRP for the model desired. No refund will be provided if the MSRP of the new model is less than the MSRP of the offered Upgrade Model.

- 6 **TAP Termination.** If an invoice for TAP is more than 30 days past due or the Agency defaults on its payments for the Evidence.com services then TASER may terminate TAP and all outstanding Product related TAPs. TASER will provide notification that TAP coverage is terminated. Once TAP coverage is terminated for any reason, then:

6.1. TAP coverage will terminate as of the date of termination and no refunds will be given.

6.2. TASER will not and has no obligation to provide the free Upgrade Models.

6.3. The Agency will be invoiced for and are obligated to pay to TASER the MSRP then in effect for all Spare Products provided under TAP. If the Spare Products are returned within 30 days of the Spare Product invoice date, credit will be issued and applied against the Spare Product invoice.

6.4. The Agency will be responsible for payment of any missed payments due to the termination before being allowed to purchase any future TAP.

6.5. If the Agency received Axon Products free of charge and TAP is terminated before the end of the



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term then (a) the Agency will be invoiced for the remainder of the MSRP for the Products received and not already paid as part of the TAP before the termination date; or (b) only in the case of termination for non-appropriations, return the Products to TASER within 30 days of the date of termination.

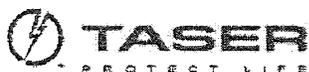


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Insurance Appendix

Please refer to the insurance requirements listed below.

Contractor or Consultant shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor or Consultant, its agents, representatives, employees or subcontractors.

Contractor or Consultant shall provide its insurance broker(s)/agent(s) with a copy of these requirements and request that they provide Certificates of Insurance complete with copies of all required endorsements.

Contractor or Consultant shall furnish City with copies of original endorsements affecting coverage required by this Appendix. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements and certificates are to be received and approved by City before work commences. City has the right to require Contractor's or Consultant's insurer to provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

1. Commercial General Liability (CGL):

Coverage at least as broad as Insurance Services Office ("ISO") Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2. Automobile Liability:

Coverage at least as broad as ISO Form Number CA 0001 covering, Code 1 (any auto), of if Contractor or Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limits no less than **\$1,000,000** per accident for bodily injury and property damage.

3. Professional Liability (Errors and Omissions):

Insurance appropriate to the Contractor or Consultant's profession, with limit no less than **\$1,000,000** per occurrence or claim, **\$2,000,000** aggregate

4. Workers' Compensation Insurance:

Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease. *(Not required if Contractor or Consultant provides written verification it has no employees)*

The Contractor or Consultant makes the following certification, required by section 1861 of the California Labor Code:

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

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Contractor/Consultant Signature

If the Contractor or Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Contractor or Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

Other Insurance Provisions:

The insurance policies are to contain, or be endorsed to contain the following provisions:

Additional Insured Status:

The insurance policies are to contain, or be endorsed to contain the following provision:

The City, its elected and appointed officials, officers, attorneys, agents, and employees are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor or Consultant or any subcontractors including materials, parts, or equipment furnished in connection with such work or operations, including completed operations. General liability coverage can be provided in the form of an endorsement to the Contractor's or Consultant's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).

The Additional Insured coverage under the Contractor's policy shall be "primary and non-contributory" and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as CG 20 01 04 13.

The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City (if agreed to in a written contract or agreement) before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

Primary Coverage:

The insurance policies are to contain, or be endorsed to contain the following provision:

For any claims related to this contract, the **Contractor's or Consultant's insurance coverage shall be primary insurance** as respects the City, its elected and appointed officials, officers, attorneys, agents, and employees. Any insurance or self insurance maintained by the City, its elected and appointed officials, officers, attorneys, agents, and employees shall be in excess of the Contractor's or Consultant's insurance and shall not contribute with it.

Notice of Cancellation, Suspension or Otherwise Voiding Policies:

Each insurance policy required above shall contain, or be endorsed to contain **that coverage shall not be suspended, voided, canceled or reduced in coverage or in limits except with thirty (30) days' prior written notice** by certified mail, return receipt requested to the City.

Waiver of Subrogation:

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Contractor or Consultant hereby grants to City a waiver of any right to subrogation which any insurer of said Contractor or Consultant may acquire against the City by virtue of the payment of any loss under such insurance. Contractor or Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer. **The Workers' Compensation Policy shall be endorsed with a waiver of subrogation** in favor of the City for all work performed by Contractor or Consultant, its employees, agents and subcontractors.

Deductibles and Self-Insured Retentions ("SIR"):

Any deductibles or self-insured retentions must be declared to and approved by City. The City may require the Contractor or Consultant to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. At the option of the City, either (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its elected and appointed officials, officers, attorneys, agents, and employees; or (2) the Contractor or Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

All SIRs must be disclosed to Risk Management for approval and shall not reduce the limits of liability.

Policies containing any SIR provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the City.

City reserves the right to obtain a full-certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Acceptability of Insurers:

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to City.

Claims Made Policies: (note - should be applicable only to professional liability, see below)

1. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided **for at least five (5) years after completion of contract of work.**
3. If coverage is canceled or non-renewed, and not replaced **with another claims-made policy form with a Retroactive Date prior to** the contract effective date, the Contractor or Consultant must purchase "extended reporting" coverage for a minimum of **five (5) years** after completion of work.
4. A copy of the claims reporting requirements must be submitted to the City for review.
5. If the services involve lead-based paint or asbestos identification/remediation, the Contractor's Pollution Liability Policy shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification/remediation, the Contractors Pollution Liability Policy shall not contain a mold exclusion, and the definition of Pollution shall include microbial matter, including mold.

Subcontractors:

Contractor or Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City is an additional insured on insurance required from subcontractors.

Subcontractor agrees to be bound to Contractor and City in the same manner and to the same extent as Contractor is bound to City under this Agreement and any other contract documents. Subcontractor further agrees to include the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, with any sub-subcontractor to the extent they apply to the scope of the sub-subcontractor's work. A copy of the City indemnity and insurance provisions will be furnished to the subcontractor upon request.

Verification of Coverage:

Contractor or Consultant shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor or Consultant's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Special Risks or Circumstances

City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage or other special circumstances.

Failure to Comply:

Each insurance policy required above shall contain or be endorsed to contain that any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its elected and appointed officials, officers, attorneys, agents, and employees.

Applicability of Coverage:

Each insurance policy required above shall contain or be endorsed to contain that the Contractor's or Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Authorize the City Manager to Execute a Five-Year Agreement between the County of Santa Clara and the City of Milpitas for Emergency Medical Dispatch (EMD) Services in an Amount Not to Exceed \$328,736.37, subject to annual appropriations
Category:	Consent Calendar-Public Safety
Meeting Date:	6/2/2020
Staff Contacts:	John Clum, 408-586-2415 Chris Schroeder, 408-586-3161
Recommendation:	Authorize the City Manager to execute a five-year agreement between the County of Santa Clara and the City of Milpitas for Emergency Medical Dispatch (EMD) services in an amount not-to-exceed \$328,736.37, subject to annual appropriations.

Background:

Emergency Medical Dispatch (EMD) is a specialized service that provides a systematic method for telecommunicators in Public Safety Answering Points (PSAPs) to determine the nature of medical aid calls, establish response priorities, allocate appropriate response resources, and provide callers with instructions and life-saving measures to help treat patients while first responders are en route. EMD telecommunicators receive specialized training and adhere to the quality assurance and accreditation standards set by the International Academies of Emergency Dispatch.

Analysis:

Since 2008, the City of Milpitas PSAP has contracted with the County of Santa Clara for EMD services. The current 5-year agreement was approved by the City Council on August 4, 2015 and will expire on June 30, 2020. The proposed new 5-year agreement consists of essentially the same terms, and the annual cost will continue to be based on a percentage of usage by participating agencies, including the City of Milpitas. The annual cost to the City of Milpitas for Fiscal Year 2020-2021 is estimated to be \$56,660, subject to a possible variance of up to 5% per year, which results in an estimated maximum total cost of \$328,736.37 for the duration of the 5-year agreement.

Policy Alternative:

Alternative: Do not authorize the City Manager to renew the agreement between the County of Santa Clara and the City of Milpitas for EMD services.

Pros: The City of Milpitas would not incur the annual expense for EMD services of \$56,660.

Cons: The City of Milpitas PSAP would not be able to effectively and efficiently respond to calls for medical aid, and callers would not receive vital medical instructions before first responders arrive.

Reason not recommended: A systematic, coordinated response to calls for medical aid through an accredited EMD program is crucial to saving lives.

Fiscal Impact:

The annual cost of the agreement is included in the police department's proposed operational budget for Fiscal Year 2020-2021, and will be subject to future annual budget appropriations.

California Environmental Quality Act:

Approval of this Agreement does not constitute a "project" pursuant to State CEQA Guidelines section 15060(c)(3).

Recommendation:

Authorize the City Manager to execute a five-year agreement between the County of Santa Clara and the City of Milpitas for Emergency Medical Dispatch (EMD) services, subject to annual appropriations.

Attachment:

Agreement Between the County of Santa Clara and the City of Milpitas for Emergency Medical Dispatch Services.

**AGREEMENT BETWEEN THE COUNTY OF SANTA CLARA
AND THE CITY OF MILPITAS
FOR EMERGENCY MEDICAL DISPATCH SERVICES**

BACKGROUND

The City of Milpitas (“CITY”) wishes to contract with a provider of emergency medical dispatch (“EMD”) services for the provision of EMD services on its behalf. This Agreement between the County of Santa Clara (“COUNTY”) and the CITY for EMD services (“Agreement”) outlines the terms and conditions by which the COUNTY shall provide effective, timely and efficient emergency medical dispatch services to the CITY.

THE AGREEMENT

Article 1. Nature of Services

1.1 Scope of Services

The service obligations of the parties are described in Exhibit A “Emergency Medical Dispatch Process & Procedural Requirements,” which is attached and incorporated into this Agreement.

Article 2. Compensation

2.1 Amount of Payment

The CITY shall compensate the COUNTY for the services provided under this Agreement in accordance with the cost methodology set forth in Exhibit B “Compensation for Services,” which is attached and incorporated into this Agreement. The costs set forth in Exhibit B are inclusive of all costs incurred in providing the services, and the COUNTY shall not charge the CITY general overhead costs in accordance with Government Code Section 51350.

2.2 Payment Terms

The CITY shall pay the COUNTY within thirty (30) days of receipt of quarterly billing for services.

Article 3. Term and Termination

3.1 Term of Agreement

(a) This Agreement is effective for five (5) years beginning at 12:00 a.m., July 1, 2020 and ending at 11:59 p.m. on June 30, 2025 unless terminated earlier in accordance

with Section 3.2 or extended pursuant to the provisions herein.

- (b) This Agreement may be extended for up to three (3) additional one (1) year terms. The parties will execute any amendments necessary to implement such extensions.
- (c) Exhibits A and B are living documents and may be updated as required during the life of this Agreement, subject to approval by the parties. The parties will execute any amendments necessary to implement such updates.

3.2 Termination

(a) Termination for Cause

Either party may terminate this Agreement for cause upon ninety (90) days written notice to the other in accordance with Section 6.1. For purposes of this Agreement, cause includes, but is not limited to, a material breach of this Agreement or a violation of any applicable laws. Such notice will specify the reason for termination and will indicate the effective date of the termination.

(b) Opportunity to Cure

- (1) The non-breaching party will give written notice of a material breach to the breaching party, specifying the breach.
- (2) The breaching party will not be deemed in default of this Agreement and the nonbreaching party will not institute proceedings or exercise any remedies against the breaching party unless the breach has not been cured, corrected or remedied within:
 - (A) 15 days after notice of the breach is provided; or
 - (B) upon mutual agreement of the parties, within a longer period as may be reasonably required to cure, correct or remedy the breach, provided the breaching party has commenced to cure, correct or remedy the breach within fifteen (15) days after notice is provided and diligently and continuously pursues such cure, correction or remedy.

(c) Termination for Convenience

Either party may terminate this Agreement without cause by giving the other party ninety (90) days written notice.

(d) Compensation in the Event of Termination

In the event of termination, the COUNTY shall be entitled to compensation for services performed prior to the effective date of the termination as provided herein.

Article 4. Mutual Indemnification

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the parties pursuant to Government Code Section 895.6, the parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead the County and the City agree that pursuant to Government Code Section 895.4, each of the parties hereto shall fully indemnify, defend with counsel acceptable to the non-indemnifying party, whose approval shall not be unreasonably withheld, and hold each of the other parties, their officers, board members, employees and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Agreement. No party, nor any officer, board member, employee or agent thereof shall be responsible for any damage or liability occurring wholly by reason of the negligent acts or omissions or willful misconduct of the other party hereto, its officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such other party under this Agreement.

Article 5. Dispute Resolution

In the event of any dispute between the parties arising from or relating to this Agreement, the parties will attempt to resolve the dispute initially by informal means. Upon the request of either party, the contract administrators of each party will meet to discuss the dispute, will exchange any information that they mutually agree is relevant to the issues in dispute, and will use all reasonable efforts to resolve the dispute without the need for further proceedings.

Article 6. Miscellaneous

6.1 Notice

All notices required by this Agreement will be deemed given when in writing and delivered personally or deposited in the United States mail, postage prepaid, return receipt requested, addressed to the other party at the address set forth below or at such other address as the party may designate in writing:

To the CITY:

Attn: John Clum, Police Support Services Manager
City of Milpitas
Milpitas Police Department
1275 N. Milpitas Blvd.
Milpitas, CA 95035

To the COUNTY:

Attn: Communications Director
County of Santa Clara
Communications Department
2700 Carol Drive
San Jose, CA 95125

6.2 Compliance and Nondiscrimination

The parties will comply with all applicable Federal, State, and local laws and regulations. Such laws include but are not limited to the following: Title VII of the Civil Rights Act of 1964 as amended, the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973 (Sections 503 and 504), the California Fair Employment and Housing Act (Government Code sections 12900 et seq.), and California Labor Code sections 1101 and 1102. The parties will not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status in the recruitment, selection for training including apprenticeship, hiring, employment, utilization, promotion, layoff, rates of pay or other forms of compensation. Nor will the parties discriminate in the provision of services provided under this Agreement because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.

6.3 Relationship of Parties; Independent Contractor

COUNTY will perform all work and services described in this Agreement as an independent contractor and not as an officer, agent, servant or employee of CITY. None of the provisions of this Agreement is intended to create, nor shall be deemed or construed to create, any relationship between the parties other than that of independent parties contracting with each other for purpose of effecting the provisions of this Agreement. The parties are not and will not be construed to be in a relationship of joint venture, partnership or employer-employee. Neither party has the authority to make any statements, representations or commitments of any kind on behalf of the other party, or to use the name of the other party in any publications or advertisements, except with the written consent of the other party or as is explicitly provided in this Agreement.

6.4 Governing Law

This Agreement has been executed and delivered in, and will be construed and enforced in accordance with, the laws of the State of California.

6.5 Assignment

The parties may not assign this Agreement or the rights and obligations hereunder without the specific written consent of the other.

6.6 Entire Agreement

This document represents the entire Agreement between the parties with respect to the subject matter hereof. All prior negotiations and written and/or oral agreements between the parties with respect to the subject matter of this Agreement are merged into this Agreement.

6.7 Amendments

This Agreement may only be amended by an instrument signed by the parties.

6.8 Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

6.9 Severability

If any provision of this Agreement is found by a court of competent jurisdiction to be void, invalid or unenforceable, the same will either be reformed to comply with applicable law or stricken if not so conformable, so as not to affect the validity or enforceability of this Agreement.

6.10 Waiver

No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a party must be in writing and shall apply to the specific instance expressly stated.

6.11 Survival

All provisions of this Agreement allocating liability between the CITY and the COUNTY, payment obligations, and the duty to defend, indemnify and hold harmless shall survive the termination of this Agreement.

6.12 Integration and Order of Precedence

This Agreement, including all Exhibits, represents the entire and integrated contract between the CITY and the COUNTY and supersedes all prior negotiations, representations, or agreements, either written or oral. In the event of a conflict between

the provisions of the main body of the Agreement and its Exhibits, the provisions of the main body shall control. In the event of a conflict between Exhibits A and B, the provisions of Exhibit A shall control.

6.13 Time of the Essence

The parties acknowledge that time is of the essence of this Agreement. Either party's failure to complete any of the obligations outlined herein during the term of the Agreement shall be deemed a breach of the Agreement.

6.14 Contract Execution

Unless otherwise prohibited by law or COUNTY policy, the parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term "electronic copy of a signed contract" refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term "electronically signed contract" means a contract that is executed by applying an electronic signature using technology approved by the COUNTY.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the COUNTY and CITY have caused this Agreement to be executed by their duly authorized representatives as of the day and year written above.

Signed:

COUNTY OF SANTA CLARA

CITY OF MILPITAS

by _____
Procurement Department

by _____
Steven McHarris, Interim City Manager

Date

Date

Approved as to Form and Legality:

Approved as to Form:

Nancy Clark, Deputy County Counsel

Christopher J. Diaz, City Attorney

Approved:

Walter C. Rossmann,
Risk Manager/Director of Finance

Approved as to Content:

Armando Corpuz, Chief of Police

Exhibits to this Agreement:

- Exhibit A – Emergency Medical Dispatch Process & Procedural Requirements
- Exhibit B – Compensation for Services

EXHIBIT A

EMERGENCY MEDICAL DISPATCH PROCESS & PROCEDURAL REQUIREMENTS

To ensure the safe and efficient transfer of callers requiring Emergency Medical Dispatch (EMD) services from Milpitas Communications to County Communications, Milpitas Communications and County Communications agree to process 9-1-1 and ten-digit calls using the following process and procedural requirements:

1. Milpitas Communications will use a “3-way” telephone call transfer process to route callers to County Communications for EMD services. This process will:
 - Use a “one-button” method to minimize transfer time;
 - Result in Milpitas Communications Dispatchers:
 - Using a scripted transfer statement prior to caller transfer; and
 - Remaining on the line silently until the provision of an MPDS “Determinant” or until call demand requires them to leave the call.
2. County Communications will provide Milpitas Communications with continuous (24 hours per day, 7 days per week) EMD services using International Academy of Emergency Dispatch (IAED) certified Emergency Medical Dispatchers. All dispatchers providing EMD services will use the most current version of the Medical Priority Dispatch System as determined by the IAED.
3. County Communications will use IAED certified Emergency Medical Dispatch Quality (EMD-Q) reviewers to score and calculate protocol compliance reports. The number and method of cases for review will be in accordance with IAED Accreditation requirements.
4. County Communications agrees to participate in periodic “special case” reviews, in the event they are requested by Milpitas Communications.
5. County Communications and Milpitas Communications agree that the determination “EMD Is Unavailable” will occur following a “three-ring” wait time for EMD caller transfers to County Communications for 9-1-1 or designated ten-digit number transfers.
6. County Communications and Milpitas Communications agree to work together to develop or revise policies and procedures for the receipt and management of callers requiring EMD services following written request by either agency.
7. County Communications will include Milpitas Communications and Milpitas Fire Department personnel in quality improvement feedback processes and the Medical Dispatch Review Committee used to maintain and improve EMD compliance to protocol.

County Communications will also provide quarterly protocol compliance reports reporting:

- Percentage of cases that are High Compliance

- Percentage of cases that are Compliant
 - Percentage of cases that are Partial Compliance
 - Percentage of case that are Low Compliance
 - Percentage of cases that are Non-Compliant
8. County Communication will maintain IAED ACE (Accredited Center of Excellence) compliance levels, which are currently:
- Partial Compliance – 10% or less of cases
 - Low Compliance – 10% or less of cases
 - Non-Compliant – 7% or less of cases
9. County Communications will provide eight Field Responder Guides (FRG), or access codes for an electronic app FRG to Milpitas Fire Department.

EXHIBIT B

COMPENSATION FOR SERVICES

Emergency Medical Dispatching (EMD) Cost and Billing Methodology

Total Santa Clara County Communications Department costs for providing dispatching services are allocated to four service areas (law enforcement, medical, fire and local government), based on the most recent three-year average number of events. Costs include direct expense and indirect dispatch operations expense. Of the amount allocated to medical dispatching, 5% is attributable to the COUNTY's EMD program cost and is apportioned between all agencies receiving EMD services from the COUNTY, based on proportionate average event activity for the past three years.

EMD costs will be estimated based on the most current budget cost information available for the applicable fiscal year and will be established each year of the Agreement by March 31 to be effective the following fiscal year beginning July 1. In the first quarter of the fiscal year after the service year, actual event activity data will be used to calculate actual cost and make an adjustment to the previous year's billing. The increase or decrease adjustment will not exceed 5% above or below the previously billed amount. The COUNTY shall notify the CITY of any adjustment prior to billing the CITY's final fourth quarterly installment.

EMD Program Cost for Fiscal Year 2021 (and Example Methodology for Outlying Years):

\$437,867	FY 2020/21 Total EMD Cost (5% of Total Estimated Medical Dispatching Cost)
x 12.94 %	City of Milpitas Share of EMD Activity 3,098 Milpitas EMD events = 12.94% of 23,948 total EMD events handled by COUNTY (events averaged for FY 2017 – FY 2019)
<hr/>	
\$56,660	City of Milpitas EMD Cost for FY 20120/21 (subject to +/- 5% adjustment after July 1, 2021)

1. The CITY has the right to inspect COUNTY documentation upon request.
2. Billing questions may be directed by email to Accounts Payable at Accounts.Payable@911.sccgov.org



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Authorize the City Manager to Execute an Agreement with Invoice Cloud, Inc. for Electronic Bill Presentment and Payment of Utility and Miscellaneous Invoices for a Five-Year Period Not to Exceed \$207,109.59
Category:	Leadership and Support Services
Meeting Date:	6/2/2020
Staff Contact:	Walter C. Rossmann, Finance Director, 408-586-3111
Recommendation:	Authorize the City Manager to execute an Agreement with Invoice Cloud for e-bill presentment and e-payment of utility and miscellaneous invoices for a five-year period not to exceed \$207,109.59, subject to the annual appropriation of funds.

Background:

The City's current agreement with Invoice Cloud for E-bill Presentment and E-payment will expire on June 30, 2020. The cost for the current contract is \$28,303 based on 23,512 paperless presentment and 44,530 credit card transactions per year.

Invoice Cloud currently provides our water utility customers convenient option to pay any time 24/7 using any of the following payment methods: Visa or Mastercard, debit card or electronic check, on-line, Phone/Interactive Voice Response (IVR) and phone text. Additionally, for cash payments that in the past were only accepted at City Hall, utility customers can pay with cash 24/7 through PayNearMe at 7-Eleven convenience stores and CVS pharmacies and the City accepts payment through the automated clearing house (ACH) network.

Analysis:

On January 22, 2020 the Purchasing Division released RFP No. 2413 seeking proposals from qualified vendors with demonstrated experience in providing E-bill Presentment and E-payment services.

The RFP was publicly noticed in accordance with the City's Municipal Code, advertised on the City's website, emailed to companies registered with the City via ProcureNow.com (the City's eProcurement system) and a bid notice posted to PublicPurchase.com as well. Additionally, the RFP was published on the City website.

Upon release, 143 firms received the solicitation notification and 42 firms downloaded the RFP documents. The Purchasing Division received five (5) proposals by 2:00 pm on the February 21, 2020 deadline in response to the RFP. All six proposals were reviewed for completeness, were accepted and continued in the evaluation process.

The five (5) companies that continued in the evaluation process were:

1. First Billing Services (FBS)
2. InfoSend Inc.
3. Paymentus
4. Invoice Cloud
5. Smart Energy Systems Inc., dba Smart Energy Water (SEW)

The evaluation committee reviewed proposals based on the following criteria:

1. Cover Letter
2. Company Profile
3. Personnel Assigned
4. Execution Plan
5. References, and
6. Proposed Compensation

After an initial evaluation by three City staff members who comprised the evaluation committee, the score attained by Invoice Cloud was 13 points out of 100 points higher than the closest proposal as shown in the table below. Due to the clear delineation of the most advantageous proposal, consistent with past practice, staff did not proceed with oral interviews and recommends the award of RFP 2413 to Invoice Cloud.

The table below shows the final evaluation scores with the recommended firm highlighted in green:

Citywide Financial Auditing Services (RFP No. 2413)	FBS	Info Send	Invoice Cloud	Paymentus	SEW
Final Evaluation Score	75.0	77.5	90.5	73.5	71.0

The first year contract price is approximately \$38,500 with no unit price increase during the five-year term of the contract. However, the contract assumes a 4% transaction volume increase annually. For the new 5-year contract, the credit card transaction fee will increase from \$0.40 to \$0.60 per item, paperless presentment fee will decrease from \$0.40 to \$0.30 per item, and monthly portal access fee will increase from \$50.00 to \$100.00 per month. The second lowest cost proposal was submitted by Info Send which was approximately \$53,000, or 35%, higher than Invoice Cloud’s cost proposal.

The contract includes a number of services provided by Invoice Cloud, including electronics bill presentment and payment of utility bills, real-time posting of payments to the city’s billing system, on-line payment of miscellaneous accounts receivables, and outbound Interactive Voice Response (IVR) calling. IVR is an automated telephony system that interacts with callers, gathers information and routes calls to the appropriate recipients. The services provided will require modest set-up and implementation efforts as Invoice Cloud is the current vendor providing these services. New services added to the new contract are described below:

- 1) In compliance to Senate Bill 998 Discontinuance of Residential Water Service, Invoice Cloud will provide Outbound Interactive Voice Response (IVR) Calling service as an additional step to remind customers of their past due accounts before water service is discontinued.
- 2) Cloud Store service will be set up to accept on-line payment of miscellaneous accounts receivable using credit card and/or electronic check. This service will accept one-time electronic payments for items other than utility bills. This will reduce manual data entry and transactions are automatically included in the Invoice Cloud reports. This service will also ensure the City continues to be in compliance with credit card security requirements.

Policy Alternative:

Alternative: Do not award the agreement for E-bill Presentment and E-payment services.

Pros: The City would save \$207,109.59 in contracted services over five years.

Cons: Delays in collecting and recording of utility bill payments resulting in inefficiency and poor customer service.

Reason not recommended: The City will not be able to provide Electronic Bills to Utility customers and will not be able to receive online payments. The Utility Bills will not be available immediately to utility customers and they will not have the convenience of having multiple options of paying the utility bill. The only option to pay will be ACH, mailing in checks, PayNearMe or paying in person at City Hall.

Fiscal Impact:

For Fiscal Year 2020-21, there is available monies in the Finance Operating budget for services to provide electronic bill payment and presentment (EBPP) and outbound IVR calling for utility customers and online payment service for the non-utility customers. For future years funding is subject to annual appropriations.

California Environmental Quality Act:

By the definition provided in the California Environmental Quality Act (CEQA) Guidelines Section 15378, this action does not qualify as a “project” for the purpose of CEQA as this action has no potential to result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

Recommendation:

Authorize the City Manager to execute an agreement with Invoice Cloud for e-bill presentment and e-payment of utility and miscellaneous invoices for a five-year period not to exceed \$207,109.59, subject to the annual appropriation of funds.

Attachment:

Professional Services Agreement with Invoice Cloud, Inc.

CITY OF MILPITAS

PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into as of _____ (“Effective Date”) by and between the City of Milpitas, a municipal corporation organized and operating under the laws of the State of California with its principal place of business at 455 E. Calaveras Boulevard, Milpitas, California 95035 (“City” or “Biller”), and **Invoice Cloud Inc.**, a Delaware corporation with its principal place of business at **30 Braintree Hill Office Park, Suite 101 Braintree, MA 02184** (hereinafter referred to as “Consultant” or “Invoice Cloud”). City and Consultant are sometimes individually referred to as “Party” and collectively as “Parties” in this Agreement.

RECITALS

A. City is a public agency of the State of California and is in need of professional services for the following project:

Milpitas Utility Electronic Bill Presentment and Payment
(hereinafter referred to as “the Project”).

B. Consultant is duly licensed and has the necessary qualifications to provide such services.

C. The Parties desire by this Agreement to establish the terms for City to retain Consultant to provide the services described herein.

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Exhibits.

This Agreement is comprised of this Professional Services Agreement and the following listed Exhibits attached hereto and incorporated herein by reference:

- A. Exhibit A – Statement of Work, with Appendices A, B, C, and D
- B. Exhibit B – Schedule of Charges
- C. Exhibit C – Activity Schedule
- D. Exhibit D – Insurance Requirements
- E. Exhibit E – Invoice Cloud Biller Agreement
- F. Exhibit F- Confirmation of Critical Terms of Service on the Cash Transaction Network

To the fullest extent possible, the terms and conditions of this Agreement, the Exhibits and the RFP shall be construed in the manner that avoids inconsistency with any other part of the Agreement. In the case of a conflict among the parts of this Agreement, the order of precedence shall be as follows:

- i. The Agreement without any Exhibits along with Exhibit F
- ii. Exhibit D – Insurance Requirements
- iii. Exhibit B – Schedule of Charges
- iv. Exhibit E – Invoice Cloud Biller Agreement
- v. Exhibit A – Statement of Work with Appendices A, B, C, and D
- vi. Exhibit C – Activity Schedule

2. Services; Compensation.

Consultant shall provide the City with the services described in the Scope of Services attached hereto as Exhibit A.

a. Subject to paragraph 2(b) below, the City shall pay for such services in accordance with the Schedule of Charges set forth in Exhibit B.

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement exceed the sum of **Two Hundred Seven Thousand One Hundred Nine Dollars and Fifty-Nine Cents (\$207,109.59)**. This amount is to cover all printing and related costs, and the City will not pay any additional fees for printing expenses. Periodic payments shall be made within thirty (30) days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis.

3. Additional Work.

If changes in the work seem merited by Consultant or the City, and informal consultations with the other party indicate that a change is warranted, it shall be processed in the following manner: a letter outlining the changes shall be forwarded to the City by Consultant with a statement of estimated changes in fee or time schedule. An amendment to this Agreement shall be prepared by the City and executed by both Parties before performance of such services, or the City will not be required to pay for the changes in the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

4. Maintenance of Records.

Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Consultant and made available at all reasonable times during the Agreement term and for four (4) years from the date of final payment under the Agreement for inspection by City.

5. Term

The term of this Agreement shall be from **July 1, 2020 to June 30, 2025** (the "Initial Term"), unless earlier terminated as provided herein.

6. Delays in Performance.

a. Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.

b. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

7. Compliance with Law.

a. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government, including Cal/OSHA requirements.

b. If required, Consultant shall assist the City, as requested, in obtaining and maintaining all permits required of Consultant by federal, state and local regulatory agencies.

c. If applicable, Consultant is responsible for all costs of clean up and/ or removal of hazardous and toxic substances spilled as a result of his or her services or operations performed under this Agreement.

d. Consultant expressly understands that City is a public agency subject to the California Public Records Act (Cal. Government Code § 6250 et seq.). In the event that City receives a public records request seeking the disclosure of information that Consultant has designated as its confidential proprietary information, City shall notify Consultant, and Consultant shall be allowed to take any reasonable action to preserve the confidentiality of such information at its own expense. City's obligation shall only extend to notifying Consultant of the request, and City shall have no obligation to preserve the confidentiality unless doing so is in full compliance with the law. This section shall prevail over any conflicting obligation in Section 4 of Exhibit E.

8. Standard of Care

Consultant's services will be performed in accordance with generally accepted practices and principles in a manner consistent with the Agreement and Exhibits.

9. Assignment and Subconsultant

Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the City, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. Nothing contained herein shall prevent Consultant from employing independent associates, and subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

10. Independent Contractor

Consultant is retained as an independent contractor and is not an employee of City. No employee or agent of Consultant shall become an employee of City. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from City as herein provided.

11. Insurance. Consultant shall not commence work for the City until it has provided evidence satisfactory to the City it has secured all insurance required under Exhibit D (Insurance Requirements), attached hereto and incorporated herein by this reference. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required therein.

12. Indemnification.

a. To the fullest extent permitted by law, Consultant shall defend (with counsel of City's choosing), indemnify and hold the City, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of

the Consultant's services, the Project or this Agreement, that results in bodily injury or damage to personal property, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the City, its officials, officers, employees, agents, or volunteers.

b. If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance of "design professional" services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

c. Without limiting the generality or applicability of subsections a and b of Section 12, above, if a third party makes a claim against the City that any use of the Services in accordance with the terms of this Agreement infringes such third party's intellectual property rights, Consultant, at its sole cost and expense, will defend City against the claim and indemnify City from the damages, losses, liabilities, costs and expenses awarded by the court to the third party claiming infringement or the settlement agreed to by Consultant, provided that City: (i) notifies Consultant promptly in writing of the claim; (ii) gives Consultant sole control of the defense and any settlement negotiations; and (iii) gives Consultant reasonable assistance in the defense of such claim. If Consultant believes or it is determined that the Services violated a third party's intellectual property rights, Consultant may choose to either modify the Services to be non-infringing or obtain a license to allow for continued use, or if these alternatives are not commercially reasonable, Consultant may terminate City's use rights and refund any unused, prepaid fees City may have paid to Consultant.

13. California Labor Code Requirements.

a. Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). If the services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is One Thousand Dollars and Zero Cents (\$1,000.00) or more, Consultant agrees to fully comply with such Prevailing Wage Laws. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

b. If the services are being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works

project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

c. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor that affect Consultant's performance of services, including any delay, shall be Consultant's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the City. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor.

14. Verification of Employment Eligibility.

By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and sub-subconsultants to comply with the same.

15. Personal Information; Disclosure of Security Breach.

If this Agreement requires City to disclose "Personal Information" to Consultant within the meaning of California Civil Code section 1798.29(g), Consultant and subconsultants, if any, shall use such information only in accordance with this Agreement and only as necessary in performing the Services. Consultant is advised of the requirements of the California Civil Code, section 1798.29, requiring notification to any resident of California in the event of breach of the security of a system containing computerized data that includes Personal Information. Consultant agrees it will notify the City as soon as practicable (and in no event more than 72 hours) upon the occurrence of any verified breach in the security resulting in loss of or unauthorized access to Personal Information data from within Consultant's systems that may potentially trigger the need for security breach notifications pursuant to Civil Code section 1798.29 or similar State or Federal law. The parties agree that the City will control the timing and content of any such required security breach notification to the extent permitted under applicable law and agree that Consultant shall fully pay or reimburse the City for the costs of providing any such security breach notification required by Civil Code, section 1798.29, or similar State or Federal law, resulting from any security breach of the Consultant's system. Consultant's responsibility for the costs of providing such security breach notifications shall not be limited by any disclaimer or limitation of liability in the Agreement, including but not limited to, Sections 8 and 12 of Exhibit E of this Agreement.

16. Laws and Venue.

This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of Santa Clara, State of California.

17. Termination or Abandonment

a. City has the right to terminate the Agreement, after the Initial Term, not for cause, by giving ten (10) calendar days written notice to Consultant. In such event, City shall be immediately given title and possession to all City's Customer Data (as set forth in Exhibit E), original field notes, drawings and specifications, written reports and other documents produced or developed for that portion of the work completed and/or being abandoned, other than Consultant's rights in the "Service" as defined in

Exhibit E. City shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by City and Consultant of the portion of such task completed but not paid prior to said termination. City shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services and shall not be entitled to damages or compensation for termination of work.

b. Either Party may terminate this Agreement upon thirty (30) calendar days' written notice to the other Party only in the event of substantial failure by the other Party to perform in accordance with the terms of this Agreement and the failure of the breaching party to cure during such notice period.

c. The Consultant understands and accepts that at all times; the Agreement is subject to appropriation of funds by the Milpitas City Council. The Agreement may terminate without penalty, liability or expense of any kind to the City at the end of Agreement term. The City has no obligation to make appropriations for the Agreement in lieu of appropriations for new or other contracts. City budget decisions are subject to the discretion of the Mayor and City Council. Consultant's assumption of risk of possible non-appropriation is a part of the consideration for the Agreement. This section controls against any and all other provisions of the Agreement.

18 Documents. Except as otherwise provided in "Termination or Abandonment," above, all original field notes, written reports, Drawings and Specifications and other documents, produced or developed for the Project shall, upon payment in full for the services described in this Agreement, be furnished to and become the property of the City.

19. Organization

Consultant shall assign **Zachary Gerjets** as Project Manager for the implementation phase. The Project Manager shall not be removed from the Project or reassigned as long as he employed by Consultant without the prior written consent of the City.

20. Limitation of Agreement.

This Agreement is limited to and includes only the work included in the Project described above.

21. Notice

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

CITY:

City of Milpitas

455 E. Calaveras Boulevard

Milpitas, California 95035

Attn: Walter C. Rossmann, Director of Finance

CONSULTANT:

Invoice Cloud

30 Braintree Hill Office Park, Suite 101

Braintree, MA 02184

Attn: Robert Lapides, President

and shall be effective upon receipt thereof.

22. Third Party Rights

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and the Consultant.

23. Equal Opportunity Employment.

Consultant represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

24. Entire Agreement

This Agreement, with its exhibits specified in Section 1 , represents the entire understanding of City and Consultant as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This Agreement may not be modified or altered except in writing signed by both Parties hereto. This is an integrated Agreement.

25. Severability

The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the provisions unenforceable, invalid or illegal.

26. Successors and Assigns

This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each party to this Agreement. However, Consultant shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of City. Any attempted assignment without such consent shall be invalid and void.

27. Non-Waiver

None of the provisions of this Agreement shall be considered waived by either party, unless such waiver is specifically specified in writing.

28. Time of Essence

Time is of the essence for each and every provision of this Agreement.

29. City's Right to Employ Other Consultants

City reserves its right to employ other consultants, including engineers, in connection with this Project or other projects.

30. Prohibited Interests

Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further,

Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

31. Wage Theft Prevention

a. Consultant, and any subconsultant it employs to complete work under this Agreement, shall comply with all applicable federal, state and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act, the California Labor Code and the Milpitas Minimum Wage Ordinance.

b. BY SIGNING THIS AGREEMENT, CONSULTANT AFFIRMS THAT IT HAS DISCLOSED ANY FINAL JUDGMENTS, DECISIONS OR ORDERS FROM A COURT OR INVESTIGATORY GOVERNMENT AGENCY, FINDING IN THE FIVE (5) YEARS PRIOR TO EXECUTING THIS AGREEMENT THAT CONSULTANT OR ITS SUBCONSULTANTS HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. CONSULTANT FURTHER AFFIRMS THAT IT OR ITS SUBCONSULTANT(S) HAS EITHER FULLY SATISFIED EACH JUDGMENT, DECISION OR ORDER, OR, IF ANY JUDGMENT, DECISION OR ORDER HAS NOT BEEN FULLY SATISFIED, CONSULTANT AFFIRMS THAT IT OR ITS SUBCONSULTANT(S) IS CURRENTLY SATISFYING SAID JUDGMENT, DECISION OR ORDER THROUGH A PAYMENT OR ALTERNATIVE PLAN APPROVED BY THE APPLICABLE COURT/GOVERNMENT AGENCY AND THAT CONSULTANT OR ITS SUBCONSULTANT(S) ARE IN COMPLIANCE WITH SAID PLAN AS OF THE DATE OF EXECUTING THIS AGREEMENT.

c. If at any time during the term of this Agreement, a court or investigatory government agency issues a final judgment, decision or order finding that Consultant or a subconsultant it employs to perform work under this Agreement has violated any applicable wage and hour law, or Consultant learns of such a judgment, decision, or order that was not previously disclosed in its bid/proposal, Consultant shall inform the City no more than fifteen (15) calendar days after the judgment, decision or order becomes final or from the date of learning of the final judgment, decision or order. Consultant or its subconsultant(s) shall, within thirty (30) calendar days after notifying the City, either (i) fully satisfy any such judgment, decision, or order and provide the City with documentary evidence of satisfying said judgment, decision or order; or (ii) provide the City documentary evidence of a payment or other alternative plan approved by the court/government agency to satisfy the judgment, decision or order. If the Consultant or its subconsultant is subject to a payment or other alternative plan, the Consultant or its subconsultant shall continue to submit documentary evidence every thirty (30) calendar days during the term of the Agreement demonstrating continued compliance with the plan until the judgment, decision or order has been fully satisfied.

d. For purposes of this Section, a "final judgment, decision, or order" refers to one for which all appeals have been exhausted or the time period to appeal has expired. Relevant investigatory government agencies include: the United States Department of Labor, the California Division of Labor Standards Enforcement, the City, or any other governmental entity or division tasked with the investigation and enforcement of wage and hour laws.

e. Failure to comply with any part of this Section constitutes a material breach of this Agreement. Such breach may serve as a basis for immediate termination of this Agreement and/or any other remedies available under this Agreement and/or law.

f. Notice provided to the City shall be addressed to: Attention: Finance Director, 455 E. Calaveras Blvd. Milpitas, CA 95035. The Notice provisions of this Section are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section.

[SIGNATURES ON FOLLOWING PAGE]

**SIGNATURE PAGE FOR PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF MILPITAS
AND INVOICE CLOUD INC.**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

CITY OF MILPITAS

Approved By:

Steven G. McHarris, City Manager

Date

Approved As To Form:

Christopher J. Diaz, City Attorney

Approved:

Walter C. Rossmann, Risk Manager/Director
of Finance

INVOICE CLOUD INC.

Signature

Robert Lapidés

President
Title

Date

EXHIBIT A

Invoice Cloud Statement of Work

Overview

The Invoice Cloud (IC) suite of services specified on the Order Form (the Service) will give the **City of Milpitas** (Biller) and its customers the ability to accept online payments for invoiced and non-invoiced items. The Service will allow the **Biller** to offer online payment processing in a securely hosted real-time environment. Customers will be able to locate, view and print bills or invoices and payment records online and pay using credit cards, debit cards, and electronic checks.

If applicable, Invoice Cloud will make changes to the setup and functionality of the Services as set forth in Appendix A: System Modifications, attached hereto.

Definitions:

1. Biller – Merchant / **City of Milpitas**
2. Payer – Client customer, resident, person paying a bill or invoice
3. EBPP – Electronic Bill Presentment and Payment
4. Bill – Bill and Invoice are used synonymously throughout this document
5. RTDR - Real-Time Data Refresh – collects and aggregates the data as soon as a user accesses a specific function
6. NTDR – Near-Time Data Refresh – integration that happens periodically; the data is collected immediately but it is not aggregated until later – data can be processed every day, every hour or even every few minutes

1. Security and Industry Compliance

Invoice Cloud maintains full compliance with current applicable Payment Card Industry (PCI) standards, Cardholder Information Security Program (CISP) regulations and National Automated Clearinghouse Association (NACHA) rules and guidelines. Invoice Cloud will abide by such guidelines for the security of all cardholder data that Invoice Cloud possesses.

- a. **PCI** - Invoice Cloud will provide compliant storage of Biller's customer payment information that is certified by Visa/MasterCard. Data security measures are addressed during collection and transmission via SSL with our patent pending encryption technology. All confidential information will be treated in accordance with the PCI standards.
- b. **Software as a Service (SaaS) Architecture** – All Biller customer financial and payment information and the invoice presentment and payment processing application is housed offsite from Biller.
- c. **Browser Compatibility** - Invoice Cloud supports the most current version of the industry's most common browsers.

2. Data Integration

Invoice Cloud maintains an integration with Harris Cayenta. The integration for the **Biller** will include the functionality found in Appendix B, attached hereto. Biller shall be responsible for providing the items listed in Appendix C: Biller Deliverables, attached hereto.

3. Payer Portal

The Payer Portal is an electronic bill presentment and online payment portal where a Biller's customer (Payer) can view a bill and then proceed, within the same user interface, to make an online payment.

- a. Invoice Cloud will present bills electronically through a payer portal that is branded for Biller or via an email notification, if the Payer provides an email address.
- b. The electronic invoice presentment will simulate the paper invoice Biller uses and will be available in PDF and/or html format.
- d. The Service may provide the Payer the option of making a payment via credit card (Visa, MasterCard, American Express and Discover) or electronic check (also referred to as ACH, e-check, EFT).
- e. The Service provides the Payer a one-time online payment option without registration, and the capability to register to access Payer's account history, schedule a payment, or set up AutoPay payments.
- f. A Payer will have the ability to choose their payment date (also known as scheduled payments).
- g. The system will accept partial, full, or overpayments as defined by the Biller.
- h. The Payer will register with the Service using the authentication method designated by Biller.
- i. Linking Accounts - After registering with the Service, the Payer will be able to login into their account(s). If the Payer has multiple accounts and uses the same authentication information for all accounts, the Payer will be able to link their account and view from a single registration. The Payer will then have the option to choose which account they would like to pay or view in further detail.
- j. The Payer will receive an email confirmation of payment after any payment process.
- k. The Payer will have the ability to search and access historical bills once they register with the Service. The Service will store twenty-four (24) months of rolling history from the point of Biller's first invoice file upload to the Service. This includes invoice history and account history.
- l. Biller has the option of allowing the Payer to pay via different payment methods which include online, IVR, IC Biller Portal, Pay by Text, CloudCSRConnect and CloudPOSConnect.
- m. Payers who have scheduled a payment or registered for AutoPay will receive email notification from the Service of pending payments.
- n. The Service includes shopping cart functionality.
- o. The Service will allow the Payer the option to elect paperless billing.
- p. A Payer registered for paperless billing will be automatically placed back on paper billing if their email address is undeliverable; notification of the Payer's undeliverable email address will be sent to Biller via email.
- q. The Service complies with Federal E-Signature Act for paperless billing and AutoPay by providing a system in which a Payer must confirm enrollment in paperless billing and/or AutoPay by responding to an email sent after the Payer registers for paperless billing and/or AutoPay through online self-service.

4. Biller Portal

The Biller Portal is an administrative portal where Biller staff will have access to reporting, search customers, search invoices, search payments, initiate payments or credits, login as a Payer, modify email templates, etc.

- a. Biller can log in as the Payer on either the Biller or Payer Portal and make a payment on behalf of the Payer. There is an audit trail for who made the payment, and the source of every payment (CSR, Pay by Text, AutoPay, Web, IVR, etc.).
- b. Biller will have the capability of blocking future payments by specific Payer and payment method type (i.e. Credit Card or E-Check (ACH)).
- c. **Permissions** – The Biller Portal includes a table of role based permissions, determined by the Biller’s System Administrator. Each permission is applied to a user ID on an individual basis to maximize flexibility. The system administrator can allow or disallow access to functions such as viewing data, creating reports, resending email notices, processing payments, credits or refunds, editing email templates and more. Since it is controlled by Biller administrator, changes can be made quickly on an as needed basis.
- d. **Administrative Email Notifications** - Biller may set up the system to send several administrative notifications and request system notifications be sent to multiple staff members. This allows different departments to get the information they need in a timely manner. The notifications include:
 - ACH Reject Notifications
 - Batch Close Notifications
 - Daily Management Report
 - File Processing Notifications
 - Month End Billing Invoice
 - Paperless Customer Email Bounce Daily Report
 - Request System Notifications (this is the ticketing system available in the Invoice Cloud payer portal).
 - Status Notifications (notifications of planned outages, new features, etc.)
- e. **Biller Controlled Configuration Options** – The Biller Portal includes several Biller controlled configurable options to customize the way payments and customer accounts are handled. The Biller will be able to configure for:
 - allowing Auto-Pay and scheduled payments
 - allowing customers to update their phone or mailing address through the payer portal
 - allowing customers to pay less than, or more than the balance due based on receivable type
 - updating Refund Policy description
 - updating customer service phone number

5. **Biller Portal - Reporting**

Biller can access a selection of pre-configured reports. Biller can request reports for daily, monthly, or date range activity. Most reports can be exported to excel files or scheduled for download as a custom report, as indicated by asterisk (*) in the report name. All stored payment data is truncated, and this is reflected in all reports.

- a. Reports:
- b. Search Customers*

- c. Search Invoices
- d. Search Payment Transactions*
- e. Monthly Summary
- f. Registration Report*
- g. Autopay Report*
- h. Paperless Report*
- i. Data Synchronization History
- j. EFT/ACH Rejects*
- k. View Scheduled Payments*
- l. Invoice File History
- m. Import Errors
- n. Daily Payments Received*
- o. Total Outstanding Invoices
- p. Email Notification Summary
- q. Email Statistics
- r. Email Tracking
- s. Bounced Email Report
 - Email Statistics
 - Email Tracking
 - Bounced Email Report

6. Payer Email Notifications

Invoice Cloud provides a set of customizable email notification templates for each invoice type that are delivered for numerous events surrounding electronic invoice presentment and payment activity. Email notifications may be customized through the Biller Portal using a Word style editor and options to insert secure hyperlinks to website, links to electronic documents such as newsletter or bill inserts, and/or variable fields selected from the Biller's data file.

- a. Three (3) email notifications can be scheduled. The first notification is based on the number of days from the invoice due date. Second and third notifications will only be sent to Payers with an outstanding balance, a scheduled payment, or Payers who have signed up for Auto-Pay.
- b. At the discretion of Biller, Payer email notifications can be delivered for each of the following events.
 - First Invoice Email Notification
 - Second Invoice Email Notification
 - Third Invoice Email Notification
 - Payment Transaction Receipt
 - Declined Auto Pay Transaction
 - Late Fee Email Notification
 - Declined Scheduled Payment Notification
 - Registered Customer Welcome Email
 - AutoPay Registration Notification
 - Paperless Registration Notification
 - ACH Reject/Chargeback Notices (with reason codes and descriptors)
 - Credit Card Expiration Notification
 - Scheduled Payment Confirmation

- AutoPay Reminder Notification
- FlexPay Confirmation Notification
- Scheduled Payment Reminder
- Paperless Off Confirmation
- Online Bank Direct Payment Receipt
- Check 21 Payment Receipt
- Linked Accounts First Notice Notification
- Linked Accounts Second Notice Notification
- Linked Accounts Third Notice Notification
- AutoPay Off Confirmation
- Conveyed Customer Notification
- Multiple Registered Customers Welcome Email
- Recurring Scheduled Payment Confirmation
- Recurring Scheduled Payment Canceled

7. **Business Rules**

The Invoice Cloud solution is designed for flexibility for customers and Billers. There are many rules currently available and we will also undertake the creation of new business rules as we both agree. Each bill type operates independently and can accept different payment types as well as other business rules. At Biller's option, multiple business rules can be applied to each bill type. Invoice Cloud provides flexibility regarding business rules to support specific needs, including:

- a. Ability to allow partial payments, over payments, full balance only, or late fees.
- b. Ability to allow payments beyond the due date - The service is designed to accommodate biller specific business rules like allowing payments beyond their due date.
- c. Ability to allow for multiple payment types for one customer for the same bill - The service allows multiple payment types from one customer for the same bill when partial payments are allowed. Credit/debit card and e-check (ACH) can be run separately and an unlimited number of remittance types can be used. For example, a customer can pay part of a bill with a checking account, another part with a credit card and the remainder with a second credit card of a different type.

8. **Implementation Process**

Invoice Cloud assigns an Implementations Manager (IM) to each Biller. The IM will be the Biller's primary contact during the implementation process and coordinates all necessary resources from Biller, Biller software company, Invoice Cloud, and any sub-contractors. The IM will provide the Biller with the following documents to facilitate the project:

- a. **New Biller Questionnaire and Questionnaire Key** – Documents critical information needed to setup and initiate the service including information on business rules and feature selection.
- b. **Project Timeline** – Details project schedule and milestones.
- c. **Testing and Training Plan** – This plan walks the Biller through a set of user acceptance testing criteria and facilitates training on the service.

9. **Support and Training**

- a. **Business Hours** – The business hours will be Monday through Friday from 8 a.m. to 8 p.m. Eastern Standard Time. Note: Biller Support hours are 8 a.m. to 8 p.m. EST. Payer Support hours are currently 8 a.m. to 4 p.m. EST.
- b. **Help Desk** - The Service will provide a helpdesk ticketing system for Biller within the Biller Portal to get help from Invoice Cloud client support team. This tool will allow Biller to track and retain resolutions for historical reference.
- c. **Payer Support** – The Payer Support is two tiered with Biller staff as the first line of support regarding account, registration and billing questions. Issues with the Invoice Cloud service operation or incorrect credit card charges will be routed to Invoice Cloud Client Support via telephone or a Biller helpdesk ticket.
- d. **Biller Support** - If Biller encounters an inquiry which they cannot resolve Biller will create a helpdesk support ticket. Invoice Cloud Customer Support will address the issue and if applicable provide training to Biller to allow the address of tickets in a timely matter; often within twenty-four (24) business hours. Biller and technical support is available during business hours.
 - i. **Routine Technical Support** - Technical Support is available during business hours. Biller may call customer support directly; however, the use of the helpdesk ticketing system is encouraged as the preferred method of contact. Invoice Cloud staff views all tickets as they are submitted and routes them to the appropriate person for resolution.
 - ii. **Emergency After-Hours Support** – The helpdesk service is monitored after business hours and emergency support issues are addressed within one (1) hour. An emergency support issue is defined as an issue involving the system being down and inoperable and does not include Payer payment issues. Biller may request email notification be provided in the event the system is down and inoperable.
- e. **Service Enhancements** - Most enhancements do not require action on the part of Biller. Upgrades as agreed are done at the Invoice Cloud server level, so there are no mandatory actions for Biller to take. Support levels are not affected by enhancements.
- f. **Biller Training**- Biller staff will be guided in how to use the system through in-house training, documentation, remote live sessions, and access to our client support team.
 - All standard training will be done remotely. Invoice Cloud’s training personnel will provide sessions for both Payer and Biller portals for Biller’s staff.
 - Separate training is conducted for Biller’s technical staff regarding the uploading of bill files and any other applicable processes.
 - Ongoing phone and Go-To-Meeting training will be provided during the first month of use at no additional cost to Biller.

10. Marketing

Invoice Cloud provides marketing support that our Billers can use to promote the EBPP and IC payment solutions to its Payers, at no charge. Invoice Cloud’s marketing group will schedule a 1-hour conference call to review Invoice Cloud’s recommended best practices for promoting the service. Sample templates will be provided for each item and customizations can be made upon request. The marketing collateral that Invoice Cloud provides may include:

- Bill Inserts
- Newsletters
- Envelope Teasers

- Pay Button Link
- Posters with Acrylic Stands for Payment Counters
- Business card sized take-away cards with QR code
- Local cable/TV station announcement

11. CloudIVRConnect™

The IC CloudIVRConnect allows Billers to accept payments via our interactive voice response system. It provides customers with 24-hour access to account status and billing information (total balance due, past due amount, last payment made, next billing date etc.). The following options are available:

- Provides for a toll-free call and a caller ID number set by the biller
- Supports messaging in both English and Spanish
- Provides for a customizable initial greeting (includes City/County/Company name) – all remaining prompts are standard
- Ability to pay with credit card (Visa, MasterCard, Discover, American Express), debit card, or eCheck (ACH)
- Replays information with Invoice Cloud generated confirmation #

Outbound IVR Campaigns will provide the Biller with the ability to create outbound call campaigns for past due reminders, disconnections or other account status updates as needed by the Biller pursuant to Exhibit C.

12. CloudSMSConnect™

The IC CloudSMSConnect allows Billers to accept payments via SMS text messaging. The following options are available:

- Provides interactive registration and service sign-up confirmation
- Sends notification when new bills are available for payment
- Ability to pay with credit card (Visa, MasterCard, Discover, American Express), debit card, or eCheck (ACH)
- Allows for payment utilizing a stored-payment method

13. CloudStore™

The IC CloudStore allows Billers to accept payments for non-invoiced services like books, t-shirts, etc., fire, police, building permits, or activity programs. The following options are available:

- Accept electronic check and or credit/debit cards.
- Customer receives immediate email confirmation of payment.
- Department receives email notification of purchase event for instant fulfillment services.
- Ability to apply convenience fees, if required.
- Reporting by service type.
- Linked to Biller branded payment portal.
- Each service type can have its own online registration form.
- Can be setup to accept payments over the counter.

14. Online Bank Direct™

The IC Online Bank Direct (OBD) allows Billers to electronically import echeck (ACH) payments initiated from consumer bank bill sites. The following options are available:

- Auto-matching of payments with open invoices
- Email consumer a payment notification for those customers with an email address on file
- Ability to apply a single payment to multiple invoices
- Custom search capabilities to locate matching invoice(s)
- Electronic deposit of corresponding echecks

This SOW contains many products, services and payment methods. Only the specific products, services and payment methods selected by the **Biller**, as outlined in the Biller Order Form, attached hereto as Appendix D, are included in the delivery of products, services and payment methods.

Appendix A: System Modifications

As outlined below, Invoice Cloud has agreed to make the following changes to the setup and functionality of our platform:

NONE

Appendix B: Integration Supported Features

Harris - Cayenta	CIS	
PRODUCTS		
EBPP	Supported	
Invoice Types	#42 - Utilities	
IVR	Supported	
Pay by Text	Supported	
Cloud POS Connect	Supported	
Cloud CSR Connect	Supported	
KIOSK	Supported	
DATA EXCHANGE	Method	Frequency
Invoices	Web Service	Each Billing Cycle
Payments	Data Pump	Near Time
AutoPay Flags	Data Pump	Near Time
Paperless Flags	Data Pump	Near Time
Account Balances	RTDR	Real Time
Block Payment Method (Credit/ACH)	RTDR	Reals Time
INVOICE FILES		
IC Translates file	X	
Historical Data (2 years shown online)	X	
BILL PRESENTMENT		
PDF Extraction (Partial/Full)	X	
Templates	N/A	
Link to PDFs	X	
BATCH CLOSE		
Standard or Custom	Custom	
CUSTOM OPTIONS		
Single Sign-on	X	
Branded Biller Portal	X	
Branded Payer Portal	X	

Appendix C: Biller Deliverables

Deliverable
Sample Invoice File (.bif)
Web services installed
Firewall access granted – White listing
SSO User name and password conversion data (if applicable)
Auto Pay Conversion data if applicable
Paperless conversion data if applicable

Appendix D
Biller Order Form

[Continued on Following Page]

SALES INFORMATION					
IC Sales Rep	Carlyn Altheide			Vertical	Utility
Order Date	5/11/2020	Sales Prtnr	Harris - Cayenta	Software Prtnr	Harris - Cayenta
PRODUCTS AND SERVICES					
Products	[EBPP] [Cloud Store] [IVR] [CSRConnect] [Outbound IVR]				
PAYMENT METHODS ACCEPTED					
Payment Types	[VISA/Mastercard/Discover] [ACH/EFT]				
BILLER INFORMATION					
Ownership Type	Government		Phone	(408) 586-3000	Fax
Legal Name	City of Milpitas		Website URL	http://www.ci.milpitas.ca.gov/	
Address 1	455 East Calaveras Boulevard		Bus. Open Date	01/26/54	
Address 2			Federal Tax ID	94-6019192	
City	Milpitas		<i>*Federal Tax ID and Legal Name must match on all documents</i>		
State	CA	ZIP	95035		
BILLER CONTACT					
Primary Contact Name	Dante Ong				
Phone	(408) 586-3132				
Email Address	dong@ci.milpitas.ca.us				
SIGNING AUTHORITY					
Name	Walter C. Rossmann		Title	Director of Finance/ Risk Manager	
Phone	(408) 586-3111	Fax		Email Address	wrossmann@ci.milpitas.ca.gov
BILLER PRICING					
Description	Interval	Cost Type	Cost		
Billor Portal Access Fee	Monthly	Fixed (\$)	\$100.00		
Invoice Presentment For Paperless Customers	Per Transaction	Fixed (\$)	\$0.30		
IC Payment Transaction Fee - Credit Card	Per Transaction	Fixed (\$)	\$0.60		
IC Payment Transaction Fee - EFT	Per Transaction	Fixed (\$)	\$0.60		
Recurring Transaction (ACH only)	Per Transaction	Fixed (\$)	\$0.40		
IC IVR Payment Transaction Fee - Credit Card	Per Transaction	Fixed (\$)	\$0.50		
IC IVR Payment Transaction Fee - EFT	Per Transaction	Fixed (\$)	\$0.50		
ACH Reject Fee Non-Submitter (Chase)	Per Transaction	Fixed (\$)	\$15.00		
Cloud Access Fee	Monthly	Fixed (\$)	\$50.00		
HARDWARE					
Card Reader Type		Quantity		Cost per Reader	
Card Reader				Billing Interval	
Shipping Addr.					

(if different than location address)

Kiosk Type	Device Quantity	Per Device Txn Min
Standard/In-Door		750
Thru-Wall		800
Outdoor Model		850

Note: Biller will be charged for the minimum number of transactions listed to left each month per kiosk unity. In addition, if the Biller's order includes kiosks then the terms and conditions of Kiosk Managed Standard SOW (and applicable schedules) are hereby agreed and incorporated by reference

BILLER BANK INFO

Note: Must include voided business check or bank letter for each unique account			
Billing Method	ACH Month End Fees	Bank Name	Wells Fargo
Name on Account	City of Milpitas General Account	Phone	(626)349-3535
Bank Address	420 Montgomery Street		
	San Francisco, CA 94104	Last 4 Acct #	0628
Routing #	121000248		

DATA RETENTION

Months to Keep	24	*Additional Fees apply if greater than 24 months
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NOTES/SPECIAL HANDLING

-This agreement includes a transition from Paya to Chase Paymentech processing platform. The conversion project will begin within 30 days of contract execution.

-Outbound IVR Campaigns, Biller Pricing: Monthly Access Fee-\$100 per Month. Outbound IVR per Message Transaction Fee-\$0.15 per outbound message.

-Custom Programming Charges per Hour: \$175 Charges per hour with scope of services

-PayNearMe Transaction Fee- \$1.99

CERTIFICATION AND AGREEMENT

- A. By signing below, the Biller hereby authorizes Invoice Cloud, Inc. ("Invoice Cloud") to initiate and execute debit/credit entries to its checking/deposit account(s) indicated above at the depository financial institution(s) named above and to debit/credit the same such account(s). The Biller acknowledges that the origination of ACH transactions to its account(s) must comply with the provisions of U.S. law. This authority is to remain in full force and effect until (i) Invoice Cloud has received written notification (by electronic or U.S. mail) from the Biller of its revocation in such time and manner as to allow Invoice Cloud a reasonable opportunity to act on it, but not less than 10 business days notice; and (ii) all obligations of the Biller to Invoice Cloud that have arisen under this Agreement and all other agreements have been paid in full. The Biller must also notify Invoice Cloud, in writing, (by electronic or U.S. mail) when a change in account number(s) or bank has occurred at which time this authorization shall apply to such new/changed account. This notification must be received within 10 business days of change. A fee will be charged for any returned ACH debits.
- B. By signing below, the Biller named: (1) has read, agreed to, and acknowledges receipt of the Professional Services Agreement and Exhibits executed by the Biller, and (2) certifies to Invoice Cloud that he/she is authorized to sign this Order Form; (3) certifies that all information and documents submitted in connection with this Order Form are true and complete; (4) authorizes Invoice Cloud or its agent to verify any of the information given, including credit references, and to obtain credit reports (including a spouse if in a community property state); (5) agrees to pay the Monthly Access Fee through the last day of the month following the effective date of termination as provided in the Billing Agreement; (6) agrees that Biller and each transaction submitted will be bound by the Order Form and the Biller Agreement in its entirety; (7) agrees that Biller will submit transactions only in accordance with the information in this Order Form and Biller Agreement and will immediately inform Invoice Cloud, by email (contracts@invoicecloud.com) if any information in this Order Form changes, and (8) the Biller agrees and understands that outstanding sums due and owing to Invoice Cloud, will be charged daily or monthly and debited from its current depository account. Non-sufficient funds for these debits are grounds for a change in fees or termination of this Agreement. In the event of non-payment of any sums due, Invoice Cloud reserves the right to withdraw such sums from the current depository account at any time to ensure payment of the same.
- C. Pay by Text: Standard data rates and text messaging rates may apply based on the payer's plan with their mobile phone carrier. Payer can opt out of text messaging at any time with Invoice Cloud. Partial payment or overpayment is not supported. Service fees may apply based on the biller set up with Invoice Cloud. Biller may not use the service for activities that violate any law, statute, ordinance or regulation.
- D. By signing below, the Biller hereby gives permission to Invoice Cloud to access his / her credit history via Trans Union, Equifax, or other credit-reporting agency.

INVOICE PARAMETERS

Invoice Parameters must be completed for each invoice type

Invoice Type	Water					Pricing Model	Non-Submitter				
Biller Software	Cayenta					Non-Submitter: Interchange Paid By	Biller				
BILLING DETAILS											
Please indicate which months bills are <i>sent</i> by placing the bill count for each month below:											
Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
8500	8500	8500	8500	8500	8500	8500	8500	8500	8500	8500	8500
Avg Invoice \$	357.00	Max Invoice \$	125000.00	Bill Frequency	Bi-Monthly	BPM	8500				
SERVICE FEES											
Payment Source Description	Payment Method			Minimum Fee (\$) per Transaction	Calculation Type	Fee Amount					
All Payment Sources	Credit/Debit										
All Payment Sources	ACH/EFT										
Kiosk	All Payment Methods										
IVR Surcharge	All Payment Methods										
PAYMENT SOURCE EXCEPTIONS											
MAX PAYMENT CAP											
CC Max		ACH Max (\$)	125000.00								
BILLER DEPOSITORY BANK INFO											
<i>Note: must include voided business check or bank letter for each unique account</i>											
Routing #	121000248					Last 4 Acct #	0628				
NOTES/SPECIAL HANDLING											

INVOICE PARAMETERS

Invoice Parameters must be completed for each invoice type

Invoice Type	Utility Deposits		Pricing Model	Non-Submitter							
Billers Software	Cloud Store	Non-Submitter: Interchange Paid By		Billers							
BILLING DETAILS											
Please indicate which months bills are sent by placing the bill count for each month below:											
Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
10	10	10	10	10	10	10	10	10	10	10	10
Avg Invoice \$	226.00	Max Invoice \$	125000.00	Bill Frequency	Monthly	BPM	10				
SERVICE FEES											
Payment Source Description	Payment Method	Minimum Fee (\$) per Transaction	Calculation Type	Fee Amount							
All Payment Sources	Credit/Debit										
All Payment Sources	ACH/EFT										
Kiosk	All Payment Methods										
IVR Surcharge	All Payment Methods										
PAYMENT SOURCE EXCEPTIONS											
MAX PAYMENT CAP											
CC Max		ACH Max (\$)	125000.00								
BILLER DEPOSITORY BANK INFO											
<i>Note: must include voided business check or bank letter for each unique account</i>											
Routing #	121000248	Last 4 Acct #	0628								
NOTES/SPECIAL HANDLING											

INVOICE PARAMETERS

Invoice Parameters must be completed for each invoice type

Invoice Type Billers Software	Miscellaneous Accounts Receivables Cloud Store	Pricing Model Non-Submitter: Interchange Paid By	Non-Submitter Billers								
BILLING DETAILS											
Please indicate which months bills are sent by placing the bill count for each month below:											
Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
128	128	128	128	128	128	128	128	128	128	128	128
Avg Invoice \$	2200.00	Max Invoice \$	125000.00	Bill Frequency	Monthly	BPM	128				
SERVICE FEES											
Payment Source Description	Payment Method	Minimum Fee (\$) per Transaction	Calculation Type	Fee Amount							
All Payment Sources	Credit/Debit										
All Payment Sources	ACH/EFT										
Kiosk	All Payment Methods										
IVR Surcharge	All Payment Methods										
PAYMENT SOURCE EXCEPTIONS											
MAX PAYMENT CAP											
CC Max		ACH Max (\$)	125000.00								
BILLER DEPOSITORY BANK INFO											
<i>Note: must include voided business check or bank letter for each unique account</i>											
Routing #	121000248	Last 4 Acct #	0628								
NOTES/SPECIAL HANDLING											

EXHIBIT B

Schedule of Charges/Payments

Consultant will invoice City on a monthly cycle. Consultant will include with each invoice a detailed progress report that indicates the amount of budget spent on each task. Consultant will inform City regarding any out-of-scope work being performed by Consultant.

Electronic Bill Presentment

Item	Cost/Unit of Measure	One Time or Recurring	Note
Set up and implementation of Electronic Bill Presentment and Payment portal and payment configuration	\$0.00	N/A	No charges for setup or implementation of Invoice Cloud's SaaS EBPP platform.
Set up and implementation – Data processing program used to process billing data to create eBills in PDF format	\$0.00	N/A	eBill images are available for Payers and CSRs using IC's PDF Linking with DataProse.
Option 1: Price to load all City bills into system	\$0.00	N/A	No charges to load City PDF bills into Invoice Cloud's SaaS EBPP platform. eBill
Option 2: Price to load enrolled user bills only	\$0.00	N/A	eBill images are available for Payers and CSRs using IC's PDF Linking with DataProse. IC makes bill images available
Price charged per enrolled customer per month	\$0.00	N/A	There is no fee per enrolled user with Invoice Cloud.
Price per document view	\$0.00	N/A	IC does not charge any fees for document views.

Price charged for a Customer Service Representative to view or interact with bills	\$0.00	N/A	No fees for CSRs to view or interact with bills.
Price per payment initiated via the EBPP system	\$0.60 per item	Recurring	
Price for Recurring Payments	\$0.40 per ACH item	Recurring	AutoPay ('recurring') EFT/ACH Payment fee is \$0.40 per item
Monthly Maintenance Costs	\$100.00	Recurring	The Monthly Biller Portal Access fee includes an unlimited number of City CSR Users with no incremental costs.
Custom programming charges per hour	\$175.00	One Time	Charges per hour with scope of services and written approval by the City and IC.
Other (pls. explain in column 4)	\$0.30 per item	Recurring	Paperless Billing Fee, per account enrolled in IC paperless, per cycle
Other (pls. explain in column 4)	\$0.00	N/A	Email Engine with 27 Branded Email Templates and up to 3 mail reminder per bill
Other (pls. explain in column 4)	\$0.00	N/A	Pay by Text: No additional fees for IC's Pay by Text (SMS text bill reminders and ability for your Registered Users to pay through SMS text messaging)
Other (pls. explain in column 4)	\$0.00	N/A	No additional fees for IC's SaaS customer engagement tools, such as OneClickPay, Remind Me, AutoPay/PaybyText/Paperless enrollment in the One Time Payment Route.

Mobile Application

Set up and implementation of Mobile Application and payment configurations	\$0.00	N/A	Invoice Cloud's true SaaS EBPP platform uses Mobile Responsive Design, there is no charge for this mobile environment. With mobile responsive design, your
Monthly Maintenance Costs	\$0.00	N/A	Invoice Cloud does not charge for maintenance.
Custom programming charges per hour	\$175.00	One Time	Charges per hour with scope of services
Other (pls. explain in column 4)	\$0.00	N/A	No separate fees for IC's mobile responsive design.

Interactive Voice Response

Item	Cost/Unit of Measure	One Time or Recurring	Note
Set up and implementation of Interactive Voice Response and payment configurations	\$0.00	N/A	No charge to set up and implement Invoice Cloud's payment IVR.
Monthly Maintenance Costs	\$0.00	N/A	No monthly maintenance fees for Invoice Cloud's payment IVR
Other (pls. explain in column 4)	\$0.50 per payment transaction	Recurring	IC Payment IVR: Includes English and Spanish language options with other languages available upon request. Saved Payment Methods, Email Receipt, Call Transfer, and toll free or local area codes. There are no annual, monthly or per minute fees for the IVR.

Electronic Payment Processing

Item	Cost/Unit of Measure	One Time or Recurring	Note
EBPP Solution vendor cost - ACH / Bank Account Payment	\$0.40 per item	Recurring	AutoPay ('recurring') EFT/ACH Payment fee is \$0.40 per item
- Credit Card – VISA	\$0.60 per item	Recurring	IC per item fee for all credit/debit card payments from the major card brands, Visa, MasterCard, Discover and American Express.
- Credit Card - MasterCard	\$0.60 per item	Recurring	IC per item fee for all credit/debit card payments from the major card brands, Visa, MasterCard, Discover and American Express.
Processor Cost (If processor is part of vendor response):	See Below	Recurring	
- ACH / Bank Account Payment	See Below	Recurring	
- Credit Card - VISA	See Below	Recurring	
- Credit Card – MasterCard	See Below	Recurring	
Payment Processor Transactional Cost including any flat fees and/or basis points (per transaction and list ACH and Card transactional costs separately)	Effective rate for all pass-through fees 0.69%	Recurring	With this contract renewal, Invoice Cloud is proposing a change from Paya to Chase Paymentech. With Chase, Invoice Cloud sends Level 3 data, ensuring our clients qualify for lower rates on certain commercial credit cards, in addition to the already favorable utility rates. Pass-through fees include card brand interchange, plus all fees, dues and assessments. The City's current effective rate for credit/debit card processing is 0.69%, this is a blended average over a 2-month billing cycle. IC looked at the City's existing pass-through fees for Sept/Oct 2019 and Nov/Dec 2019, and the effective rate average is the same. Please refer to the attachment "Chase Schedule A to Merchant Agreement" for a listing of the detailed pass-through fees.

Returned ACH	\$15.00 per item	Recurring	
Monthly Account Charges	\$0.00	Recurring	No Monthly Fees with Chase
Gateway Transaction fees	N/A	N/A	No 3rd party gateway is required for Invoice Cloud / Chase electronic payment processing.
Other (pls. explain in column 4)	N/A	N/A	N/A

Online Payment Remittance Reporting

Item	Cost/Unit of Measure	One Time or Recurring	Note
Set up and implementation of Online Remittance Reporting	\$0.00	N/A	
Other (pls. explain in column 4)	\$0.00	N/A	

Self Service Bill Payment Kiosk

Item	Cost/Unit of Measure	One Time or Recurring	Note
Implementation Fee – includes development, testing and deployment for the Bill Payment Application	\$3000	One Time	Initial site survey, kiosk shipment, and service tech in attendance on installation day for 1 standard indoor kiosk.
Monthly Lease	\$0.00	N/A	
Management Fee	\$1.50 per transaction, 750 minimum transactions per kiosk, per month	N/A	1 standard indoor kiosk includes cash, credit card and check payment methods (conversion to ACH). The minimum number of transactions for each indoor unit is 750, therefore the City's monthly minimum cost will be \$1125 + processing fees.
Onsite Training	\$1000 per day	One Time	
Materials (Thermal Receipt Paper, Printer Ink, etc.)	\$30-50 average per roll	Recurring	
Equipment Maintenance	N/A	N/A	Included in Per Transaction Fees

Other Billing and Payment methods/services Offered

1. CSRConnect Application - \$0.00 Setup / \$0.00 Ongoing
2. POSConnect Application - \$0.00 Setup / \$0.00 Ongoing
3. POS Encrypted Credit Card Swipe Hardware - \$30 per unit, per month
4. PayGo - Cash Retail Payment Option - \$1.95 per cash payment, paid by the City or paid by the Payer

EXHIBIT C

Activity Schedule

As the City's current EBPP provider, Consultant does not anticipate any implementation activities. If, however, the City wishes to add any new services for Utility Billing such as Online Bank Direct, CSRConnect, POSConnect, Marketing activities such as a paperless campaign, AutoPay Conversion (from City to IC), new Cloud Stores for Utilities or other City Departments, these activities can be completed within the July 1, 2020 time frame. For new Cloud Store and add-on services such as Outbound IVR Campaigns, these services are normally implemented within sixty days from the add-on project kick-off. Bill payment kiosks require a separate implementation plan and timeline (separate from EBPP activities) and require a minimum of 12 weeks lead time from our kiosk manufacturer.

EXHIBIT "D"

INSURANCE REQUIREMENTS

Please refer to the insurance requirements listed below. **Those that have an "X" indicated in the space before the requirement apply to Contractor's or Consultant's Agreement.**

Contractor or Consultant shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor or Consultant, its agents, representatives, employees or subcontractors.

Contractor or Consultant shall provide its insurance broker(s)/agent(s) with a copy of these requirements and request that they provide Certificates of Insurance complete with copies of all required endorsements.

Contractor or Consultant shall furnish City with copies of original endorsements affecting coverage required by this Exhibit D. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements and certificates are to be received and approved by City before work commences. City has the right to require Contractor's or Consultant's insurer to provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

Commercial General Liability (CGL):

Coverage at least as broad as Insurance Services Office ("ISO") Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$2,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

Coverage at least as broad as ISO Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$1,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

Coverage at least as broad as ISO Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$5,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

Automobile Liability:

Coverage at least as broad as ISO Form Number CA 0001 covering, Code 1 (any auto), of if Contractor or Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limits no less than \$1,000,000.00 combined single limit for bodily injury and property damage.

Coverage at least as broad as ISO Form Number CA 0001 covering, Code 1 (any auto), with limits no less than \$5,000,000.00 combined single limit for bodily injury and property damage.

___ Garage keepers' extra liability endorsement to extend coverage to all vehicles in the care, custody and control of the Contractor or Consultant, regardless of where the vehicles are kept or driven.

Professional Liability (Errors and Omissions):

___ Insurance appropriate to the Contractor or Consultant's profession, with limit no less than \$1,000,000.00 per occurrence or claim, \$2,000,000.00 aggregate.

___ (If Design/Build), with limits no less than \$1,000,000.00 per occurrence or claim, and \$2,000,000.00 policy aggregate.

___ Insurance appropriate to the Contractor or Consultant's profession, with limit no less than _____ per occurrence or claim, _____ aggregate

Workers' Compensation Insurance:

X Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000.00 per accident for bodily injury or disease. *(Not required if Contractor or Consultant provides written verification it has no employees)*

The Employer's Liability policy shall be endorsed to waive any right of subrogation as respects the City, its elected and appointed officials, officers, attorneys, agents, and employees.

Builder's Risk (Course of Construction):

___ Insurance utilizing an "All Risk" (Special Perils) coverage form, with limits equal to the completed value of the project and no coinsurance penalty provisions. If the project does not involve new or major reconstruction, at the option of the City, an Installation Floater may be acceptable. For such projects, a Property Installation Floater shall be obtained that provides for the improvement, remodel, modification, alteration, conversion or adjustment to existing buildings, structures, processes, machinery and equipment. The Property Installation Floater shall provide property damage coverage for any building, structure, machinery or equipment damaged, impaired, broken, or destroyed during the performance of the Work, including during transit, installation, and testing at the City's site.

Contractor's or Consultant's Pollution Legal Liability:

___ Contractor's or Consultant's pollution legal liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) with limits no less than \$1,000,000.00 per occurrence or claim and \$2,000,000.00 policy aggregate.

If the Contractor or Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Contractor or Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

Cyber Liability Insurance

X Cyber Liability Insurance with limits not less than \$1,000,000 per claim.

Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor or Consultant in this Agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion

of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion, and network security.

The policy shall provide coverage for breach response costs as well as regulatory fines and penalties, and credit monitoring expenses with limits sufficient to respond to these obligations.

Surety Bonds:

Contractor shall provide the following Surety Bonds:

- Bid Bond
- Performance Bond
- Payment Bond

The Payment Bond and Performance Bond shall be in a sum equal to the contract price. Bonds shall be duly executed by a responsible corporate surety, authorized to issue such bonds in the State of California and secured through an authorized agent with an office in California.

Other Insurance Provisions:

The insurance policies are to contain, or be endorsed to contain the following provisions:

X Additional Insured Status and Primary/Non-Contributory Language:

Contractor's general liability and automobile liability policies shall be primary and shall not seek contribution from the City's coverage and be endorsed to add the City and its officers, officials, employees, and agents as additional insureds under such policies using Insurance Services Office form CG 20 10 (or equivalent) on the general liability policy. For construction projects, an endorsement providing completed operations coverage for the additional insured on the general liability policy, ISO form CG 20 37 (or equivalent), is also required.

The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City (if agreed to in a written contract or agreement) before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

Loss Payee Status – Builder's Risk/Course of Construction Insurance (applicable to Construction Contracts only)

Contractor or Consultant may submit evidence of Builder's Risk insurance in the form of Course of Construction coverage. Such coverage shall name the City as a loss payee as their interest may appear.

X Notice of Cancellation, Suspension or Otherwise Voiding Policies:

Each insurance policy required above shall contain or be endorsed to contain that coverage shall not be suspended, voided, canceled or reduced in coverage or in limits except with thirty (30) days' prior written notice by certified mail, return receipt requested to the City.

X Waiver of Subrogation:

Contractor or Consultant hereby grants to City a waiver of any right to subrogation which any insurer of said Contractor or Consultant may acquire against the City by virtue of the payment of any loss under such insurance. Contractor or Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer. The Workers' Compensation Policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by Contractor or Consultant, its employees, agents and subcontractors.

— **Completed Operations**

For Construction Agreements, Contractor shall maintain insurance as required by this Agreement to the fullest amount allowed by law and shall maintain insurance for a minimum of five (5) years following the completion of this project. In the event Contractor fails to obtain or maintain completed operations coverage as required by this Agreement, the City at its sole discretion may purchase the coverage required and the cost will be paid by Contractor.

THE FOLLOWING PROVISIONS APPLY TO ALL AGREEMENTS

Deductibles and Self-Insured Retentions ("SIR"):

Any deductibles or self-insured retentions must be declared to and approved by City. The City may require the Contractor or Consultant to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. At the option of the City, either (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its elected and appointed officials, officers, attorneys, agents, and employees; or (2) the Contractor or Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

All SIRs must be disclosed to Risk Management for approval and shall not reduce the limits of liability.

Policies containing any SIR provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the City.

City reserves the right to obtain a full-certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Acceptability of Insurers:

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-:VII, unless otherwise acceptable to City.

Claims Made Policies: (note - should be applicable only to professional liability, see below)

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor or

Consultant must purchase “extended reporting” coverage for a minimum of five (5) years after completion of work.

4. A copy of the claims reporting requirements must be submitted to the City for review.
5. If the services involve lead-based paint or asbestos identification/remediation, the Contractor’s Pollution Liability Policy shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification/remediation, the Contractor’s Pollution Liability Policy shall not contain a mold exclusion, and the definition of Pollution shall include microbial matter, including mold.

Subcontractors:

Contractor or Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City is an additional insured on insurance required from subcontractors.

Subcontractor agrees to be bound to Contractor and City in the same manner and to the same extent as Contractor is bound to City under this Agreement and any other contract documents. Subcontractor further agrees to include the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, with any sub-subcontractor to the extent they apply to the scope of the sub-subcontractor’s work. A copy of the City indemnity and insurance provisions will be furnished to the subcontractor upon request.

Verification of Coverage:

Contractor or Consultant shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor or Consultant’s obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Special Risks or Circumstances

City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage or other special circumstances.

Failure to Comply:

Each insurance policy required above shall contain or be endorsed to contain that any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its elected and appointed officials, officers, attorneys, agents, and employees.

Applicability of Coverage:

Each insurance policy required above shall contain or be endorsed to contain that the Contractor’s or Consultant’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Exhibit E

Invoice Cloud Biller Agreement

1. License Grant & Restrictions. Subject to execution by Biller of the Invoice Cloud Biller Order Form incorporating this Agreement, Invoice Cloud hereby grants Biller a non-exclusive, non-transferable, worldwide right to use the Service described on the Biller Order Form until termination as provided herein, solely to bill and receive payment from Biller's own customers for the invoice types that are referenced in the Biller Order Form. All rights not expressly granted to Biller are reserved by Invoice Cloud and its licensors. Unless otherwise expressly agreed to in writing by Invoice Cloud to the contrary, Invoice Cloud will process all of Biller's Customers' Payment Instrument Transactions requirements related to the Biller Data and will do so via electronic data transmission according to our formats and procedures for each electronic payment type selected in the Biller Order Form. In addition, Biller will sign all third party applications and agreements required for the Service including without limitation payment and credit card processing agreements and merchant agreements. For utility billing invoice types listed on the Order Form, and other invoice types (other than those listed as "miscellaneous" on the Order Form). Biller will not use the credit card processing, ACH or check processing of any bank, payment processor, entity, or person, other than Invoice Cloud via electronic data transmission or the authorization for processing of Biller's Customers' Payment Instrument Transactions for each electronic payment type selected in the Biller Order Form throughout the term of this Agreement. The preceding sentence shall not be construed to prevent Biller from accepting payments at the point of sale.

Biller shall not: (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Service in any way; (ii) modify or make derivative works based upon the Service; (iii) Recreate, "frame" or "mirror" any portion of the Service on any other server or wireless or Internet-based device; (iv) reverse engineer or access the Service; or (v) copy any features, functions or graphics of the Service.

2. Privacy & Security. Invoice Cloud's privacy and security policies may be viewed at <http://www.invoicecloud.com/privacy.html>. Invoice Cloud reserves the right to modify its privacy and security policies in its reasonable discretion from time to time which modification shall not materially adversely impact such policies. Invoice Cloud will maintain compliance with current required Payment Card Industry (PCI) standards and Cardholder Information Security standards.

3. Account Information and Data. Biller will provide to Invoice Cloud all Biller Data generated for Biller's Customers reasonably necessary for provision of the Services. Invoice Cloud does not and will not own any Customer Data in the course of providing the Service. Biller, not Invoice Cloud, shall have sole responsibility for the accuracy, quality, integrity, legality, and reliability of, and obtaining the intellectual property rights to use and process all its Customer Data. In the event this Agreement is terminated, Invoice Cloud will make available to Biller a file of the Customer Data within 30 days of termination of this Agreement (or at a later time if required by applicable law), if Biller so requests at the time of termination. Invoice Cloud reserves the right to remove and/or discard Customer Data with 30 days advanced notice except as prohibited by applicable law or in the event of exigent circumstances which makes prior notice impracticable, and in which case, notice will be provided promptly thereafter.

4. Confidentiality / Intellectual Property Ownership. Invoice Cloud agrees that it may be furnished with or otherwise have access to Customer Data that the Biller or Biller's customers considers confidential. Invoice Cloud agrees to secure and protect the Customer Data in a manner consistent with the maintenance of Invoice Cloud's own Confidential Information, using at least as great a degree of care as it uses to maintain the confidentiality of its own confidential information, but in no event use less than commercially reasonable measures. Invoice Cloud will not sell, transfer, publish, disclose, or otherwise make available any portion of the Customer Data to third parties, except as required to perform the Services under this Agreement or otherwise required by applicable law.

Invoice Cloud (and its licensors, where applicable) owns all right, title and interest, including all related Intellectual Property Rights, in and to the Invoice Cloud Technology, the Content and the Service and any enhancement requests, feedback, integration components, suggestions, ideas, and application programming interfaces, or recommendations provided by Biller or any other party relating to the Service. In the event any such intellectual property rights in the Invoice Cloud Technology, the Content or the Service do not fall within the specifically enumerated works that constitute works made for hire under applicable copyright laws or are deemed to be owned by Invoice Cloud, Biller hereby irrevocably, expressly and automatically assigns all right, title and interest worldwide in and to such intellectual property rights to Invoice Cloud. The Invoice Cloud name, the Invoice Cloud logo, and the product names associated with the Service are trademarks of Invoice Cloud or third parties, and no right or license is granted to use them.

Biller agrees that during the course of using or gaining access to the Service (or components thereof) it may be furnished with or otherwise have access to information that Invoice Cloud considers to be confidential including but not limited to Invoice Cloud Technology, customer and/or prospective customer information, product features and plans, marketing/sales collateral, pricing and financial information of the parties which are hereby deemed to be Invoice Cloud Confidential Information, or any other information that by its very nature constitutes information of a type that any reasonable business

person would conclude was intended by Invoice Cloud to be treated as proprietary, confidential, or private (the “Confidential Information”). Biller agrees to secure and protect the Confidential Information in a manner consistent with the maintenance of Invoice Cloud’s rights therein, using at least as great a degree of care as it uses to maintain the confidentiality of its own confidential information, but in no event use less than reasonable efforts. Biller will not sell, transfer, publish, disclose, or otherwise make available any portion of the Confidential Information of the other party to third parties (and will ensure that its employee and agents abide by the requirements hereof), except as expressly authorized in this Agreement or otherwise required by applicable law. **5. Billing and Renewal.** Invoice Cloud fees for the Service are provided on the Biller Order Form. Invoice Cloud’s fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, Invoice Cloud may assess and/or collect such taxes, levies, or duties against Biller and Biller shall be responsible for payment of all such taxes, levies, or duties, excluding only United States (federal or state) taxes based solely on Invoice Cloud’s income. All payment obligations are non-cancellable and all amounts or fees paid are non-refundable. Unless Invoice Cloud in its discretion determines otherwise, all fees will be billed in U.S. dollars. If Biller believes Biller’s bill or payment is incorrect, Biller must provide written notice to Invoice Cloud within 60 days of the earlier of the invoice date, or the date of payment, with respect to the amount in question to be eligible to receive an adjustment or credit; otherwise such bill or payment is deemed correct. Invoice Cloud reserves the right to pass through any pricing modifications with respect to fees owed by the Biller upon thirty days written notice to Biller based on increases incurred by Invoice Cloud on fees, assessments, and the like from credit card processors, bank card issuers, payment associations, ACH and check processors.

6. Effect of Termination. Upon any early termination of this Agreement by Invoice Cloud as a result of the breach, Biller shall remain liable for all fees and charges incurred, and all periodic fees owed through the end of the calendar month following the effective date of termination. Upon any termination or expiration of this Agreement, Biller’s password and access will be disabled and Biller will be obligated to pay the balance due on Biller’s account computed in accordance with the Charges and Payment of Fees section above. Biller agrees that Invoice Cloud may charge such unpaid fees to Biller’s Debit Account or credit card or otherwise bill Biller for such unpaid fees

7. Invoice Cloud Responsibilities. Invoice Cloud represents and warrants that it has the legal power and authority to enter into this Agreement. Invoice Cloud warrants that the Service will materially perform the functions that the Biller has selected on the Order Form under normal use and circumstances and that. Invoice Cloud shall use commercially reasonable measures with respect to Customer Data to the extent that it retains such, in the operation of the Service; provided that the Biller shall maintain immediately accessible backups of the Customer Data. In addition, Invoice Cloud will, at its own expense, as the sole and exclusive remedy with respect to performance of the Service, correct any Transaction Data to the extent that such errors have been caused by Invoice Cloud or by malfunctions of Invoice Cloud’s processing systems.

8. Limited Warranty EXCEPT AS PROVIDED IN SECTION 7, THE SERVICES AND ALL CONTENT AND TRANSACTION DATA IS PROVIDED WITHOUT ANY EXPRESS, OR IMPLIED WARRANTY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ALL OTHER WARRANTIES ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY INVOICE CLOUD AND ITS LICENSORS AND PAYMENT PROCESSORS. INVOICE CLOUD AND ITS LICENSORS AND PAYMENT PROCESSORS DO NOT REPRESENT OR WARRANT THAT (A) THE USE OF THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA, (B) THAT THE SERVICE WILL NOT DELAY IN PROCESSING OR PAYING, OR (C) THE SERVICE WILL MEET REQUIREMENTS WITH RESPECT TO SIZE OR VOLUME. Invoice Cloud’s service may be subject to limitations, delays, and other problems inherent in the use of the internet and electronic communications. Invoice Cloud is not responsible for any delays, delivery failures, or other damage resulting from such problems.

9. Biller’s Responsibilities. Biller represents and warrants that it has the legal power and authority to enter into this Agreement. Biller is responsible for all activity occurring under Biller’s accounts and shall abide by all applicable laws, and regulations in connection with Biller’s and/or its customers’ and/or any payers’ use of the Service, including those related to data privacy, communications, export or import of data and the transmission of technical, personal or other data. Biller represents and warrants that Biller has not falsely identified itself nor provided any false information to gain access to the Service and that Biller’s billing information is correct. Biller shall: (i) notify Invoice Cloud immediately of any unauthorized use of any password or account or any other known or suspected breach of security; (ii) report to Invoice Cloud and immediately stop any copying or distribution of Content that is known or suspected to be unauthorized by Biller or Biller’s Users; and (iii) obtain consent from Biller’s customers and payers to receive notifications and invoices from Invoice Cloud. Invoice Cloud is not responsible for any Biller postings in error due to delayed notification from credit card processor, ACH bank and other related circumstances. Biller agrees and acknowledges that in the event that Biller has access to, receives from, creates, or receives protected health information, or Biller has access to, creates, receives, maintains or transmits on behalf of electronic protected health information (as those terms are defined under the privacy or security regulations issued pursuant to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and Subtitle D of the Health Information Technology for Economic and Clinical Health Act provisions of the American Recovery and Reinvestment Act of 2009 (“ARRA”), during the performance under this Agreement, it will comply with all such law, regulations and rules related thereto.

Biller is required to ensure that it maintains a fair policy with regard to the refund, return or cancellation of services and adjustment of Transactions. Biller is also required to disclose all refund, return and cancellation policies to Invoice Cloud and any applicable payment processors and Biller's Customers, as requested. Any change in a return/ cancellation policy must be submitted to Invoice Cloud, in writing, not less than 21 days prior to the effective date of such change. If Biller allows or is required to provide a price adjustment, or cancellation of services in connection with a Transaction previously processed, Biller will prepare and deliver to Invoice Cloud Transaction Data reflecting such refund/adjustment within 2 days of resolution of the request resulting in such refund/adjustment. The amount of the refund/adjustment cannot exceed the amount shown as the total on the original Transaction Data. Biller may not accept cash or any other payment or consideration from a Customer in return for preparing a refund to be deposited to the Customer's account; nor may Biller give cash/check refunds to a Customer in connection with a Transaction previously processed, unless required by applicable law

10. Indemnification. Invoice Cloud shall indemnify and hold Biller, employees, attorneys, and agents, harmless from any losses, liabilities, and damages (including, without limitation, Biller's costs, and reasonable attorneys' fees) arising out of: (i) failure by Invoice Cloud to implement commercially reasonable measures against the theft of the Customer Data; or (ii) its total failure to deliver funds processed by Invoice Cloud as required hereunder (which relates to payments due from Invoice Cloud for Transaction Data). This indemnification does not apply to any claim or complaint relating to Biller's failure to resolve a payment dispute concerning debts owed to Biller or Biller's negligence or willful misconduct or violation of any applicable agreement or law.

11. Fees.

Invoice Cloud will not charge fees related to the initial setup, initial implementation and personalization of its standard Service unless a fee is included in the Biller Order Form. Invoice Cloud will charge the Biller or payer fees as provided in the Biller Order Form. In addition, Invoice Cloud reserves the right to charge for changes to the setup, implementation or personalization performed after the completion of initial setup or implementation and any other requested work or changes including the following services, at its then standard rates:

- new file/biller set up
- template changes
- custom reports and other custom development
- new bill printer support
- invoice file format changes resulting in revision of integration/data translation
- re-implementation of a site/system and/or new billing system
- payment file revisions
- loading pdfs and importing/loading invoices
- conversion of biller customer registrations/passwords (post initial implementation)
- balance forward of invoices
- other out of scope services

12. Limitation of Liability. EXCEPT FOR INVOICE CLOUD'S INDEMNIFICATION OBLIGATIONS AND TO THE EXTENT THAT CLAIMS FOR WHICH INVOICE CLOUD IS INSURED ARE PAID BY THE APPLICABLE INSURANCE CARRIER, INVOICE CLOUD'S AGGREGATE LIABILITY SHALL BE UP TO AND NOT EXCEED THE AMOUNTS ACTUALLY PAID BY AND/OR DUE FROM BILLER IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. IN NO EVENT SHALL INVOICE CLOUD AND/OR ITS LICENSORS BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THIS SERVICE, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. Certain states and/or jurisdictions do not allow the exclusion of implied warranties or limitation of liability for incidental, consequential or certain other types of damages, so the exclusions set forth above may not apply to Biller.

13. Export Control. The Biller agrees to comply with United States export controls administered by the U.S. Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, and other U.S. agencies.

14. Notice. Either party may give notice by electronic mail to the other party's email address (for Biller, that address on record on the Biller Order Form, or by written communication sent by first class mail or pre-paid post to the other party's address on record in Invoice Cloud's account information for Biller, and for Invoice Cloud, to Invoice Cloud, Inc., 30 Braintree Hill Office Park, Suite 303, Braintree, MA 02184 Attention: Client Services. Such notice shall be deemed to have been given upon the expiration of 48 hours after mailing or posting (if sent by first class mail or pre-paid post) or 12 hours after sending (if sent by email).

15. Assignment. This Agreement may not be assigned by either party without the prior written approval of the other party, but may be assigned without such party's consent to (i) a parent or subsidiary, (ii) an acquirer of assets, or (iii) a successor by merger. Any purported assignment in violation of this section shall be void.

16. Insurance.

Invoice Cloud agrees to maintain in full force and effect during the term of the Agreement, at its own cost, the following coverages:

- a. Commercial General or Business Liability Insurance with minimum combined single limits of One Million (\$1,000,000) each occurrence and Two Million (\$2,000,000) general aggregate.
- b. Umbrella Liability Insurance with minimum combined single limits of Five Million (\$5,000,000) each occurrence and Five Million (\$5,000,000) general aggregate.
- c. Automobile Liability Insurance with minimum combined single limits for bodily injury and property damage of not less than One Million (\$1,000,000) for any one occurrence, with respect to each of the Invoice Cloud's owned, hired or non-owned vehicles assigned to or used in performance of the Services.
- d. Errors and Omissions Insurance (Professional Liability and Cyber Insurance) with limits of liability of at least One Million Dollars (\$1,000,000) per claim and in the aggregate.

17. Immigration Laws. For Services performed within the United States, Invoice Cloud will assign only personnel who are either citizens of the United States or legally eligible to work in the United States. Invoice Cloud represents and warrants that it has complied and will comply with all applicable immigration laws with respect to the personnel assigned to the Biller.

18. Beta Products. In the event that there is any functionality labelled "Beta" on the Biller Order Form, such functionality is provided "AS IS" WITHOUT ANY EXPRESS, OR IMPLIED WARRANTY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ALL OTHER WARRANTIES ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY INVOICE CLOUD AND ITS LICENSORS AND PAYMENT PROCESSORS. INVOICE CLOUD'S AGGREGATE LIABILITY WITH RESPECT TO SUCH FUNCTIONALITY SHALL BE UP TO AND NOT EXCEED \$10.

19. General. No text or information set forth on any other purchase order, preprinted form or document (other than a Biller Order, if applicable) shall add to or vary the terms and conditions of this Agreement. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect. No joint venture, partnership, employment, or agency relationship exists between Biller and Invoice Cloud as a result of this agreement or use of the Service. The failure of either party to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by Invoice Cloud in writing. All rights and obligations of the parties in Sections 4, 6, 10, 12, 14, 18 and 19 shall survive termination of this Agreement. Biller agrees that Invoice Cloud can disclose the fact that Biller is a paying customer and the edition of the Service that Biller is using.

Additional terms and conditions and definitions applicable to this Agreement and the Biller Order Form are found at www.invoicecloud.com/termsandconditions (the "Biller T+C") and are agreed to by Invoice Cloud and the Biller.

Exhibit F

Confirmation of Critical Terms of Service on the Cash Transaction Network

Under a Payment Processing Agreement between "us", the Processor identified in the Signature Block, and PayNearMe MT, Inc. ("PayNearMe") (the "Agreement"), PayNearMe will, through us and any approved data processors already interfaced with your systems, provide a web-based technology merchant payment processing service and supporting network infrastructure (the "Network") to enable cash payments to you at participating 7-Eleven, ACE Cash Express, Casey's General Store, CVS, and Family Dollar stores. (note: Family Dollar does not accept auto loan payments) and other payment locations to be agreed upon in the future, subject to any exclusions that you identify below. More information may be found at www.paynearme.com (the "Website"). We have agreed to the following PayNearMe terms of service on your behalf, and the Agreement also requires that all payment recipients and payees ("Y.Q!!") expressly confirm them. You agree:

(i) that PayNearMe and its payment locations are authorized to receive cash payments for you pursuant to the Agreement (i.e., act as agents for the limited purpose of receiving payments).

(ii) that PayNearMe will remit these payments to us or directly to you, as we so instruct PayNearMe, less the PayNearMe and payment location commissions as well as any applicable transaction taxes that PayNearMe or the payment location is obliged to withhold and remit to authorities (currently none).

(iii) that we may share such information with PayNearMe as may be necessary in our discretion to enable PayNearMe to perform its services pursuant to the Agreement.

(iv) that receipt of payment by a payment location on your behalf from any person using the Network ("user") is deemed receipt of payment by you and will satisfy the obligation owed to you in the amount of the applicable payment by the user, even if PayNearMe or we fail to make such corresponding payment to you. (Instead, your recourse is to us, we would look to PayNearMe and so on). The receipt issued by the payment location will identify you as the recipient of the payment and may identify us as well. In this way, the user is not at risk of having to pay twice. You agree that you have no, and shall not assert any, claim for the payment against any user after user's payment at a payment location and that you will not otherwise allow or take any action or fail to take any action that is adverse to user in connection with such payment.

(v) that either we or PayNearMe can elect to suspend the initiation of new payment transactions at our reasonable discretion until such time as we and PayNearMe agree to resume processing.

(vi) that you will comply with applicable provisions of the: (x) Dodd-Frank Wall Street Reform and Consumer Protection Act, undertaking in particular not to commit unfair, deceptive, or abusive acts or practices as prescribed by the Consumer Financial Protection Bureau; (y) Gramm-Leach-Bliley Act, undertaking in particular to properly safeguard consumer information as described in the Safeguards Rule promulgated by the Federal Trade Commission; and (z) the Truth in Lending Act and related regulations enforced by the Consumer Financial Protection Bureau in its authority under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

(vii) that all use of the Network by users is subject to PayNearMe's terms of use displayed on the Website and that you will reasonably cooperate with PayNearMe and us in good faith to minimize fraud/theft/abuse/illegality in the use the Network and during the term of the Agreement and for a reasonable time thereafter, you will promptly respond to reasonable, related information requests.

(viii) that you will not use any payment location names, marks or logos without PayNearMe's prior written approval. In the event of any inconsistency between this confirmation and the Agreement, then the Agreement provision will govern. PayNearMe is an intended third party beneficiary of the foregoing agreements.

(ix) The following payment locations are excluded (*not applicable if left blank*): ACE Cash Express, Casey's General Store, Family Dollar

You"/Client Name:	City of Milpitas	Agreed: (signature):	_____
Client Address:	455 E Calaveras Blvd.	Date:	_____
	Milpitas, CA 95035	Print Name:	_____
"Us"/ Processor Name:	Invoice Cloud, Inc	Title:	_____
PayNearMe Basic Fee:	\$1.99	Phone #:	_____



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve Accounts Receivable Write-offs for the Fiscal Year Ending June 30, 2020
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	6/2/2020
Staff Contact:	Walter Rossmann, Finance Director, 408-586-3111
Recommendation:	Approve the Accounts Receivable write-offs for the Fiscal Year ending June 30, 2020.

Background:

As part of the annual preparation of the financial statements, staff reviews the City’s accounts receivables or outstanding payments to the City. Any outstanding payment in excess of one year is considered for being written off, if after several attempts to collect payment including internal billing mailings, past due notices, phone call follow up and referral of the outstanding payment to a collection agency have been unsuccessful.

The City of Milpitas Municipal Code I-5-3.00 titled “Write-off of Uncollectible Accounts,” authorizes the City Manager and the Director of Finance, jointly, to write off as uncollectible up to \$50,000.00 in total annually (and up to \$10,000.00 for any single account or claim) on all accounts or claims which the City may have against all persons under certain conditions. When the City Manager and Director of Finance determine that the claim is (1) uncollectible; possibly collectible but collection would not be reasonably cost effective taking into consideration the probable necessary cost to the City in pursuing collection and the likelihood of collection; or not a valid, enforceable claim of the City. Since the annual write-off amount is in excess of \$50,000, staff seeks Council approval.

Analysis:

Depending on the total annual amount deemed uncollectible, staff recommends the attached listings of accounts receivable (AR) write-offs to City Council for approval. This report covers the period prior to June 2019. Attached in the Council’s packet are two AR lists, one for utility accounts (water, and sewer) and the other for non-utility accounts that have remained unpaid for more than 12 months.

The table below identifies AR categories, total amounts invoiced for the period July 1, 2018 to June 30, 2019, proposed write-off amounts and proposed write-off amount represented as of percent of total amounts invoiced. It should be noted that during this period, the City achieved an overall collection rate of 99.99%. The proposed write-offs amount of \$51,260 is approximately 0.01% of all the amounts invoiced during the same period.

AR Category	Total Amount Invoiced	Proposed Write-off Amount	Write-Offs as a % of Amount Invoiced
Utility Accounts	\$ 43,496,458	\$ 29,219	0.07%
Private Development Jobs	1,248,023	17,378	1.39%
Fire Annual Permit	577,231	311	0.05%
Returned Check Building Permit	7,087,936	207	0.003%
PD False Alarm	52,200	4,145	7.94%
Total	\$ 52,461,848	\$ 51,260	0.10%

Finance staff invoices and collects payments for all utility accounts as well as miscellaneous accounts receivable (private development jobs, fire permits, business licenses, police false alarms, animal regulation violations, and shopping cart retrievals). For utility accounts, in accordance to Senate Bill 998 Discontinuance of residential water service, a bill is due for payment in 21 days from the bill date. Finance staff then sends a reminder notice 23 days from the bill date and final notice 65 days from the bill date. A telephone call follows 73 days from the bill date. The utility account will be tagged for shut off 80 days from the bill date. And if not paid, a utility account will be cut-off 85 days from the bill date after which point it will be sent to the City's collection agency, Collection Bureau of America (CBA). If cut-off and sent to collections, a utility customer will not be able to start new service until they have paid their outstanding balance in full; even if that balance has been written off from an accounting standpoint.

For miscellaneous accounts receivable, an invoice issued is due for payment in 28 days from issuance date of the invoice. If not paid on the due date, a reminder notice will be issued by Finance staff on the 28th day and due for payment in 14 days from issuance date of the reminder notice. If not paid on the due date, a Final Notice will be issued on the 42nd day and due for payment in 7 days from issuance date of Final Notice. If not paid on the due date, the account will be sent to the City's collection agency on the 49th day. If the account is for a developer, they will not be able to start new work in Milpitas if they have an outstanding balance.

Policy Alternative:

Alternative: To not write off uncollectible accounts.

It is customary practice according to Generally Accepted Accounting Principles (GAAP) to write-off accounts receivable after all collection efforts have been exhausted and the account has little or no chance of collecting.

Pros: None

Cons: Will not follow Generally Accepted Accounting Principles and the City's financials will be overstated.

Reason not recommended: The City needs to ensure to follow financial practices consistent with Generally Accepted Accounting Principles. Following GAAP is a precursor towards an unqualified or "clean" financial audit.

Fiscal Impact:

Write offs of \$51,260 from the outstanding accounts receivable will reduce the full-accrual fund balances of the General Fund by \$22,041 and the Utility Funds by \$29,219.

California Environmental Quality Act:

Not Applicable

Recommendation:

Approve the Accounts Receivable write-offs for the fiscal year ending June 30, 2020.

Attachments:

1. FY2019-2020 Utility Bills Write Off
2. FY2019-2020 Miscellaneous Accounts Receivable Write Off

City of Milpitas

Utility Bill Write Off (final date as of 6/30/19)

FY2019-2020

(for account write off > \$25.00)

TOTAL 29,219.12

Account	Last Name	First Name	Final Bill Date	Amount Write Off	Reason
2047632	ACOSTA	ELIZABETH	06/24/19	235.75	Closed Account
2043495	ALSHARIF	MEYASSER	04/08/19	196.93	Closed Account
2041613	ALVIOLA	ALLAN	08/20/18	346.99	Closed Account
2046418	ANDERSON	LINDA	02/18/19	290.89	Closed Account
2029280	AQUNIO	IRENE	10/08/18	83.56	Closed Account
2013850	BALATICO	CONCHITA	04/15/19	61.52	Closed Account
2046497	BARRAZA	JACQUELYN	02/18/19	450.91	Closed Account
2042082	BATES	PERCY	03/11/19	451.53	Closed Account
2045503	CAMPOS RODRIGUEZ	PATRICIA	04/08/19	476.36	Closed Account
2043848	CHEN	YUSHENG	01/14/19	279.96	Closed Account
2043461	CONCEPCION	MARIE	11/26/18	1,062.24	Closed Account
2046638	CORBETT	ANNIE	09/10/18	895.79	Closed Account
2047850	CORY	LEANNE	05/20/19	142.11	Closed Account
2040651	CREECH	TU	08/06/18	240.71	Closed Account
2035268	DAINS	MICHAEL	07/09/18	427.14	Closed Account
2045445	DANIELS	HEATHER	10/29/18	200.63	Closed Account
2007709	DAVIS	LA VIDA	12/24/18	195.51	Closed Account
2041764	DIAZ	FRANCINE	09/17/18	635.89	Closed Account
2046786	DOBISCH	JONTHAN	02/11/19	252.54	Closed Account
2046231	ESQUIVEL	SYLVIA	11/19/18	876.93	Closed Account
2045109	FAZAL	AMIN	08/13/18	179.49	Closed Account
2046801	FENG	JUNCHAO	01/14/19	284.21	Closed Account
2035577	GARCIA	RWANDA	07/09/18	789.72	Closed Account
2043739	GARMANY	LORI	03/18/19	1,004.81	Closed Account
2018156	GONZALES	MERCEDES	06/18/18	423.47	Closed Account
2046631	GOOD	SAREH	08/27/18	543.58	Closed Account
2044220	GUERRERO	ROY	07/16/18	276.29	Closed Account

City of Milpitas

Utility Bill Write Off (final date as of 6/30/19)

FY2019-2020

(for account write off > \$25.00)

TOTAL 29,219.12

Account	Last Name	First Name	Final Bill Date	Amount Write Off	Reason
2046212	GUTIERREZ	ROVERTO	05/06/19	142.79	Closed Account
2022359	HALL	DON	10/22/18	505.19	Closed Account
2045994	HAMILTON	MORGON	10/29/18	75.83	Closed Account
2029195	HARJONO	ALEXANDER	11/26/18	313.98	Closed Account
2047307	HO	KATIE	02/11/19	336.79	Closed Account
2037423	INC	NUVOSUN	08/06/18	404.28	Closed Account
2038892	JOVERO	HEIDI	07/16/18	397.23	Closed Account
2042648	LAND	JUSTEN	10/08/18	180.85	Closed Account
2043901	LARA	VIDA	02/18/19	244.51	Closed Account
2018249	LE	PETER	06/10/19	159.03	Closed Account
2046641	LINGXIU	TIAN	07/09/18	106.99	Closed Account
2025192	LUCERO	CORINE	05/20/19	138.07	Closed Account
2039646	MADRIGAL	ANAI	08/13/18	343.03	Closed Account
2045139	MADRIGAL	TINA	09/10/18	135.29	Closed Account
2038003	MAGANA	ALBERTO	09/10/18	484.63	Closed Account
2008388	MOPPINS	VIOLA	07/23/18	553.85	Closed Account
2041057	NGUYEN	DIEN	08/27/18	492.17	Closed Account
2040301	NGUYEN	ZAMUDIO	03/25/19	25.88	Closed Account
2047701	NICHOLS	ERNEST	06/03/19	298.74	Closed Account
2039852	NICKOLS	TERESA	09/24/18	213.10	Closed Account
2014548	NOORY	FARID	03/04/19	254.77	Closed Account
2037423	NUVOSUN INC		08/06/18	404.28	Closed Account
2037985	O'LEARY	SCOTT	08/13/18	804.90	Closed Account
2046481	ORNELAS	JUAN	08/20/18	1,278.97	Closed Account
2016917	OSSMANN	NORMAN	06/03/19	506.04	Closed Account
2047575	PETERS	CHERYL	04/08/19	76.76	Closed Account
2047393	PHAM	TUONG	02/04/19	1,638.06	Closed Account

City of Milpitas

Utility Bill Write Off (final date as of 6/30/19)

FY2019-2020

(for account write off > \$25.00)

TOTAL 29,219.12

Account	Last Name	First Name	Final Bill Date	Amount Write Off	Reason
2041407	POWERS	GAVIN	10/01/18	221.65	Closed Account
2043478	PU	LIHONG	11/12/18	325.87	Closed Account
2017164	QUINTERO	JORGE	08/27/18	397.19	Closed Account
2003148	RESLER	LARRY	08/13/18	456.41	Closed Account
2007759	RICE	SANDRA	05/13/19	247.90	Closed Account
2047351	RICHARDSON	KRISTIN	05/06/19	98.33	Closed Account
2043550	RODRIGUEZ	AMANDA	04/22/19	298.58	Closed Account
2045769	SILVA	MARIO	03/19/18	82.04	Closed Account
2039549	SMITH	LARRY	04/16/18	524.77	Closed Account
2045256	SOSA	JOEY	12/10/18	328.12	Closed Account
2047527	SOSA	MARIVIC	05/27/19	413.84	Closed Account
2037797	STAR	WOK	11/12/18	355.18	Closed Account
2045758	SURREY	LANA	01/14/19	1,136.96	Closed Account
2029737	TAUA	LAFOAI	07/16/18	480.50	Closed Account
2046420	THOTA	SURESH	09/17/18	306.31	Closed Account
2021664	VEGA	ESTELA	09/03/18	91.74	Closed Account
2046817	VUONG	KEVIN	07/09/18	146.08	Closed Account
2037797	WOK STAR		11/12/18	355.18	Closed Account
2042520	YOUNG-HENDERS	LOLA	08/13/18	504.19	Closed Account
2030055	ZHANG	XUSHENG	07/02/18	400.48	Closed Account
2046816	ZHOU	SHIMENG	07/09/18	226.33	Closed Account

FY 2018 - 2019 WRITE OFF
Miscellaneous Accounts Receivable
as of June 30, 2019

INVOICE #	DATE	CUSTOMER NAME	CUSTOMER ID		AMOUNT	DESCRIPTION
			NUMBER			
I000041824	7/29/2016	DAVID DOWNS, MOBILITIE	00001276		\$610.13	Private Job
I000041995	9/30/2016	DAVID DOWNS, MOBILITIE	00001276		\$5,140.37	Private Job
I000042212	11/23/2016	DAVID DOWNS, MOBILITIE	00001276		\$4,114.25	Private Job
I000042375	1/27/2017	DAVID DOWNS, MOBILITIE	00001276		\$216.31	Private Job
I000043385	10/20/2017	DAVID DOWNS, MOBILITIE	00001276		\$408.00	Private Job
I000043444	11/10/2017	DAVID DOWNS, MOBILITIE	00001276		\$1,792.56	Private Job
I000044154	3/23/2018	JOE ZHENG	00001294		\$505.12	Private Job
I000044329	4/27/2018	JOE ZHENG	00001294		\$2,961.00	Private Job
I000044521	6/29/2018	JOE ZHENG	00001294		\$765.00	Private Job
I000045435	1/25/2019	K HOVNANIAN	00002874		\$618.05	Private Job
I000045686	3/22/2019	K HOVNANIAN	00002874		\$246.89	Private Job
PRIVATE JOB					\$17,377.68	
I000045592	3/29/2019	APARTMENT COMPLEX	F94-0672		\$310.50	Fire Annual Permit
FIRE ANNUAL PERMIT					\$310.50	
I000044772	08/24/18	RICHARD LOPEZ JR	00012967		\$60.00	Building Permit
I000045074	11/09/18	POWER AIR AND FIRE	00012996		\$147.58	Building Permit
RETURNED CHECK					\$207.58	
I000045313	12/21/18	BURLINGTON COAT FACTORY	00000047		\$100.00	PD False Alarm
I000044898	09/28/18	NEIMAN MARCUS	00011733		\$50.00	PD False Alarm
I000045307	12/21/18	NEIMAN MARCUS	00011733		\$350.00	PD False Alarm
I000045497	02/01/19	NEIMAN MARCUS	00011733		\$500.00	PD False Alarm
I000045306	12/21/18	DICK'S SPORTING GOODS	00012907		\$250.00	PD False Alarm
I000045315	12/21/18	SINDEO INC	00012924		\$250.00	PD False Alarm
I000044783	08/31/18	SUBWAY	00012956		\$100.00	PD False Alarm
I000044793	08/31/18	SUBWAY	00012956		\$50.00	PD False Alarm
I000044917	09/28/18	SUBWAY	00012956		\$100.00	PD False Alarm

I000044988	10/19/18 SUBWAY	00012956	\$250.00	PD False Alarm
I000045500	02/01/19 SUBWAY	00012956	\$500.00	PD False Alarm
I000045961	04/26/19 SUBWAY	00012956	\$50.00	PD False Alarm
I000046109	05/10/19 SUBWAY	00012956	\$100.00	PD False Alarm
I000045319	12/21/18 XUN YE	00012941	\$145.00	PD False Alarm
I000045485	02/01/19 FIESTA MARKET	00012251	\$50.00	PD False Alarm
I000045314	12/21/18 KIEM HUYNH	00012971	\$250.00	PD False Alarm
I000045080	11/16/18 SOLAR CITY CORPORATION	00012997	\$50.00	PD False Alarm
I000045301	12/21/18 SOLAR CITY CORPORATION	00012997	\$100.00	PD False Alarm
I000044905	09/28/18 NUJOSUN	00012300	\$50.00	PD False Alarm
I000045495	02/01/19 WILLIAM HURST	00013016	\$150.00	PD False Alarm
I000045502	02/01/19 SUMMERHILL	00013018	\$50.00	PD False Alarm
I000045516	02/01/19 AMORE HOME HEALTH LLC	00013024	\$650.00	PD False Alarm

POLICE DEPT. FALSE ALARM			\$4,145.00
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OVERALL TOTAL			\$22,040.76
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CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve and Authorize the City Manager to Waive the Preclusion Against Seeking Re-Employment with the City Contained in the Settlement Agreement with Carmen Valdez
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	6/2/2020
Staff Contact:	Steve McHarris, City Manager, 408-586-3059
Recommendation:	Approve and authorize the City Manager to waive the preclusion against seeking re-employment with the City contained in the Settlement Agreement with Carmen Valdez.

Background: In March of 2016, the City of Milpitas entered into a settlement agreement with a former employee, Carmen Valdez, regarding a complaint filed with the Equal Employment and Opportunity Commission (EEOC) and regarding allegations of retaliation. The settlement agreement is a fully disclosable public record and is included in the Council agenda packet.

Analysis: Under the terms of the settlement agreement, Ms. Valdez received a monetary amount in exchange for a release of her claims against the City. In addition, and fairly standard for City settlement agreements, there is also a provision contained at Section 11 regarding “No Right to Re-Employment.” Under this provision, Ms. Valdez is precluded from applying to the City for any future employment. This provision is included to reduce any risk that a former employee alleges retaliation if they apply and are not hired for a City position. At this time, the City Manager is recommending that the prohibition in Section 11 against Ms. Valdez being permitted to apply for City employment be waived to allow Ms. Valdez to apply and compete for employment with the City.

Alternative:

Pros: Waiving the preclusion in the settlement agreement would allow Ms. Valdez to apply and compete for employment with the City.

Cons: As mentioned above, the risk of retaliation claims if the former employee is not hired remains if the prohibition is waived.

Reason not recommended: The City Manager is recommending the waiver for potentially increased competitive employment recruiting.

Fiscal Impact:

None

Recommendation:

Approve and authorize the City Manager to waive the preclusion against seeking re-employment with the City contained in the Settlement Agreement with Carmen Valdez.

Attachment:

Settlement Agreement

GENERAL RELEASE OF ALL CLAIMS AND SETTLEMENT AGREEMENT

This settlement agreement and general release of all claims ("Agreement") is entered into by and between Carmen Valdez ("Valdez") and the City of Milpitas, a municipal corporation, on behalf of itself and its officers, representatives, agents, principals, partners and employees (all collectively referred to as "City"). Valdez and City are collectively referred to as the "Parties."

RECITALS

WHEREAS, Valdez retired on June 15, 2015 (the "Retirement Date");

WHEREAS, Valdez later instituted a complaint against City before the Equal Employment Opportunity Commission: EEOC Charge No: 846-2015-39802 (the "Charge") alleging a claim for retaliation in violation of Title VII of the Civil Rights Act of 1964, as amended (the "Claim");

WHEREAS, City disputes any liability for any damages pursuant to and denies the allegations made in the Charge regarding the Claim;

WHEREAS, in order to avoid the substantial expense and inconvenience of further conflict, and to resolve all issues which have been raised, could have been raised or which otherwise pertain to the Charge, the facts alleged in the Charge or the Claim, and any and all other aspects of the relationship between the Parties;

NOW, THEREFORE, in consideration of the covenants and agreements contained and the consideration described in this Agreement including Exhibit A, the Parties do hereby agree as follows:

COVENANTS AND AGREEMENTS

1. No Admission of Liability. This Agreement and compliance with it may not be construed as an admission by City of any liability whatsoever or as an admission by City of any wrongdoing under any common law, statute or contractual obligation. City specifically disclaims any wrongdoing and disclaims any liability to Valdez for any violation of law, regulation, duty, or contract, including but not limited to the facts alleged relating to the Charge, the Claim, or otherwise.

2. Withdrawal and Cessation of Prosecution of Charge and Actions by Valdez. Valdez acknowledges and agrees that all issues arising out of or relating in any way to the Charge, the Claim, her employment with City or separation from it, and all related facts are resolved in connection with City and their current and former agents, affiliates, representatives, and employees, and that she will not initiate or pursue any other action or proceeding arising out of or relating to the Charge or the Claim, Valdez's employment with City, or the separation from such employment, except as may be required to enforce this Agreement. Further, as a material condition precedent to any of City's obligations under this Agreement and its Exhibit A, Valdez acknowledges and agrees that she will permanently withdraw and request closure of the Charge pending before the EEOC by executing the EEOC's agreement attached and incorporated hereto

as Exhibit A simultaneously with executing this Agreement. The Parties expressly agree that the consideration provided to Valdez under this Agreement and its Exhibit A includes consideration for the promises and commitments made by Valdez in both the City's Agreement and Exhibit A.

3. Consideration to Valdez. If Valdez executes this Agreement including its Exhibit A, and does not revoke either of her signatures, City agrees to pay Valdez fifteen thousand dollars (\$15,000) (subject to applicable taxes and withholdings and reportable on a W-2), and the amount set forth in Exhibit A (reported as 1099 miscellaneous income), in consideration of Valdez's agreements, releases and covenants in this Agreement including its attached and incorporated Exhibit A. Payments will be made will be made payable to Carmen C. Valdez and delivered to the address below immediately following the Effective Date set forth in Section 7 below or March 28, 2016, whichever occurs earlier.

Carmen C. Valdez
3484 Concord Blvd.
Concord, CA 94519

4. Tax Indemnification. City will issue to Valdez the appropriate tax-related documents (e.g. W-2 and 1099) regarding the payments identified above. City has made no representation about and takes no position on the tax consequences of this Agreement including Exhibit A. A dispute regarding the tax status of this Agreement shall not affect the validity of this Agreement. Valdez has had an opportunity to discuss the potential tax consequences of this Agreement with her counsel and accountants and agrees to indemnify and hold harmless the City from any and all costs and assessments including, but not limited to delinquent taxes, penalties and/or assessments levied against City in connection with this Agreement including Exhibit A. Valdez agrees and covenants to indemnify and hold City harmless and defend it from any and all claims and penalties arising out of or relating to any claim that City should have withheld any sums from these payments, or arising out of or relating in any way to any claims that taxes were due and unpaid by Valdez.

5. Confidentiality of Agreement. Except as described in this Agreement, City agrees not to publicize or disclose this Agreement to any person, firm, organization or entity of any type, public or private, for any reason, at any time. Notwithstanding the above, City shall make any disclosure required by law (e.g. in response to a subpoena, court order or California Public Records request).

Valdez agrees, promises, and covenants that the terms and provisions of this Agreement shall remain and be kept strictly confidential and shall not be disclosed except as provided herein. Unless Valdez obtains the express written consent of City, or unless required to do so by law, Valdez agrees never to disclose the terms or amount of this Agreement, nor the substance of the negotiations leading to this Agreement, to any person or entity, other than to her respective counsel or attorneys, accountants, or tax preparers, or spouse. Any such disclosure to such persons, however, will be made only if the relevant person must have such information for the performance of his or her responsibilities. To the extent required by law or applicable regulation, Valdez may also disclose the provisions of this Agreement to the appropriate taxing authorities. The Parties agree that if asked about this Agreement, the disposition of the Charge

or Claim, or any other information made confidential by this provision, the Parties may only say: "The dispute has been resolved" or words of similar meaning.

Nothing in this provision shall preclude the Parties from sharing a copy of the Agreement or disclosing its contents to (a) their accountants or attorneys, or (b) in the case of City, its public official, officers, agents, or employees with a need to know in order to perform their duties.

6. Release of All Claims. Valdez warrants and represents that, other than the Charge identified above, she has not filed any complaint, grievance, claim or action against City or any of its governing commission members, officers, agents, directors, employees or representatives (collectively the "Released Parties") with any state, federal or local agency, board, arbitrator or court based on matters arising out of her employment at City and/or the separation from employment. In consideration of the mutual promises and undertakings herein described, Valdez, on behalf of herself, her family members, heirs, successors, executors, attorneys and assigns, whether current or former, as applicable and to the extent any exist, hereby releases, waives, acquits and forever discharges any and all claims and demands of whatever kind or character, whether known or unknown, whether vicarious, derivative, or direct, in law or in equity, that she ever had or may have or assert, by reason of any act or omission concerning any matter, cause, or thing relating to or arising out of her City employment or separation from it, occurring on or before the date of her execution of this Agreement.

The Releases given under this Agreement including Exhibit A include, but are not limited to, any claim or demand based on any federal, state, or local statutory or common law or constitutional provision that applies or is asserted to apply, directly or indirectly, to the facts alleged in the Charge, or relating to the Claim, Valdez' City employment or separation from it, in any way. Thus, Valdez agrees to waive to the maximum extent permitted by law any claims or demands against the Released Parties, including but not limited to breach of contract (express or implied); breach of the covenant of good faith and fair dealing; violation of any public policy of the United States, the State of California, or any other state; intentional or negligent infliction of emotional distress; promissory estoppel; detrimental reliance; breach of fiduciary duty; breach of agency; negligent misrepresentation; intentional misrepresentation; fraud and concealment; false promise; promissory fraud; unfair business practices; bad faith; conversion; any intentional or negligent tort; wrongful discharge; unlawful employment discrimination on the basis of race, national origin, gender, disability, or medical condition, or any other form of unlawful employment discrimination; failure to engage in the interactive process; failure to provide reasonable accommodations; retaliation; defamation; constructive termination; invasion of privacy; assault; battery; conspiracy; conversion; negligent hiring retention, or supervision; any alleged violation of the Age Discrimination in Employment Act of 1967, as amended; Title VII of the Civil Rights Act of 1964, as amended; the Americans with Disabilities Act of 1990, as amended; the California Fair Employment and Housing Act, as amended; the California Labor Code, as amended, and any applicable Wage Order; the federal Fair Labor Standards Act, as amended; and the California Business & Professions Code, as amended. Collectively, all claims released under this Agreement are referred to as the "Released Claims".

The Released Claims includes any claims or demands for damages, including but not limited to special, general, restitutionary, restorative, or punitive, compensatory damages, injunctive or declaratory relief, liquidated damages, penalties, equitable relief, attorneys' fees, costs of court, disbursements, interest, back wages, unreimbursed expenses, future wages or front pay, commissions, bonuses, severance benefits, medical expenses and the costs of any counseling, reinstatement or priority placement, promotion, vacation leave benefits, past and future medical or other employment benefits, relocation expenses and any and all other loss, expense, or detriment of whatever kind or character resulting from, growing out of, connected with or related in any way to the Claim, or the facts alleged in the Charge, or the formation, continuation, or conclusion of Valdez's employment relationship with City.

Valdez knowingly, voluntarily and expressly waives any and all rights and benefits conferred upon her by the provisions of Section 1542 of the California Civil Code ("Section 1542"), or by the statutes or common law of any jurisdiction which have substantially the same effect as the provisions of Section 1542, which reads:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Excepting claims for workers' compensation or unemployment insurance benefits, Valdez further covenants not to sue or file any complaint, grievance, claim or action at any time hereafter based on any matters arising out of or in any way relating to her employment with City, or separation through retirement from City employment, or to allow any such action to be prosecuted on her behalf, that could have been filed as of the date of her executing this Agreement. If any such action is brought, this Agreement will constitute an Affirmative Defense thereto. Should Valdez legally have the right to participate in any action against City in the future, Valdez shall have no right to recover any damages, litigation expenses, costs, or other compensatory relief.

Valdez acknowledges that she has consulted with her attorney(s) concerning the waiver of any and all rights and benefits conferred upon her by Section 1542, and that she intends to give her waiver of such rights and benefits the broadest possible scope and interpretation permitted under the law.

 Valdez's Initials

7. ADEA Release and Time To Sign and Revoke Agreement or Exhibit A. Valdez represents that she is over the age of 40. Further, Valdez acknowledges her waiver and release hereunder including Exhibit A of any rights she may have under the Age Discrimination Employment Act (ADEA) is knowing and voluntary and that the consideration given for her waiver and release in this Agreement is in addition to anything of value to which Valdez was already entitled. Valdez further acknowledges that she has been advised by this writing as required by the Older Workers Benefit Protection Act, that: (a) her waiver and release of rights

in this Agreement including Exhibit A does not apply to any rights or claims that may arise after this Agreement is executed; (b) she should consult with an attorney prior to executing this Agreement including Exhibit A; (c) she has had at least twenty-one (21) calendar days from the date she first receives this Agreement to obtain the advice of counsel from the legal representative of her choice and to decide whether to sign it (although she may, by her own choice, execute this Agreement including Exhibit A earlier); (d) she understands that for seven (7) calendar days after she signs this Agreement including Exhibit A she has the right to revoke it; and (e) the Agreement including Exhibit A shall not become effective and enforceable until the date upon which the revocation period has expired, which shall be the eighth day after the Agreement including Exhibit A is executed by Valdez (the "Effective Date"). *If Valdez chooses to revoke, notice must be sent via certified mail, return receipt requested to City's counsel, Christopher Diaz, Best Best & Krieger, 2001 N. Main Street Suite 390, Walnut Creek, CA 94596, by no later than the time frame referenced above. (Seven (7) calendar days after she signs the Agreement including Exhibit A.)*

Valdez understands and agrees that she will be entitled to the consideration provided by this Agreement including Exhibit A only if she does not revoke her signatures on either this Agreement or Exhibit A.

CV Valdez's Initials

8. Unknown or Different Facts or Law. Valdez acknowledges that she may discover facts or law different from, or in addition to, the facts or law she knows or believes to exist with respect to a Released Claim. She agrees, nonetheless, that this Agreement including Exhibit A and the releases contained in it shall be and remain effective in all respects notwithstanding such different or additional facts or law.

9. Promise Not to Prosecute. Valdez agrees, to the fullest extent permitted by law, that she will not prosecute or allow to be prosecuted on her behalf, in any administrative agency or court, whether state or federal, any Released Claim against any Released Party. Valdez further agrees that she will not participate in any action against the City except as required by law. If any such action is brought such action is brought, this Agreement including Exhibit A will constitute an Affirmative Defense thereto. Should Valdez legally have the right to participate in any action against City in the future, Valdez shall no right to recover damages, costs, or other compensatory relief.

10. Third Party Inquiries/Employment Verification. Valdez agrees to direct employment verifications, third-party inquiries or other reference checks regarding her City employment to City's Human Resources Director. City agrees that upon her receipt of such inquiry, City's HR Director (or her successor) shall be the party to respond to such inquiries on the City's behalf. City agrees it will release to prospective employers or other third parties only Valdez's dates of employment, position held, and salary information. Other employment information about Valdez (including, but not limited to this Agreement) will be released by City only (a) with Valdez's written consent, (b) to refute or defend a claim or allegation by or on behalf of Valdez, or (c) as otherwise required by law. City reserves the right to respond to official inquiries by employment-related or tax-related government agencies (e.g. the California Economic

Development Department or Internal Revenue Service) with truthful, accurate information regarding Valdez's employment.

11. No Right to Re-Employment. Valdez agrees and recognizes that, by virtue of her retirement on the Retirement Date, her employment relationship with the City has already been severed. Due to the consideration provided by the Parties in this Agreement and its Exhibit A, the Parties, and not based on either party's conduct, the Parties intend this separation to be permanent. Valdez agrees that she will not knowingly apply for or otherwise seek re-employment with City. Valdez further agrees and recognizes that (a) City has no obligation to reinstate, rehire, re-employ, recall or hire her in the future, (b) City is entitled to reject without cause any application for employment made by Valdez, and (c) City entitled to immediately discharge Valdez should it be discovered by City that Valdez has obtained such employment in violation of this Agreement.

12. Litigation Expenses, Attorney's Fees, and Costs. The Parties acknowledge and agree that they each will be solely responsible for their own litigation expenses, attorney's fees, and costs, if any.

13. No Reliance on Representations of Other Party. The Parties acknowledge and represent that in executing this Agreement including Exhibit A, they do not rely upon and have not relied upon any representation or statement made by each other or any of their employees, agents or attorneys with regard to the subject matter of this Agreement, or its basis or effect, except as specifically set forth in this Agreement.

14. No Prior Assignment of Claims or Liens. Valdez expressly warrants that she has not transferred to any other person or entity any of the rights or causes of action released in this Agreement including Exhibit A, whether as part of the General Release or otherwise. Valdez further represents and warrants she has no knowledge of any liens or claims against any of the amounts being paid by City as provided in this Agreement including Exhibit A. Valdez agrees to defend, indemnify and hold the City harmless from any liability, losses, claims, damages, costs or expenses, including reasonable attorneys' fees, arising out of a breach of the representations and warranties contained in this paragraph.

15. Effect of Invalidity of Provision. Should any provision of this Agreement including Exhibit A be declared or determined by any court of competent jurisdiction to be wholly or partially illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining parts, terms or provisions of this Agreement including Exhibit A will not be affected thereby. Such an illegal, unenforceable or invalid part, term or provision will be deemed not to be a part of this Agreement.

16. Jurisdiction. The interpretation of the provisions of this Agreement including Exhibit A will be governed by the laws of California.

17. Neutral Interpretation of Agreement. This Agreement including Exhibit A will be construed as though jointly prepared by the Parties. Any uncertainty or ambiguity may not be interpreted for or against any one Party. The headings contained in this Agreement are for

reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

18. Entire Agreement of the Parties. This negotiated document sets forth the entire agreement between the Parties regarding resolution of the matters described herein, and supersedes all prior agreements, representations, and understandings of the Parties. No supplement, modification, or amendment of this Agreement including Exhibit A will be binding unless executed in writing by all Parties.

19. Fairness of Agreement. The Parties agree that the terms of this Agreement including Exhibit A are fair, reasonable and adequate, and covenant never to challenge the validity of it.

20. Voluntary and Knowing Agreement. The Parties hereby state and represent that they each have read the foregoing Agreement including Exhibit A in its entirety, and that they accept and agree to the provisions contained therein, and hereby execute it voluntarily, and with full understanding of the consequences.

21. Enforcement. This Agreement including Exhibit A is intended to be and is enforceable pursuant California Code of Civil Procedure Section 664.6. The Parties stipulate and agree that a court may retain or obtain jurisdiction to enforce the terms of this Agreement and may, upon motion, enter judgment upon the terms of this written Agreement. This Agreement shall be admissible in evidence pursuant to Evidence Code Section 1123.

22. Counterparts. This Agreement including Exhibit A may be executed in counterparts, each of which shall be deemed an original. Additionally, the Parties understand and agree that a faxed signature shall be deemed an original signature for purposes of this Agreement.

THE PARTIES

Date 3/17, 2016

By: Carmen Valdez
Carmen Valdez

Date 3/24, 2016

CITY OF MILPITAS

By: [Signature]

Name: Jose Esteves, Mayor

EXHIBIT A



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
San Francisco District Office

Mediation Unit
The Phillip Burton Federal Building
450 Golden Gate Avenue, 5th Floor West
P.O. Box 36025
San Francisco, California 94102
Phone: (415) 522-3634
Fax: (415) 522-3416

SETTLEMENT AGREEMENT
EEOC Charge Number: 846-2015-39802

Charging Party: Carmen C. Valdez Respondent: City of Milpitas

1. In exchange for the promises made by Respondent pursuant to Charge Number: 846-2015-39802, Charging Party agrees not to institute a lawsuit under Title VII of the Civil Rights Act of 1964 (Title VII), as amended, the Equal Pay Act (EPA), the Age Discrimination in Employment Act of 1967 (ADEA), as amended, or the Americans with Disabilities Act of 1990 (ADA), as amended, based on EEOC Charge Number: 846-2015-39802.
2. Further, the parties agree that submission of this agreement to EEOC will constitute a request for closure of EEOC Charge Number: 846-2015-39802.
3. It is understood that this agreement does not constitute an admission by Respondent of any violation of Title VII of the Civil Rights Act of 1964, as amended, the Equal Pay Act, the Age Discrimination in Employment Act of 1967 as amended, or the Americans with Disabilities Act of 1990, as amended.
4. Respondent agrees that there shall be no discrimination or retaliation of any kind against the Charging Party as a result of filing this charge or against any person because of opposition to any practice deemed illegal under Title VII, the EPA, the ADEA, or the ADA, as a result of filing this charge, or for giving testimony, assistance or participating in any manner in an investigation, proceeding or a hearing under the aforementioned Acts.
5. This document constitutes a final and complete statement of the agreement between the parties.
6. The parties agree that the government is authorized to investigate compliance with this Agreement and that this Agreement may be specifically enforced in court by the government or the parties and may be used as evidence in a subsequent proceeding in which any of the parties allege a breach of this Agreement.
7. This Agreement may be executed in separate counterparts and each such counterpart shall be deemed an original with the same effect as if all Parties had signed the same document.

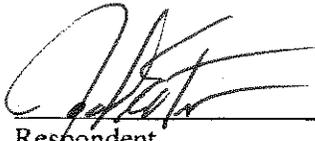
8. As evidence of a good faith effort to resolve EEOC Charge Number: 846-2015-39802, the parties agree:

- a. Respondent agrees to pay Charging Party Eighty Five Thousand Dollars and Zero Cents (\$85,000.00), paid on an IRS Tax Form 1099. The settlement amount will be made payable to Carmen C. Valdez and delivered to the address below by March 28, 2016.

Carmen C. Valdez
3484 Concord Blvd.
Concord, CA 94519

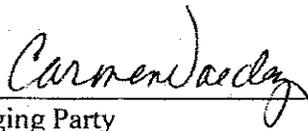
- b. Charging Party and Respondent have entered into a separate agreement to which the EEOC is not a party.
- c. Charging Party understands and agrees that she is responsible for any taxes related to the settlement amount.

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Respondent

3/29/16
Date



Charging Party

3/17/2016
Date

In reliance on the promises made in paragraphs (1), (2), (4), (5), (6), (7) and (8), EEOC agrees to terminate its investigation and not to use the above-referenced charge as a jurisdictional basis for a civil action under Title VII of the Civil Rights Act of 1964, as amended, the Equal Pay Act, the Age Discrimination in Employment Act of 1967, or the Americans with Disabilities Act of 1990, as amended. EEOC does not waive or in any manner limit its right to investigate or seek relief in any other charge including, but not limited to, a charge filed by a member of the Commission against the Respondent.

On Behalf of the Commission:

William Tamayo, District Director
San Francisco District Office

Date



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Open the Public Hearing and Adopt Resolutions to Approve the Fiscal Year 2020-21 Operating Budget and the 2020-2025 Capital Improvement Program for the City of Milpitas and the Milpitas Housing Authority, Approve the Fiscal Year 2020-21 Gann Appropriations Limit, Authorize Various Financial Actions, Approving Various Financial Policies and Budget Guidelines, Amend the Classification Plan for Alignment with the FY 2020-21 Budget and the Minimum Wage Increase, Amend the Fringe Benefits for Unrepresented and Limited Services Employees, Amend the FY 2020-21 Master Fee Schedule
Category:	PUBLIC HEARING Leadership and Support Services
Meeting Date:	6/2/2020
Staff Contact:	Walter C. Rossmann, 408-586-3111
Recommendations:	<ol style="list-style-type: none"> 1) Open the public hearing and move to close the hearing following any speakers. 2) Adopt the following Resolutions: <ol style="list-style-type: none"> a. Joint Resolution of the City Council and Milpitas Housing Authority to approve the Fiscal Year 2020-21 Operating Budget and the 2020-2025 Capital Improvement Program for the City of Milpitas and the Milpitas Housing Authority, approve the Appropriations Limit, and authorize various financial actions by the City Manager, including Approval of Contracts and Payments over \$100,000. b. Amend the Classification Plan to adjust the number of positions on the Authorized Position List, amend specific budgeted, allocated positions, and establish classification title changes. c. Amend the Classification Plan to adjust the hourly rate and ranges for classifications due to a minimum wage increase pursuant to the minimum wage ordinance. d. Amend the List of Fringe Benefits and Eligibility for such Benefits for Limited Term Employees. e. Amend the Classification Plan to authorize fringe benefits for Unrepresented Management Employees. f. Amend the Classification Plan to adjust the Salary Schedules for all IAFF, Mid-Management Confidential, PROTECH, Miscellaneous Unrepresented and Fire Unrepresented Classifications consistent with previous Council Action. g. Amend the Master Fee Schedule for FY2020-21 for revised user and regulatory fees for various City Services.

Background:

At the April 7, 2020 Special City Council meeting, staff presented the preliminary impact of the COVID-19 pandemic on the City's revenues forecasting a \$25 million shortfall over the next three fiscal years. To help offset these revenue losses, staff reviewed all existing and proposed capital projects to ensure funding be programed for essential and safety-oriented projects, and funding was reduced or eliminated for projects that could be delayed. The draft 2020-25 Capital Improvement Program includes these cost savings in the General Government CIP Funding in the amount of \$5.67M in FY 2020-21 net increasing the General Government Fund fund balance to \$8.1 million. As the recession deepens, a portion of the fund balance may be

recommended for transfer to the General Fund as a General Fund balancing strategy to address the projected shortfalls over the next fiscal years.

On April 14, staff presented the [Draft 2020-25 Capital Improvement Program](#) (CIP) which includes recommendations to reduce or eliminate funding for projects that could be delayed. Following the presentation Council engaged in discussion regarding the CIP and directed staff to return on June 2nd with some changes as detailed below to the CIP as part of approval of the FY 2020-21 Adopted Budget.

On May 4th, the City Manager released a balanced [FY 2020-21 Proposed Operating Budget](#) (Proposed Budget), available on the City's website and attached here, consistent with his duties as City Manager as outlined in the City's Municipal Code. At the time of finalizing the Proposed Budget, staff had little economic data available and the impacts to economy were not fully understood. Based on the shortfall of \$25 million over the next three fiscal years as forecasted late March/early April, staff recommended a three-year fiscal strategy with \$10 million use of reserves. With this strategy, the Proposed Budget continues to fund the same service level for our community with very minor changes and does not eliminate positions. However, as economic impact data becomes available and the impact on the City's revenues becomes clearer, staff may have to return to the Council with budget adjustments mid-year FY 2020-21 for City Council consideration. In addition to the three-year fiscal strategy and the service level change recommendations, the Proposed Budget also recommends updates to the fiscal policies and budget guidelines.

On May 5th, the City Council adopted the FY 2020-21 Master Fee Schedule, subsequently amended on May 19th to include ambulance related fees.

On May 12, staff presented the Proposed Budget and the General Fund Three-Year Fiscal Strategy, the final tally of the Open Townhall survey, and the recommended changes to the fiscal policies and budget guidelines. Staff also presented a possible scenario of an additional \$5 million revenue shortfall and potential ongoing budget solutions such as service and position reductions, which may result in lay-offs, engaging the City's bargaining groups to reduce salary and benefits costs, and/or placing a potential ¼ cent Sales Tax Measure on the November's ballot for voter consideration.

At the May 12 Study Session staff also presented options for an amphitheater. After Council discussion, Council unanimously requested that a project be included in Year 5 of the Proposed 2020-2025 CIP, requested that staff explore site options and possible land acquisition related to this project, and continue to evaluate financing and funding options for the acquisition.

At the May 15 Special City Council meeting, Council directed staff to proceed with polling for a ¼ cent general purpose Sales Tax Measure and to bring it back for Council consideration.

Subsequent to the budget study sessions, the Council had budget related questions such as the review of encumbered contracts, a "sinking" or replacement for equipment with a value above \$5,000, and the budgeting of ambulance fees.

Consistent with State law, a public hearing notice was published related to the adoption of the FY 2020-21 budget and the Gann Appropriations Limit.

Analysis:

This staff reports transmits the [FY 2020-21 Proposed Budget](#), the [Draft 2020-25 Capital Improvement Program](#), documents Council requested changes to the Proposed Budget and CIP, responds to Council referrals from the May 12 FY 2020-21 Operating Budget Study Session and the May 19 Council Meeting, various resolutions related to budget adoption, and amendments to the FY 2020-21 Master Fee Schedule.

May 12, 2020 FY 2020-21 Proposed Budget Study Session and Other Referrals

During the Study Session on May 12, Council discussed two budget proposals. The two budget proposals discussed were (1) a proposal to delete 3.0 vacant Police Patrol Officers and add 3.0 Police Officers to improve service delivery to our City and (2) a proposal to establish a robust Risk Management Program per previous Council direction by deleting 1.0 vacant Finance Technician and add 1.0 Financial Analyst. In

response to Council inquiry, staff submitted information regarding the two budget proposals, the City Manager's non-essential hiring and expenditure freeze, and an overview of various human resources studies and their applicability (see Attachment 1).

Additionally, the Council inquired about the "After School Education and Safety Program (ASES)" Grant. ASES grants are awarded to schools every 3 years to individual schools. MUSD was awarded a grant in 2018 and staff believes that the funds support Child Development Centers at Rose and Sinnott Elementary Schools. The maximum grant amount for an elementary school is \$122,850. The school site program must integrate with the school day and other expanded learning opportunities and include two elements: 1. Education and Literacy; 2. Educational Enrichment, and 3. a snack must be provided. Program staff must be equal to that of an instructional aide. School sites are ranked through the application process and funds are handed down in order, until exhausted based on Free and Reduced Price Meals (FRPM) eligible student data. Prior to the next funding cycle in FY21-22, staff will reach out to the MUSD to explore opportunities for jointly applying for future grants.

At the May 19 Council Meeting, Council inquired about inactive contracts and the liquidation of funds related to these contracts, a "sinking fund" for the replacement for equipment with a value above \$5,000, and the budgeting of estimated ambulance fee revenue.

As part of the annual preparation of the financial statements, staff reviews the City's contracts focusing on contracts which have not had any payment activity for six months or more. In order to continue keeping the funds or encumbrances in the contract, departments have to provide justifications. Based on this ongoing work, year-to-date, over \$500,000 have been liquidated or disencumbered thereby contributing to a positive fund balance in the General Fund as part of closing out the FY 2019-20 budget.

All equipment and vehicles with a capital value greater than \$5,000 such as Jaws-of-Life, Police vehicles, utility trucks and Fire engines are captured for replacement in the City's Equipment Fund. When a new piece of equipment or vehicle is purchased, staff estimates the annual amount per vehicle or equipment which needs to be set aside based on the estimated years of service and an estimated future acquisition cost. Per the City Council approved Fiscal Policies,

the City will maintain a capital reserve in an Equipment Replacement Fund, set up as an internal service fund, to enable the timely replacement of vehicles and depreciable equipment as cost. The City will maintain a minimum fund balance of at least 30% of the replacement costs for equipment accounted for in this fund.

Per the Fiscal Year 2018-2019 Comprehensive Annual Financial Report (CAFR) the assets are valued at approximately \$20 million on a cost basis and the current fund balance stands at \$10.2 million, which exceeds the fund balance requirement.

At the May 19, 2020 City Council Meeting, the City Council introduced an ordinance establishing ambulance and emergency medical services fees. The ordinance, which is scheduled to go into effect on July 1, after Council's approval of the second reading scheduled for June 2, 2020 will allow the City to charge for medical transports. As part of bringing the various ambulance fees for Council consideration, the City's fee consultant worked with the Fire Department to establish the cost recovery level for the per transport fee of \$1,710.12. Per the staff report, with the fee of \$1,710.12, the City is expected to recover 24% of the estimated cost to provide medical transport services. In other words, for every transport, on the average, the City's General Fund subsidizes the service with an estimated amount of \$5,363 or 76% of the total cost of \$7,073. Since the General Fund pays for the majority cost of the service, the estimated revenue is allocated to the General Fund. Once the ambulance service is financially self-sufficient and fully recovers the costs for services provided, an enterprise fund for ambulance service could be established and all revenues would be allocated to such a fund.

4th of July Event Savings (one-time)

The City of Milpitas annually celebrates the Fourth of July at a signature special event attracting as many as 12,000+ residents and Bay Area visitors to the Milpitas Sports Center complex. Attendees enjoy a pool part

evening concert and a professional Fireworks show. However, due to the current COVID-19 pandemic, Santa Clara County Public Health restrictions prohibit large gatherings that preclude the traditional festivities.

Therefore, at the May 5th, 2020 Special City Council meeting, the Council directed staff to create virtual 4th of July activities including decoration of City Hall, and Calaveras Blvd., online activities, games, recipes, slideshow of Milpitas 4th of July's past, virtual Fireworks, and community giving drives. Council further directed to come forward with an amendment to the FY 2020-21 Proposed Budget to reduce departmental budgets and decrease the use of reserves. Staff identified the traditional 4th of July costs totaling \$118,650 offset with \$5,000 for the virtual event. The net savings which include costs for temporary personnel, overtime, equipment rentals, fireworks, and supplies of \$113,650 will decrease the use of reserves by \$113,650 from \$4,588,909 to \$4,475,259. It is important to note that the total amount of savings identified does not equate to the actual cost of the event. Some cost savings for the preparation of the event will be realized in the current fiscal year. Additional requests, if approved by City Council, for the decorative lighting of City Hall will be funded with FY 2019-20 monies.

Draft FY 2020-2025 Capital Improvement Program Amendments

During the April 14 CIP Study Session, Council requested to update the list of locations for Project No. 3454 Enhanced crosswalks & Beacon Installation. The updated list includes an enhanced crosswalk and beacon installation location on Arizona Avenue and Washington Drive.

At the May 12, 2020 City Council meeting, staff discussed options regarding a potential performing arts amphitheater. Council unanimously requested that a project be assigned in the CIP Program Priorities which will be listed in the 2020-2025 CIP book, requested that staff explore site options and possible land acquisition related to this project, and continue to evaluate financing and funding options for the acquisition. A new CIP Project was created for the Performing Arts Center, however, this will be moved further into the out year from FY 2021-22 to 2024-25 as requested by the Council during the Budget Study Session held on May 12.

FY 2020-21 Citywide Budget Summary (All Funds)

The table below includes the Council requested amendments to the FY 2020-21 Proposed Budget which include the one-time reductions in expenditures related to the cancellation of the 4th of July physical event. The FY 2020-21 Proposed Budget continues to fund the same service level with very minor changes. The FY 2020-21 citywide budget of \$220.3 million has decreased by \$27.6 million, or 11.1 percent, in comparison to the Fiscal Year 2019-20 Adopted Budget of \$247.9 million. Citywide, full-time equivalent (FTE) benefited positions are increasing by 2.0 positions from 437.25 positions to 439.25 positions, or 0.5 percent. This increase in positions is part of a cost-saving budget proposal to insource daytime janitorial services. It is important to note that in October 2019, the City Council approved the addition of 6.0 Firefighter/Paramedic positions partially funded through a federal SAFER Grant for three years.

As shown in Table 1 below, the FY 2020-21 Proposed Budget is balanced with \$220.3 million in revenues and use of reserves (including Transfers In) and \$220.3 million in expenditures (including Transfers Out). The FY 2020-21 revenue across all funds of \$220.3 million is a net decrease of \$27.6 million, or 11.1%, compared to the FY 2019-20 adopted revenue of \$247.9 million. This is primarily due to lower revenues in the General Fund related to the Pandemic and reduced bond financing. The FY 2020-21 expenditures across all funds of \$220.3 million is a net decrease of \$27.6 million, or 11.1%, compared to FY 2019-20 adopted expenditures of \$247.9 million. This is primarily due to a decrease in Operating Transfers-Out and Capital Improvements expenditures. In FY 2019-20, Operating Transfers-Out included a \$6 million transfer to General Government CIP, an increased one-time transfer in the amount of \$3.2M from the Gas Tax Fund to CIP projects, and the \$0.5M transfer from the General Fund to Storm Drain CIP Fund, which is recommended to be suspended for the next two Fiscal Years as a budget balancing strategy. The decrease in expenditures in the CIP is primarily due to the decreased funding for the San Jose/Santa Clara Regional Wastewater Facility project in the amount of \$17 million.

Table 1 – FY 2020-21 Citywide Budget Summary (All Funds)

Citywide Revenues and other Financing Sources

	FY 2019-20 Adopted Budget	FY 2020-21 Proposed Budget	% Change from Prior Year Adopted
General Fund	\$115.6	\$112.6	(2.6)%
Use of Prior Year Reserves	6.0	4.5	(25.0)%
General Fund Total	121.6	117.1	(3.6)%
Housing Authority	1.6	0.7	(56.3)%
Other Funds	19.0	15.7	(17.4)%
Water Fund	36.5	40.4	10.7 %
Sewer Fund	42.8	26.8	(37.4)%
Net Operating Funds Total	221.5	200.7	(9.3)%
Capital Projects Funds	26.4	19.6	(25.8)%
Total	\$247.9	\$220.3	(11.1)%

Citywide Expenditures

	FY 2019-20 Adopted Budget	FY 2020-21 Proposed Budget	% Change from Prior Year Adopted
Personnel Services	\$104	\$105.6	1.5 %
Supplies & Contractual Services	56.7	57.5	1.4 %
Capital Outlay	1.6	2.0	25 %
Operating Transfers Out	21.7	11.9	(45.2)%
Subtotal	184.0	177.0	(3.8)%
Capital Improvements	62.5	39.7	(36.5)%
Debt Service	1.4	3.6	157.1 %
Total	\$247.9	\$220.3	(11.1)%

FY 2020-21 General Fund Budget

The Fiscal Year 2020-21 General Fund budget of \$117.1 million is balanced with \$112.6 million in estimated revenues and \$4.5 million use of reserves. The Fiscal Year 2020-21 General Fund revenues are estimated at \$112.6 million, a decrease of \$6.2 million, or 5.2 percent in comparison to the Fiscal Year 2019-20 General Fund revenue estimate of \$118.8. The decrease in revenue is primarily due to reductions in estimates from Transient Occupancy Tax (TOT), Sales Tax, and fees related to construction activity.

The Fiscal Year 2020-21 General Fund expenditures of \$117.1 million are \$1.5 million, or 1.3% higher, in comparison to the Fiscal Year 2019-20 General Fund expenditures of \$115.6 primarily due to increase in salaries (\$2.6 million) offset by suspending the Storm Drain Fund transfer (\$0.5 million), reductions in supplies and services (\$0.5 million), and reductions in benefits costs (\$0.1 million) due to a refinement in personnel cost budgeting.

While developing the early April Forecast which projected a shortfall of \$25 million for the next three fiscal years, staff started to work on budget solutions. Primarily through refining the City’s budgeting methodology for personnel costs, reduction in non-personnel expenditures, suspension of the annual transfer of \$500,000 from the General Fund to the Storm Drain Fund for two fiscal years, and deferring the Council approval to issue debt for the Fire Station #2 replacement project from April to September of this year, staff was able to reduce the shortfall for the next three fiscal years by approximately \$15 million from \$25 million to \$10 million. As shown in Table 1 below, to balance the FY 2020-21 Proposed Budget and the projected shortfall for FY 2021-22 and FY 2022-23, staff recommends the use of reserves (\$10 million) until the General Fund is projected to achieve a

surplus in FY 2023-24. This Proposed Budget continues to fund the same service level for our community with very minor changes and does not eliminate positions.

Table 2 – Three-Year General Fund Fiscal Strategy

	FY 20-21 Proposed Budget	FY 21-22 Forecast	FY 22-23 Forecast	FY 23-24 Forecast	FY 24-25 Forecast
Revenues	\$112.57	\$118.58	\$127.72	\$135.03	\$139.25
Expenditures	(117.04)	(123.64)	(128.35)	(133.56)	(139.23)
Surplus/(Deficit) prior to Use of Reserves	(4.47)	(5.06)	(0.63)	1.47	0.02
Use of Reserves	4.47	5.06	0.63		
Net Operating Results	\$0	\$0	\$0	\$1.47	\$0.02

Deepening of the Recession

Daily economic news is not promising and points to a deepening of the recession. The unemployment rate for the State of California reached 16.10% in April, nearly four percentage points higher than the peak unemployment rate during the Great Recession of 12.3%. In comparison to the unemployment rate for the City of Milpitas from March 2020, the rate nearly quadrupled from 3.40% to 12.70% for April 2020. Due to the worsening economic situation, staff presented a forecast scenario at the May 12, 2020 Budget Study Session, which assumes an additional \$5 million ongoing revenue loss for the ten-year Forecast Period, which equates to a total 13% revenue loss since the January 2020 forecast.

To address this ongoing reduction in revenue, staff presented potential ongoing budget solutions such as reduction in services and positions, negotiating salary and benefit cost decreases with the City’s bargaining units, and/or placing a ¼ cent Sales Tax measure on the November 2020 ballot for voter consideration to preserve essential City services and fund public infrastructure. A \$5 million is ongoing expenditure reductions equates to elimination of approximately 17 sworn positions or 28 non-sworn or miscellaneous positions. If the City and its bargaining units come to an agreement, a \$5 million ongoing expenditure reductions equates to approximately 7% reduction in salary and benefits costs. If necessary, and the likelihood for ongoing further reduction in revenues is increasing, staff will return mid-year FY 2020-21 to rebalance the budget and/or implement cost reduction strategies as part of the development of the FY 2021-22 budget. In anticipation of potential position reductions, the City Manager instituted a non-essential hiring and expenditure freeze to strategically keep positions vacant.

FY 2020-21 Municipal Fee Schedule Amendments

On May 5, 2020, City Council adopted the FY 2020-21 Master Fee Schedule, which will go into effect on July 1, 2020. Inadvertently, due to a clerical error, some fees were not properly updated as requested by some departments.

The proposed fee updates are primarily minor adjustments for rounding, adjustments to enhance fee schedule clarity or consistency, and adjustments for fees intended to mirror amounts authorized and established by the State of California. The attachment to this staff report details the proposed changes and the reason for each change.

Due to the Shelter-in-Place (SIP) order, the City is accepting more and higher payments of bills and fees via credit card for various types of payments such as the Business License Tax system, the Utility Payment system, or the City’s general credit card processor used at City Hall used for processing building, fire and planning permit payments in person or online. For example, to facilitate the processing of payments for building permits during SIP, staff increased the limit for accepting credit card payments from \$5,000 to

\$25,000. However, the City has been absorbing various credit card transaction fees, which include a flat fee of \$1.90 for utility payments or a percent of amount charged between 1.6% and 3.9% depending on the payment system. For instance, for the payment of a building permit in the amount of \$10,000 with a credit card, the City pays a \$240 transaction fee on the average.

Staff is proposing to continue absorbing the credit card transaction fees for utility payments and any other payments up to \$10,000. However, for payments in excess of \$10,000, staff proposes to charge a credit card transaction processing fee of 2.4% of amount paid by credit cards. This will mainly affect payments for development related activities. By establishing this fee, staff will remove the limit for credit card payments, which will provide additional payment options to developers in addition to paying with a check.

Budget and Other Resolutions

The FY 2020-21 Budget and related recommendations are approved by various resolutions as discussed below.

Budget Adoption Joint Resolution

With the adoption of the attached Joint Resolution of the City Council and Milpitas Housing Authority, the City Council approves the Fiscal Year 2020-21 Proposed Operating Budget and Draft 2019-2024 Capital Improvement Program for the City of Milpitas and the Milpitas Housing Authority as amended in this staff report per previous Council direction. Further, through the joint resolution, the Council also approves the Gann Appropriations Limit, fiscal policies and authorizes various financial actions, including the authority to award certain contracts with amounts above \$100,000, the City Manager may take during FY 2020-21. The staff report for the May 12, 2020 budget study session (see attached) details the fiscal policy and budget guideline and City Manager authority recommendations.

An attachment to the joint budget resolution identifies a list of contracts or amendment to one existing contract with an estimated not-to-exceed amount above the City Manager's contract approval authority of \$100,000 as well as annual payments in excess of \$100,000 for insurance and utilities. As part of the adoption of this budget, staff is seeking authority to award these contracts and make certain payments. The list includes annual routine contracts (e.g.: Senior Nutrition Program Meal service with the County of Santa Clara or annual Operations and Maintenance for digital radio system with the Silicon Valley Regional Interoperability Authority), contracts with specific funding items related to this budget (e.g.: Services for the Municipal Election Nov. 3, 2020 with the County Registrar of Voters), and contracts related to capital improvement projects. The one contract amendment pertains to GIS services.

The Gann Appropriations Limit – Article XIIB of the California State Constitution, more commonly referred to as the Gann Initiative or Gann Appropriations Limit, was approved by California voters in November 1979 and placed limits on the amount of proceeds of taxes that state and local governmental agencies can receive and spend each year. If an agency receives more revenue than the Appropriations Limit, the excess revenue must be returned to the taxpayers through a tax reduction or refund within the next two years. Alternatively, the agency can increase its Appropriations Limit through voters' approval.

Based on the attached analysis, using the population and per capita personal income change factors provided by the State of California, the City's Appropriations Limit for FY2020-21 has been computed to be \$113,351,396. Appropriations subject to the limitation in FY2020-21 budget total \$80,944,015 that is \$32,407,381 less than the computed limit. The City has not exceeded its annual Appropriations Limit in any single fiscal year since this requirement was approved by the voters in 1979.

Personnel Related Resolutions

Based on the FY 2020-21 Proposed Budget as amended in this staff report based on Council direction, staff is bringing forward several personnel related resolutions to amend the classification plan for all employees as it relates to authorized positions, changes to hourly rate and ranges for certain classifications due to an increase in the City's minimum wage, and salary schedule amendments based on previous Council direction consistent

with MOUs for the various bargaining groups, and fringe benefits for limited-term employees and unrepresented management employees.

Authorized positions – this resolution aligns the number of positions on the Authorized Position List and amends specific budgeted allocated positions consistent with the FY 2020-21 Proposed Budget as amended in this staff report by adding two additional budgeted FTE, four position allocation reclassifications and two title changes. For the Public Works Department one Maintenance Custodian II and one Maintenance Custodian III are added; for the Police Department three vacant Patrol Officers positions are deleted and three Police Officer positions are added to improve police services; for the Finance Department one vacant Finance Technician is deleted and one Financial Analyst is added to establish a robust Risk Management function; and for the Building Safety and Housing Department two position titles are amended to reflect the position responsibilities (Housing and Neighborhood Services Manager retitled to Housing Manager and Housing Authority Administrator retitled to Housing and Neighborhood Services Administrator).

Minimum Wage Adjustments – this resolution adjusts the hourly rate ranges upwards of 11 classifications with the bottom of the hourly range set at the new minimum wage of \$15.40 per hour and preserves consistency of pay ranges within the same classification family. Consistent with the City Council approved ordinance, the minimum wage is scheduled to increase by \$0.40 from \$15 to \$15.40 by July 1, 2020 based on the February 2020 annual CPI increase for the San Francisco, Oakland, San Jose Metropolitan Statistical Area.

Limited Term Employees Fringe Benefits – this resolution amends the fringe benefits for limited term employees by exchanging the paid City Holiday of Lincoln’s Birthday to César Chávez Day aligning the City approved holidays with most other bargaining and unrepresented employee groups.

Unrepresented Employees Fringe Benefits – this resolution amends the Unrepresented Management Fringe Benefits and document by listing the titles of all job classifications that are included in the Miscellaneous Exempt, Police Exempt and Fire Exempt groups; adding Constructive Receipt language to the section on Sick Leave Cash Out per IRS regulations; authorizing the City Manager to approve exceptions to the vacation accrual cap consistent with various MOUs; and aligning language under the Family Leave section for Fire Unrepresented to the FMLA and the California Family Rights Act (CFRA).

Salary Schedules for Council Approved Wage Increases – this resolution is required per the California Code of Regulations § 570.5. Per State law, the City is required to bring all pay schedules before the governing board for review and approval. The updated salary schedules reflect City Council approved 4% negotiated wage increase for employees represented by the International Association of Firefighters, Mid-Management and Confidential Unit, and Professional and Technical Group as well as the Unrepresented Miscellaneous group and the Unrepresented Fire group - Unrepresented Management Employees.

Fiscal Impact:

The FY 2020-21 Budget for City of Milpitas and the Milpitas Housing Authority, upon adoption, for all funds including debt service, will be \$220, 317,510. The total Five-Year 2020-2025 Capital Improvement Program (CIP) will be \$396,565,058; with \$39,707,395 of funding appropriated for FY 2020-21.

Recommendations:

- 1) Open the public hearing and move to close the hearing following any speakers.
- 2) Adopt the following Resolutions:
 - a. Joint Resolution of the City Council and Milpitas Housing Authority to approve the Fiscal Year 2020-21 Operating Budget and the 2020-2025 Capital Improvement Program for the City of Milpitas and the Milpitas Housing Authority, approve the Appropriations Limit, and authorize various financial actions by the City Manager, including Approval of Contracts and Payments over \$100,000.
 - b. Amend the Classification Plan to adjust the number of positions on the Authorized Position List, amend specific budgeted, allocated positions, and establish classification title changes.

- c. Amend the Classification Plan to adjust the hourly rate and ranges for classifications due to a minimum wage increase pursuant to the minimum wage ordinance.
- d. Amend the List of Fringe Benefits and Eligibility for such Benefits for Limited Term Employees.
- e. Amend the Classification Plan to authorize fringe benefits for Unrepresented Management Employees.
- f. Amend the Classification Plan to adjust the Salary Schedules for all IAFF, Mid-Management Confidential, PROTECH, Miscellaneous Unrepresented and Fire Unrepresented Classifications consistent with previous Council Action.
- g. Amend the Master Fee Schedule for FY2020-21 for revised user and regulatory fees for various City Services.

Attachments:

- 1. City of Milpitas Resolutions:
 - a. Joint Resolution to approve the Fiscal Year 2020-21 Operating Budget and the 2020-2025 Capital Improvement Program for the City of Milpitas and the Milpitas Housing Authority, approve the Appropriations Limit, and authorize various financial actions by the City Manager, including Approval of Contracts and Payments over \$100,000.
 - b. Amend the Classification Plan to adjust the number of positions on the Authorized Position List, amend specific budgeted, allocated positions and establish classification title changes.
 - c. Amend the Classification Plan to amend the hourly rate and ranges for classifications due to a minimum wage increase pursuant to the minimum wage ordinance.
 - d. Amend the List of Fringe Benefits and Eligibility for Such Benefits for Limited Term Employees.
 - e. Amend the Classification Plan to authorize fringe benefits for Unrepresented Management Employees.
 - f. Amend the Classification Plan to adjust the Salary Schedules for all IAFF, Mid-Management Confidential, PROTECH, Miscellaneous Unrepresented and Fire Unrepresented Classifications.
 - g. Amend the Master Fee Schedule for FY2020-21 for revised user and regulatory fees for various City Services.
- 2. May 12, 2020 [Budget Study Session Staff Report](#)
- 3. May 12, 2020 FY 2020-21 Proposed Budget Study Session Referrals provided to Council on May 18, 2020 via Email

RESOLUTION NO. _____

A JOINT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AND THE HOUSING AUTHORITY COMMISSION OF THE CITY OF MILPITAS APPROVING THE FY 2020-21 OPERATING BUDGET AND 2020-2025 CAPITAL IMPROVEMENT PROGRAM, FOR THE CITY OF MILPITAS AND THE MILPITAS HOUSING AUTHORITY, THE APPROPRIATIONS LIMIT FOR FISCAL YEAR 2020-21, AND AUTHORIZING VARIOUS FINANCIAL ACTIONS BY THE CITY MANAGER, INCLUDING APPROVING AND AUTHORIZING THE EXECUTION OF VARIOUS CONTRACTS AND PAYMENTS OVER \$100,000

WHEREAS, the City Manager has submitted a FY 2020-21 Proposed Budget and Financial Plan; and

WHEREAS, on June 2, 2020, a public hearing on the Proposed Budget and Financial Plan was opened where all interested persons were heard; and

WHEREAS, the City Council and Milpitas Housing Authority Commission (“Authority”) reviewed the City Manager’s FY 2020-21 Proposed Budget and Financial Plan; and

WHEREAS, the City Council has reviewed the 2020-2025 Capital Improvement Program (“CIP”) and the first year, or 2020-2021 Capital Budget; and

WHEREAS, the first year, or FY 2020-21, of the CIP is a part of the 2020-21 Proposed Budget and Financial Plan; and

WHEREAS, Article XIII B, Section 1, of the Constitution of the State of California requires that total annual appropriations subject to limitation of the City of Milpitas shall not exceed the appropriations limit of the City for the prior year adjusted for changes in the cost of living and population except as otherwise provided, also referred to as the Gann Appropriations Limit; and

WHEREAS, this Article became effective July 1, 1980, as amended, which requires the City to establish its appropriations limit by resolution each year at a regularly scheduled meeting or a noticed special meeting, commencing after the beginning of each fiscal year; and

WHEREAS, the appropriations base for 1978-79 had been determined and since adjusted by the changes in population, cost of living, and transfers of financial responsibility, establishing an appropriations limit for fiscal year 2020-2021 of \$113,351,396; and

WHEREAS, the calculations for the appropriations limit are included as part of the budget document materials being considered and approved by the City Council as part of this Resolution; and

WHEREAS, documentation used in determining the appropriations limit has been made available to the public for a period of not less than fifteen (15) days prior to City Council consideration of this Resolution; and

WHEREAS, the budget document contains fiscal policies that the City Council has reviewed and approved and which are updated from time to time, as follows: General Financial Goals, Operating Budget Policies, Revenue and Expenditure Policies, Utility Rates and Fees, Capital Budget Policies, Debt Policies, Reserve Policies, Investment Policies, and Accounting/Auditing and Financial Reporting Policies; and

WHEREAS, the budget document contains budget guidelines that the City Council has reviewed and approved and which are updated from time to time, as follows: Basis of Budgeting; Budget Calendar requirements; form and content of the City Manager’s Proposed Budget; adoption of the Budget by June 30th; the City Manager’s budget authority; requirement that budget amendments be approved by the City Council; budget transfers and modification procedures; automatic adjustments and re-appropriations; budget monitoring and reporting; and reserve requirements for all funds.

NOW, THEREFORE, the City Council of the City of Milpitas and the Milpitas Housing Authority Commission hereby find, determine, and resolve as follows:

1. The City Council and Authority have considered the full record before them, 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 them. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City Council hereby approves and adopts the 2020-2025 Capital Improvement Program, as included in the City Council meeting agenda packet and totaling \$396,565,058 over the five-year period and \$39,707,395 in fiscal year 2020-21.
3. The annual Budget and Financial Plan, as attached in the City Council meeting packet, inclusive of capital improvement appropriations, for the City of Milpitas for fiscal year 2020-21 is hereby affirmed and adopted totaling \$220,317,510 for all appropriated funds.
4. The amounts shown as “Appropriations” and estimated fund balances are hereby approved for the various purposes designated in the 2020-2021 Adopted Budget.
5. The budgets for all departments for the period July 1, 2020 through June 30, 2021, inclusive, contained in this 2020-21 Adopted Budget, are approved as the operating budget for those departments for fiscal 2020-21.
6. The appropriations limit for fiscal year 2020-2021 shall be \$113,351,396 as shown in Exhibit 1.
7. Pursuant to Government Code Section 7910, no judicial action or proceeding to attack, review, set aside, void, or annul the action of the City Council in establishing the appropriations limit for fiscal year 2020-2021 shall be brought unless such action or proceeding shall have been commenced within forty-five (45) days of the date of adoption of this Resolution.
8. Any unused non-salary and benefits-related appropriations at the end of fiscal 2019-2020 may be re-appropriated for continued use in fiscal year 2020-21 subject to the approval of the City Manager. Furthermore, any outstanding contract and/or purchase order obligations (or encumbrances) remaining at the end of FY 2019-2020 are subject to carry-over into FY 2020-21.
9. Subject to any grant restrictions, unspent appropriations that are authorized and funded by grant revenues from prior fiscal year will automatically be carried over to current year’s budgets. Unspent City funded grant appropriations from prior fiscal year will automatically be carried over to the current year’s budgets.
10. As part of year-end closing of the budget, previously appropriated capital project funds will be automatically carried forward to the next fiscal year for the same capital project until the project is closed out.
11. No office, department, or agency shall expend any amount or incur any liability or enter into any contract, which by its terms involves expenditures of money for any purpose in excess of the amounts appropriated for the particular departments, and funds set forth herein.
12. The City Manager may authorize, when in his or her judgment such action is consistent with the purposes and intent of the 2020-2021 Adopted Budget as approved, budget revisions subject to the following conditions:

Prior Council Approval Not Required. Prior approval of the City Council is not required under the following circumstances:

- i. When revisions involve transfers from the Unanticipated Expenditure Reserve less than or equal to the aggregate amount adopted within the budget in any one fiscal year (\$1,200,000 in FY 2020-21), provided that the Council is notified in writing of the revision, giving the reason, the amount of the revision and the year-to-date total amount of revisions as part of the quarterly financial reports.

- ii. When revisions involve transfers from the appropriated leave cash-out account less than or equal to the aggregate amount adopted within the budget in any one fiscal year (\$700,000 in FY 2020-21) to the various departments for cash-outs when employees leave City service.
- iii. When revisions involve transfers, or reallocations, within any one fund among the various departments or projects, provided that the amount of transfer in any single instance does not exceed \$100,000.
- iv. When revisions involve reasonable deviation from the budgeted personnel allocation schedule, provided that at no time the number of permanent funded positions authorized by the City Council is exceeded.
- v. When revisions involve hiring full-time employees in overstrength positions for no more than one year as long as appropriations are not exceeded to ensure adequate staffing levels for sworn positions, facilitate training of new employees by the outgoing incumbent or respond to urgent staffing needs.
- vi. When revisions involve adding/deleting positions or moving positions between departments to respond to organizational needs, as long as the number of permanent funded positions and the approved personnel cost appropriations remain the same.
- vii. When revisions involve allocating, redistributing and/or appropriating monies between department and non-department divisions so as to reflect budgetary savings in one or more departments.
- viii. For Police goods and services to be purchased from Asset Seizure funds, the City Manager or his/her designee, has the authority to purchase such goods or services if the expenditures of such goods and services do not exceed the amount designated from Asset Seizure funds as approved by the City Council during the Budget hearing.
- ix. To use judgment to modify citywide administrative financial policies and procedures from time to time that are consistent with municipal government best practices unless those policies would otherwise be in conflict with the budget provisions incorporated in this Resolution or the City's Municipal Code.
- x. Exhibit 2 lists contracts and payments that are specifically identified in the budget document and materials enclosed herein. None of these contracts require a formal, public bidding process. The list of contracts and payments is hereby approved and the City Manager is authorized to execute and enter into these contracts and make these payments during fiscal year 2020-21 up to the amounts listed by contract or payment in Exhibit 2.

13. Prior Council Approval Required. Prior approval of the City Council is required for revisions to the 2020-2021 Final Budget as adopted if any of the following are involved:

- i. An increase in overall appropriation level within any one Fund.
- ii. The transfers or reallocation of appropriations greater than \$100,000 between different Funds, except not for reallocations between subfunds within one Fund.
- iii. Changes providing for increases or decreases in funded permanent personnel counts in the adopted Budget.
- iv. Contract change orders which would cause the aggregate contract amount to exceed \$100,000 and/or exceed prior approved appropriation levels for the subject contract.
- v. Transfers from Unanticipated Expenditure Reserve, which would cause the aggregate amount of \$1,200,000 during fiscal year 2020-21, to be exceeded.
- vi. Result in changes not consistent with the purpose and intent of the Budget as adopted.
- vii. Require an appropriation action from any unassigned fund balances or reserves.

14. Information establishing the current budget situation and steps to be taken to present balanced City Budgets have been presented during the public hearing on this meeting June 2, 2020, and in prior budget presentations.
15. The approval of the 2020-21 Adopted Budget, including the authority to enter into any contract, make payments, or undertake other actions, does not commit the City to any action that may have significant effect on the environment. This is because the actions are financial or administrative and do not directly impact the environment or the environmental impacts of any action would be speculative to analyze at this time. As a result, there is no potential impact on the environment from this action per Section 15061(b) (3) of the California Environmental Quality Act (“CEQA”) Guidelines and this action does not constitute a project under CEQA per CEQA Guidelines Section 15378(b)(4). Although the budget does authorize certain types of contracts to be entered into, none are anticipated to have any environmental impact at the time of entering into the contract, and if ultimately leading to a project that could impact the environment, the impacts of that action will be analyzed once the project is designed and the analysis is no longer speculative.

PASSED AND ADOPTED this _____ day of _____ 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle,
City Clerk/Authority Secretary

Rich Tran, Mayor/Chair

APPROVED AS TO FORM:

Christopher J. Diaz,
City Attorney/Authority Counsel

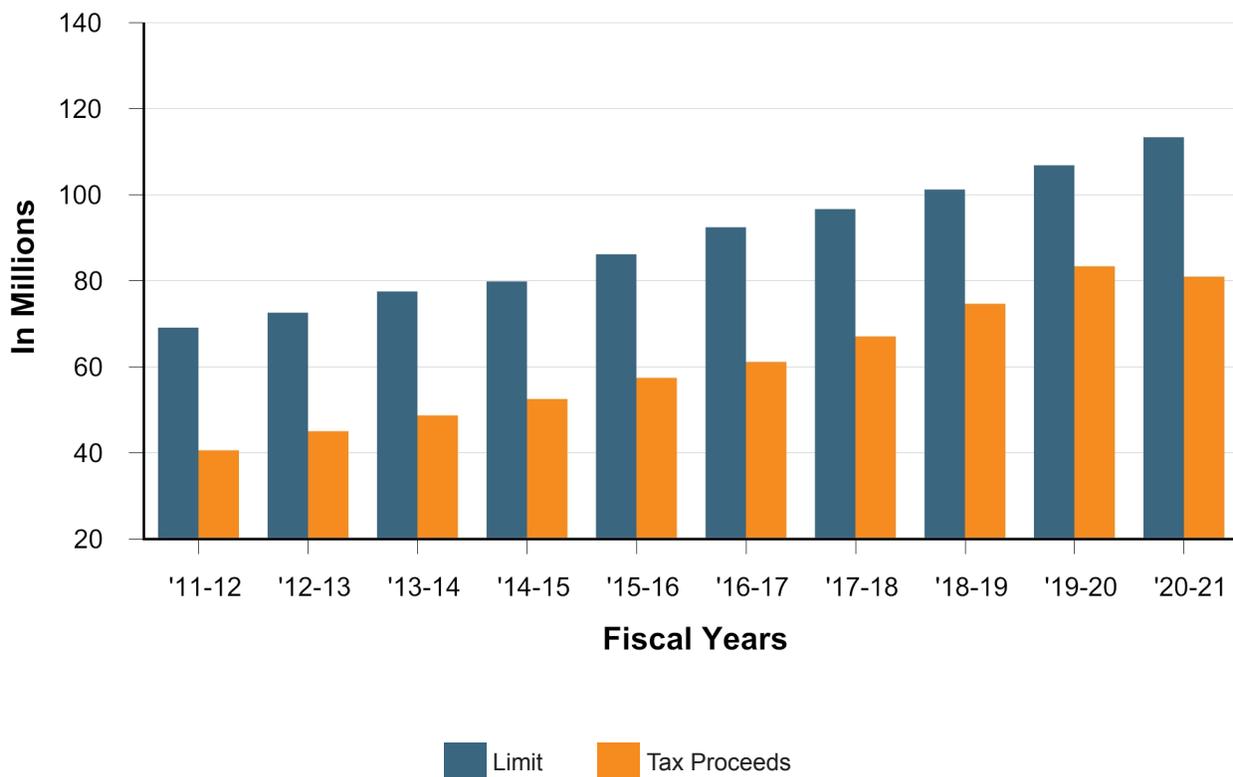
Gann Appropriations Limit Analysis

Article XIII B of the California State Constitution, more commonly referred to as the Gann Initiative or Gann Appropriations Limit, was approved by California voters in November 1979 and placed limits on the amount of proceeds of taxes that state and local governmental agencies can receive and spend each year. If an agency receives more revenue than the Appropriations Limit, the excess revenue must be returned to the taxpayers through a tax reduction or refund within the next two years. Alternatively, the agency can increase its Appropriations Limit through voters' approval.

Each year's limit is based on the amount of tax proceeds that were authorized to be spent in Fiscal Year 1978-79 in each agency, modified for changes in inflation and population in each subsequent year. The City Council must adopt, by resolution, an Appropriations Limit for the following year. Using the population and per capita personal income change factors provided by the State of California, the City's Appropriations Limit for FY2020-21 has been computed to be \$113,351,396. Appropriations subject to the limitation in FY2020-21 budget total \$80,944,015 that is \$32,407,381 less than the computed limit.

The following chart shows the annual Appropriations Limit and the tax proceeds received since Fiscal Year 2011-12. The amounts for Tax Proceeds have been restated to exclude Franchise Fees, which were inadvertently included in the past, which is inconsistent with the law. The City has not exceeded its annual Appropriations Limit in any single fiscal year. The City has been under 80% of the limitation and should not be impacted by the Appropriations Limit.

City of Milpitas Annual Appropriations Limit



* In prior years, Franchise Fees were inadvertently included in the calculation of the tax proceeds, which is inconsistent with the law. This chart has been corrected to show only tax proceeds subject to the limit.

Approval of FY 2020-2021 Budgeted Contracts/Payments
over \$100,000

1. FY 2020-21 Operating Budget

Department Name	Contractor Name (if known) or Type of Contract	Description of Contract/Payment	Estimated Amount	Fund
City Clerk	County of Santa Clara Registrar of Voters	Services for the Municipal Election Nov. 3, 2020 (\$125,000 for the election of the Mayor and two Councilmembers; \$30,000 for one ballot measure pending Council decision)	\$155,000	General Fund
Finance	PLAN JPA	Attorney Fees for Claims/Lawsuits	\$300,000	General Fund Water Fund Sewer Fund
Finance	PLAN JPA	Liability/Cyber Insurance	\$1,155,950	General Fund Water Fund Sewer Fund
Finance	PG&E	Utility - Electric	\$2,600,000	General Fund Water Fund Sewer Fund
Finance	IntegrYS	Utility – Gas	\$225,000	General Fund Water Fund Sewer Fund
Human Resources	Brown & Brown	Excess Insurance	\$198,000	General Fund
Human Resources	Sedgwick	Third party Administrator for Worker's Compensation	\$133,000	General Fund
Information Technology	CentralSquare Visicad	Maintenance for Public Safety Computer Aided Dispatch	\$169,000	General Fund
Information Technology/ Finance	Cayenta Financial and Utility Maintenance	Maintenance for Cayenta Financial/Utility Billing System	\$184,000/ \$52,000	General Fund Water Fund Sewer Fund
Information Technology	Verizon Data Services	Data Services and Device Charges	\$185,000	General Fund
Police	AXON	Police Body Worn Cameras / Tasers / Cloud storage	\$124,000	General Fund
Police	Santa Clara County Sheriff's Office	Cal-ID for automated fingerprint checks	\$121,418	General Fund
Police	County of Santa Clara	Crime Lab Major Case Evidence Exams	\$237,975	General Fund

Department Name	Contractor Name (if known) or Type of Contract	Description of Contract/Payment	Estimated Amount	Fund
Police	Silicon Valley Regional Interoperability Authority	Silicon Valley Regional Communications System (SVRCS) - Annual Operations and Maintenance for digital radio system	\$110,508	General Fund
Recreation & Community Services	County of Santa Clara	Senior Nutrition Program Meal service	\$177,106	General Fund

2. FY 2020-21 Capital Improvement Program (CIP) Budget

CIP Category	CIP Project No. & Name	Description of Contract	Est. Amount	Fund
Community Improvement	Comprehensive Zoning Ordinance Update (new)	Comprehensive Update to the City's Zoning Ordinance and related EIR	\$500,000	Community Planning Fees
Community Improvement	3418 Std. Details, Guidelines & Specs Update	Design/professional services contract for Update Engineering Std. Details and Specs	\$350,000	Permit Automation Fund
Community Improvement	3427 Technology Projects	Design/professional services contract amendment for GIS Utility Data Verification and Update (Psomas)	\$200,000	Permit Automation Fund, General Gov. CIP Fund
Community Improvement	3436 City Building ADA Compliance Review	Design/professional services contract for provide ADA compliance review of City Buildings.	\$150,000	General Gov. CIP Fund
Street Improvement	CIP 2021 Costa Street Plan Line Study	Design/professional services contract for the preparation of a Plan Line Study to evaluate the extension of Costa Street to connect to South Abel and South Main Street in the Transit Area Specific Plan (TASP) area. The study will evaluate right-of-way, adjacent property access, emergency vehicle access, pedestrian circulation, and streetscape opportunities.	\$125,000	TASP Impact Fees

CIP Category	CIP Project No. & Name	Description of Contract	Est. Amount	Fund
Street Improvement	CIP 2022 Feasibility of POCs at VTA Light Rail Platforms	Design/professional services contract to provide a feasibility study to determine the possibility of constructing pedestrian overcrossings (POC's) at Valley Transportation Authority (VTA) Light Rail Platforms over east bound lanes of Great Mall Parkway near South Main Street and at E. Capital Avenue.	\$200,000	TASP Impact Fees
Street Improvement	CIP 4296 Street Resurfacing Project 2019-20	This will be a joint agreement with the City of San Jose and the City of Milpitas will commit an amount towards the resurfacing (design & construction) of Landess Ave.	\$1,000,000	Measure B, Vehicle Registration Fee, Gas Tax Fee
Park Improvement	Plan Trade Zone/Montague Park-Central	This will be a design/professional services contract to provide design and construction of a new 5-acre park within the TASP area.	\$500,000	TASP Impact Fees
Sewer Improvement	CIP 6131 Sanitary Sewer Cathodic Protection Improvements	This will be a design/professional services contract to provide additional design service for sewer force main assessment from Milpitas Sewer Lift Station to San Jose/Santa Clara Regional Waste Water Facility.	\$400,000	Sewer Infrastructure Fund, Sewer Fund
N/A	Construction Inspection and Material Testing Services	This will be a professional services contract to provide for on-call special construction inspection and material testing service for CIP and PJ project for a 5-year period.	\$1,000,000	Various Funds

RESOLUTION NO. ____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING
RESOLUTION NO. 1626, THE CLASSIFICATION PLAN, TO AUTHORIZE ADDITIONAL
POSITIONS, AMEND BUDGETED ALLOCATED POSITIONS, AND ESTABLISH
CLASSIFICATION TITLE CHANGES**

WHEREAS, the City of Milpitas has a Classification Plan adopted as Resolution No. 1626 on December 17, 1968, which has been amended from time to time, and which is in accordance with the Personnel Rules and Regulations of the City of Milpitas (Resolution No. 792 as amended); and

WHEREAS, amendments to the Classification Plan are necessary to account for changes within the organization, transfer of duties, new job responsibilities, and adjustments to salary ranges; and

WHEREAS, the annual budget process necessitates changes in position authorizations that result from modifications made to the Classification Plan.

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. Resolution No. 1626, as amended, is hereby further amended effective July 5, 2020, as set forth below. If any of the below-mentioned groups or classifications receive a cost of living adjustment separate from the adoption of the 2020-21 budget, that same percentage amount and effective date will be applied accordingly pursuant to the applicable bargaining unit agreement(s) for the below-listed classification salary ranges by further Resolution.

A. AUTHORIZE THE FOLLOWING POSITIONS:

One (1) FTE Maintenance Custodian II – 40 hour – Public Works Department
One (1) FTE Maintenance Custodian III – 40 hour – Public Works Department

B. AMEND THE FOLLOWING BUDGETED ALLOCATED POSITIONS:

Delete three (3) FTE Patrol Officers and authorize three (3) FTE Police Officers
Delete one (1) FTE Finance Technician and authorize one (1) FTE Financial Analyst

C. ESTABLISH THE FOLLOWING CLASSIFICATION TITLE CHANGES:

Retitle Housing and Neighborhood Services Manager to Housing Manager
Retitle Housing Authority Administrator to Housing and Neighborhood Services Administrator

PASSED AND ADOPTED this _____ day of _____, 2020, 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

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING
RESOLUTION NO. 1626, THE CLASSIFICATION PLAN, TO ADJUST HOURLY RATE
RANGES FOR CLASSIFICATIONS DUE TO A MINIMUM WAGE INCREASE PURSUANT TO
ORDINANCE NO. 292**

WHEREAS, the City of Milpitas has a Classification Plan adopted as Resolution No. 1626 on December 17, 1968, which has been amended from time to time, and which is in accordance with the Personnel Rules and Regulations of the City of Milpitas (Resolution No. 792 as amended); and

WHEREAS, salary increases granted to temporary classifications pursuant to changes in Resolution No. 6598, the Resolution providing compensation for unrepresented part-time temporary employees, have been incorporated into Resolution No. 1626, the Classification Plan.

WHEREAS, amendments to the Classification Plan are necessary to account for changes within the organization, transfer of duties, new job responsibilities, and adjustments to salary ranges; and

WHEREAS, the City of Milpitas local minimum wage ordinance, Ordinance No. 292, established the minimum wage hourly rate effective July 1, 2020 as \$15.40 per hour; and

WHEREAS, the City of Milpitas must update its hourly rate for certain classifications currently below the \$15.40 hourly rate in conformance with Ordinance No. 292, as well as update the hourly rate for certain affected positions within the same classification groups to maintain consistency in the hourly pay rate scale for such classification groups.

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 table below contains hourly wage adjustments for classifications that are either (a) currently below the minimum wage of \$15.40 per hour, or (b) positions within the same classification group which are affected by these increases and therefore necessitate their own contemporaneous increase to maintain consistency in the hourly rate pay scale for the classification group.
3. Resolution No. 1626, as amended, is hereby further amended to adjust the hourly rate ranges for the below listed classifications effective July 1, 2020, as follows:

<u>Classification:</u>	<u>From:</u>	<u>To:</u>
Adult Crossing Guard	\$15.00 to \$17.98	\$15.40 to \$18.46
Adult Crossing Guard Supervisor	\$17.25 to \$20.66	\$17.71 to \$21.21
Assistant Pool Manager	\$17.00 to \$23.80	\$17.45 to \$24.44
Lifeguard	\$15.00 to \$21.00	\$15.40 to \$21.56
Pool Manager	\$18.25 to \$25.55	\$18.74 to \$26.23
Recreation Administrative Assistant	\$15.00 to \$21.00	\$15.40 to \$21.56
Recreation Attendant	\$15.00 to \$21.00	\$15.40 to \$21.56

Recreation Instructor	\$18.33 to \$36.66	\$18.82 to \$37.64
Recreation Leader	\$15.00 to \$21.00	\$15.40 to \$21.56
Staff Assistant	\$15.00 to \$24.00	\$15.40 to \$24.64
Student Intern	\$15.00 to \$24.00	\$15.40 to \$24.64

4. These adjusted hourly rate ranges will be included in the All Job Classifications/Salary Table attached to the July 5, 2020 Resolution of the City Council of the City of Milpitas amending the Resolution No. 1626, the Classification Plan, to Adjust the Salary Schedules for all IAFF, MidCon, ProTech, Miscellaneous Unrepresented and Fire Unrepresented Classifications.

PASSED AND ADOPTED this _____ day of _____, 2020, 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

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS TO REVISE THE LIST OF FRINGE BENEFITS AND ELIGIBILITY FOR SUCH BENEFITS FOR LIMITED TERM POSITIONS

WHEREAS, Limited Term Employees (temporary) are not organized or represented for the purposes of meeting and conferring with management in the areas of salary, benefits, and working conditions; and

WHEREAS, on September 15, 1998, the City Council of the City of Milpitas adopted Resolution No. 6812, to authorize fringe benefits for non-clerical Limited Term Employees positions in the Planning, Engineering and Building Departments as designated by the City Manager on a case-by-case basis in a pilot program to assist in recruiting highly qualified applicants; and

WHEREAS, the pilot program for fringe benefits to Limited Term Employees was continued by Resolutions No. 6966, No. 7004 and No. 7062, after which the pilot program ended on June 30, 2001, and the benefits were included in the budget process for fiscal year 2001-2002 and the City continued the provision of such benefits thereafter; and

WHEREAS, on June 5, 2018, the City Council adopted Resolution No. 8776, which updated the Fringe Benefits list for specific Limited Term Positions; and

WHEREAS, on June 11, 2019, the City Council adopted Resolution No. 8883, which amended the categories of Limited Term Employees positions eligible for authorization of fringe benefits to include all City Departments, as designated on a case-by-case basis by the City Manager to assist during recruitments efforts with temporary staffing needs and/or to work on special projects and/or as a contributing agency towards our next generation in providing Management Fellow opportunities for a limited period of time; and

WHEREAS, it is now the desire to amend the list of fringe benefits to be available for authorization by the City Manager to those listed in **Exhibit A**, attached hereto.

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. Limited Term Employees (temporary) shall not earn future rights or benefits normally negotiated for represented employees, such as those used in the calculation of service years or accruals for sick leave cash-out, longevity pay except as set forth in **Exhibit A**.
3. The City Council hereby authorizes effective July 1, 2020 the fringe benefits listed in **Exhibit A**, attached hereto, for Limited Term Employees (temporary) in all City Departments as designated on a case-by-case basis by the City Manager to assist during recruitment efforts with temporary staffing needs and/or to work on special projects and/or as a contributing agency towards our next generation in providing Management Fellow opportunities for a limited period of time.

PASSED AND ADOPTED this _____ day of _____, 2020, 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

**EXHIBIT A
CITY OF MILPITAS
LIMITED SERVICE (TEMPORARY) EMPLOYEES
BENEFIT PACKAGE
Effective 7/1/20**

BENEFITS	DESCRIPTION						
BASE SALARY	Base salary will be based on the publicly available pay schedule for the classification for which the Limited Service Employee (temporary) is hired to work.						
HEALTH PLANS	Limited Service Employees may elect to enroll in their choice of CalPERS Health Plans. The City's contribution is capped at the Kaiser plan rates (single, two-party, or family).						
DENTAL	Limited Service Employees may choose to enroll in the City's self-funded Delta Dental plan. The City will pay up to the family premium.						
VISION	Limited Service Employees may choose to enroll in the City's provided vision plan. The City will pay up to the family premium.						
LIFE INSURANCE	The City pays for \$50,000 life insurance coverage. Limited Service Employees are eligible to apply for additional life insurance at their own expense.						
SHORT TERM DISABILITY	City provides a plan for Limited Service Employees that is similar to California's State Disability Insurance (SDI).						
LONG TERM DISABILITY	City provides a long-term disability plan for Limited Service Employees.						
VACATION LEAVE ACCRUALS	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; border-bottom: 1px solid black;"><u>Years of Service</u></th> <th style="text-align: left; border-bottom: 1px solid black;"><u>Yearly Accruals</u></th> </tr> </thead> <tbody> <tr> <td>1-4</td> <td>11 Days</td> </tr> <tr> <td>5-9</td> <td>16 Days</td> </tr> </tbody> </table> <p>Vacation leave is available for full cash-out upon separation from the City. May be able to count the years worked during the Limited Term Assignment towards vacation accrual if hired to a full time regular position directly from the Limited Term assignment.</p>	<u>Years of Service</u>	<u>Yearly Accruals</u>	1-4	11 Days	5-9	16 Days
<u>Years of Service</u>	<u>Yearly Accruals</u>						
1-4	11 Days						
5-9	16 Days						
SICK LEAVE	Limited Service Employees will earn 12 work days of Sick Leave per year (pro-rated by pay period).						
HOLIDAYS	The City observes 12 paid holidays: January 1 (New Years), Third Monday in January (Dr Martin Luther King's Birthday), Third Monday in February (Washington's Birthday), March 31 (Cesar Chavez Day), Last Monday in May (Memorial Day), July 4, First Monday in September (Labor Day), November 11 (Veterans Day), Thanksgiving Day, Day After Thanksgiving, Christmas Eve, Christmas Day.						
FLOATING HOLIDAY	Each calendar year 8 hours of floating holiday to be used by December 31 of each year otherwise it will be lost.						
MILPITAS SPORTS CENTER	Limited Service Employees are eligible for membership at the Milpitas Sports Center.						
DEFERRED COMPENSATION--SECTION 457 PLAN	Limited Service Employees may elect to participate in the City's deferred compensation program (457 Plan) through ICMA-RC. The City contributes \$75 per month on behalf of the Limited Service Employee.						

**CITY OF MILPITAS
LIMITED SERVICE (TEMPORARY) EMPLOYEES
BENEFIT PACKAGE
Effective 7/1/20**

FLEXIBLE SPENDING PLAN	Limited Service Employees may elect to participate in an IRS Section 125 Flexible Spending Account plan for medical expenses, child or elder care; and/or traffic and vanpooling. Deductions are made on a pre-tax basis. There is no City contribution.
EMPLOYEE ASSISTANCE PROGRAM (EAP)	Limited Service Employees are eligible for services offered by the City's offered Employee Assistance Plan (EAP).
RETIREMENT PLAN: CalPERS	<p>Limited Service Employees will be enrolled in the CalPERS retirement plan. If employed on or after January 1, 2013, or after a break in service from their last CalPERS employer of 6 months or more, Limited Service Employee will be enrolled as a "new" or "PEPRA" member and will be enrolled in the City's 2% at age 62 Plan.</p> <p>Limited Service Employees who have funds on deposit with CalPERS or joined the CalPERS system prior to 2013 are considered "Classic" members and will be enrolled in the City's Tier 2 Plan (2% at age 60).</p> <p>Limited Service Employees who were hired by the City of Milpitas prior to October 9, 2011 are considered "Classic" members and will be enrolled in the City's Original CalPERS Plan (2.7% at age 55).</p>
SOCIAL SECURITY	The City of Milpitas does not participate in Social Security.
MEDICARE	Both City and Limited Service Employee contribute to Medicare (for all employees hired after March 31, 1986).

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING THE CLASSIFICATION PLAN TO AUTHORIZE FRINGE BENEFITS FOR UNREPRESENTED MANAGEMENT EMPLOYEES

WHEREAS, the City of Milpitas Unrepresented Management Employees are not organized or represented for the purposes of meeting and conferring with the City in the areas of salary, benefits, and working conditions; and

WHEREAS; on December 17, 1968, the City of Milpitas established a Classification Plan adopted as Resolution No. 1626, which has been amended from time to time and which is in accordance with the Personnel Rules and Regulations of the City of Milpitas (Resolution No. 792, as amended); and

WHEREAS, amendments to the Classification Plan are necessary to account for changes within the organization, including transfer of duties, new job responsibilities, and adjustments to salary ranges and fringe benefits; and

WHEREAS, on July 7, 1981, the City Council of the City of Milpitas adopted Resolution No. 3558 to authorize compensation and fringe benefits for all exempt employees and City Council; and

WHEREAS, it is the desire of the City Council to amend the Classification Plan to approve the administrative changes made to the fringe benefits for Unrepresented Management Employees as set out herein.

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 authorizes the revised fringe benefits listed in **Exhibit A**, attached hereto, for Unrepresented Management Employees.

PASSED AND ADOPTED this _____ day of _____, 2020, 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

EXHIBIT A

**UNREPRESENTED MANAGEMENT
BENEFITS PACKAGE
Effective July 5, 2020**

MISCELLANEOUS EXEMPT CLASSIFICATIONS:

EXECUTIVE STAFF - Assistant City Manager, Deputy City Manager, City Clerk, Building and Housing Director, Economic Development Director, Engineering Director "City Engineer", Director of Finance, Human Resources Director, Information Services Director, Planning Director, Public Works Director, and Recreation and Community Services Director

UNREPRESENTED STAFF - Assistant Director of Finance, Building Official, CIP Manager, Community Services Engagement and Inclusion Administrator, Deputy Public Works Director, Employee Relations Officer, Finance Manager, Housing and Neighborhood Services Administrator, Planning Manager, Plan Review Manager, Police Support Services Manager, Public Information Officer, Public Works Manager, and Transportation and Traffic Manager

POLICE EXEMPT CLASSIFICATIONS:

EXECUTIVE STAFF - Police Chief **UNREPRESENTED STAFF** - Assistant Police Chief and Police Captain

FIRE EXEMPT CLASSIFICATIONS:

EXECUTIVE STAFF - Fire Chief **UNREPRESENTED STAFF** - Deputy Fire Chief, Chief Fire Enforcement Officer and Assistant Fire Marshal

BENEFITS	DESCRIPTION	ELIGIBLE
MERIT INCREASES	Employees are eligible for merit-based salary increases annually, provided they are not at the maximum of their compensation range. The City manager will have the authority to recommend the amount of the merit increase.	All
HEALTH PLANS	The City provides CalPERS medical coverage. City paid premium is capped at the Kaiser rates for each level of coverage. Only active employees who have eligible dependents enrolled in the plan are eligible for City-paid premium above the single plan rate.	All
HEALTH PLAN WAIVER	Employees who are covered as an eligible dependent under another health insurance plan may waive health coverage and receive a total of \$250 per month in lieu of medical plan coverage with appropriate documentation. (no change since 1999)	All
LIFE INSURANCE	\$50,000 for full-time employees	All
SHORT TERM DISABILITY	City provides a plan similar to State Disability Insurance	Miscellaneous
	Police: Covered under the MPOA Trust Fund	Police Captains Only
	Fire: None (See Family Leave provision)	Fire
LONG TERM DISABILITY	After the first 60 days, coverage at 60% of base salary up to \$1,500 per month. Additional buy-up options are available.	Miscellaneous
	Coverage for Police is provided through California Law Enforcement Association (CLEA).	Police
	Coverage for Fire is provided through California Association of Professional Firefighters (CAPFF).	Fire
DENTAL--Misc and Fire	City provides a self-funded Delta Dental plan with graduated benefits based on years of service, including preventative, routine, major, and orthodontia.	Miscellaneous and Fire
DENTAL--Police	City provides Delta Dental coverage.	Police
VISION	City provides a vision plan for eye examination, lenses and frames.	All
TRUST FUND	\$50 per month contribution into the MPOA Trust Fund for spousal/dependent coverage and Short Term Disability coverage	Police Captains Only
DEFERRED COMPENSATION--SECTION 457 PLAN	City provides \$900 per year toward deferred compensation (no change since 1999)	All
*401A	Discuss future options. A 401(a) plan is an employer-sponsored money-purchase retirement plan that allows dollar- or percentage-based contributions from the employer, the employee or both. The sponsoring employer establishes eligibility and the vesting schedule.	TBD
*VEBA	Discuss future options. A voluntary employees' beneficiary association (VEBA) is a form of trust fund permitted under United States federal tax law, whose sole purpose must be to provide employee benefits. Discuss future options.	TBD
FLEXIBLE SPENDING PLAN	City offers employees who wish to participate a pre-tax deduction for an IRS Section 125 plan for medical expenses, premiums; child or elder care expenses; or traffic and vanpooling.	All
EMPLOYEE ASSISTANCE PROGRAM (EAP)	City offered plan: 10 visits for Miscellaneous employees.	Miscellaneous
	City offered plan: 15 visits for Safety employees.	Police & Fire

BENEFITS	DESCRIPTION	ELIGIBLE
SICK LEAVE CASH OUT PER IRS CONSTRUCTIVE RECEIPT	In January, an employee with 5 years of service may elect sick leave cash-out in accordance with the terms in Sick Leave Pay-Off above.	Fire
	For employees hired on or before 7/17/99, each November, an employee with 5 or more years of service may elect to cash out accrued sick leave. Payout shall be in accordance with appropriate pay out formulas. The maximum annual amount shall not exceed 50% of employees sick leave balance. Employees eligible for this benefit shall at all times maintain a sick leave balance of at least 240 hours .	Miscellaneous & Police
HOLIDAYS	The City observes 12 holidays: January 1 (New Years), Third Monday in January (Dr. Martin Luther King's Birthday), Third Monday in February (Washington's Birthday), March 31, Cesar Chavez Day, Last Monday in May (Memorial Day), July 4, First Monday in September (Labor Day), November 11 (Veterans Day), Thanksgiving Day, Day After Thanksgiving, Christmas Eve, Christmas Day.	All
FLOATING HOLIDAY	Each calendar year 8 hours of floating holiday to be used by December 31 of each year otherwise it will be lost.	All
FITNESS PROGRAM	Offers employees free access to City-sponsored sports and fitness programs.	All
TUITION & TRAINING	City provides reimbursement for education up to \$3,000 per year. Work related training costs including transportation and lodging expenses.	All
MILEAGE REIMBURSEMENT	Use of personal vehicle for City business will be reimbursed at the IRS established rate. Not eligible for Mileage Reimbursement if receiving a car allowance.	All
CAR ALLOWANCE	\$550 per month	Executive Staff Only
CALPERS RETIREMENT	2.7% at 55 Retirement Plan including the final year compensation amendment for those employed before 10/9/2011. (Employee pays 8% contribution rate).	Miscellaneous
	Tier 2 (Classic): 2% at 60 Retirement Plan including the final three-year compensation average for those Classic employees hired on or after 10/9/2011. (Employee pays 7% contribution rate).	Miscellaneous
	Tier 3 (PEPRA): 2% at 62 Retirement Plan including the final three-year average compensation for employees hired on or after 01/01/2013. (Employee contribution rate as stated in CalPERS actuarial report).	Miscellaneous
	3.0% at 50 Plan, The 1959 Survivors Benefit in full force and effect. (Fire pays 12%; Police pays 9%).	Police & Fire
	Tier 2 (Classic): 3.0% at 55 Plan, Effective 4/8/2012. Including three-year compensation average; The 1959 Survivors Benefit in full force and effect. (Police pays 9%; Fire pays 12%).	Police & Fire
	Tier 3 (PEPRA): 2.7% at 57 Plan, Effective 1/1/2013. Including three-year compensation average; The 1959 Survivors Benefit in full force and effect. (Employee contribution rate as stated in CalPERS actuarial report).	Police & Fire
PERS ENHANCEMENTS	Military Service Buy-back (GC 21024)	All
	PERS Credit for Unused Sick Leave (GC 20965)	All
	Death Benefit (GC 21620)	All
	Prior Service Credit (GC20055)	All
	1959 Survivor's Benefit (GC21573)	All
EYEGLOSS REIMBURSEMENT	Reimbursement up to \$175 per fiscal year for eyeglasses and \$200 for bifocals when prescribed by a physician for use at a video display terminal provided the glasses are not covered by health or vision plan first.	All
SAFETY EQUIPMENT	The City shall furnish appropriate safety equipment, the employee shall maintain in good order, and is the City's property.	Fire
UNIFORM ALLOWANCE	\$1,000 per year for 40 hour employees plus one pair of safety shoes every 2 years.	Fire
	\$1,350 per year for 40 hour employees.	Police
FAMILY LEAVE	Up to 80 hours of sick leave to care for a family member including: mother, father, spouse, registered domestic partner, brother, sister, son/daughter, grandparents, or domestic partner, whether the immediate family member is of the employee's or spouse's family, including step or adopted relatives. It also includes concurrent use of sick leave accruals for self or other accruals for eligible family members under FMLA or CRFA.	All
	Fire personnel may use 14 days of accrued sick leave (without medical note) for birth or adoption of a child.	Fire

BENEFITS	DESCRIPTION	ELIGIBLE
FAMILY LEAVE (continued)	<p>Fire Unrep may use available sick leave for family medical purposes including same members as above. The use of family leave shall be limited to 80 hours per calendar year. Family medical purposes shall mean illness, accident, medical appointments or other related occurrences. Fire Unrep may take up to four months unpaid family or medical leave within a 24 month period, unless they qualify for FMLA/CFRA and this benefit is greater, for the following:</p> <p>Birth, adoption, or serious illness of a child; self, parent, spouse, or registered domestic partner of an employee.</p> <p>City will provide benefit coverage for up to 4 months and employee may elect to continue benefits at his/her own expense for up to an additional 18 months.</p> <p>Available leave balances must be exhausted first prior to leave without pay.</p>	Fire
COMPASSIONATE LEAVE	City provides up to 40 hours of paid leave in the event of the death of an eligible family member (same family members as in Family Leave).	All
MILITARY LEAVE	Paid military leave is provided for active and temporary duty in accordance with City policy and provisions of the State and Federal Laws.	All
JURY LEAVE	City provides paid time upon jury summons if called to duty.	All
LEAVE OF ABSENCE	An unpaid personal leave of absence is available upon approval of the City Manager.	All
FMLA/CFRA	Employees may take up to 12 weeks paid/unpaid family or medical leave under Family Medical Leave Act (FMLA) or California Family Rights Act (CFRA) within a 12 month period for the following: birth or adoption; serious illness of a child, self, parent or spouse; or baby bonding. Employee must exhaust available leave balances to qualify for leave without pay. Benefits will be covered during FMLA/CFRA leave.	All
WORKERS COMPENSATION	First 80 hours of lost work time is covered at 100% pay; next 240 hours at 80% pay.	All
MEDICARE	Sworn Police and Fire employees are eligible for up to one year paid workers' compensation leave per labor code 4850.	Sworn Police and Fire
SEVERANCE PAY	Both City and employee contribute, if hired after March 31, 1986.	All
SEVERANCE PAY	If employee is terminated for reasons other than "for cause" employee would be eligible for up to 16 weeks of salary plus benefits, depending on date of hire. For additional details, see Muni Code section VI-3-4.00 - Severance Payments for Specified At-Will Positions.	All
RETIREMENT BENEFITS		
ELIGIBILITY CRITERIA	Eligibility for retiree benefits is predicated upon retirement from CalPERS Retirement System.	All
SICK LEAVE CASH-OUT	<p>Upon retirement, disability retirement, or death, for those employees who were hired on or before 7/17/99, and who had at least 5 years of service, the City shall pay retiree or estate for unused accrued sick leave using this formula: 2.5% x years of service x highest hourly rate x sick leave hours.</p> <p>Upon retirement, disability retirement, or death, for those employees who were hired on or before 1/1/95, and who had at least 5 years of service, the City shall pay retiree or estate for unused accrued sick leave using this formula: 2.5% x years of service x highest hourly rate x sick leave hours.</p> <p>Employees hired after January 1, 1995, with 5 years of service, separating in "good standing" as determined by the City Manager may use this formula:</p> <p>After 4th year: .25%/year x hourly rate x accrued sick leave</p> <p>After 9th year: .50%/year x hourly rate x accrued sick leave</p> <p>After 14th year: .75%/year x hourly rate x accrued sick leave</p> <p>After 19th year: 1.0%/year x hourly rate x accrued sick leave</p> <p>Employees hired after July 18, 1999, with 5 years of service, separating in "good standing" as determined by the City Manager may use this formula:</p> <p>After 4th year: .25%/year x hourly rate x accrued sick leave</p> <p>After 9th year: .50%/year x hourly rate x accrued sick leave</p> <p>After 14th year: .75%/year x hourly rate x accrued sick leave</p> <p>After 19th year: 1.0%/year x hourly rate x accrued sick leave</p>	<p>Miscellaneous and Police</p> <p>Fire</p> <p>Fire</p> <p>Police</p>
SICK LEAVE CREDIT	Upon retiring with PERS, all employees shall be eligible for the PERS Credit for Unused Sick Leave provision (20965). Employees hired prior to July 17, 1999 may choose a cash out or Credit for Unused Sick Leave.	All
RETIREMENT MEDICAL COVERAGE	See Retiree Benefit Grid	All

BENEFITS	DESCRIPTION	ELIGIBLE
DISABILITY RETIREMENT	For Medical Coverage: employees on disability retirement who had at least 5 years of full-time or equivalent service with the City and retired after June 30, 2003, the City agrees to contribute up to "the retiree cap amount" or until the retiree is re-employed.	Police
RETIREE DENTAL	Benefits may be continued at the retiree's expense 50% of City's Premium.	Miscellaneous and Fire
	Benefits may be continued at the retiree's expense.	Police
RETIREE VISION	Benefits may be continued at the retiree's expense.	All
RETIREE SPOUSAL/ DEPENDENT MEDICAL PLAN	1% of payroll plus benefits contributed to a specific fund to assist in paying for spousal/dependent medical premiums for each of the following groups: Miscellaneous Unrep, Police Unrep and Fire Unrep. If fund is depleted, reimbursement will end for FY. See Dependent Benefits Grid	All
SAFETY EQUIPMENT	Upon retirement, the city shall give a command officer his/her service weapon and holsters without charge if either (1) the Milpitas Police Chief endorses an identification certificate approving the officer carrying a concealed and loaded firearm or (2) a hearing board determines that, under Penal Code section 12027.1, at the time the officer retired from the Milpitas Police Department, the employee had a right to a certificate permitting the carrying of a concealed and loaded firearm.	Police

Notes:

All employees who retire from the City are allowed to continue CalPERS medical coverage and receive the PEMHCA minimum (currently \$97.30 for MSA and MEA; \$139 for all others)
The benefits described in the grid below include the PEMHCA minimum.

Upon reaching Medicare eligibility, the City's contribution is capped at the applicable Medicare premium. "Vesting" percentages still apply.

The City pays 50% of the dental premium for Miscellaneous retirees (does not extend to survivors). Police retirees may continue dental coverage at their own expense.

"Benefit Cap": The single medical premium rate paid by the City for active employees (currently Kaiser)

"Retiree Cap": 115% of the Benefit Cap

Retiree Medical Benefits - Dependent Benefits will be summarized separately				
Group	Date of Hire	Date of Retirement	Minimum Years of Continuous Service	City Contribution for Retiree's Medical
Unrepresented Miscellaneous and Fire	Before July 1, 1995	Before January 1, 1989	n/a	PEMHCA Minimum Only
		After July 1, 1990 but before September 1, 2002	Less than 5	PEMHCA Minimum Only
			At least 5	Any employee only medical premium rate
		After August 31, 2002	Less than 5	PEMHCA Minimum Only
	At least 5		Benefit cap	
	After June 30, 1995	Any	Less than 5	PEMHCA Minimum Only
			5 but less than 10	Up to 25% of the Benefit Cap
			10 but less than 15	Up to 50% of the Benefit Cap
			15 but less than 20	Up to 75% of the Benefit Cap
			At least 20	Up to 100% of the Benefit Cap
Unrepresented Police ONLY*	Before July 1, 1995	Before January 1, 1989	n/a	PEMHCA Minimum Only
		After December 31, 1988 but before July 1, 2003	Less than 5	PEMHCA Minimum Only
			At least 5	Any employee only medical premium rate
		After June 30, 2003	Less than 5	PEMHCA Minimum Only
			At least 5	Retiree Cap
	After June 30, 1995	Any	Less than 5	PEMHCA Minimum Only
			5 but less than 10	Up to 25% of the Retiree Cap
			10 but less than 15	Up to 50% of the Retiree Cap
			15 but less than 20	Up to 75% of the Retiree Cap
			At least 20	Up to 100% of the Retiree Cap

*Unrepresented Police benefits follow the MPOA MOU.

Dependent Benefits				
Group	Date of Hire	Date of Retirement	Minimum Years of Continuous Service	City Contribution for Dependent Medical Premiums (1)
Unrepresented (UNREP-Police) ²	Before January 1, 1996	After June 30, 2003	At least 5	100% of family/dependent premiums
	After December 31, 1995	After June 30, 2003	5 but less than 9	Up to 25% of the family/dependent premium
			9 but less than 14	Up to 50% of the family/dependent premium
			14 but less than 19	Up to 75% of the family/dependent premium
			At least 19	Up to 100% of the family/dependent premium
Unrepresented (UNREP-Fire) ³	Before January 1, 1996	After September 4, 2007	At least 5	100% of family/dependent premiums
	After December 31, 1995	After September 4, 2007	5 but less than 9	Up to 25% of the family/dependent premium
			9 but less than 14	Up to 50% of the family/dependent premium
			14 but less than 19	Up to 75% of the family/dependent premium
			At least 19	Up to 100% of the family/dependent premium
Unrepresented (UNREP-Misc) ⁴	Before January 1, 1996	After June 30, 2018	At least 5	100% of family/dependent premiums
	After December 31, 1995	After June 30, 2018	5 but less than 9	Up to 25% of the family/dependent premium
			9 but less than 14	Up to 50% of the family/dependent premium
			14 but less than 19	Up to 75% of the family/dependent premium
			At least 19	Up to 100% of the family/dependent premium

¹ Family/Dependent Medical Premium is active employee Single +1 OR Family Medical Premium rate less retiree's single medical reimbursement.

² If the UNREP-Police fund is depleted, MPOA will provide funding for the dependent benefits. **Effective September 1, 2019, MPOA will administer dependent medical benefits for Unrep Police.**

³ The Fire Chief is ineligible for dependent fund benefits.

⁴ The Fire Chief is eligible for dependent fund benefits in Unrep Misc group.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING RESOLUTION NO. 1626, THE CLASSIFICATION PLAN, TO ADJUST THE SALARY SCHEDULES FOR ALL IAFF, MIDCON, PROTECH, MISCELLANEOUS UNREPRESENTED AND FIRE UNREPRESENTED CLASSIFICATIONS

WHEREAS, the City of Milpitas has a Classification Plan adopted as Resolution No. 1626 on December 17, 1968, which has been amended from time to time, and which is in accordance with the Personnel Rules and Regulations of the City of Milpitas (Resolution No. 792 as amended); and

WHEREAS, amendments to the Classification Plan are necessary to account for changes within the organization, transfer of duties, new job responsibilities, and adjustments to salary ranges; and

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. Resolution No. 1626, as amended, is hereby further amended effective July 5, 2020, as follows:

The City Council hereby adopts the salary schedule attached hereto as **Exhibit A** (“All Job Classifications/Salary Table Effective July 5, 2020”), which includes updated salary ranges for the following classifications:

1. All classifications represented by the International Association of Firefighters (IAFF), Mid-Management and Confidential Unit (MidCon), and the Professional and Technical Group (ProTech), in accordance with the following Memorandums of Understanding (MOUs):
 - International Association of Firefighters MOU dated July 1, 2018– June 30, 2022
 - Mid-Management and Confidential Unit MOU dated July 1, 2019– June 30, 2023
 - Professional and Technical Group MOU dated July 1, 2019– June 30, 2023
2. All classifications included in the Unrepresented Miscellaneous group and the Unrepresented Fire group, in accordance with the following document:
 - Unrepresented Management Employees Salary and Benefit Package dated June 18, 2019

PASSED AND ADOPTED this _____ day of _____, 2020, 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

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
5**	Accountant	500	2101	A	45.15	3611.94	7825.88	93910.46
5**	Accountant	500	2101	B	47.40	3792.51	8217.09	98605.15
5**	Accountant	500	2101	C	49.76	3981.38	8626.32	103515.88
5**	Accountant	500	2101	D	52.27	4181.38	9059.66	108715.94
5**	Accountant	500	2101	E	54.87	4389.69	9511.01	114132.05
5**	Accounting Technician I	513	6104	A	29.40	2352.28	5096.61	61159.34
5**	Accounting Technician I	513	6104	B	30.88	2469.92	5351.49	64217.84
5**	Accounting Technician I	513	6104	C	32.42	2593.42	5619.07	67428.84
5**	Accounting Technician I	513	6104	D	34.04	2723.09	5900.03	70800.45
5**	Accounting Technician I	513	6104	E	35.74	2859.24	6195.02	74340.26
5**	Accounting Technician II	514	6105	A	32.34	2587.50	5606.24	67274.98
5**	Accounting Technician II	514	6105	B	33.97	2716.91	5886.63	70639.57
5**	Accounting Technician II	514	6105	C	35.66	2852.76	6180.98	74171.80
5**	Accounting Technician II	514	6105	D	37.44	2995.43	6490.10	77881.15
5**	Accounting Technician II	514	6105	E	39.31	3145.13	6814.44	81773.29
8**	Administrative Analyst I	801	2102	A	40.39	3231.27	7001.08	84013.01
8**	Administrative Analyst I	801	2102	B	0	0	0	0
8**	Administrative Analyst I	801	2102	C	0	0	0	0
8**	Administrative Analyst I	801	2102	D	0	0	0	0
8**	Administrative Analyst I	801	2102	E	53.18	4253.76	9216.47	110597.66
8**	Administrative Analyst II	802	2103	A	44.61	3568.56	7731.89	92782.62
8**	Administrative Analyst II	802	2103	B	0	0	0	0
8**	Administrative Analyst II	802	2103	C	0	0	0	0
8**	Administrative Analyst II	802	2103	D	0	0	0	0
8**	Administrative Analyst II	802	2103	E	58.71	4697.05	10176.93	122123.19

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
8**	Administrative Assistant	828	6111	A	38.53	3082.72	6679.22	80150.62
8**	Administrative Assistant	828	6111	B	40.46	3236.85	7013.19	84158.21
8**	Administrative Assistant	828	6111	C	42.48	3398.72	7363.90	88366.72
8**	Administrative Assistant	828	6111	D	44.61	3568.62	7732.02	92784.24
8**	Administrative Assistant	828	6111	E	46.84	3747.05	8118.60	97423.23
7	Adult Crossing Guard	725	8401	A	15.40	1232.00	2669.33	32032.00
7	Adult Crossing Guard	725	8401	B	0	0	0	0
7	Adult Crossing Guard	725	8401	C	0	0	0	0
7	Adult Crossing Guard	725	8401	D	0	0	0	0
7	Adult Crossing Guard	725	8401	E	18.46	1476.80	3199.73	38396.80
7	Adult Crossing Guard Superviso	720	8402	A	17.71	1416.80	3069.73	36836.80
7	Adult Crossing Guard Superviso	720	8402	B	0	0	0	0
7	Adult Crossing Guard Superviso	720	8402	C	0	0	0	0
7	Adult Crossing Guard Superviso	720	8402	D	0	0	0	0
7	Adult Crossing Guard Superviso	720	8402	E	21.21	1696.80	3676.40	44116.80
6	Assistant Chief of Police	649	1405	A	99.42	7953.39	17232.34	206788.08
6	Assistant Chief of Police	649	1405	B	0	0	0	0
6	Assistant Chief of Police	649	1405	C	0	0	0	0
6	Assistant Chief of Police	649	1405	D	0	0	0	0
6	Assistant Chief of Police	649	1405	E	139.18	11134.75	24125.30	289503.60
6**	Assistant City Engineer	639	1205	A	71.03	5682.77	12312.66	147751.97
6**	Assistant City Engineer	639	1205	B	0	0	0	0
6**	Assistant City Engineer	639	1205	C	0	0	0	0
6**	Assistant City Engineer	639	1205	D	0	0	0	0
6**	Assistant City Engineer	639	1205	E	99.44	7955.88	17237.73	206852.76

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
6**	Assistant City Manager	666	1104	A	94.63	7570.49	16402.73	196832.81
6**	Assistant City Manager	666	1104	B	0	0	0	0
6**	Assistant City Manager	666	1104	C	0	0	0	0
6**	Assistant City Manager	666	1104	D	0	0	0	0
6**	Assistant City Manager	666	1104	E	132.49	10598.70	22963.86	275566.26
5**	Assistant Civil Engineer	502	2201	A	48.92	3913.48	8479.20	101750.44
5**	Assistant Civil Engineer	502	2201	B	51.37	4109.15	8903.17	106838.01
5**	Assistant Civil Engineer	502	2201	C	53.93	4314.59	9348.27	112179.23
5**	Assistant Civil Engineer	502	2201	D	56.63	4530.35	9815.77	117789.21
5**	Assistant Civil Engineer	502	2201	E	59.46	4756.89	10306.59	123679.07
6**	Assistant Director of Finance	669	1109	A	68.10	5448.11	11804.25	141650.93
6**	Assistant Director of Finance	669	1109	B	0	0	0	0
6**	Assistant Director of Finance	669	1109	C	0	0	0	0
6**	Assistant Director of Finance	669	1109	D	0	0	0	0
6**	Assistant Director of Finance	669	1109	E	95.35	7627.54	16526.33	198315.96
6**	Assistant Fire Marshal	632	2501	A	78.15	6251.40	13544.70	162536.40
6**	Assistant Fire Marshal	632	2501	B	0	0	0	0
6**	Assistant Fire Marshal	632	2501	C	0	0	0	0
6**	Assistant Fire Marshal	632	2501	D	0	0	0	0
6**	Assistant Fire Marshal	632	2501	E	109.40	8751.97	18962.60	227551.21
5**	Assistant Planner	503	2801	A	46.90	3752.51	8130.43	97565.19
5**	Assistant Planner	503	2801	B	49.25	3940.23	8537.16	102445.91
5**	Assistant Planner	503	2801	C	51.71	4136.53	8962.48	107549.71
5**	Assistant Planner	503	2801	D	54.29	4343.31	9410.50	112926.07
5**	Assistant Planner	503	2801	E	57.00	4560.57	9881.23	118574.73

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
7	Assistant Pool Manager	709	5609	A	17.45	1369.00	3024.67	36296.00
7	Assistant Pool Manager	709	5609	B	0	0	0	0
7	Assistant Pool Manager	709	5609	C	0	0	0	0
7	Assistant Pool Manager	709	5609	D	0	0	0	0
7	Assistant Pool Manager	709	5609	E	24.44	1955.20	4236.27	50835.20
2	Assistant Water Operator	221	7212	A	37.95	2846.52	6167.46	74009.52
2	Assistant Water Operator	221	7212	B	39.85	2988.85	6475.84	77710.10
2	Assistant Water Operator	221	7212	C	41.84	3138.29	6799.63	81595.54
2	Assistant Water Operator	221	7212	D	43.94	3295.19	7139.58	85674.94
2	Assistant Water Operator	221	7212	E	46.13	3459.97	7496.60	89959.22
2	Assistant Water Operator - 40	226	8611	A	37.95	3036.03	6578.06	78936.78
2	Assistant Water Operator - 40	226	8611	B	39.85	3188.14	6907.64	82891.64
2	Assistant Water Operator - 40	226	8611	C	41.84	3347.24	7252.35	87028.24
2	Assistant Water Operator - 40	226	8611	D	43.94	3515.08	7616.01	91392.08
2	Assistant Water Operator - 40	226	8611	E	46.13	3690.80	7996.73	95960.80
5**	Associate Civil Engineer	504	2202	A	56.25	4500.48	9751.03	117012.36
5**	Associate Civil Engineer	504	2202	B	59.07	4725.53	10238.65	122863.81
5**	Associate Civil Engineer	504	2202	C	62.03	4961.82	10750.60	129007.30
5**	Associate Civil Engineer	504	2202	D	65.12	5209.90	11288.12	135457.42
5**	Associate Civil Engineer	504	2202	E	68.38	5470.42	11852.58	142230.94
5**	Associate Planner	505	2802	A	53.93	4314.71	9348.54	112182.47
5**	Associate Planner	505	2802	B	56.64	4531.02	9817.22	117806.52
5**	Associate Planner	505	2802	C	59.48	4757.81	10308.59	123703.13
5**	Associate Planner	505	2802	D	62.44	4995.08	10822.67	129872.04
5**	Associate Planner	505	2802	E	65.56	5244.74	11363.60	136363.26

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
8**	Budget Manager	839	1115	A	58.87	4710.20	10205.45	122465.37
8**	Budget Manager	839	1115	B	0	0	0	0
8**	Budget Manager	839	1115	C	0	0	0	0
8**	Budget Manager	839	1115	D	0	0	0	0
8**	Budget Manager	839	1115	E	77.50	6200.00	13433.34	161200.04
6**	Building & Housing Director	658	1802	A	82.31	6584.13	14265.61	171187.27
6**	Building & Housing Director	658	1802	B	0	0	0	0
6**	Building & Housing Director	658	1802	C	0	0	0	0
6**	Building & Housing Director	658	1802	D	0	0	0	0
6**	Building & Housing Director	658	1802	E	115.22	9217.78	19971.86	239662.28
8**	Building Inspection Manager	848	3809	A	61.34	4906.93	10631.68	127580.13
8**	Building Inspection Manager	848	3809	B	0	0	0	0
8**	Building Inspection Manager	848	3809	C	0	0	0	0
8**	Building Inspection Manager	848	3809	D	0	0	0	0
8**	Building Inspection Manager	848	3809	E	74.56	5964.45	12922.98	155075.75
7	Building Inspector Apprentice	770	8610	A	28.00	2240.00	4853.33	58240.00
7	Building Inspector Apprentice	770	8610	B	0	0	0	0
7	Building Inspector Apprentice	770	8610	C	0	0	0	0
7	Building Inspector Apprentice	770	8610	D	0	0	0	0
7	Building Inspector Apprentice	770	8610	E	35.00	2800.00	6066.67	72800.00
6**	Building Official	676	1804	A	72.39	5791.50	12548.26	150579.00
6**	Building Official	676	1804	B	0	0	0	0
6**	Building Official	676	1804	C	0	0	0	0
6**	Building Official	676	1804	D	0	0	0	0
6**	Building Official	676	1804	E	101.35	8108.10	17567.56	210810.60

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
5**	Building Permit Technician	508	5801	A	35.82	2865.53	6208.65	74503.85
5**	Building Permit Technician	508	5801	B	37.62	3009.13	6519.77	78237.27
5**	Building Permit Technician	508	5801	C	39.50	3160.09	6846.87	82162.39
5**	Building Permit Technician	508	5801	D	41.46	3317.50	7187.91	86254.90
5**	Building Permit Technician	508	5801	E	43.54	3483.20	7546.94	90563.18
5**	Building/NP Inspector	507	3801	A	47.48	3798.11	8229.24	98750.89
5**	Building/NP Inspector	507	3801	B	49.85	3988.05	8640.77	103689.21
5**	Building/NP Inspector	507	3801	C	52.34	4187.41	9072.73	108872.77
5**	Building/NP Inspector	507	3801	D	54.96	4396.81	9526.42	114317.01
5**	Building/NP Inspector	507	3801	E	57.71	4616.62	10002.68	120032.18
8**	Buyer	803	2106	A	40.03	3201.98	6937.63	83251.56
8**	Buyer	803	2106	B	0	0	0	0
8**	Buyer	803	2106	C	0	0	0	0
8**	Buyer	803	2106	D	0	0	0	0
8**	Buyer	803	2106	E	52.69	4214.80	9132.06	109584.74
5**	Case Manager	544	5612	A	32.09	2567.53	5562.98	66755.81
5**	Case Manager	544	5612	B	0	0	0	0
5**	Case Manager	544	5612	C	0	0	0	0
5**	Case Manager	544	5612	D	0	0	0	0
5**	Case Manager	544	5612	E	40.05	3204.23	6942.50	83309.97
6**	Chief Fire Enforcement Officer	656	1505	A	68.24	5459.80	11829.57	141954.86
6**	Chief Fire Enforcement Officer	656	1505	B	0	0	0	0
6**	Chief Fire Enforcement Officer	656	1505	C	0	0	0	0
6**	Chief Fire Enforcement Officer	656	1505	D	0	0	0	0
6**	Chief Fire Enforcement Officer	656	1505	E	95.54	7643.72	16561.40	198736.70

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
6	Chief of Police	650	1402	A	104.39	8350.82	18093.44	217121.28
6	Chief of Police	650	1402	B	0	0	0	0
6	Chief of Police	650	1402	C	0	0	0	0
6	Chief of Police	650	1402	D	0	0	0	0
6	Chief of Police	650	1402	E	146.14	11691.17	25330.86	303970.32
6**	CIP Manager	642	2211	A	62.54	5003.04	10839.93	130079.16
6**	CIP Manager	642	2211	B	0	0	0	0
6**	CIP Manager	642	2211	C	0	0	0	0
6**	CIP Manager	642	2211	D	0	0	0	0
6**	CIP Manager	642	2211	E	87.56	7004.82	15177.10	182125.22
6**	City Clerk	605	1101	A	62.58	5006.35	10847.10	130165.15
6**	City Clerk	605	1101	B	0	0	0	0
6**	City Clerk	605	1101	C	0	0	0	0
6**	City Clerk	605	1101	D	0	0	0	0
6**	City Clerk	605	1101	E	87.62	7009.69	15187.67	182252.03
6	City Council	699	1107	A	104.35	417.40	904.37	10852.40
6	City Council	699	1107	B	0	0	0	0
6	City Council	699	1107	C	0	0	0	0
6	City Council	699	1107	D	0	0	0	0
6	City Council	699	1107	E	130.47	521.88	1130.74	13568.88
6	City Manager	697	1102	A	160.75	12860.28	27863.95	334367.35
6	City Manager	697	1102	B	0	0	0	0
6	City Manager	697	1102	C	0	0	0	0
6	City Manager	697	1102	D	0	0	0	0
6	City Manager	697	1102	E	160.75	12860.28	27863.95	334367.35

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
5**	Code Enforcement Officer	515	5804	A	41.52	3320.95	7195.39	86344.67
5**	Code Enforcement Officer	515	5804	B	43.59	3487.05	7555.27	90663.23
5**	Code Enforcement Officer	515	5804	C	45.78	3662.15	7934.66	95215.95
5**	Code Enforcement Officer	515	5804	D	48.07	3845.24	8331.36	99976.34
5**	Code Enforcement Officer	515	5804	E	50.47	4037.37	8747.64	104971.71
6**	Comm Svc Engmt & Incl Admin	659	1121	A	64.57	5166.00	11193.01	134316.06
6**	Comm Svc Engmt & Incl Admin	659	1121	B	0.00	0.00	0.00	0.00
6**	Comm Svc Engmt & Incl Admin	659	1121	C	0.00	0.00	0.00	0.00
6**	Comm Svc Engmt & Incl Admin	659	1121	D	0.00	0.00	0.00	0.00
6**	Comm Svc Engmt & Incl Admin	659	1121	E	90.41	7232.40	15670.20	188042.38
4	Communications Dispatch Superv	456	6409	A	53.74	4299.33	9315.22	111782.58
4	Communications Dispatch Superv	456	6409	B	56.43	4514.29	9780.96	117371.54
4	Communications Dispatch Superv	456	6409	C	59.25	4740.02	10270.04	123240.52
4	Communications Dispatch Superv	456	6409	D	62.21	4977.02	10783.54	129402.52
4	Communications Dispatch Superv	456	6409	E	65.32	5225.88	11322.74	135872.88
4	Communications Dispatcher	455	6408	A	46.53	3722.52	8065.46	96785.52
4	Communications Dispatcher	455	6408	B	48.86	3908.62	8468.68	101624.12
4	Communications Dispatcher	455	6408	C	51.30	4104.04	8892.09	106705.04
4	Communications Dispatcher	455	6408	D	53.87	4309.21	9336.62	112039.46
4	Communications Dispatcher	455	6408	E	56.56	4524.68	9803.47	117641.68
5**	Community Services Officer	551	5807	A	39.72	3177.42	6884.40	82612.88
5**	Community Services Officer	551	5807	B	41.70	3336.29	7228.62	86743.51
5**	Community Services Officer	551	5807	C	43.78	3503.10	7590.06	91080.72
5**	Community Services Officer	551	5807	D	45.98	3678.25	7969.54	95634.53
5**	Community Services Officer	551	5807	E	48.28	3862.19	8368.07	100416.83

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
8**	Confidential Fiscal Asst II	805	6121	A	32.93	2634.13	5707.29	68487.45
8**	Confidential Fiscal Asst II	805	6121	B	34.57	2765.81	5992.58	71910.99
8**	Confidential Fiscal Asst II	805	6121	C	36.31	2904.10	6292.21	75506.50
8**	Confidential Fiscal Asst II	805	6121	D	38.12	3049.30	6606.82	79281.82
8**	Confidential Fiscal Asst II	805	6121	E	40.02	3201.78	6937.18	83246.16
8**	Crime Analyst	809	2105	A	48.35	3868.13	8380.95	100571.49
8**	Crime Analyst	809	2105	B	0.00	0.00	0.00	0.00
8**	Crime Analyst	809	2105	C	0.00	0.00	0.00	0.00
8**	Crime Analyst	809	2105	D	0.00	0.00	0.00	0.00
8**	Crime Analyst	809	2105	E	63.65	5091.65	11031.91	132382.97
8**	Customer Services Supervisor	847	2127	A	46.88	3750.82	8126.78	97521.38
8**	Customer Services Supervisor	847	2127	B	0.00	0.00	0.00	0.00
8**	Customer Services Supervisor	847	2127	C	0.00	0.00	0.00	0.00
8**	Customer Services Supervisor	847	2127	D	0.00	0.00	0.00	0.00
8**	Customer Services Supervisor	847	2127	E	61.71	4936.91	10696.64	128359.69
8**	Deputy City Clerk	835	6102	A	46.04	3683.30	7980.47	95765.68
8**	Deputy City Clerk	835	6102	B	0.00	0.00	0.00	0.00
8**	Deputy City Clerk	835	6102	C	0.00	0.00	0.00	0.00
8**	Deputy City Clerk	835	6102	D	0.00	0.00	0.00	0.00
8**	Deputy City Clerk	835	6102	E	55.96	4477.06	9700.31	116403.68
6**	Deputy City Manager	672	1119	A	92.74	7419.08	16074.68	192896.06
6**	Deputy City Manager	672	1119	B	0.00	0.00	0.00	0.00
6**	Deputy City Manager	672	1119	C	0.00	0.00	0.00	0.00
6**	Deputy City Manager	672	1119	D	0.00	0.00	0.00	0.00
6**	Deputy City Manager	672	1119	E	129.78	10382.40	22495.21	269942.48

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
6**	Deputy Fire Chief	633	1504	A	98.47	7877.33	17067.56	204810.78
6**	Deputy Fire Chief	633	1504	B	0.00	0.00	0.00	0.00
6**	Deputy Fire Chief	633	1504	C	0.00	0.00	0.00	0.00
6**	Deputy Fire Chief	633	1504	D	0.00	0.00	0.00	0.00
6**	Deputy Fire Chief	633	1504	E	137.85	11028.26	23894.58	286734.99
6**	Deputy Public Works Director	654	1207	A	73.00	5840.10	12653.54	151842.58
6**	Deputy Public Works Director	654	1207	B	0.00	0.00	0.00	0.00
6**	Deputy Public Works Director	654	1207	C	0.00	0.00	0.00	0.00
6**	Deputy Public Works Director	654	1207	D	0.00	0.00	0.00	0.00
6**	Deputy Public Works Director	654	1207	E	102.20	8176.15	17714.99	212579.83
6**	Dir of Recr & Community Svcs	655	1208	A	80.60	6447.78	13970.20	167642.32
6**	Dir of Recr & Community Svcs	655	1208	B	0.00	0.00	0.00	0.00
6**	Dir of Recr & Community Svcs	655	1208	C	0.00	0.00	0.00	0.00
6**	Dir of Recr & Community Svcs	655	1208	D	0.00	0.00	0.00	0.00
6**	Dir of Recr & Community Svcs	655	1208	E	113.06	9044.48	19596.39	235156.60
8**	Economic Development Coord	852	8623	A	50.80	4064.56	8806.54	105678.54
8**	Economic Development Coord	852	8623	B	0.00	0.00	0.00	0.00
8**	Economic Development Coord	852	8623	C	0.00	0.00	0.00	0.00
8**	Economic Development Coord	852	8623	D	0.00	0.00	0.00	0.00
8**	Economic Development Coord	852	8623	E	63.00	5040.00	10919.99	131039.90
6**	Economic Development Director	653	1206	A	75.70	6056.41	13122.22	157466.63
6**	Economic Development Director	653	1206	B	0.00	0.00	0.00	0.00
6**	Economic Development Director	653	1206	C	0.00	0.00	0.00	0.00
6**	Economic Development Director	653	1206	D	0.00	0.00	0.00	0.00
6**	Economic Development Director	653	1206	E	105.99	8478.95	18371.07	220452.79

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
6**	Economic Development Manager	611	1203	A	60.91	4872.90	10557.94	126695.38
6**	Economic Development Manager	611	1203	B	0.00	0.00	0.00	0.00
6**	Economic Development Manager	611	1203	C	0.00	0.00	0.00	0.00
6**	Economic Development Manager	611	1203	D	0.00	0.00	0.00	0.00
6**	Economic Development Manager	611	1203	E	79.22	6337.69	13731.65	164779.87
8**	Economic Development Spec	850	8606	A	48.38	3870.68	8386.48	100637.74
8**	Economic Development Spec	850	8606	B	0.00	0.00	0.00	0.00
8**	Economic Development Spec	850	8606	C	0.00	0.00	0.00	0.00
8**	Economic Development Spec	850	8606	D	0.00	0.00	0.00	0.00
8**	Economic Development Spec	850	8606	E	58.41	4672.29	10123.30	121479.63
5**	Electrical/Building Inspector	511	3802	A	49.85	3988.04	8640.75	103688.94
5**	Electrical/Building Inspector	511	3802	B	52.34	4187.41	9072.73	108872.77
5**	Electrical/Building Inspector	511	3802	C	54.96	4396.80	9526.40	114316.74
5**	Electrical/Building Inspector	511	3802	D	57.71	4616.62	10002.68	120032.18
5**	Electrical/Building Inspector	511	3802	E	60.59	4847.46	10502.84	126033.98
8**	Emergency Services Coordinator	836	2502	A	53.46	4276.47	9265.68	111188.21
8**	Emergency Services Coordinator	836	2502	B	0.00	0.00	0.00	0.00
8**	Emergency Services Coordinator	836	2502	C	0.00	0.00	0.00	0.00
8**	Emergency Services Coordinator	836	2502	D	0.00	0.00	0.00	0.00
8**	Emergency Services Coordinator	836	2502	E	70.36	5628.41	12194.88	146338.59
6**	Employee Relations Officer	677	1209	A	62.72	5018.17	10872.69	130472.33
6**	Employee Relations Officer	677	1209	B	0.00	0.00	0.00	0.00
6**	Employee Relations Officer	677	1209	C	0.00	0.00	0.00	0.00
6**	Employee Relations Officer	677	1209	D	0.00	0.00	0.00	0.00
6**	Employee Relations Officer	677	1209	E	87.82	7025.42	15221.74	182660.88

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
5**	Engineering Aide	512	3201	A	38.91	3112.21	6743.12	80917.47
5**	Engineering Aide	512	3201	B	40.85	3267.83	7080.29	84963.47
5**	Engineering Aide	512	3201	C	42.89	3431.21	7434.28	89211.45
5**	Engineering Aide	512	3201	D	45.03	3602.75	7805.95	93671.43
5**	Engineering Aide	512	3201	E	47.29	3782.89	8196.25	98355.03
6**	Engineering Director/City Eng	606	1201	A	82.31	6584.13	14265.61	171187.27
6**	Engineering Director/City Eng	606	1201	B	0.00	0.00	0.00	0.00
6**	Engineering Director/City Eng	606	1201	C	0.00	0.00	0.00	0.00
6**	Engineering Director/City Eng	606	1201	D	0.00	0.00	0.00	0.00
6**	Engineering Director/City Eng	606	1201	E	115.22	9217.78	19971.86	239662.28
5**	Engineering Permit Technician	540	2210	A	35.02	2801.53	6069.98	72839.81
5**	Engineering Permit Technician	540	2210	B	36.77	2941.62	6373.50	76482.10
5**	Engineering Permit Technician	540	2210	C	38.60	3088.69	6692.15	80305.83
5**	Engineering Permit Technician	540	2210	D	40.54	3243.09	7026.71	84320.45
5**	Engineering Permit Technician	540	2210	E	42.57	3405.26	7378.06	88536.80
1**	Entry Firefighter	112	4510	A	34.67	3883.39	8414.02	100968.17
1**	Entry Firefighter	112	4510	B	36.06	4038.73	8750.57	105006.87
1**	Entry Firefighter	112	4510	C	0.00	0.00	0.00	0.00
1**	Entry Firefighter	112	4510	D	0.00	0.00	0.00	0.00
1**	Entry Firefighter	112	4510	E	0.00	0.00	0.00	0.00
1**	Entry Firefighter/Paramedic	113	4511	A	38.83	4349.39	9423.69	113084.25
1**	Entry Firefighter/Paramedic	113	4511	B	40.38	4523.39	9800.67	117608.05
1**	Entry Firefighter/Paramedic	113	4511	C	0.00	0.00	0.00	0.00
1**	Entry Firefighter/Paramedic	113	4511	D	0.00	0.00	0.00	0.00
1**	Entry Firefighter/Paramedic	113	4511	E	0.00	0.00	0.00	0.00

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
1**	Entry Level Fire Inspector	114	3508	A	42.32	3385.74	7335.78	88029.26
1**	Entry Level Fire Inspector	114	3508	B	44.44	3555.03	7702.57	92430.83
1**	Entry Level Fire Inspector	114	3508	C	46.66	3732.79	8087.71	97052.51
1**	Entry Level Fire Inspector	114	3508	D	48.99	3919.43	8492.09	101905.11
1**	Entry Level Fire Inspector	114	3508	E	50.97	4077.95	8835.57	106026.81
8**	Envir & Regulatory Comply Spec	851	8624	A	51.64	4131.05	8950.60	107407.21
8**	Envir & Regulatory Comply Spec	851	8624	B	0.00	0.00	0.00	0.00
8**	Envir & Regulatory Comply Spec	851	8624	C	0.00	0.00	0.00	0.00
8**	Envir & Regulatory Comply Spec	851	8624	D	0.00	0.00	0.00	0.00
8**	Envir & Regulatory Comply Spec	851	8624	E	67.97	5437.65	11781.58	141378.91
5**	Environmental Inspector	553	2213	A	49.85	3988.04	8640.75	103688.94
5**	Environmental Inspector	553	2213	B	52.34	4187.44	9072.77	108873.32
5**	Environmental Inspector	553	2213	C	54.96	4396.82	9526.44	114317.28
5**	Environmental Inspector	553	2213	D	57.71	4616.65	10002.75	120032.99
5**	Environmental Inspector	553	2213	E	60.59	4847.46	10502.84	126033.98
2	Equip Maint Worker I - 40	227	8612	A	34.72	2777.45	6017.81	72213.70
2	Equip Maint Worker I - 40	227	8612	B	36.44	2914.92	6315.66	75787.92
2	Equip Maint Worker I - 40	227	8612	C	38.26	3060.92	6631.99	79583.92
2	Equip Maint Worker I - 40	227	8612	D	40.18	3214.60	6964.97	83579.60
2	Equip Maint Worker I - 40	227	8612	E	42.19	3375.11	7312.74	87752.86
2	Equip Maint Worker II - 40	228	8613	A	38.18	3054.08	6617.17	79406.08
2	Equip Maint Worker II - 40	228	8613	B	40.09	3206.93	6948.35	83380.18
2	Equip Maint Worker II - 40	228	8613	C	42.09	3367.43	7296.10	87553.18
2	Equip Maint Worker II - 40	228	8613	D	44.21	3536.48	7662.37	91948.48
2	Equip Maint Worker II - 40	228	8613	E	46.42	3713.23	8045.33	96543.98

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
2	Equip Maint Worker III - 40	229	8614	A	43.01	3440.86	7455.20	89462.36
2	Equip Maint Worker III - 40	229	8614	B	45.17	3613.33	7828.88	93946.58
2	Equip Maint Worker III - 40	229	8614	C	47.43	3794.35	8221.09	98653.10
2	Equip Maint Worker III - 40	229	8614	D	49.80	3983.90	8631.78	103581.40
2	Equip Maint Worker III - 40	229	8614	E	52.30	4183.69	9064.66	108775.94
2	Equipment Maint. Worker I	200	7202	A	34.50	2587.74	5606.77	67281.24
2	Equipment Maint. Worker I	200	7202	B	36.23	2717.13	5887.12	70645.38
2	Equipment Maint. Worker I	200	7202	C	38.04	2853.01	6181.52	74178.26
2	Equipment Maint. Worker I	200	7202	D	39.94	2995.66	6490.60	77887.16
2	Equipment Maint. Worker I	200	7202	E	41.94	3145.43	6815.10	81781.18
2	Equipment Maint. Worker II	201	7203	A	37.95	2846.52	6167.46	74009.52
2	Equipment Maint. Worker II	201	7203	B	39.85	2988.85	6475.84	77710.10
2	Equipment Maint. Worker II	201	7203	C	41.84	3138.29	6799.63	81595.54
2	Equipment Maint. Worker II	201	7203	D	43.94	3295.19	7139.58	85674.94
2	Equipment Maint. Worker II	201	7203	E	46.13	3459.97	7496.60	89959.22
2	Equipment Maint. Worker III	202	7204	A	42.76	3207.26	6949.06	83388.76
2	Equipment Maint. Worker III	202	7204	B	44.90	3367.57	7296.40	87556.82
2	Equipment Maint. Worker III	202	7204	C	47.15	3535.97	7661.27	91935.22
2	Equipment Maint. Worker III	202	7204	D	49.50	3712.76	8044.31	96531.76
2	Equipment Maint. Worker III	202	7204	E	51.98	3898.42	8446.58	101358.92
8**	Executive Assistant	812	6117	A	42.38	3390.50	7346.09	88153.10
8**	Executive Assistant	812	6117	B	44.50	3560.04	7713.43	92561.16
8**	Executive Assistant	812	6117	C	46.73	3738.05	8099.11	97189.33
8**	Executive Assistant	812	6117	D	49.06	3924.94	8504.04	102048.42
8**	Executive Assistant	812	6117	E	51.51	4121.20	8929.26	107151.14

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
6**	Finance Director	627	1103	A	82.66	6612.72	14327.55	171930.60
6**	Finance Director	627	1103	B	0.00	0.00	0.00	0.00
6**	Finance Director	627	1103	C	0.00	0.00	0.00	0.00
6**	Finance Director	627	1103	D	0.00	0.00	0.00	0.00
6**	Finance Director	627	1103	E	115.71	9257.07	20056.99	240683.85
6**	Finance Manager	647	1116	A	58.33	4666.96	10111.74	121340.92
6**	Finance Manager	647	1116	B	0.00	0.00	0.00	0.00
6**	Finance Manager	647	1116	C	0.00	0.00	0.00	0.00
6**	Finance Manager	647	1116	D	0.00	0.00	0.00	0.00
6**	Finance Manager	647	1116	E	81.67	6533.78	14156.52	169878.26
5**	Finance Technician	501	5101	A	35.58	2846.40	6167.19	74006.32
5**	Finance Technician	501	5101	B	37.36	2988.68	6475.48	77705.66
5**	Finance Technician	501	5101	C	39.23	3138.13	6799.27	81591.31
5**	Finance Technician	501	5101	D	41.18	3295.01	7139.19	85670.29
5**	Finance Technician	501	5101	E	43.24	3459.76	7496.14	89953.70
8**	Financial Analyst I	844	2125	A	37.71	3017.11	6537.08	78444.93
8**	Financial Analyst I	844	2125	B	0.00	0.00	0.00	0.00
8**	Financial Analyst I	844	2125	C	0.00	0.00	0.00	0.00
8**	Financial Analyst I	844	2125	D	0.00	0.00	0.00	0.00
8**	Financial Analyst I	844	2125	E	49.64	3971.40	8604.69	103256.30
8**	Financial Analyst II	845	2126	A	41.65	3332.14	7219.64	86635.62
8**	Financial Analyst II	845	2126	B	0.00	0.00	0.00	0.00
8**	Financial Analyst II	845	2126	C	0.00	0.00	0.00	0.00
8**	Financial Analyst II	845	2126	D	0.00	0.00	0.00	0.00
8**	Financial Analyst II	845	2126	E	54.83	4386.11	9503.23	114038.77

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
1**	Fire Battalion Chief	153	2508	A	52.45	5873.58	12726.08	152713.00
1**	Fire Battalion Chief	153	2508	B	0.00	0.00	0.00	0.00
1**	Fire Battalion Chief	153	2508	C	0.00	0.00	0.00	0.00
1**	Fire Battalion Chief	153	2508	D	0.00	0.00	0.00	0.00
1**	Fire Battalion Chief	153	2508	E	73.42	8223.01	17816.52	213798.25
1**	Fire Battalion Chief - 40	154	2509	A	73.42	5873.58	12726.08	152713.00
1**	Fire Battalion Chief - 40	154	2509	B	0.00	0.00	0.00	0.00
1**	Fire Battalion Chief - 40	154	2509	C	0.00	0.00	0.00	0.00
1**	Fire Battalion Chief - 40	154	2509	D	0.00	0.00	0.00	0.00
1**	Fire Battalion Chief - 40	154	2509	E	102.78	8223.01	17816.52	213798.25
1**	Fire Captain	100	2504	A	45.90	5140.39	11137.51	133650.07
1**	Fire Captain	100	2504	B	48.13	5390.99	11680.47	140165.63
1**	Fire Captain	100	2504	C	50.48	5654.12	12250.59	147007.02
1**	Fire Captain	100	2504	D	52.95	5930.37	12849.14	154189.65
1**	Fire Captain	100	2504	E	55.54	6220.47	13477.68	161732.19
1**	Fire Captain - 40	108	2507	A	64.25	5140.39	11137.51	133650.07
1**	Fire Captain - 40	108	2507	B	67.39	5390.99	11680.47	140165.63
1**	Fire Captain - 40	108	2507	C	70.68	5654.12	12250.59	147007.02
1**	Fire Captain - 40	108	2507	D	74.13	5930.37	12849.14	154189.65
1**	Fire Captain - 40	108	2507	E	77.76	6220.47	13477.68	161732.19
6**	Fire Chief	630	1502	A	108.57	8684.85	18817.18	225806.13
6**	Fire Chief	630	1502	B	0.00	0.00	0.00	0.00
6**	Fire Chief	630	1502	C	0.00	0.00	0.00	0.00
6**	Fire Chief	630	1502	D	0.00	0.00	0.00	0.00
6**	Fire Chief	630	1502	E	151.99	12158.82	26344.09	316129.13

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
1**	Fire Engineer	102	4501	A	40.47	4532.80	9821.06	117852.76
1**	Fire Engineer	102	4501	B	42.44	4753.02	10298.20	123578.48
1**	Fire Engineer	102	4501	C	44.50	4984.22	10799.14	129589.74
1**	Fire Engineer	102	4501	D	46.66	5226.98	11325.12	135901.42
1**	Fire Engineer	102	4501	E	48.94	5481.88	11877.41	142528.92
1**	Fire Engineer/Paramedic	151	4505	A	45.19	5061.24	10966.03	131592.32
1**	Fire Engineer/Paramedic	151	4505	B	47.39	5307.92	11500.50	138005.94
1**	Fire Engineer/Paramedic	151	4505	C	49.70	5566.86	12061.54	144738.36
1**	Fire Engineer/Paramedic	151	4505	D	52.14	5838.72	12650.55	151806.62
1**	Fire Engineer/Paramedic	151	4505	E	54.68	6124.23	13269.16	159229.91
1**	Fire Prevention Inspector	106	3501	A	64.89	5190.53	11246.14	134953.67
1**	Fire Prevention Inspector	106	3501	B	68.05	5443.63	11794.54	141534.39
1**	Fire Prevention Inspector	106	3501	C	71.36	5709.37	12370.30	148443.65
1**	Fire Prevention Inspector	106	3501	D	74.86	5988.39	12974.85	155698.21
1**	Fire Prevention Inspector	106	3501	E	78.52	6281.37	13609.64	163315.65
1**	Fire Protection Engineer	110	3507	A	64.89	5190.53	11246.14	134953.67
1**	Fire Protection Engineer	110	3507	B	68.05	5443.63	11794.54	141534.39
1**	Fire Protection Engineer	110	3507	C	71.36	5709.37	12370.30	148443.65
1**	Fire Protection Engineer	110	3507	D	74.86	5988.39	12974.85	155698.21
1**	Fire Protection Engineer	110	3507	E	78.52	6281.37	13609.64	163315.65
1**	Firefighter	103	4502	A	37.82	4236.39	9178.84	110146.09
1**	Firefighter	103	4502	B	39.66	4441.70	9623.69	115484.32
1**	Firefighter	103	4502	C	41.58	4657.36	10090.94	121091.34
1**	Firefighter	103	4502	D	43.61	4883.81	10581.58	126979.03
1**	Firefighter	103	4502	E	45.73	5121.48	11096.54	133158.48

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
1**	Firefighter Trainee	109	4509	A	46.68	3734.04	8090.41	97084.96
1**	Firefighter Trainee	109	4509	B	46.68	3734.04	8090.41	97084.96
1**	Firefighter Trainee	109	4509	C	46.68	3734.04	8090.41	97084.96
1**	Firefighter Trainee	109	4509	D	46.68	3734.04	8090.41	97084.96
1**	Firefighter Trainee	109	4509	E	46.68	3734.04	8090.41	97084.96
1**	Firefighter/Paramedic	104	4503	A	42.22	4729.28	10246.77	122961.16
1**	Firefighter/Paramedic	104	4503	B	44.28	4959.20	10744.93	128939.16
1**	Firefighter/Paramedic	104	4503	C	46.44	5200.75	11268.29	135219.47
1**	Firefighter/Paramedic	104	4503	D	48.70	5454.30	11817.66	141811.82
1**	Firefighter/Paramedic	104	4503	E	51.07	5720.60	12394.64	148735.68
1**	Firefighter/Paramedic Trainee	107	4504	A	52.28	4182.11	9061.24	108734.87
1**	Firefighter/Paramedic Trainee	107	4504	B	52.28	4182.11	9061.24	108734.87
1**	Firefighter/Paramedic Trainee	107	4504	C	52.28	4182.11	9061.24	108734.87
1**	Firefighter/Paramedic Trainee	107	4504	D	52.28	4182.11	9061.24	108734.87
1**	Firefighter/Paramedic Trainee	107	4504	E	52.28	4182.11	9061.24	108734.87
7	Fitness Instructor	713	5620	A	35.00	2800.00	6066.67	72800.00
7	Fitness Instructor	713	5620	B	0.00	0.00	0.00	0.00
7	Fitness Instructor	713	5620	C	0.00	0.00	0.00	0.00
7	Fitness Instructor	713	5620	D	0.00	0.00	0.00	0.00
7	Fitness Instructor	713	5620	E	75.00	6000.00	13000.00	156000.00
2	Fleet Maint Worker I -40	230	8615	A	33.14	2651.40	5744.70	68936.40
2	Fleet Maint Worker I -40	230	8615	B	34.80	2784.27	6032.59	72391.02
2	Fleet Maint Worker I -40	230	8615	C	36.54	2923.26	6333.73	76004.76
2	Fleet Maint Worker I -40	230	8615	D	38.37	3069.25	6650.04	79800.50
2	Fleet Maint Worker I -40	230	8615	E	40.29	3223.11	6983.40	83800.86

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
2	Fleet Maint Worker II - 40	231	8616	A	36.45	2916.27	6318.59	75823.02
2	Fleet Maint Worker II - 40	231	8616	B	38.28	3062.25	6634.88	79618.50
2	Fleet Maint Worker II - 40	231	8616	C	40.19	3215.24	6966.35	83596.24
2	Fleet Maint Worker II - 40	231	8616	D	42.20	3376.09	7314.86	87778.34
2	Fleet Maint Worker II - 40	231	8616	E	44.31	3544.81	7680.42	92165.06
2	Fleet Maint Worker III -40	232	8617	A	41.93	3354.24	7267.52	87210.24
2	Fleet Maint Worker III -40	232	8617	B	44.03	3522.09	7631.19	91574.34
2	Fleet Maint Worker III -40	232	8617	C	46.22	3697.79	8011.88	96142.54
2	Fleet Maint Worker III -40	232	8617	D	48.53	3882.23	8411.50	100937.98
2	Fleet Maint Worker III -40	232	8617	E	50.96	4077.18	8833.89	106006.68
2	Fleet Maintenance Worker I	213	7207	A	33.14	2485.69	5385.66	64627.94
2	Fleet Maintenance Worker I	213	7207	B	34.80	2609.94	5654.87	67858.44
2	Fleet Maintenance Worker I	213	7207	C	36.54	2740.47	5937.69	71252.22
2	Fleet Maintenance Worker I	213	7207	D	38.37	2877.44	6234.45	74813.44
2	Fleet Maintenance Worker I	213	7207	E	40.28	3021.33	6546.22	78554.58
2	Fleet Maintenance Worker II	214	7208	A	36.46	2734.27	5924.25	71091.02
2	Fleet Maintenance Worker II	214	7208	B	38.28	2870.94	6220.37	74644.44
2	Fleet Maintenance Worker II	214	7208	C	40.19	3014.53	6531.48	78377.78
2	Fleet Maintenance Worker II	214	7208	D	42.20	3165.25	6858.04	82296.50
2	Fleet Maintenance Worker II	214	7208	E	44.31	3323.45	7200.81	86409.70
2	Fleet Maintenance Worker III	215	7209	A	41.93	3144.38	6812.82	81753.88
2	Fleet Maintenance Worker III	215	7209	B	44.02	3301.58	7153.42	85841.08
2	Fleet Maintenance Worker III	215	7209	C	46.22	3466.63	7511.03	90132.38
2	Fleet Maintenance Worker III	215	7209	D	48.53	3639.96	7886.58	94638.96
2	Fleet Maintenance Worker III	215	7209	E	50.96	3822.02	8281.04	99372.52

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
5**	GIS Technician	552	2212	A	48.92	3913.48	8479.20	101750.44
5**	GIS Technician	552	2212	B	51.37	4109.15	8903.17	106838.01
5**	GIS Technician	552	2212	C	53.93	4314.62	9348.33	112180.04
5**	GIS Technician	552	2212	D	56.63	4530.33	9815.72	117788.67
5**	GIS Technician	552	2212	E	59.46	4756.91	10306.64	123679.61
1**	Hazardous Materials Inspector	105	3502	A	64.89	5190.53	11246.14	134953.67
1**	Hazardous Materials Inspector	105	3502	B	68.05	5443.63	11794.54	141534.39
1**	Hazardous Materials Inspector	105	3502	C	71.36	5709.37	12370.30	148443.65
1**	Hazardous Materials Inspector	105	3502	D	74.86	5988.39	12974.85	155698.21
1**	Hazardous Materials Inspector	105	3502	E	78.52	6281.37	13609.64	163315.65
8**	Housing & Neigh Svcs Manager	849	2812	A	51.78	4142.91	8976.31	107715.73
8**	Housing & Neigh Svcs Manager	849	2812	B	0.00	0.00	0.00	0.00
8**	Housing & Neigh Svcs Manager	849	2812	C	0.00	0.00	0.00	0.00
8**	Housing & Neigh Svcs Manager	849	2812	D	0.00	0.00	0.00	0.00
8**	Housing & Neigh Svcs Manager	849	2812	E	68.17	5453.54	11816.01	141792.08
6**	Housing Authority Adminr	673	1120	A	60.90	4872.00	10556.01	126672.12
6**	Housing Authority Adminr	673	1120	B	0.00	0.00	0.00	0.00
6**	Housing Authority Adminr	673	1120	C	0.00	0.00	0.00	0.00
6**	Housing Authority Adminr	673	1120	D	0.00	0.00	0.00	0.00
6**	Housing Authority Adminr	673	1120	E	85.26	6820.77	14778.33	177339.95
8**	Human Resources Analyst I	843	2124	A	40.39	3231.27	7001.08	84013.01
8**	Human Resources Analyst I	843	2124	B	0.00	0.00	0.00	0.00
8**	Human Resources Analyst I	843	2124	C	0.00	0.00	0.00	0.00
8**	Human Resources Analyst I	843	2124	D	0.00	0.00	0.00	0.00
8**	Human Resources Analyst I	843	2124	E	53.18	4253.76	9216.47	110597.66

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
8**	Human Resources Analyst II	842	2123	A	44.61	3568.56	7731.89	92782.62
8**	Human Resources Analyst II	842	2123	B	0.00	0.00	0.00	0.00
8**	Human Resources Analyst II	842	2123	C	0.00	0.00	0.00	0.00
8**	Human Resources Analyst II	842	2123	D	0.00	0.00	0.00	0.00
8**	Human Resources Analyst II	842	2123	E	58.71	4697.05	10176.93	122123.19
8**	Human Resources Assistant	846	2108	A	28.78	2301.78	4987.20	59846.28
8**	Human Resources Assistant	846	2108	B	30.21	2416.79	5236.39	62836.63
8**	Human Resources Assistant	846	2108	C	31.72	2537.63	5498.20	65978.41
8**	Human Resources Assistant	846	2108	D	33.31	2664.52	5773.13	69277.56
8**	Human Resources Assistant	846	2108	E	34.98	2797.74	6061.76	72741.12
6**	Human Resources Director	613	1105	A	82.19	6575.51	14246.95	170963.37
6**	Human Resources Director	613	1105	B	0.00	0.00	0.00	0.00
6**	Human Resources Director	613	1105	C	0.00	0.00	0.00	0.00
6**	Human Resources Director	613	1105	D	0.00	0.00	0.00	0.00
6**	Human Resources Director	613	1105	E	115.08	9205.74	19945.76	239349.16
8**	Human Resources Technician	816	2107	A	34.89	2791.77	6048.83	72585.91
8**	Human Resources Technician	816	2107	B	36.65	2931.97	6352.60	76231.17
8**	Human Resources Technician	816	2107	C	38.47	3077.91	6668.80	80025.69
8**	Human Resources Technician	816	2107	D	40.40	3232.41	7003.56	84042.75
8**	Human Resources Technician	816	2107	E	42.42	3393.61	7352.83	88233.95
6**	I T Director	624	2113	A	81.11	6489.01	14059.51	168714.19
6**	I T Director	624	2113	B	0.00	0.00	0.00	0.00
6**	I T Director	624	2113	C	0.00	0.00	0.00	0.00
6**	I T Director	624	2113	D	0.00	0.00	0.00	0.00
6**	I T Director	624	2113	E	113.56	9084.60	19683.29	236199.54

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
8**	I T Manager	819	2116	A	60.81	4864.52	10539.79	126477.44
8**	I T Manager	819	2116	B	0.00	0.00	0.00	0.00
8**	I T Manager	819	2116	C	0.00	0.00	0.00	0.00
8**	I T Manager	819	2116	D	0.00	0.00	0.00	0.00
8**	I T Manager	819	2116	E	80.04	6403.49	13874.22	166490.69
5**	I T Technician	542	3101	A	38.92	3113.72	6746.39	80956.68
5**	I T Technician	542	3101	B	40.87	3269.39	7083.67	85004.03
5**	I T Technician	542	3101	C	42.91	3432.82	7437.78	89253.36
5**	I T Technician	542	3101	D	45.05	3604.46	7809.67	93716.04
5**	I T Technician	542	3101	E	47.31	3784.70	8200.17	98402.08
8**	Information Services Analyst	831	2118	A	51.15	4092.12	8866.26	106395.10
8**	Information Services Analyst	831	2118	B	0.00	0.00	0.00	0.00
8**	Information Services Analyst	831	2118	C	0.00	0.00	0.00	0.00
8**	Information Services Analyst	831	2118	D	0.00	0.00	0.00	0.00
8**	Information Services Analyst	831	2118	E	67.33	5386.43	11670.60	140047.19
5**	Junior Civil Engineer	519	2203	A	44.47	3557.69	7708.33	92500.05
5**	Junior Civil Engineer	519	2203	B	46.70	3735.58	8093.75	97124.98
5**	Junior Civil Engineer	519	2203	C	49.03	3922.36	8498.44	101981.36
5**	Junior Civil Engineer	519	2203	D	51.48	4118.48	8923.38	107080.56
5**	Junior Civil Engineer	519	2203	E	54.06	4324.41	9369.56	112434.75
5**	Junior Planner	520	2804	A	40.27	3221.11	6979.07	83748.83
5**	Junior Planner	520	2804	B	42.28	3382.17	7328.04	87936.51
5**	Junior Planner	520	2804	C	44.39	3551.27	7694.41	92332.95
5**	Junior Planner	520	2804	D	46.61	3728.88	8079.24	96950.84
5**	Junior Planner	520	2804	E	48.94	3915.28	8483.10	101797.22

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
7	Lifeguard	710	5610	A	15.40	1232.00	2669.33	32032.00
7	Lifeguard	710	5610	B	0.00	0.00	0.00	0.00
7	Lifeguard	710	5610	C	0.00	0.00	0.00	0.00
7	Lifeguard	710	5610	D	0.00	0.00	0.00	0.00
7	Lifeguard	710	5610	E	21.56	1724.80	3737.07	44844.80
2	Maint Worker III - 40	234	8619	A	35.70	2855.95	6187.89	74254.70
2	Maint Worker III - 40	234	8619	B	37.49	2998.96	6497.75	77972.96
2	Maint Worker III - 40	234	8619	C	39.36	3148.82	6822.44	81869.32
2	Maint Worker III - 40	234	8619	D	41.33	3306.40	7163.87	85966.40
2	Maint Worker III - 40	234	8619	E	43.40	3471.68	7521.97	90263.68
2	Maintenance Custodian I	203	8101	A	25.43	1907.19	4132.24	49586.94
2	Maintenance Custodian I	203	8101	B	26.70	2002.56	4338.88	52066.56
2	Maintenance Custodian I	203	8101	C	28.04	2102.70	4555.85	54670.20
2	Maintenance Custodian I	203	8101	D	29.44	2207.83	4783.63	57403.58
2	Maintenance Custodian I	203	8101	E	30.91	2318.23	5022.83	60273.98
2	Maintenance Custodian I - 40	222	8107	A	25.43	2034.36	4407.78	52893.36
2	Maintenance Custodian I - 40	222	8107	B	26.70	2136.05	4628.11	55537.30
2	Maintenance Custodian I - 40	222	8107	C	28.04	2242.87	4859.55	58314.62
2	Maintenance Custodian I - 40	222	8107	D	29.44	2355.02	5102.54	61230.52
2	Maintenance Custodian I - 40	222	8107	E	30.91	2472.75	5357.63	64291.50
2	Maintenance Custodian II	204	8102	A	27.97	2097.95	4545.56	54546.70
2	Maintenance Custodian II	204	8102	B	29.37	2202.83	4772.80	57273.58
2	Maintenance Custodian II	204	8102	C	30.84	2312.99	5011.48	60137.74
2	Maintenance Custodian II	204	8102	D	32.38	2428.57	5261.90	63142.82
2	Maintenance Custodian II	204	8102	E	34.00	2550.04	5525.09	66301.04

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
2	Maintenance Custodian II - 40	223	8108	A	27.97	2237.82	4848.61	58183.32
2	Maintenance Custodian II - 40	223	8108	B	29.37	2349.66	5090.93	61091.16
2	Maintenance Custodian II - 40	223	8108	C	30.84	2467.17	5345.53	64146.42
2	Maintenance Custodian II - 40	223	8108	D	32.38	2590.48	5612.71	67352.48
2	Maintenance Custodian II - 40	223	8108	E	34.00	2720.07	5893.49	70721.82
2	Maintenance Custodian III	205	8103	A	32.17	2412.60	5227.30	62727.60
2	Maintenance Custodian III	205	8103	B	33.78	2533.22	5488.64	65863.72
2	Maintenance Custodian III	205	8103	C	35.47	2659.89	5763.10	69157.14
2	Maintenance Custodian III	205	8103	D	37.24	2792.89	6051.26	72615.14
2	Maintenance Custodian III	205	8103	E	39.10	2932.57	6353.90	76246.82
2	Maintenance Custodian III - 40	233	8618	A	32.17	2573.60	5576.13	66913.60
2	Maintenance Custodian III - 40	233	8618	B	33.78	2702.09	5854.53	70254.34
2	Maintenance Custodian III - 40	233	8618	C	35.47	2837.59	6148.11	73777.34
2	Maintenance Custodian III - 40	233	8618	D	37.24	2979.21	6454.96	77459.46
2	Maintenance Custodian III - 40	233	8618	E	39.10	3127.82	6776.94	81323.32
2	Maintenance Worker I	206	8202	A	27.97	2097.95	4545.56	54546.70
2	Maintenance Worker I	206	8202	B	29.37	2202.83	4772.80	57273.58
2	Maintenance Worker I	206	8202	C	30.84	2312.99	5011.48	60137.74
2	Maintenance Worker I	206	8202	D	32.38	2428.62	5262.01	63144.12
2	Maintenance Worker I	206	8202	E	34.00	2550.04	5525.09	66301.04
2	Maintenance Worker I-40	207	8203	A	28.23	2258.22	4892.81	58713.72
2	Maintenance Worker I-40	207	8203	B	29.63	2370.40	5135.87	61630.40
2	Maintenance Worker I-40	207	8203	C	31.12	2489.44	5393.79	64725.44
2	Maintenance Worker I-40	207	8203	D	32.67	2613.60	5662.80	67953.60
2	Maintenance Worker I-40	207	8203	E	34.31	2744.63	5946.70	71360.38

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
2	Maintenance Worker II	208	8204	A	30.77	2307.72	5000.06	60000.72
2	Maintenance Worker II	208	8204	B	32.31	2423.09	5250.03	63000.34
2	Maintenance Worker II	208	8204	C	33.92	2544.23	5512.50	66149.98
2	Maintenance Worker II	208	8204	D	35.62	2671.46	5788.16	69457.96
2	Maintenance Worker II	208	8204	E	37.40	2805.04	6077.59	72931.04
2	Maintenance Worker II-40	209	8205	A	31.04	2483.44	5380.79	64569.44
2	Maintenance Worker II-40	209	8205	B	32.60	2607.61	5649.82	67797.86
2	Maintenance Worker II-40	209	8205	C	34.23	2738.64	5933.72	71204.64
2	Maintenance Worker II-40	209	8205	D	35.93	2874.79	6228.71	74744.54
2	Maintenance Worker II-40	209	8205	E	37.73	3018.66	6540.43	78485.16
2	Maintenance Worker III	210	8206	A	35.38	2653.85	5750.01	69000.10
2	Maintenance Worker III	210	8206	B	37.15	2786.55	6037.53	72450.30
2	Maintenance Worker III	210	8206	C	39.01	2925.89	6339.43	76073.14
2	Maintenance Worker III	210	8206	D	40.96	3072.17	6656.37	79876.42
2	Maintenance Worker III	210	8206	E	43.01	3225.80	6989.23	83870.80
7	Maintenance Worker/Seasonal	760	8207	A	19.88	1590.40	3445.87	41350.40
7	Maintenance Worker/Seasonal	760	8207	B	0.00	0.00	0.00	0.00
7	Maintenance Worker/Seasonal	760	8207	C	0.00	0.00	0.00	0.00
7	Maintenance Worker/Seasonal	760	8207	D	0.00	0.00	0.00	0.00
7	Maintenance Worker/Seasonal	760	8207	E	24.85	1988.00	4307.33	51688.00
8**	Management Analyst	854	2128	A	53.55	4284.00	9282.00	111383.98
8**	Management Analyst	854	2128	B	0.00	0.00	0.00	0.00
8**	Management Analyst	854	2128	C	0.00	0.00	0.00	0.00
8**	Management Analyst	854	2128	D	0.00	0.00	0.00	0.00
8**	Management Analyst	854	2128	E	74.98	5998.91	12997.63	155971.59

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
5**	Marketing Coordinator	548	5614	A	37.79	3023.56	6551.05	78612.58
5**	Marketing Coordinator	548	5614	B	39.69	3174.74	6878.59	82543.12
5**	Marketing Coordinator	548	5614	C	41.67	3333.47	7222.52	86670.23
5**	Marketing Coordinator	548	5614	D	43.75	3500.15	7583.66	91003.93
5**	Marketing Coordinator	548	5614	E	45.94	3675.16	7962.85	95554.22
6	Mayor	696	1118	A	130.47	521.88	1130.74	13568.88
6	Mayor	696	1118	B	0	0	0	0
6	Mayor	696	1118	C	0	0	0	0
6	Mayor	696	1118	D	0	0	0	0
6	Mayor	696	1118	E	130.47	521.88	1130.74	13568.88
5**	Neighbhd Preservation Asst	510	5802	A	31.73	2538.74	5500.61	66007.34
5**	Neighbhd Preservation Asst	510	5802	B	33.32	2665.70	5775.67	69308.12
5**	Neighbhd Preservation Asst	510	5802	C	34.99	2798.97	6064.44	72773.29
5**	Neighbhd Preservation Asst	510	5802	D	36.73	2938.96	6367.74	76412.88
5**	Neighbhd Preservation Asst	510	5802	E	38.57	3085.86	6686.02	80232.28
5**	Office Assistant I	516	6108	A	25.57	2045.53	4431.99	53183.89
5**	Office Assistant I	516	6108	B	26.84	2147.80	4653.56	55842.74
5**	Office Assistant I	516	6108	C	28.19	2255.20	4886.26	58635.16
5**	Office Assistant I	516	6108	D	29.60	2367.92	5130.51	61566.02
5**	Office Assistant I	516	6108	E	31.08	2486.33	5387.04	64644.53
5**	Office Assistant II	517	6109	A	28.12	2249.99	4874.97	58499.69
5**	Office Assistant II	517	6109	B	29.53	2362.45	5118.65	61423.79
5**	Office Assistant II	517	6109	C	31.01	2480.64	5374.72	64496.62
5**	Office Assistant II	517	6109	D	32.56	2604.67	5643.46	67721.41
5**	Office Assistant II	517	6109	E	34.18	2734.83	5925.45	71105.47

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
5**	Office Specialist	518	6110	A	32.34	2587.48	5606.20	67274.44
5**	Office Specialist	518	6110	B	33.96	2716.88	5886.57	70638.76
5**	Office Specialist	518	6110	C	35.66	2852.76	6180.98	74171.80
5**	Office Specialist	518	6110	D	37.44	2995.43	6490.10	77881.15
5**	Office Specialist	518	6110	E	39.31	3145.13	6814.44	81773.29
4	Patrol Officer	404	4401	A	49.75	3980.00	8623.33	103480.00
4	Patrol Officer	404	4401	B	52.24	4178.99	9054.48	108653.74
4	Patrol Officer	404	4401	C	54.85	4387.92	9507.16	114085.92
4	Patrol Officer	404	4401	D	57.59	4607.33	9982.55	119790.58
4	Patrol Officer	404	4401	E	60.47	4837.66	10481.60	125779.16
4	Patrol Officer Trainee	458	4402	A	48.68	3894.53	8438.15	101257.78
4	Patrol Officer Trainee	458	4402	B	51.11	4089.18	8859.89	106318.68
4	Patrol Officer Trainee	458	4402	C	53.67	4293.69	9303.00	111635.94
4	Patrol Officer Trainee	458	4402	D	56.35	4508.34	9768.07	117216.84
4	Patrol Officer Trainee	458	4402	E	59.17	4733.72	10256.39	123076.72
5**	Payroll Specialist	546	5102	A	34.55	2763.49	5987.56	71850.69
5**	Payroll Specialist	546	5102	B	36.28	2901.66	6286.94	75443.22
5**	Payroll Specialist	546	5102	C	38.08	3046.74	6601.28	79215.30
5**	Payroll Specialist	546	5102	D	39.99	3199.09	6931.37	83176.39
5**	Payroll Specialist	546	5102	E	41.98	3358.99	7277.82	87333.79
5**	Plan Check Engineer	521	3807	A	57.57	4605.56	9978.71	119744.48
5**	Plan Check Engineer	521	3807	B	60.44	4835.36	10476.61	125719.24
5**	Plan Check Engineer	521	3807	C	63.47	5077.46	11001.16	132013.88
5**	Plan Check Engineer	521	3807	D	66.63	5330.90	11550.29	138603.52
5**	Plan Check Engineer	521	3807	E	70.01	5600.96	12135.42	145625.00

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
5**	Plan Checker	522	3803	A	49.09	3927.23	8508.99	102107.91
5**	Plan Checker	522	3803	B	51.54	4123.54	8934.33	107211.98
5**	Plan Checker	522	3803	C	54.12	4330.08	9381.84	112582.12
5**	Plan Checker	522	3803	D	56.83	4545.94	9849.55	118194.54
5**	Plan Checker	522	3803	E	59.68	4773.88	10343.41	124120.90
6**	Plan Review Manager	678	1210	A	63.91	5112.39	11076.84	132922.15
6**	Plan Review Manager	678	1210	B	0	0	0	0
6**	Plan Review Manager	678	1210	C	0	0	0	0
6**	Plan Review Manager	678	1210	D	0	0	0	0
6**	Plan Review Manager	678	1210	E	83.12	6649.14	14406.46	172877.54
6**	Planning & Neigh Svcs Director	607	1803	A	82.31	6584.13	14265.61	171187.27
6**	Planning & Neigh Svcs Director	607	1803	B	0	0	0	0
6**	Planning & Neigh Svcs Director	607	1803	C	0	0	0	0
6**	Planning & Neigh Svcs Director	607	1803	D	0	0	0	0
6**	Planning & Neigh Svcs Director	607	1803	E	115.22	9217.78	19971.86	239662.28
7	Planning Commissioners	698	1108	A	1.00	80.00	173.33	2080.00
7	Planning Commissioners	698	1108	B	0	0	0	0
7	Planning Commissioners	698	1108	C	0	0	0	0
7	Planning Commissioners	698	1108	D	0	0	0	0
7	Planning Commissioners	698	1108	E	1.00	80.00	173.33	2080.00
6**	Planning Manager	602	2803	A	62.72	5018.17	10872.69	130472.33
6**	Planning Manager	602	2803	B	0	0	0	0
6**	Planning Manager	602	2803	C	0	0	0	0
6**	Planning Manager	602	2803	D	0	0	0	0
6**	Planning Manager	602	2803	E	87.82	7025.42	15221.74	182660.88

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
4	Police Assistant	450	6401	A	47.27	3781.86	8194.03	98328.36
4	Police Assistant	450	6401	B	49.64	3970.92	8603.66	103243.92
4	Police Assistant	450	6401	C	52.12	4169.45	9033.81	108405.70
4	Police Assistant	450	6401	D	54.72	4377.95	9485.56	113826.70
4	Police Assistant	450	6401	E	57.46	4596.86	9959.86	119518.36
6	Police Captain	651	1401	A	94.68	7574.39	16411.17	196934.04
6	Police Captain	651	1401	B	0	0	0	0
6	Police Captain	651	1401	C	0	0	0	0
6	Police Captain	651	1401	D	0	0	0	0
6	Police Captain	651	1401	E	132.55	10604.10	22975.56	275706.72
4	Police Clerk I	451	6402	A	33.88	2710.80	5873.40	70480.80
4	Police Clerk I	451	6402	B	35.58	2846.35	6167.09	74005.10
4	Police Clerk I	451	6402	C	37.36	2988.65	6475.41	77704.90
4	Police Clerk I	451	6402	D	39.23	3138.10	6799.22	81590.60
4	Police Clerk I	451	6402	E	41.19	3294.94	7139.04	85668.44
4	Police Clerk II	452	6403	A	37.27	2981.81	6460.59	77527.06
4	Police Clerk II	452	6403	B	39.14	3130.99	6783.81	81405.74
4	Police Clerk II	452	6403	C	41.09	3287.52	7122.96	85475.52
4	Police Clerk II	452	6403	D	43.15	3451.92	7479.16	89749.92
4	Police Clerk II	452	6403	E	45.31	3624.44	7852.95	94235.44
4	Police Clerk Supervisor	454	6404	A	43.05	3444.07	7462.15	89545.82
4	Police Clerk Supervisor	454	6404	B	45.20	3616.30	7835.32	94023.80
4	Police Clerk Supervisor	454	6404	C	47.46	3797.07	8226.99	98723.82
4	Police Clerk Supervisor	454	6404	D	49.84	3986.95	8638.39	103660.70
4	Police Clerk Supervisor	454	6404	E	52.33	4186.28	9070.27	108843.28

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
4	Police Evidence Technician	459	8607	A	39.53	3162.29	6851.63	82219.54
4	Police Evidence Technician	459	8607	B	41.50	3320.38	7194.16	86329.88
4	Police Evidence Technician	459	8607	C	43.58	3486.42	7553.91	90646.92
4	Police Evidence Technician	459	8607	D	45.76	3660.76	7931.65	95179.76
4	Police Evidence Technician	459	8607	E	48.05	3843.79	8328.21	99938.54
4	Police Lieutenant	400	2402	A	76.31	6104.74	13226.94	158723.24
4	Police Lieutenant	400	2402	B	80.12	6409.98	13888.29	166659.48
4	Police Lieutenant	400	2402	C	84.13	6730.51	14582.77	174993.26
4	Police Lieutenant	400	2402	D	88.34	7067.05	15311.94	183743.30
4	Police Lieutenant	400	2402	E	92.75	7420.38	16077.49	192929.88
4	Police Officer	403	4403	A	54.40	4352.17	9429.70	113156.42
4	Police Officer	403	4403	B	57.12	4569.84	9901.32	118815.84
4	Police Officer	403	4403	C	59.98	4798.31	10396.34	124756.06
4	Police Officer	403	4403	D	62.98	5038.19	10916.08	130992.94
4	Police Officer	403	4403	E	66.13	5290.16	11462.01	137544.16
4	Police Officer Trainee	457	4404	A	53.23	4258.69	9227.16	110725.94
4	Police Officer Trainee	457	4404	B	55.90	4471.68	9688.64	116263.68
4	Police Officer Trainee	457	4404	C	58.69	4695.30	10173.15	122077.80
4	Police Officer Trainee	457	4404	D	61.63	4930.03	10681.73	128180.78
4	Police Officer Trainee	457	4404	E	64.71	5176.53	11215.82	134589.78
4	Police Sergeant	401	4405	A	65.72	5257.54	11391.34	136696.04
4	Police Sergeant	401	4405	B	69.01	5520.43	11960.93	143531.18
4	Police Sergeant	401	4405	C	72.46	5796.44	12558.95	150707.44
4	Police Sergeant	401	4405	D	76.08	6086.34	13187.07	158244.84
4	Police Sergeant	401	4405	E	79.88	6390.65	13846.41	166156.90

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
6**	Police Support Services Mgr	657	1404	A	60.83	4866.75	10544.63	126535.57
6**	Police Support Services Mgr	657	1404	B	0	0	0	0
6**	Police Support Services Mgr	657	1404	C	0	0	0	0
6**	Police Support Services Mgr	657	1404	D	0	0	0	0
6**	Police Support Services Mgr	657	1404	E	85.18	6813.76	14763.14	177157.70
7	Pool Manager	708	5608	A	18.74	1499.20	3248.27	38979.20
7	Pool Manager	708	5608	B	0	0	0	0
7	Pool Manager	708	5608	C	0	0	0	0
7	Pool Manager	708	5608	D	0	0	0	0
7	Pool Manager	708	5608	E	26.23	2098.40	4546.53	54558.40
8**	Principal Civil Engineer	822	2204	A	63.91	5112.39	11076.84	132922.15
8**	Principal Civil Engineer	822	2204	B	0	0	0	0
8**	Principal Civil Engineer	822	2204	C	0	0	0	0
8**	Principal Civil Engineer	822	2204	D	0	0	0	0
8**	Principal Civil Engineer	822	2204	E	83.12	6649.14	14406.46	172877.54
8**	Principal Planner	823	2811	A	65.88	5271.00	11420.50	137046.02
8**	Principal Planner	823	2811	B	0	0	0	0
8**	Principal Planner	823	2811	C	0	0	0	0
8**	Principal Planner	823	2811	D	0	0	0	0
8**	Principal Planner	823	2811	E	79.80	6384.00	13832.00	165983.96
5**	Program Coordinator	523	5606	A	35.25	2819.73	6109.42	73313.01
5**	Program Coordinator	523	5606	B	0	0	0	0
5**	Program Coordinator	523	5606	C	0	0	0	0
5**	Program Coordinator	523	5606	D	0	0	0	0
5**	Program Coordinator	523	5606	E	46.39	3711.60	8041.81	96501.70

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
6**	Public Information Officer	674	1122	A	60.37	4830.00	10465.00	125579.98
6**	Public Information Officer	674	1122	B	0	0	0	0
6**	Public Information Officer	674	1122	C	0	0	0	0
6**	Public Information Officer	674	1122	D	0	0	0	0
6**	Public Information Officer	674	1122	E	84.52	6762.01	14651.01	175812.19
5**	Public Services Assistant I	524	6601	A	29.40	2352.28	5096.61	61159.34
5**	Public Services Assistant I	524	6601	B	30.88	2469.92	5351.49	64217.84
5**	Public Services Assistant I	524	6601	C	32.42	2593.44	5619.11	67429.38
5**	Public Services Assistant I	524	6601	D	34.04	2723.10	5900.06	70800.72
5**	Public Services Assistant I	524	6601	E	35.74	2859.24	6195.02	74340.26
5**	Public Services Assistant II	525	6602	A	32.34	2587.50	5606.24	67274.98
5**	Public Services Assistant II	525	6602	B	33.97	2716.91	5886.63	70639.57
5**	Public Services Assistant II	525	6602	C	35.66	2852.75	6180.96	74171.53
5**	Public Services Assistant II	525	6602	D	37.44	2995.44	6490.12	77881.42
5**	Public Services Assistant II	525	6602	E	39.31	3145.13	6814.44	81773.29
6**	Public Works Director	635	1204	A	84.62	6770.19	14668.75	176024.99
6**	Public Works Director	635	1204	B	0	0	0	0
6**	Public Works Director	635	1204	C	0	0	0	0
6**	Public Works Director	635	1204	D	0	0	0	0
6**	Public Works Director	635	1204	E	118.48	9478.28	20536.27	246435.26
5**	Public Works Inspector	526	3202	A	47.48	3798.11	8229.24	98750.89
5**	Public Works Inspector	526	3202	B	49.85	3988.05	8640.77	103689.21
5**	Public Works Inspector	526	3202	C	52.34	4187.41	9072.73	108872.77
5**	Public Works Inspector	526	3202	D	54.96	4396.81	9526.42	114317.01
5**	Public Works Inspector	526	3202	E	57.71	4616.62	10002.68	120032.18

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
6**	Public Works Manager	648	1117	A	56.33	4506.05	9763.10	117157.29
6**	Public Works Manager	648	1117	B	0	0	0	0
6**	Public Works Manager	648	1117	C	0	0	0	0
6**	Public Works Manager	648	1117	D	0	0	0	0
6**	Public Works Manager	648	1117	E	78.85	6308.46	13668.34	164020.04
8**	Purchasing Agent	826	1106	A	52.76	4220.55	9144.52	109734.27
8**	Purchasing Agent	826	1106	B	0	0	0	0
8**	Purchasing Agent	826	1106	C	0	0	0	0
8**	Purchasing Agent	826	1106	D	0	0	0	0
8**	Purchasing Agent	826	1106	E	68.04	5443.33	11793.88	141526.55
7	Recreation Administrative Asst	712	5619	A	15.40	1232.00	2669.33	32032.00
7	Recreation Administrative Asst	712	5619	B	0	0	0	0
7	Recreation Administrative Asst	712	5619	C	0	0	0	0
7	Recreation Administrative Asst	712	5619	D	0	0	0	0
7	Recreation Administrative Asst	712	5619	E	21.56	1724.80	3737.07	44844.80
7	Recreation Attendant	711	5618	A	15.40	1232.00	2669.33	32032.00
7	Recreation Attendant	711	5618	B	0	0	0	0
7	Recreation Attendant	711	5618	C	0	0	0	0
7	Recreation Attendant	711	5618	D	0	0	0	0
7	Recreation Attendant	711	5618	E	21.56	1724.80	3737.07	44844.80
7	Recreation Instructors	707	5607	A	18.82	1505.60	3262.13	39145.60
7	Recreation Instructors	707	5607	B	0	0	0	0
7	Recreation Instructors	707	5607	C	0	0	0	0
7	Recreation Instructors	707	5607	D	0	0	0	0
7	Recreation Instructors	707	5607	E	37.64	3011.20	6524.27	78291.20

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
7	Recreation Leader	706	5617	A	15.40	1232.00	2669.33	32032.00
7	Recreation Leader	706	5617	B	0	0	0	0
7	Recreation Leader	706	5617	C	0	0	0	0
7	Recreation Leader	706	5617	D	0	0	0	0
7	Recreation Leader	706	5617	E	21.56	1724.80	3737.07	44844.80
6**	Recreation Services Manager	616	2602	A	52.05	4163.84	9021.65	108259.78
6**	Recreation Services Manager	616	2602	B	0	0	0	0
6**	Recreation Services Manager	616	2602	C	0	0	0	0
6**	Recreation Services Manager	616	2602	D	0	0	0	0
6**	Recreation Services Manager	616	2602	E	67.70	5415.92	11734.51	140814.04
8**	Recreation Services Supervisor	827	2601	A	50.40	4031.71	8735.37	104824.35
8**	Recreation Services Supervisor	827	2601	B	0	0	0	0
8**	Recreation Services Supervisor	827	2601	C	0	0	0	0
8**	Recreation Services Supervisor	827	2601	D	0	0	0	0
8**	Recreation Services Supervisor	827	2601	E	66.33	5306.26	11496.89	137962.68
5**	Recreation Svcs Assistant I	527	8601	A	16.62	1329.61	2880.82	34569.83
5**	Recreation Svcs Assistant I	527	8601	B	17.45	1396.08	3024.83	36297.96
5**	Recreation Svcs Assistant I	527	8601	C	18.32	1465.92	3176.16	38113.96
5**	Recreation Svcs Assistant I	527	8601	D	19.24	1539.18	3334.88	40018.66
5**	Recreation Svcs Assistant I	527	8601	E	20.21	1616.18	3501.72	42020.70
5**	Recreation Svcs Assistant II	528	8602	A	19.73	1578.68	3420.47	41045.64
5**	Recreation Svcs Assistant II	528	8602	B	20.73	1657.78	3591.86	43102.30
5**	Recreation Svcs Assistant II	528	8602	C	21.76	1740.62	3771.33	45256.04
5**	Recreation Svcs Assistant II	528	8602	D	22.85	1827.70	3960.01	47520.10
5**	Recreation Svcs Assistant II	528	8602	E	23.99	1919.04	4157.92	49895.02

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
5**	Recreation Svcs Assistant III	529	8603	A	22.68	1814.66	3931.77	47181.28
5**	Recreation Svcs Assistant III	529	8603	B	23.82	1905.34	4128.24	49538.90
5**	Recreation Svcs Assistant III	529	8603	C	25.01	2000.62	4334.67	52016.04
5**	Recreation Svcs Assistant III	529	8603	D	26.26	2100.64	4551.39	54616.74
5**	Recreation Svcs Assistant III	529	8603	E	27.57	2205.70	4779.03	57348.32
5**	Recreation Svcs Assistant IV	530	8604	A	26.61	2129.08	4613.00	55356.02
5**	Recreation Svcs Assistant IV	530	8604	B	27.94	2235.51	4843.61	58123.29
5**	Recreation Svcs Assistant IV	530	8604	C	29.34	2347.29	5085.80	61029.55
5**	Recreation Svcs Assistant IV	530	8604	D	30.80	2464.66	5340.11	64081.28
5**	Recreation Svcs Assistant IV	530	8604	E	32.34	2587.88	5607.09	67284.98
8**	Senior Accountant	829	2110	A	46.88	3750.82	8126.78	97521.38
8**	Senior Accountant	829	2110	B	0	0	0	0
8**	Senior Accountant	829	2110	C	0	0	0	0
8**	Senior Accountant	829	2110	D	0	0	0	0
8**	Senior Accountant	829	2110	E	61.71	4936.91	10696.64	128359.69
5**	Senior Accounting Technician	539	6106	A	35.58	2846.25	6166.88	74002.53
5**	Senior Accounting Technician	539	6106	B	37.36	2988.59	6475.27	77703.23
5**	Senior Accounting Technician	539	6106	C	39.23	3138.02	6799.05	81588.60
5**	Senior Accounting Technician	539	6106	D	41.18	3294.95	7139.06	85668.67
5**	Senior Accounting Technician	539	6106	E	43.24	3459.66	7495.94	89951.26
8**	Senior Administrative Analyst	834	2112	A	51.78	4142.91	8976.31	107715.73
8**	Senior Administrative Analyst	834	2112	B	0	0	0	0
8**	Senior Administrative Analyst	834	2112	C	0	0	0	0
8**	Senior Administrative Analyst	834	2112	D	0	0	0	0
8**	Senior Administrative Analyst	834	2112	E	68.17	5453.54	11816.01	141792.08

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
5**	Senior Building Inspector	531	3804	A	54.84	4386.79	9504.72	114056.61
5**	Senior Building Inspector	531	3804	B	57.57	4606.18	9980.06	119760.70
5**	Senior Building Inspector	531	3804	C	60.46	4836.46	10478.99	125747.90
5**	Senior Building Inspector	531	3804	D	63.48	5078.25	11002.87	132034.43
5**	Senior Building Inspector	531	3804	E	66.65	5332.18	11553.07	138636.78
8**	Senior Executive Assistant	855	6123	A	44.61	3568.56	7731.89	92782.62
8**	Senior Executive Assistant	855	6123	B	0	0	0	0
8**	Senior Executive Assistant	855	6123	C	0	0	0	0
8**	Senior Executive Assistant	855	6123	D	0	0	0	0
8**	Senior Executive Assistant	855	6123	E	58.71	4697.05	10176.93	122123.19
8**	Senior HR Analyst	841	2122	A	48.35	3868.16	8381.01	100572.04
8**	Senior HR Analyst	841	2122	B	0	0	0	0
8**	Senior HR Analyst	841	2122	C	0	0	0	0
8**	Senior HR Analyst	841	2122	D	0	0	0	0
8**	Senior HR Analyst	841	2122	E	63.65	5091.65	11031.91	132382.97
5**	Senior Plan Check Engineer	534	3806	A	63.33	5066.11	10976.58	131718.87
5**	Senior Plan Check Engineer	534	3806	B	66.50	5319.56	11525.71	138308.52
5**	Senior Plan Check Engineer	534	3806	C	69.82	5585.29	12101.46	145217.51
5**	Senior Plan Check Engineer	534	3806	D	73.30	5864.27	12705.92	152470.99
5**	Senior Plan Check Engineer	534	3806	E	76.97	6157.43	13341.11	160093.29
8**	Senior Planner	830	2805	A	60.40	4832.13	10469.62	125635.41
8**	Senior Planner	830	2805	B	0	0	0	0
8**	Senior Planner	830	2805	C	0	0	0	0
8**	Senior Planner	830	2805	D	0	0	0	0
8**	Senior Planner	830	2805	E	73.42	5873.65	12726.24	152714.89

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
5**	Senior Public Works Inspector	535	3203	A	54.84	4386.82	9504.79	114057.42
5**	Senior Public Works Inspector	535	3203	B	57.57	4606.18	9980.06	119760.70
5**	Senior Public Works Inspector	535	3203	C	60.46	4836.47	10479.02	125748.17
5**	Senior Public Works Inspector	535	3203	D	63.48	5078.25	11002.87	132034.43
5**	Senior Public Works Inspector	535	3203	E	66.65	5332.18	11553.07	138636.78
2	Senior Public Works Lead	225	8609	A	47.33	3786.04	8203.08	98436.96
2	Senior Public Works Lead	225	8609	B	46.69	3975.34	8613.23	103358.81
2	Senior Public Works Lead	225	8609	C	52.18	4174.11	9043.90	108562.75
2	Senior Public Works Lead	225	8609	D	54.79	4382.81	9496.09	113953.09
2	Senior Public Works Lead	225	8609	E	57.53	4602.07	9971.16	119653.92
7	Special Project Associate	750	5105	A	20.00	1600.00	3466.67	41600.00
7	Special Project Associate	750	5105	B	0	0	0	0
7	Special Project Associate	750	5105	C	0	0	0	0
7	Special Project Associate	750	5105	D	0	0	0	0
7	Special Project Associate	750	5105	E	50.00	4000.00	8666.67	104000.00
5**	Sr Code Enforcement Officer	545	5806	A	48.71	3897.29	8444.12	101329.43
5**	Sr Code Enforcement Officer	545	5806	B	51.15	4091.40	8864.70	106376.44
5**	Sr Code Enforcement Officer	545	5806	C	53.71	4296.52	9309.13	111709.54
5**	Sr Code Enforcement Officer	545	5806	D	56.40	4511.66	9775.25	117303.04
5**	Sr Code Enforcement Officer	545	5806	E	59.21	4736.78	10263.03	123156.38
8**	Sr. Information Analyst/Dev	853	2119	A	53.84	4307.52	9332.97	111995.62
8**	Sr. Information Analyst/Dev	853	2119	B	0	0	0	0
8**	Sr. Information Analyst/Dev	853	2119	C	0	0	0	0
8**	Sr. Information Analyst/Dev	853	2119	D	0	0	0	0
8**	Sr. Information Analyst/Dev	853	2119	E	70.88	5670.01	12285.01	147420.19

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
5**	Sr. Public Services Assistant	549	5615	A	36.08	2886.19	6253.41	75040.87
5**	Sr. Public Services Assistant	549	5615	B	37.88	3030.50	6566.08	78792.94
5**	Sr. Public Services Assistant	549	5615	C	39.78	3182.03	6894.39	82732.67
5**	Sr. Public Services Assistant	549	5615	D	41.77	3341.12	7239.11	86869.24
5**	Sr. Public Services Assistant	549	5615	E	43.86	3508.18	7601.06	91212.68
7	Sr. Special Projects Associate	749	5106	A	50.00	4000.00	8666.67	104000.00
7	Sr. Special Projects Associate	749	5106	B	0	0	0	0
7	Sr. Special Projects Associate	749	5106	C	0	0	0	0
7	Sr. Special Projects Associate	749	5106	D	0	0	0	0
7	Sr. Special Projects Associate	749	5106	E	125.00	10000.00	21666.67	260000.00
7	Staff Assistant	745	5104	A	15.40	1232.00	2669.33	32032.00
7	Staff Assistant	745	5104	B	0	0	0	0
7	Staff Assistant	745	5104	C	0	0	0	0
7	Staff Assistant	745	5104	D	0	0	0	0
7	Staff Assistant	745	5104	E	24.64	1971.20	4270.93	51251.20
7	Student Intern	740	5103	A	15.40	1232.00	2669.33	32032.00
7	Student Intern	740	5103	B	0	0	0	0
7	Student Intern	740	5103	C	0	0	0	0
7	Student Intern	740	5103	D	0	0	0	0
7	Student Intern	740	5103	E	24.64	1971.20	4270.93	51251.20
6**	Transporation & Traffic Mgr	675	1202	A	60.37	4830.00	10465.00	125579.98
6**	Transporation & Traffic Mgr	675	1202	B	0	0	0	0
6**	Transporation & Traffic Mgr	675	1202	C	0	0	0	0
6**	Transporation & Traffic Mgr	675	1202	D	0	0	0	0
6**	Transporation & Traffic Mgr	675	1202	E	84.52	6762.01	14651.01	175812.19

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
8**	Video Media Specialist	840	2121	A	41.65	3332.14	7219.64	86635.62
8**	Video Media Specialist	840	2121	B	0	0	0	0
8**	Video Media Specialist	840	2121	C	0	0	0	0
8**	Video Media Specialist	840	2121	D	0	0	0	0
8**	Video Media Specialist	840	2121	E	54.83	4386.11	9503.23	114038.77
2	Water Meter Reader I	216	8104	A	27.97	2097.88	4545.41	54544.88
2	Water Meter Reader I	216	8104	B	29.37	2202.83	4772.80	57273.58
2	Water Meter Reader I	216	8104	C	30.84	2312.98	5011.46	60137.48
2	Water Meter Reader I	216	8104	D	32.38	2428.57	5261.90	63142.82
2	Water Meter Reader I	216	8104	E	34.00	2550.03	5525.06	66300.78
2	Water Meter Reader I -40	235	8620	A	27.97	2237.90	4848.78	58185.40
2	Water Meter Reader I -40	235	8620	B	29.37	2349.80	5091.23	61094.80
2	Water Meter Reader I -40	235	8620	C	30.84	2466.94	5345.04	64140.44
2	Water Meter Reader I -40	235	8620	D	32.38	2590.20	5612.10	67345.20
2	Water Meter Reader I -40	235	8620	E	34.01	2720.46	5894.33	70731.96
2	Water Meter Reader II	217	8105	A	30.77	2307.72	5000.06	60000.72
2	Water Meter Reader II	217	8105	B	32.31	2423.08	5250.01	63000.08
2	Water Meter Reader II	217	8105	C	33.92	2544.22	5512.48	66149.72
2	Water Meter Reader II	217	8105	D	35.62	2671.44	5788.12	69457.44
2	Water Meter Reader II	217	8105	E	37.40	2805.04	6077.59	72931.04
2	Water Meter Reader II -40	236	8621	A	30.77	2461.69	5333.66	64003.94
2	Water Meter Reader II -40	236	8621	B	32.31	2584.96	5600.75	67208.96
2	Water Meter Reader II -40	236	8621	C	33.92	2713.46	5879.16	70549.96
2	Water Meter Reader II -40	236	8621	D	35.62	2849.84	6174.65	74095.84
2	Water Meter Reader II -40	236	8621	E	37.40	2992.33	6483.38	77800.58

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

All Job Classifications/Salary Table Effective 07/05/2020

<u>Code</u>	<u>Classification</u>	<u>Pay Grade</u>	<u>Occ Code</u>	<u>Step</u>	<u>Hourly</u>	<u>Bi-Weekly</u>	<u>Monthly</u>	<u>Annual</u>
2	Water Systems Operator	219	7211	A	40.09	3207.25	6949.04	83388.50
2	Water Systems Operator	219	7211	B	42.09	3367.27	7295.75	87549.02
2	Water Systems Operator	219	7211	C	44.20	3535.96	7661.25	91934.96
2	Water Systems Operator	219	7211	D	46.41	3712.76	8044.31	96531.76
2	Water Systems Operator	219	7211	E	48.73	3898.42	8446.58	101358.92
2	Water Systems Operator - 40	237	8622	A	42.76	3420.67	7411.45	88937.42
2	Water Systems Operator - 40	237	8622	B	44.90	3592.01	7782.69	93392.26
2	Water Systems Operator - 40	237	8622	C	47.15	3772.10	8172.88	98074.60
2	Water Systems Operator - 40	237	8622	D	49.50	3960.04	8580.09	102961.04
2	Water Systems Operator - 40	237	8622	E	51.98	4158.48	9010.04	108120.48

**4% Salary Increase for IAFF, MID CON, PROTECH, UNREP, and UNREP Fire effective 07/05/2020

Salary Table includes Minimum Wage Increase effective 07/01/2020

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS
ESTABLISHING AND UPDATING USER AND REGULATORY FEES FOR VARIOUS
CITY SERVICES**

WHEREAS, the City of Milpitas (the “City”) charges fees for licenses, permits, and various services provided by the City (collectively, the “Fees”); and

WHEREAS, the Fees are established to offset all, or portions of, the costs of providing the various services for which the Fees are collected; and

WHEREAS, certain of the Fees are subject to the adoption procedures set forth under Government Code section 66016, and others are subject to the procedures of Government Code section 66018; and

WHEREAS, the City Council now wishes to adopt the new or increased fees set forth in Exhibit 1 hereto; and

WHEREAS, the fees adopted as part of this Resolution should be incorporated into the City’s existing master schedule of fees adopted on May 5, 2020, via Resolution No. 8969. Incorporating these fees into the fee schedule will allow for the fees to be considered with future comprehensive user and regulatory fee updates; and

WHEREAS, this hearing to consider the establishment of new or increased fees was duly noticed pursuant to Government Code Sections 66016 and 66018; and

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

1. The above Recitals are true and correct and by this reference incorporated herein.
2. The City Council hereby approves the proposed fees included herewith as **Exhibit 1**, and further adopts the new or adjusted fees set forth therein.
3. 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. Based upon such consideration, the City Council finds and determines that:
 - (a) The Fees established by this Resolution:
 - (1) are imposed for a specific government service provided directly to the payor, or for reasonable regulatory costs of the City for issuing licenses and permits, performing investigations, inspections, and administrative enforcements of the City’s Municipal Code or other rules or ordinances;
 - (2) are no more than necessary to cover the reasonable costs of the governmental activity for which the Fee is imposed; and
 - (3) the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor’s burdens on, or benefits received from, the governmental activity for which the Fee is imposed.
 - (b) The Fees are not taxes within the meaning of California Constitution article XIII C,

section 1(e).

4. Fees for licenses and permits related to development service activities will become effective sixty (60) days after adoption.
5. All other Fees will become effective July 1, 2020.

PASSED AND ADOPTED this _____ day of _____, 2020 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

Exhibit 1

City of Milpitas

BUILDING SAFETY AND HOUSING - MISCELLANEOUS

Activity Description	Adopted May 5, 2020	Proposed June 2, 2020	Charge Basis	Reason for Change Request
Mobilehome Permit Fees				
Mobilehome Installation Fee	not shown in schedule	\$196	each	Mobilehome permit fees set to match CA Dept. of Housing and Comm. Dev.
26 Permit Issuance Fee	\$183	\$196	each	Mobilehome permit fees set to match CA Dept. of Housing and Comm. Dev.
27 Awning (each)	\$327	\$196	each	Mobilehome permit fees set to match CA Dept. of Housing and Comm. Dev.
28 Porch > than 12 sq. ft.	\$327	\$196	each	Mobilehome permit fees set to match CA Dept. of Housing and Comm. Dev.
29 Deck > 12 sq. ft.	\$434	\$196	each	Mobilehome permit fees set to match CA Dept. of Housing and Comm. Dev.
30 Cabana (each)	\$440	\$196	each	Mobilehome permit fees set to match CA Dept. of Housing and Comm. Dev.
31 Ramada (each)	\$440	\$196	each	Mobilehome permit fees set to match CA Dept. of Housing and Comm. Dev.
32 Private Garage (each)	\$874	\$196	each	Mobilehome permit fees set to match CA Dept. of Housing and Comm. Dev.
Fence > 6 ft. height (each)	not shown in schedule	\$196	each	Mobilehome permit fees set to match CA Dept. of Housing and Comm. Dev.
Windbreak > 6 ft. height (each)	not shown in schedule	\$196	each	Mobilehome permit fees set to match CA Dept. of Housing and Comm. Dev.
MEP (each)	not shown in schedule	\$196	each	Mobilehome permit fees set to match CA Dept. of Housing and Comm. Dev.
Re-inspection Fees				
a) First Hour	not shown in schedule	\$178		Mobilehome permit fees set to match CA Dept. of Housing and Comm. Dev.
b) 1 additional hour	not shown in schedule	\$82		Mobilehome permit fees set to match CA Dept. of Housing and Comm. Dev.
c) 1/2 hour additional	not shown in schedule	\$41		Mobilehome permit fees set to match CA Dept. of Housing and Comm. Dev.
MISCELLANEOUS FEES - COMMERCIAL				
Miscellaneous Construction				
Solar Thermal	FY 2019-20 Fee			
a) 30kWth or less	\$1,000	\$1,000		State Fee; Amounts were inadvertently excluded from May 5, 2020 fee schedule.
b) 30kWth – 260kWth – Base	\$1,000	\$1,000	base	State Fee; Amounts were inadvertently excluded from May 5, 2020 fee schedule.
c) 30kWth – 260kWth – per kWth above 30kWth	\$7	\$7	per kWth	State Fee; Amounts were inadvertently excluded from May 5, 2020 fee schedule.
d) 260+ kWth – Base	\$2,400	\$2,610	base	State Fee
e) 260+ kWth – per kWth above 260kWth	\$5	\$5	per kWth	State Fee; Amounts were inadvertently excluded from May 5, 2020 fee schedule.
Other Plan Check and Inspection Permit Fees				
95 Digitizing - Document Size Larger than 11"x17"	\$4	\$4	per page	Clarify that fee is per page.

Exhibit 1

City of Milpitas FIRE

Activity Description	Adopted May 5, 2020	Proposed June 2, 2020	Charge Basis	Reason for Change Request
FIRE PREVENTION				
ANNUAL OPERATIONAL PERMITS				
40 Small Apartments (3-4 units)	\$283	\$284		Rounding adjustment.
54 Other Miscellaneous Annual Inspections Fee - per hour	\$283	HR(s) * hourly rate		Reference HR(s) * hourly rate for consistency with other sections of schedule.
CONSTRUCTION REVIEW / PERMIT / INSPECTION				
66 New Building – Shell:				
d) 50,000+ sq. ft. – per sq. ft.	\$0.06	\$0.06	per sq ft	Clarify per sq ft fee.
74 Additions, Alterations, and Tenant Improvements:				
d) 50,000+ sq. ft. – per sq. ft.	\$0.08	\$0.09	per sq ft	Rounding adjustment.
76 Revision to Project Fee - per hour (min 1 hr)	\$284	HR(s) * hourly rate		Reference HR(s) * hourly rate for consistency with other sections of schedule.
90 Fire Alarm Systems:				
Additions, Alterations, or Repairs: If more than 10 devices then the New Fire Alarm fee applies.				
b) 6-10 Devices	\$1,134	\$1,134		May 5, 2020 version identified "5-10 devices". Clarified to show "6-10 devices".
MISCELLANEOUS FEES:				
109 New Occupancy (new business)				
a) No Hazardous Materials	\$283	\$284		Rounding adjustment.
111 Smoke Detectors Verifications (new owner)	\$283	\$284		Rounding adjustment.
113 Failure to cancel a scheduled inspection 24 hrs. prior	\$283	\$284		Rounding adjustment.
117 Other activities not listed - per hour	\$283	\$284		Rounding adjustment.
* \$284 per hour				

Exhibit 1

City of Milpitas

CREDIT CARD TRANSACTION PROCESSING

Activity Description	Adopted May 5, 2020	Proposed June 2, 2020	Charge Basis	Reason for Change Request
1 Credit Card Transaction Processing Fee (for payments greater than \$10,000)	n/a	2.4%	% of amount paid by credit card	City uses a vendor service to process credit card payment transactions. Fee is intended to recover vendor related costs. Fee will only apply when credit card is used for payment of fees in excess of \$10,000 for development/fire-related fees, permits, plan review, etc.

PUBLIC HEARING

City of Milpitas – Proposed Operating Budget and CIP Budget

ATTACHMENT 2

Access to the May 12, 2020 Milpitas City Council Budget Study Session and Budget document is found on the City’s website at this location:

<http://www.ci.milpitas.ca.gov/wp-content/uploads/2020/05/WCR-Budget-Attachment.pdf>

From: [Steven McHarris](#)
To: [Steven McHarris](#); [Ashwini Kantik](#)
Cc: [Walter Rossmann](#)
Subject: Budget Study Session Follow-Up
Date: Monday, May 18, 2020 8:55:05 PM
Attachments: [Attachment A Classification and Compensation and Studies in Progress .pdf](#)
[Attachment B Citywide Position Recruitment Status.pdf](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

Good evening, Mayor and City Councilmembers,

During the May 12 Proposed FY 2020-21 Budget Study Session, the Council inquired about a budget proposal to delete 3.0 Police Patrol Officers and add 3.0 Police Officers. Additionally, during the Study Session staff discussed a non-essential hiring and expenditure freeze. This memorandum, along with attachments, responds to the Council inquiry at the Study session and subsequent requests for information from a Councilmember.

Position Alignment Proposals

The FY 2020-21 Proposed Budget includes two recommendations to change classifications for vacant positions to improve operational efficiencies and/or align positions to improve service delivery. For the Police Department, staff recommends deleting 3.0 vacant Police Patrol Officers and adding 3.0 Police Officers to improve service delivery to our City. For the Finance Department, staff recommends deleting 1.0 vacant Finance Technician to 1.0 Financial Analyst to establish a robust Risk Management Program per previous Council direction. Details regarding both proposals are included in the proposed budget document on p. 162 and 209 and in Attachment A.

During the City Council meeting, Council inquired whether a classification study is needed before the recommended changes in the position complement are considered. Since both proposals are recommending using existing classification to improve service delivery, no study is needed. Attachment A provides an overview of various human resources studies and their applicability. It also provides information on classification studies that are in progress or pending as well as the two aforementioned pages from the FY 2020-21 Proposed Budget.

Preparing for a Deeper Recession

In response to the unfolding economic and fiscal crisis caused by COVID-19, mid-March, I instituted a non-essential hiring and expenditure freeze in order to save dollars and focus the organization's response on the COVID-19 pandemic. With the freeze, I implemented a review process of all hiring requisitions to fill vacant positions and procurement requisitions prior to competing for goods and services and/or developing contracts. This review process requires department heads to detail the request and the impact if the position hiring request and/or procurement requisition request is not authorized. Attachment B provides a list of positions that are in recruitment and ones that are on hold.

By temporarily holding back the hiring of positions, we are not only saving dollars to increase our reserves in the short-term; but we are also strategically keeping positions vacant in case the recession deepens. Once we have a better data-driven fiscal outlook based on actual revenue losses,

I may have to recommend to the Council the elimination of these vacant positions to achieve ongoing costs reductions. In contrast, if the economy were to recover quickly, I can quickly review the list of positions temporarily held back and direct Human Resources to fill them. For example, during a recession, the demand for development related activities typically drops. Therefore, we have held back filling some vacant positions in this Community Development Area. However, we will quickly fill some or all of these vacant positions once construction activity fully resumes now and for the foreseeable future. As part of developing the FY 2020-21 Proposed Budget, staff reviewed budget allocations for temporary personnel to identify cost savings proposals. Over the years, departments have received budget allocations to fund temporary staff including special project associates and rehired retirees to backfill for vacant permanent positions until they are filled. The biggest allocation of temporary dollars is in the Recreation and Community Services Department to fund seasonal staff. The City has approximately 240 temporary and seasonal staff however these are not individually funded positions and the hours and hourly rates for these positions vary based on operational needs and consistency with comparable classifications. Other temporary staff include limited term positions and interns.

Regards,
Steve



STEVEN G. MCHARRIS
INTERIM CITY MANAGER

City Manager's Office | City of Milpitas
455 East Calaveras Boulevard, Milpitas CA 95035

Phone (408) 586-3059 **Fax** (408)586-3056

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Attachment A

City of Milpitas Descriptions of Different Types of Studies Classification Studies in Progress and Budget Proposals

Descriptions of Different Types of Studies

Classification Studies

Classifications (jobs) are not static and as organizations grow or change sometimes a classification or specific position will as well. A family of classifications or single job classification are studied periodically to keep the job description current. Duties and responsibilities performed in a classification may evolve and as a result an individual performing those duties may be reclassified into a totally new job classification.

A classification study is not needed when duties and responsibilities outlined in a job classification are not a consideration.

Compensation Studies

When agencies experience recruitment and retention problems compensation studies are performed and compared to competitive jurisdictions. A compensation study is a tool for some of the following reasons: determine if a classification's duties, responsibilities, skills, knowledge and abilities align within a salary range; ensure external equity and competitiveness in the job market in comparison to comparable agencies; and/or assess internal equity and avoid salary compaction due to salary creep.

Operational Needs

When departments have position vacancies it affords the department director an opportunity to assess the operational needs within their department. Departments can independently assess if they need to backfill their vacancy with the same job classification or identify a different job classification to respond to the changing business needs of the department such as the reclassifications recommended in the FY 2020-21 Proposed Budget.

Since no new classifications are being created, there is no need for a classification study and the classification change, along with needed fiscal action, is typically handled through the annual budget process or a separate Council action, if needed urgently.

Organization or Staffing Studies

When operational needs or goals and objectives are not being met and the leadership needs guidance to determine what is needed, an organization or staffing study can be conducted to provide suggestions or guidance. An example is the 2019 study done for departments providing development services.

Attachment A

City of Milpitas Descriptions of Different Types of Studies Classification Studies in Progress and Budget Proposals

Classification and Compensation Studies in Progress

Department(s)	Classification and Compensation	Filled/Vacant	Class/Comp	Status
Fire Prevention	Chief Fire Enforcement Officer	Filled	Classification and Compensation	In progress
City Attorney/Engineering/Fire/Police	Executive Assistant (Requested by Bargaining Unit)	Filled	Classification and Compensation	Initiated
Recreation and Community Services	Program Coordinator	Vacant	Classification and Compensation	Completed; no change
Engineering/Public Works	Principal Civil Engineer	Filled	Classification and Compensation	Pending

Chief Fire Enforcement Officer:

Recommendations based on a compaction study for Unrepresented Police and Fire Public Safety were presented to City Council on March 3, 2020. In the agenda report, staff identified an anomaly related to the Chief Fire Enforcement Officer position, which appears to be a classification title that is less common in the industry and more unique to the City of Milpitas. Staff has initiated a classification and compensation study for this position. Koff and Associates has begun their portion of the study and on February 28, 2020 the incumbent was provided the Position Description Questionnaire the City is pending a response.

Executive Assistant:

Mid-Con has requested a classification and compensation study to be conducted for the Executive Assistant classification. Some Executive Assistants in the City have been performing special assignments and receiving special pay for several years. A classification study of those positions is needed to determine the duties and responsibilities being performed and if those positions are classified accordingly. As such the positions in this classification will need to be reviewed. The results of the study will allow the City to update the current job description to reflect special assignments or allocate work differently.

Program Coordinator:

During FY 19-20 budget Council approved the reclassification of a Case Manager to a Program Coordinator in recognition of additional work assigned to this position in the Recreation and Community

Attachment A

City of Milpitas Descriptions of Different Types of Studies Classification Studies in Progress and Budget Proposals

Services department. Additional work included the Milpitas Assistance Program, Suicide Prevention Task Force, and increased social services for seniors. This is an example of a change proposed due to Operational Needs and typically would not have required a study since the Program Coordinator is an existing classification.

Because of requests from the Council to explore including additional qualifications for this position, a classification study was initiated but over the course of the study, it became clear that Council was looking for a position to handle services related to housing. In light of this, there will be no change to the existing Program Coordinator position in Recreation and Community Services and any staffing needs for Housing related services will be handled separately in the future.

Principal Civil Engineer:

Mid-Con has requested that this classification receive a class and comp study to maintain internal equity. This classification was not included in the Ralph Anderson Classification and Compensation Study and will be initiated shortly

2.	Risk Management Staffing	0.00	\$0	\$0	\$0
	<p>This net zero action adds 1.0 Financial Analyst position and deletes 1.0 vacant Finance Technician position to establish a robust Risk Management function consistent with a Council referral from the January 28 Preliminary Budget Study Session offset with reductions in contractual services. At the FY 2020-21 Preliminary Budget Study Session the Council advocated for a more robust Risk Management Program.</p> <p>The Finance Technician position was responsible for daily investment of the pooled cash portfolio, wire transfers, cash management, and claims processing at a transactional level. The duties of this position do not provide for effectively researching and analyzing investments, cash flow needs, or claims analysis, which are duties typically assigned to a Financial Analyst. The Financial Analyst position will be tasked primarily with the development and operation of a robust citywide Risk Management Program including but not limited to analysis of historical claims data, identification of training and policies to minimize reoccurrence of historical claims experience in the future, and liaison with PLAN JPA for integration of risk management best practices into City operations and with Beazley Risk Management, the City's Cybersecurity Insurance provider, for continuously strengthening the City's cybersecurity practices.</p> <p>In fall 2019, the City issued \$55 million in Water and Sewer revenue bonds and is scheduled to issue \$13 million in lease revenue bonds for the Fire Station #2 Rehabilitation in September 2020. In March 2020, the City Council approved a contract with Chandler Asset Management for investment services to manage the City's pooled cash portfolio. This position will also be responsible for managing the City's debt portfolio and oversee the contract with Chandler Asset Management.</p>				
Performance Results:		  			
<p>The addition of 1.0 Financial Analyst position and deletion of 1.0 vacant Finance Technician position is expected to result in reduced claims occurrence and cost savings. As presented to the Finance Subcommittee at its March 16 meeting, during the last five fiscal years, the City incurred \$2.2 million in claims cost for 119 claims. Additionally, it will provide for the appropriate skill set to manage the City's Risk, Debt, and Investment programs.</p>					
Impact if funding is not approved					
<p>If this action is not approved, staff will fill the vacant Finance Technician position. Consistent with its classification, this position will focus on the transactional duties of claims processing and debt management. The minimally prudent oversight of the City's Risk, Debt, and Investment programs will fall to existing management positions; however, improvements to these programs will not take place.</p>					
Total Service Level Changes		0.00	\$15,000	\$0	\$15,000

Service Level Changes

	Positions	General Fund Expenditures	Other Fund Expenditures	All Fund Expenditures
1. Patrol Officer Positions Classification	0.00	\$140,538	\$0	\$140,538
 <p>This action adds 3.0 Police Officer positions and deletes 3.0 Patrol Officer positions. Currently the Police Department is funded for 93 sworn positions, which includes 68.0 Police Officer positions and 3.0 Patrol Officer positions. All sworn police and patrol officer positions, regardless of classification, attend the same Police Officer Standards and Training (POST) academy and have the same police officer powers granted under the California Penal Code. Although these two classifications have the same qualifications and performs some of the same duties, the Milpitas Police Department has differentiated the police officer and patrol officer classification. Generally, the patrol officer classification has less responsibilities than a police officer classification. For example, a patrol officer classification would primarily handle prisoner transports, take prior crime reports where there was no suspect information, handle barking dog complaints, etc. In contrast, the police officer classification is responsible for all patrol officer classification responsibilities and patrolling a designated patrol beat, responding to and investigating in-progress crimes, investigating crimes with suspect information, conducting investigative follow-up, interviewing involved parties, preparing cases to be filed for prosecution, etc. Since its inception, the Milpitas Police Department has used discretion in hiring for the patrol officer and police officer classifications. The patrol officer position has been used as a means to cultivate and develop police officer candidates. Quality employees that have not met the hiring threshold for a police officer classification have been hired as patrol officer classification and used the position to gain the necessary experience for advancement to the Police Officer classification.</p> <p>As the Milpitas Police Department continues to fill vacant positions and build staffing to a suitable level, the focus has been to hire employees at the police officer classification. Recently, the Community Service Officer classification was added. The job duties of this position mirror the duties of a patrol officer classification with the exception of prisoner transports. The Department hired the Community Service Officers on March 2, 2020.</p> <p>The reclassification of these three positions will enable the Police Department to provide responsive police services and assign staff to existing units within the police department, such as Patrol Services, traffic, investigations, and community relations, according to crime fighting strategies and community needs. The patrol officer classification will be retained and reserved so that an employee needing development could be reclassified to the patrol officer classification on an as needed basis.</p>				
Performance Results:	  			
<p>One of the main goals of the police department is to have an average response time to emergencies of three (3) minutes or less in order to be effective in combating crimes and minimizing threats to public safety. As the residential population increases and the influx of people coming through or to Milpitas for work & commerce increase, the challenges of maintaining an effective average response time to emergencies and maintaining current service levels increase. The Milpitas Transit Area Specific Plan (TASP) and the Bay Area Rapid Transit (BART) station will increase the demand on police services and there will be a need for officers functioning at the police officer classification to properly address the demand. The reclassification of these three positions will increase responsive police services and assign staff to existing units within the police department, such as Patrol Services, traffic, investigations, and community relations, according to crime fighting strategies and community needs.</p>				

Impact if funding is not approved
If this action is not funded, the department will attempt to fill the Patrol Officer positions. Hiring into this classification limits deployment to Patrol Officers' duties versus expanding the capabilities of the Department's sworn staff complement.

2. Contractual Services Funding Reduction	1.00	\$(74,563)	\$0	\$(74,563)
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This action reduces most funding for contractual services and radio repair and maintenance primarily related to the outdated Police radio system. The City recently switched over to the county-wide 700 MHz radio infrastructure administered by the Silicon Valley Regional Interoperability Authority (SVRIA). The City will still maintain the old system as a back-up during this transitional period.

Performance Results:	
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This reduction will minimally impact service delivery.

Impact if funding is not approved
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Not applicable.

Total Service Level Changes	1.00	\$65,975	\$0	\$65,975
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Attachment B

City of Milpitas City Wide Position Information Vacant Positions - Recruitments in Progress Vacant Positions - Recruitments on Hold

City Wide Position Information

Full Time Equivalent Positions (FTE) (431.25)

The City has a total of 431.25 Budgeted Full Time Equivalent Positions.

Total Filled FTE Positions (385.25)

Total Vacant FTE Positions (46)

Recruitments in Progress (28)

We currently have 28 positions that are or will be in the recruitment process.

Recruitments on Temporary Hold (18)

18 positions are on a (managed hiring freeze) temporary hold. Recruitments for any of these positions will remain on temporary hold, until the City has a better picture of the economic future and/or if there is a compelling reason to fill the position.

Temporary Seasonal Employees (240)

There are 240 Seasonal/Temporary employees. Department budgets includes funding to utilize these employees on an operational and season need and as such are not budgeted positions. The number of temporary/seasonal staff hours worked varies widely on each employee.

Retired Annuitants, Limited Term Staff, Special Project Staff and Student Interns (40)

In addition to the Temporary/Seasonal Staff the City has employed the following: nine (9) Retired Annuitants, four (4) Limited term, twelve (12) Special Project Associates/Staff Assistants and fifteen (15) Student Interns.

Attachment B

City of Milpitas City Wide Position Information Vacant Positions - Recruitments in Progress Vacant Positions - Recruitments on Hold

Vacant Positions - Recruitments in Progress (28)

Department	Position
Building Safety and Housing	Sr. Permit Center Analyst
Building Safety and Housing	Building Permit Technician
City Manager	Deputy City Manager (pending appointment of the City Manager)
City Manager	Public Information Officer
Economic Development	Economic Development Specialist
Finance	Budget Manager
Finance	Financial Analyst II
Finance	Financial Technician - Request to reclass to Financial Analyst through Budget Process effective 20-21 (Risk Management)
Fire	Fire Captain
Fire	Entry Level Fire Inspector
Fire	Fire Engineer
HR	HR Director
IT	GIS Technician
IT	Sr. Information Analyst/Developer
Police	Communications Dispatcher
Police	Communications Dispatcher
Police	Community Service Officer
Police	Police Officer
Police	Police Officer
Police	Police Officer
Police	Patrol Officer - Request to reclass to Police Officer through Budget Process effective 20-21
Police	Patrol Officer - Request to reclass to Police Officer through Budget Process effective 20-21
Police	Patrol Officer - Request to reclass to Police Officer through Budget Process effective 20-21
Police	Police Records Supervisor
Public Works	Public Works Manager
Public Works	Fleet Maintenance Worker III
Public Works	Senior Public Works Lead - Storm/Sewer
Recreation	Program Coordinator (Social Services)

Attachment B

**City of Milpitas
City Wide Position Information
Vacant Positions - Recruitments in Progress
Vacant Positions - Recruitments on Hold**

Vacant Positions Recruitments on Hold (18)

Department	Position
Building Safety and Housing	Building Inspector
Building Safety and Housing	Building Permit Technician
Building Safety and Housing	Plan Checker
Building Safety and Housing	Sr. Building Inspector
Building Safety and Housing	Sr. Plan Check Engineer
Engineering	Associate Civil Engineer (Design & Construction)
Engineering	Associate Civil Engineer (Land Development)
Engineering	Associate Civil Engineer (Traffic)
Finance	Customer Services Supervisor
Finance	Water Meter Reader (0.5)
HR	HR Technician
IT	Information Systems Analyst
Public Works	Environmental Inspector
Recreation	Office Assistant (0.75)
Recreation	Program Coordinator (arts & events)
Recreation	Recreation Services Assistant II
Recreation	Recreation Services Assistant IV
Public Works	Equipment Maintenance Worker II



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Conduct a Public Hearing and Introduce Ordinance No. 38.840 Amending Sections of Chapter 10, Title XI, of the Milpitas Municipal Code Relating to Accessory Dwelling Units
Category:	Public Hearings-Community Development
Meeting Date:	6/2/2020
Staff Contact:	Rozalynne Thompson, Senior Planner, 408-586-3278
Recommendations:	<ol style="list-style-type: none"> 1) Conduct a public hearing and move to close the hearing following comments. 2) City Attorney shall read aloud title of Ordinance No. 38.840. 3) Move to waive the first reading beyond the title and introduce Ordinance No. 38.840 amending Sections of Chapter 10, Title XI of the Milpitas Municipal Code relating to Accessory Dwelling Units and determine that the Municipal Code (zoning) amendment is statutorily exempt from California Environmental Quality Act pursuant to CEQA Guidelines Section 15282(h).

Background:

On May 7, 2019, the City Council adopted an ordinance comprehensively amending sections of the Zoning Code that regulate accessory dwelling units (ADUs). These amendments to the City’s ADU regulations were enacted to comply with the state legal requirements in effect at that time, as set forth in Government Code Sections 65852.2 and 65852.22. The City’s May 2019 zoning amendments included additional changes not required by state law but supported locally to further encourage the production of ADUs.

In October 2019, CA Governor Newsom signed into law a number of bills that, among other things, amended Government Code sections 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and junior ADUs (JADUs). (JADUs are generally located within an existing single-family dwelling with an maximum allowable floor area of 500 square feet.) The purpose of these laws was to streamline the approval and permitting process and to encourage construction of ADUs. Because ADUs and JADUs present opportunities to substantially increase the number of housing units throughout the state in existing residential neighborhoods, they are important to meet growing housing demand and decrease housing costs in California. The statewide legislation took effect on January 1, 2020, and nullified the City’s current, non-compliant ADU ordinance.

Analysis:

This is a proposed amendment to the Zoning Code (Title XI, Chapter 10 of the Municipal Code). Specifically, the zoning text amendment amends Section 4 (“Residential Uses”), Section 6 (“Mixed Use Zone Uses”), Section 13 (“Special Uses”), and Section 57 (“Applications”) of the Zoning Code.

Proposed Amendments to the Zoning Ordinance to Comply with State ADU Legislation

The proposed amendments to the City’s zoning regulations related to ADUs and JADUs to comply with new State legislation adopted in 2019. The following is a summary of the proposed changes to the City’s ADU regulations.

At present, the City’s ADU regulations in Milpitas Municipal Code Subsection XI-10-13.08 “Accessory Dwelling Units” are nullified and superseded by State law, which took effect in January 2020. The City’s authority to

review and approve ADUs and JADUs is limited to the application of the few standards provided in Government Code sections 65852.2 and 65852.22. Staff has prepared amendments to Subsection XI-10-13.08 “Accessory Dwelling Units,” as well as Table XI-10-4.02-12 “Residential Zone Uses,” Table IX-10-6.02-1 “Mixed Use Zone Use,” and Section XI-10-57 “Applications,” that will bring the City’s regulations for ADUs and JADUs into compliance with current State law, while also adding local development standards that are appropriate to the context of Milpitas’ residential neighborhoods.

The adopted resolution (Attachment A) and Ordinance No. 38.840 (Attachment B) include proposed changes to the sections of the Zoning Code that regulate ADUs. These amendments will preserve the City’s authority to review and approve ADUs and JADUs according to local standards such as building height, floor area, and architectural and landscape review.

State-Mandated Requirements: The following is a summary of the new state requirements for ADUs and JADUs that have been incorporated into the proposed amendments to the City’s zoning ordinance:

- ADUs must be allowed in all zoning districts where residential uses are permitted. Local discretion about location of ADUs may be based only on the adequacy of water and sewer services, traffic circulation, and public safety considerations.
- Permit applications for ADUs and JADUs meeting certain objective criteria must be reviewed ministerially without discretionary review. Local jurisdictions must act on applications for ADUs and JADUs within 60 days from the date of receipt of a complete application.
- No minimum lot size standard to allow an ADU may be imposed.
- An ADU or JADU may be rented separately from the primary residence but may not be sold or otherwise conveyed separately from the primary residence.
- No owner occupancy requirement may be imposed for ADUs through January 1, 2025. For JADUs, the property owner must occupy either the single-family residence or the JADU.
- “Interior” or converted ADUs or JADUs (entirely within the space of an existing single-family dwelling or accessory structure) must be allowed with the following applicable standards:
 - No minimum setback requirements. These units must comply with building and fire codes for safety based on the existing setbacks.
 - The unit must have separate exterior access from the primary residence.
 - Up to 150-square feet of additional floor area must be allowed to accommodate ingress and egress.
- New detached ADUs with four-foot minimum side and rear setbacks, 800-square foot maximum floor area, and sixteen-foot height limit must be allowed with a building permit only.
- For multi-family residential lots, a number of ADUs equal to 25 percent of the number of existing dwelling units on the property may be converted within areas of the building not used as livable space.
- For multi-family residential lots, up to two detached ADUs are allowed with a height limit of sixteen feet and minimum side and rear setbacks of four feet.
- ADUs must be allowed to have a maximum floor area of at least 850 square feet for a one- bedroom unit and 1,000 square feet for a two-bedroom unit.
- The maximum floor area for an attached ADU on a lot with an existing primary dwelling is further limited to 50 percent of the floor area of the primary dwelling.
- Parking:
 - The maximum off-street parking that may be required for an ADU is one space. No off-street parking may be required for a JADU.
 - If any of the following circumstances apply, no off-street parking is required for an ADU:
 - the property is located within a half mile walking distance of public transit;
 - a car share vehicle is located within one block of the property;
 - the property is located within an architecturally and historically significant historic district;
 - the accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure; or
 - on-street parking permits are required but not offered to the occupant of the ADU.

- If a garage, carport or covered parking structure is converted to an ADU or demolished to allow construction of an ADU, no replacement of those off-street parking spaces is required.
- No impact fees may be required for JADUs or for ADUs less than 750 square feet. For ADUs 750 square feet or greater, impact fees must be assessed proportionally in relation to the square footage of the primary residence.
- Capacity fees and connection charges (sewer and water) and separate utility connections shall be determined at the issuance of a building permit for all ADUs.

Additional Local Requirements: State law provides that local jurisdictions may apply more permissive development standards, but not more restrictive, than those outlined above. The following are areas where state law allows jurisdictions the discretion to adopt locally determined standards pertaining to ADUs and JADUs, and staff is proposing the following regulations:

- For properties not located in the “H” Hillside Combining District, a single-story attached or detached ADU may not exceed 16 feet in height above grade. A two-story attached or detached ADU may not exceed 28 feet in height above grade.
- For properties located in the “H” Hillside Combining District, consistent with the Hillside Ordinance found in Section XI-10.45:
 - An attached or detached ADU on the west side of the crestline may not exceed a height of 17 feet in height and one story from the lowest finished grade to the highest ridgeline of the building. On the east side of the crestline, a detached or attached ADU may not exceed a height of 27 feet and two stories from the lowest finished grade to the highest ridgeline of the building.
 - For a detached ADU, the maximum floor area is 1,200 square feet, which is consistent with the maximum square footage of accessory structures in the “H” Hillside Combining District.
- Design standards: State law allows local jurisdictions to apply design standards to many proposed ADUs and JADUs, provided that such standards are objective.
- Proposed ADUs or JADUs that do not conform to the standards outlined in the ADU ordinance may be considered and approved on a discretionary basis through the Minor Site Development Permit process. This allows streamlining and expedited approval of ADUs and JADUs that conform with all provisions of the state law (as incorporated into the City’s ADU ordinance) and allows the City the flexibility to consider on a case-by-case basis proposed ADUs that deviate from these standards.

Policy Alternative:

Alternative: Do not adopt ordinance amending Section XI-10-13.08 (“Accessory Dwelling Units”) and defer to State law

Pros: Consistent with state law.

Cons: Potential impacts to neighborhoods

Reason not recommended: If the City does not amend its code to conform to current State law, State law makes the City’s ADU regulations null and void. The City will have no ability to regulate ADUs beyond the few minimal standards that the State law itself imposes. Deferring to State law has been confusing to Milpitas residents and property owners. In addition, staff has experienced difficulties with interpreting State law requirements which has hampered ADU processing and plan checking, and generally has not incentivized ADU production in Milpitas.

California Environmental Quality Act:

Under California Public Resources Code Section 21080.17, CEQA does not apply to the adoption of an ordinance by a local government implementing the provisions of section 65852.2 of the Government Code, which is California’s law regulating ADUs and JADUs, as defined by section 65852.22. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the State’s ADU law. In addition, the ordinance is statutorily exempt pursuant to CEQA Guidelines Section 15282(h) (adoption of an ordinance regarding second units in a single- or multi- family residential zone).

Planning Commission Action:

The Planning Commission considered the proposed ordinance for Zoning Code Amendments at its meeting on May 13, 2020. Following public comment, the Planning Commission unanimously adopted Resolution 20-010 (Attachment A) recommending that the City Council adopt an Ordinance amending sections of Chapter 10 of Title XI of the Milpitas Municipal Code relating to Accessory Dwelling Units and Junior Accessory Dwelling Units.

Recommendations:

- 1) Conduct a public hearing and move to close the hearing following comments.
- 2) City Attorney shall read aloud title of Ordinance No. 38.840.
- 3) Move to waive the first reading beyond the title and introduce Ordinance No. 38.840 amending sections of Chapter 10, Title XI, of the Milpitas Municipal Code relating to accessory dwelling units and determine that the Municipal Code (zoning) amendment is statutorily exempt from California Environmental Quality Act pursuant to CEQA Guidelines Section 15282(h).

Attachments:

- A) Ordinance No. 38.840 – for introduction
- B) Planning Commission Resolution No. 20-010

PLEASE NOTE:

This copy of Ordinance No. 38.840 is a “redlined” version for your convenience. Text additions are designated by an underline and text deletions are designated with a strikethrough.

REGULAR

NUMBER: 38.840

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING SECTIONS OF CHAPTER 10 OF TITLE XI OF THE MILPITAS MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of _____, upon motion by _____ and was adopted (second reading) by the City Council at its meeting of _____, upon motion by _____. The Ordinance was duly passed and ordered published in accordance with law 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

RECITALS AND FINDINGS:

WHEREAS, the Planning and Zoning Law authorizes cities to act by ordinance to provide for the creation and regulation of accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”); and

WHEREAS, in 2019, the California Legislature approved, and the Governor signed into law a number of bills (“New ADU Laws”) that, among other things, amended Government Code section 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and JADUs; and

WHEREAS, the New ADU Laws took effect January 1, 2020, and on that date the City’s ADU ordinance became null and void as a matter of law because it does not comply with the New ADU Laws; and

WHEREAS, the City desires to amend its local regulatory scheme for the construction of ADUs and JADUs to comply with the amended provisions of Government Code sections 65852.2 and 65852.22; and

WHEREAS, failure to comply with Government Code sections 65852.2 and 65852.22 (as amended) as of January 1, 2020 has rendered the City’s ordinance regulating ADUs and JADUs null and void, thereby limiting the City to the application of the few default standards provided in Government Code sections 65852.2 and 65852.22 for the approval of ADUs and JADUs; and

WHEREAS, the approval of ADUs and JADUs based solely on the default statutory standards, without local regulations governing height, setback, landscape, architectural review, among other things, may threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety; and

WHEREAS, staff and the City Attorney prepared the proposed ordinance, including the proposed language and terminology, and any additional information and documents deemed necessary; and

WHEREAS, on May 13, 2020, the Planning Commission for the City of Milpitas held a lawfully-noticed public hearing to solicit public comment and consider the proposed Amendment, take public testimony, and make a recommendation to the City Council on the project.

NOW, THEREFORE, the City Council of the City of Milpitas does ordain as follows:

SECTION 1. RECORD AND BASIS FOR ACTION

The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Based on its review of the entire record, including the staff report, public comments and testimony presented to the Planning Commission and City Council, and the facts outlined below, the City Council hereby finds and determines that this Ordinance has been assessed in accordance with the California Environmental Quality Act (California Public Resources Code, § 21000 et seq.) (“CEQA”) and the State CEQA Guidelines (14 California Code of Regulations § 15000 et seq.) and is statutorily exempt from CEQA under Public

Resources Code section 21080.17, which exempts from CEQA any ordinance that is adopted to implement Government Code section 65852.1 or 65852.2. The Ordinance implements section 65852.2 and is therefore statutorily exempt.

SECTION 3. GENERAL PLAN CONSISTENCY

State law requires the City to deem accessory dwelling units, as permitted by this Ordinance, to be “a residential use that is consistent with the existing general plan and zoning designation.” (California Government Code §65852.2(a)(1)(C).) Furthermore, the City Council has considered the Planning Commission staff report, which provides a robust analysis demonstrating that this Ordinance is consistent with the General Plan. Therefore, the Council deems this Ordinance to be consistent with the General Plan both in substance and as a matter of law.

SECTION 4. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10, SECTION 4, TABLE XI-10-4.02-1

Title XI, Chapter 10, Section 4, “Residential Zones and Standards”, Table XI-10-4.02-1, “Residential Zone Uses” of the Milpitas Municipal Code is hereby amended to read as follows:

**Table XI-10-4.02-1
Residential Zone Uses**

Use	R1	R2	R3	R4	R5
1. Commercial					
Commercial services ^{1,2}	NP	NP	C	C	C
2. Professional Offices and related uses					
Offices ^{1,2}	NP	NP	C	C	C
3. Public/Quasi-Public and Institutional Uses					
Child care center	C	C	C	C	P
Nursing home ³	NP	C	C	C	C
Park, playground or community center (non-profit)	C	C	C	C	C
Parking lots	C	C	C	C	C
School (not trade or vocational)	C	C	C	C	C
Places of Assembly	C	C	C	C	C
4. Residential Uses					

Condominiums and condo conversions	NP	SFR: C Duplex: C	C	C	C
Duplex (Two dwellings)	NP	P	NP	NP	NP
Group dwelling	NP	NP	NP	C	C
Guest house	C	NP	NP	NP	NP
Manufactured home ⁴	P	P	NP	NP	NP
Multi-family dwellings (Three or more units)	NP	NP	P	P	P
Planned unit development ⁵	P	P	P	P	P
Accessory dwelling unit ⁶	P	SFR: P Duplex: P	P	P	P
Single-family dwelling	P	P	NP	NP	NP
Single-room occupancy residences ⁷	NP	NP	C	C	C
Transitional and supportive housing	P ⁸	P ⁸	P ⁹	P ⁹	P ⁹
5. Restaurants					
Restaurants ^{1,2}	NP	NP	C	P/C	P/C
6. Unclassified Uses					
Agriculture ¹⁰	P	P	P	NP	NP
Boarding house (three or more persons)	NP	C	C	C	C
Golf course ¹¹	C	C	C	NP	NP
Live work units ¹²	NP	NP	C	C	C
Model home complex ¹³	P	P	P	P	P
Short-Term Rentals ¹⁴	P	P	P	P	P

¹ Refer to Subsection XI-10-4.03(A), Residential Zone Special Uses, of this Chapter, for standards.

² Refer to Subsection XI-10-4.03(B), Residential Zone Special Uses, of this Chapter, for standards.

³ Licensed nursing home serving more than six persons, except when used primarily for contagious sickness, mental or drug alcohol addict cases.

⁴ Refer to Subsection XI-10-13.07, Manufactured Homes, of this Chapter, for standards.

⁵ Refer to Subsection XI-10-54.07, Planned Unit Developments, of this Title, for standards.

⁶ In conjunction with existing or proposed legal single-family, duplex, or multi-family dwellings. Refer to Subsection XI-10-13.08, Accessory Dwelling Units, of this Chapter, for standards.

⁷ Refer to XI-10-13.13, Special Uses, Single Room Occupancy Residences, of this Chapter.

⁸ Permitted only in single family dwellings.

⁹ Permitted only in multi-family dwellings.

¹⁰ Except for the raising of animals or fowl for commercial purposes, or the sale of any products at retail on the premises.

¹¹ Except for driving tee or range, miniature course and similar uses operated for commercial purposes.

¹² Allowed commercial uses to be specified through the Conditional Use Permit process.

¹³ Refer to Subsection XI-10-13.11(E), Model Home Complexes and Sales Offices, of this Chapter for temporary tract offices.

¹⁴ Subject to the requirements of Subsection XI-10-13.16, Short-Term Rentals, of this Chapter.

SECTION 5. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10, SECTION 6, TABLE XI-10-6.02-1

Title XI, Chapter 10, Section 6, “Mixed Use Zones and Standards”, Table XI-10-6.02-1, “Mixed Use Zone Uses” of the Milpitas Municipal Code is hereby amended to read as follows:

**Table XI-10-6.02-1
Mixed Use Zone Uses**

Use	MXD	MXD2		MXD3
		Ground Level (Facing Retail street)	Upper Floor	
1. Commercial Uses				
Alcohol beverage sales	C	C	C	C
Commercial services ¹	MCS	MCS	MCS	MCS
Grocery stores (supermarkets)	C	C	C	C
Pawnshops ²	C	C	C	C
Pet shops	C	NP	NP	NP
Retail stores, general merchandise ³	MCS	MCS	MCS	MCS
Tanning salons	P	P	P	P
Thrift shops (used merchandise)				
Retail	P	P	P	P
With collections	C	C	C	C
2. Entertainment and Recreation				

Commercial athletic facilities	P	P	P	P
Motion picture theater (see 6 below)				
Recreation or entertainment facility	C	C	C	C
3. Health and Veterinarian Uses				
Animal grooming (no boarding)	P	P	NP	P
Hospitals or sanitariums ⁴	C	C	C	C
Massage establishment ¹⁷	MC	MC	MC	MC
Massage establishment, accessory ¹⁷	MCS	MCS	MCS	MCS
Medical or dental offices and clinics	P	NP	P	P
Medical support laboratories	P	P	P	P
Optician and optometrist shop	P	P	P	P
Pharmacy or drug store	P	P	P	P
Veterinarian clinic	P	P	P	P
4. Lodging				
Bed and breakfast	P	P	NP	NP
Boarding houses (3 or more persons)	C	C	C	C
Group dwellings	C	C	C	C
Hotels	C	P	P	P
Motels	C	C	C	C
5. Professional Offices, Financial Institutions and Related Uses ⁴				
Financial institutions (banks, savings and loans, etc.)	MCS	NP	MCS	P
Offices ³	MCS	NP	MCS	P
6. Public/Quasi Public and Assembly Uses				

Child care				
Child care center	C	P	C	P
Day care school	C	C	C	
Large family child care home	P	P	C	P
Small family child care home	P	P	P	P
Instruction				
Group ¹³	P	NP	NP	NP
Private	P	P	P	P
Park, playground or community center ⁵	O	O	O	O
Places of assembly ⁴	C	C	C	C
Public utilities	C	C	C	C
Schools, private (elementary, middle and high) ⁴	C	C	C	C
Theaters (Indoor)	C	C	C	C
Trade and vocational schools ⁴	C	C	C	C
Transportation facilities ²	C	C	C	C
7. Residential Uses				
Multi-family housing ⁷	P	NP	P	P
Transitional and supportive housing ⁷	P	NP	P	P
Accessory Dwelling Unit ¹⁹	P	NP	P	P
8. Restaurants or Food Service				
Bar or nightclub	C	C	C	C
Brewery/Eateries ¹⁰	MCS	MCS	NP	MCS
Catering establishments	C	C	C	C

Restaurants ²	P/C	P/C	NP	P/C
With dancing and entertainment	C	C	C	C
With ancillary on-premise beer & wine with no separate bar	P	P	P	P
9. Unclassified Uses				
Artisan Studios & Live-work units, woodworking or glassworking, plumbing or metalworking and sign shops ²	MCS	MCS	MCS	MCS
Lobbies and entries for upper floor uses	P	P	NP	P
Model home complex ¹¹	P	P	P	P
Mixed use developments ¹²	P	P	P	P
Planned Unit Development ¹³	P	P	P	P
Temporary seasonal sales ¹⁴	P	P	P	P
Short-Term Rentals ¹⁸	P	NP	P	P
10. Vehicle-Related Repair, Sales and Services				
Auto sales and rental ¹⁵	C	C	C	C
Auto broker (wholesale, no vehicles on site) ²	MCS	MCS	MCS	MCS
Vehicle service uses ¹⁶	C	NP	NP	C

¹ Refer to Subsection XI-10-6.02-1(B), Performance standards for certain uses, of this Chapter, for standards.

² Refer to Subsection XI-10-6.02-1, Special Uses, of this Chapter, for standards.

³ Refer to Subsection XI-10-6.02-1(B) Performance standards for certain uses, of this Chapter.

⁴ Refer to Subsection XI-10-6.02-2, Quasi-Public Uses, of this Chapter, for standards.

⁵ For parks, playgrounds or community center owned and operated by a government agency or a nonprofit community organization.

⁶ Refer to XI-10-13.14, Special Uses, Emergency Shelters, of this Chapter.

⁷ Ground level residential is prohibited in the Ground Level Commercial Area as shown on the Midtown Specific Plan Land Use Map, Figure 3.1.

⁸ Refer to XI-10-13.13, Special Uses, Single Room Occupancy Residences, of this Chapter.

⁹ Uses serving upper-floor residential uses, such as common gathering space, lobby, and resident services, may be allowed as ground floor uses where residential uses would otherwise not be permitted.

¹⁰ Reserved.

¹¹ Refer to Subsection XI-10-13.11(E), Model Home Complexes and Sales Offices, of this Chapter for temporary tract offices.

¹² Which include only permitted uses.

¹³ Refer to Section XI-10-54.07, Planned Unit Developments, of this Chapter, for standards.

¹⁴ Refer to Section XI-10-13.11(D), Temporary Seasonal Sales, of this Chapter.

¹⁵ New and used auto, recreational vehicle and boat sales, excluding commercial vehicles, trucks, buses, vans, and farm equipment, with accessory repairs and services, only allowed if fully enclosed within a building. Bicycle and auto rental agency, excluding commercial vehicles, trucks, buses, vans, boats and RV rentals, only if fully enclosed within a building.

¹⁶ Refer to Subsection XI-10-6.02-2, Special Uses, of this Chapter, for standards. Service stations shall follow the "General development policy: Gasoline service stations, and automotive service centers" adopted by the City Council on December 19, 1995.

¹⁷ Massage establishments are subject to Title III, Chapter 6 of the Milpitas Municipal Code and Subsection XI-10-13.16 of this title. Refer to Subsection XI-10-13.16, of this Title, for special provisions for massage establishments.

¹⁸ Only allowed within a dwelling unit, subject to the requirements of Subsection XI-10-13.17, Short-Term Rentals, of this Chapter.

¹⁹ Only allowed within multi-family dwellings, subject to the requirements of Subsection XI-10-13.08, Accessory Dwelling Units, of this Chapter.

SECTION 6. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10, SECTION 13, SUBSECTION 8

Title XI, Chapter 10, Section 13 “Special Uses”, Subsection 8 “Accessory Dwelling Units” of the Milpitas Municipal Code is hereby amended to read as follows:

- A. Purpose and Intent. The purpose of these standards is to allow and regulate accessory dwelling units (hereinafter referred to as ADUs) and junior accessory dwelling units (hereinafter referred to as JADUs) in compliance comply with Government Code Sections 65852.2 and 65852.22.
- B. Effect of Conforming. An ADU or JADU that conforms to the standards in this section shall:
1. Be deemed to be consistent with the City’s general plan and zoning designation for the lot on which the unit is located.
 2. Not be deemed to exceed the allowable density for the lot on which the unit is located.
 3. Not be considered in the application of any local ordinance, policy, or program to limit residential growth.
 4. Not be required to correct a “nonconforming zoning condition”.
- C. Definitions.
1. Accessory Dwelling Unit: As defined by Government Code Section 65852.2, an ADU is an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. An ADU also includes an efficiency unit as defined in Section 17958.1 of the Health and Safety Code and a manufactured home as defined by Section 18007 of the Health and Safety Code.
 2. Accessory Structure: For purposes of this section, an accessory structure is a structure that is accessory and incidental to a dwelling located on the same lot.
 3. Attached Accessory Dwelling Unit: An attached ADU is an ADU that shares at least one wall with the primary dwelling.
 4. Converted Accessory Dwelling Unit: A converted ADU is an ADU that is contained within the existing space of a single-family residence or accessory structure, including, but not limited to, a studio, pool house, or other similar structure, has independent exterior access from the existing residence, and that has side and rear setbacks that are sufficient for fire safety.
 5. Detached Accessory Dwelling Unit: An ADU is detached if it does not share any walls with the primary dwelling unit or existing attached accessory structure.
 6. Efficiency Kitchen: In accordance with Government Code Section 65852.22(a)(6), an efficiency kitchen includes the following: (a) a cooking facility with appliances and (b) food-preparation counter space with a total area of at least 15 square feet and food-storage cabinets with a total of at least 30 square feet of shelf space.
 7. Junior Accessory Dwelling Unit: As defined by Government Code Section 65852.22, a JADU is a unit that is no more than 500 square feet in size and contained entirely within an existing or proposed single-family structure. A JADU may have only an efficiency kitchen and may include separate sanitation facilities or may share sanitation facilities with the primary dwelling.

8. **Livable Space:** A space within a building designed for living, sleeping, eating or food preparation, including but not limited to a den, study, library, home office, sewing room, or recreational room and excluding such areas as garages.
9. **Living Area:** As defined by Government Code Section 65852.2, the interior habitable area of a dwelling unit including basements and attics but not including a garage or any accessory building or structure.
10. **Natural Person:** An individual and living human being, as opposed to a legal person which may be a private (i.e. business entity or non-governmental organization) or public (i.e. government) entity.
11. **Nonconforming zoning condition:** A physical improvement on a property that does not conform with current zoning standards.
12. **Passageway:** A pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
13. **Proposed dwelling:** A dwelling that is the subject of a permit application and that meets the requirements for permitting.
14. **Public Transit:** A location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public. Examples include, but are not limited to, Altamont Commuter Express (ACE), Bay Area Rapid Transit (BART), AC Transit, Valley Transportation Authority (VTA) bus service and light rail, and paratransit.

D. General Provisions.

1. Where permitted. An ADU may be established on any lot in any district that allows single-family or multi-family dwelling residential uses. A JADU may be established on any lot in any district that allows single-family residential use.
2. **Review Requirements.** Any application for an ADU or JADU that satisfies the standards in subdivisions (A) through (J) of this section shall be approved ministerially without discretionary review or public hearing.
3. An ADU or JADU shall meet or exceed the minimum requirements of an efficiency unit, as defined by Section 17958.1 of the State Health and Safety Code, and so may not have a floor area that is smaller than 220 square feet.
4. All ADUs shall comply with local building code requirements.
5. No passageway shall be required for an ADU or JADU.
6. **Owner Occupancy.** All JADUs are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or the JADU, as the person's primary residence and legal domicile. However, the owner-occupancy requirement of this paragraph does not apply if the property is entirely owned by a governmental agency, land trust, or housing organization.
7. **Sale Prohibited.** No ADU or JADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multi-family lot).
8. **Rental.** An ADU or JADU may be rented for a term of 30 days or more. Short-term rental for periods of less than 30 days are not permitted.

E. Action on Application.

1. The City shall act on an application to establish an ADU or JADU within 60 days from the date the City receives a complete application, unless either:
 - a. The applicant requests a delay, in which the 60-day time period is tolled for the period of the requested delay, or
 - b. In the case of a JADU, the application for which is submitted as part of a permit application for a new single-family dwelling on the lot, the City may delay acting on the permit application for the JADU until it acts on the permit application for the new single-family dwelling; however, the application for the JADU shall still be considered ministerially without discretionary review or a hearing.

F. ADUs and JADUs Subject to Limited Requirements.

1. Specific Types of ADUs and JADUs. To qualify for a building permit, the following types of ADUs and JADUs are subject only to the limited requirements that define each type.
 - a. Converted on Single-family Lot: Only one ADU or JADU is allowed on a lot with a proposed or existing single-family dwelling on it, where the unit:
 - i. Is within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress.
 - ii. Has exterior access that is independent of that for the single-family dwelling.
 - iii. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
 - b. Limited Detached on Single-family Lot. One detached, new-construction ADU is allowed on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under Subsection XI-10-13.081.a.a) above), if the detached ADU satisfies the following limitations:
 - i. The side- and rear-yard setbacks are at least four (4) feet.
 - ii. The total floor area is 800 square feet or less.
 - iii. The height above grade is 16 feet or less.
 - c. Converted on Multi-family Lot: Multiple ADUs are allowed within portions of existing multi-family dwelling structures that are not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. At least one converted ADU under this paragraph is allowed within an existing multifamily dwelling, up to a quantity equal to 25 percent of the number of existing multifamily dwelling units.
 - d. Limited Detached on Multi-family Lot: No more than two detached ADUs are allowed on a lot that has an existing multi-family dwelling if each detached ADU satisfies the following limitations:
 - i. The side- and rear-yard setbacks are at least four (4) feet.
 - ii. The peak height above grade is 16 feet or less.
 - iii. If more than one detached ADU is created, the ADUs may share a common wall.

2. Deed Restriction for JADUs. Prior to obtaining a building permit for a JADU, a deed restriction, approved by the City Attorney, must be recorded with the County Recorder's office, which shall include the pertinent restrictions and limitations of a JADU identified in this Section. Said deed restriction shall run with the land and bind all future owners, heirs, and assigns. A copy of the recorded deed restriction shall be filed with the Department stating that:
 - a. The JADU may not be sold separately from the primary dwelling unit;
 - b. The JADU is restricted to the maximum size allowed per the development standards;
 - c. The JADU is legal only so long as either the primary residence, or the JADU, is occupied by the owner of record of the property.

G. ADUs Subject to Additional Objective Requirements.

1. Review Requirements. A proposed ADU that does not conform to the standards set forth in Subsection XI-10-13.08 (F)(1) and (F)(2) only requires a building permit if it complies with all of the objective standards in Subsection XI-10-13.08(G)(2) below.
2. Specific Standards.
 - a. Maximum Size.
 - i. The maximum size of an attached or detached ADU on a property not located in the “H” Hillside Combining District is 850 square feet for a studio or one-bedroom unit and 1,000 square feet for a two-bedroom unit. No more than two bedrooms are allowed.
 - ii. The maximum size of an attached or detached ADU on a property located in the “H” Hillside Combining District is 1,200 square feet. No more than two bedrooms are allowed.
 - iii. The maximum size of an attached ADU that is created on a lot with an existing primary dwelling is further limited to 50 percent of the floor area of existing primary dwelling.
 - b. Maximum Height
 - i. For properties not located in the “H” Hillside Combining District, a single-story attached or detached ADU may not exceed 16 feet in height above grade. A two-story attached or detached ADU may not exceed 28 feet in height above grade.
 - ii. For properties located in the “H” Hillside Combining District, an attached or detached ADU on the west side of the crestline may not exceed a height of 17 feet in height and one story from the lowest finished grade to the highest ridgeline of the building. On the east side of the crestline, a detached or attached ADU may not exceed a height of 27 feet and two stories from the lowest finished grade to the highest ridgeline of the building.
 - c. Minimum Setbacks.
 - i. No minimum setback requirement applies to newly constructed ADUs built in the same location and with the same dimensions as a previously existing structure. For all other ADUs a minimum setback of 4 feet from side and rear lot lines is required.
 - d. An attached ADU shall have a separate entrance from the primary dwelling.
 - e. A detached ADU shall be located at least six feet to the rear of the primary dwelling unit

H. Parking.

1. For each ADU, one (1) off-street parking space is required unless one of the following conditions is met:
 - a. The ADU is located within one-half mile walking distance of public transit.
 - b. The ADU is located within an architecturally and historically significant historic district.
 - c. The ADU is part of a proposed or existing primary residence or an existing accessory structure (i.e., it is a converted ADU under Subsection XI-10-13.08(F)(2)(a)).
 - d. On-street parking permits are required but not offered to the occupant of the ADU.
 - e. An established car share vehicle stop is located within one block of the ADU.
2. No off-street parking is required for a JADU.
3. If a parking space is required for an ADU, the space may be located within any setback area, in a tandem configuration, or on a mechanical lift. Each unenclosed parking space shall be at least 8½ feet wide and 18 feet long. Each parking space that is provided in an enclosed garage shall be at least 10 feet wide and 20 feet long.
4. When a garage, carport, or covered parking structure is converted to an ADU or demolished in conjunction with the construction of an ADU, the off-street parking space or spaces are not required to be replaced.

I. Design Standards.

1. The architectural style, exterior materials, and color palette of an ADU or JADU shall match the appearance of the existing or proposed primary dwelling.
2. The entrance to an attached ADU or JADU shall be located on a side or rear building façade, not facing a public right-of-way.
3. Exterior lighting shall be limited to down-lights (or as otherwise required by the building or fire code).
4. Windows and doors of an ADU or JADU may not have a direct line of sight to an adjoining residential property. Fencing, landscaping, or privacy glass may be used to provide screening and prevent a direct line of sight.
5. Windows located on the second story of an ADU or JADU shall be either clerestory or consist of obscured glazing.
6. Evergreen landscape screening must be planted and maintained between the ADU and adjacent parcels as follows:
 - a. At least one 15-gallon size plant shall be provided for every five linear feet of exterior wall. Alternatively, at least one 24” box size plant shall be provided for every ten linear feet of exterior wall.
 - b. Plant specimens must be at least six feet tall when installed. As an alternative, a solid fence of at least 6 feet in height may be installed.
 - c. All landscaping shall be drought tolerant.
7. The ADU and primary dwelling must use the same driveway to access the street, unless otherwise required for fire-apparatus access, as determined by the fire authority.

J. Fees.

1. Impact Fees and other City Fees.
 - a. No impact fee shall be required for a JADU or for an ADU that is less than 750 square feet in floor area. For purposes of this paragraph, “impact fee” has the same meaning as the term “fee” is defined in the Mitigation Fee Act (Gov. Code § 66000(b)), except that it also includes fees specified in the Quimby Act (Gov. Code § 66477). “Impact fee” does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.
 - b. Any impact fee that is required for an ADU that is 750 square feet or greater in floor area shall be assessed proportionally in relation to the square footage of the primary dwelling unit (e.g. the floor area of the primary dwelling divided by the floor area of the ADU, times the impact fees charged for a new dwelling).
2. Utility Fees.
 - a. If an ADU or JADU is constructed with a new single-family home, a separate utility connection directly between the ADU or JADU and the utility and payment of the normal connection fee and capacity charge for a new dwelling are required.
 - b. Except as described in Subsection XI-10-13.08(J)(2)(a), converted ADUs and JADUs on a single-family lot that are created under Subsection XI-10-13.08(F)(2)(a) are not required to have a new or separate utility connection directly between the ADU or JADU and the utility. Nor is a connection fee or capacity charge required.
 - c. Except as described in Subsections XI-10-13.08(J)(2)(a) and (J)(2)(b), all ADUs and JADUs require a new, separate utility connection directly between the ADU or JADU and the utility. The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU or JADU, based on either the floor areas or the drainage-fixture units (DFU) values, as defined by the Uniform Plumbing Code, of the ADU or JADU and the primary dwelling.
- K. Nonconforming ADUs and Discretionary Approval. Any proposed ADU or JADU that does not conform to the objective standards set forth in Subsections XI-10-13.08(A) through (J) may be allowed by the City with a Minor Site Development Permit, in accordance with Section XI-10-57 “Applications”.

SECTION 7. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10, SECTION 57, SUBSECTION 3

Title XI, Chapter 10, Section 57 “Applications”, Subsection 3 “Site Development Permits and Minor Site Development Permit” of the Milpitas Municipal Code is hereby amended to read as follows: **Table XI-10-57.03-1**

Additions or Alterations Requiring Minor Site Development Permits

Project Type	Zoning Administrator	Staff review
Accessory Buildings	A. Non-Residential and Mixed-Use Districts: 1. Accessory buildings up to 2,500 square feet in area, provided that the proposed structure is not adjacent to a residential or Mobile Home Park Overlay (-MHP) district or use, and	A. Residential Only 1. Accessory buildings in residential districts (excluding -H Combining District), provided building height, parking, setback, yard coverage and other

	<p>provided that building height, parking, setback, yard coverage, Floor Area Ratio, landscaping, open space and other ordinance requirements are met. The following shall also apply:</p> <p>a. Accessory buildings must be located on the rear half of the lot. On corner lots, the accessory building must be set back from the adjacent street at least as far as the main building.</p> <p>b. Accessory buildings must be of permanent construction (no modular buildings or metal buildings) with the exception of small pre-fabricated structures for chemical storage and the like, so long as such structures are adequately screened from public rights-of-way.</p> <p>c. Architecture shall match that of the existing building in terms of material, colors, style, etc.</p>	<p>ordinance requirements are met. The following shall also apply:</p> <p>a. Accessory buildings for conditional uses in Residential R1 and R2 districts and for permitted and conditional uses in R3 and R4 districts shall comprise building materials, colors and style which complement the existing main structure.</p> <p>2. Accessory dwelling units that do not meet the objective standards set forth in Subections XI-10-13.08.</p> <p>B. All zones</p> <p>1. Community emergency caches as defined in Subsection XI-10-2.03, Definitions, of this Chapter are exempt. Refer to Subsection XI-10-54.08(B)(12) for performance standards.</p>
<p>Building Additions</p>	<p>A. Non-residential and Mixed Use Districts:</p> <p>1. All non-residential and mixed use building additions for legal, conforming buildings not adjacent to residential or Mobile Home Park Overlay District or use.</p> <p>a. Size of building addition shall not exceed 10,000 square feet or ten percent (10%) of the existing building gross floor area, whichever is less. Calculation shall cumulatively count all additions or enlargements completed since June 20, 2003.</p> <p>b. In addition to other development standards, the following shall also apply:</p> <p>i. Architecture shall match that of existing building in terms of material, colors, style, etc.</p> <p>ii. The height of the addition shall not exceed the height of the adjacent portion of the existing building.</p> <p>B. Residential Districts</p> <p>1. All single-family dwellings in Hillside (-H) PUDs which are specifically conditioned not to require Planning Commission or City Council review for building additions (refer to Section XI-10-56, Non-Conforming Buildings and Uses, of this Chapter regarding non-conforming buildings). In addition to other development standards, the following shall also apply:</p>	<p>1. Residential building additions in R1 and R2 districts.</p> <p>2. Residential building additions in multi-family districts up to 200 square feet.</p> <p>3. All single-family dwellings in Hillside (-H) Overlay PUDs which specifically allow for staff approval. (refer to Section XI-10-56, Non-conforming Buildings and Uses, of this Chapter regarding non-conforming buildings). In addition to other development standards, the following shall also apply:</p> <p>a. Existing front yard paving shall be brought into conformance.</p> <p>b. The addition shall comprise building materials, colors and style which complement the existing structure.</p> <p>4. Accessory dwelling units that do not meet the objective standards set forth in Subection XI-10-13.08.</p>

	a. Existing front yard paving shall be brought into conformance.	
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SECTION 8. SEVERABILITY

The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision, or part has no effect on the validity of the remainder.

SECTION 9. EFFECTIVE DATE AND POSTING

In accordance with Section 36937 of the Government Code of the State of California, this Ordinance takes effect 30 days from the date of its passage. The City Council hereby directs the City Clerk to cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.

RESOLUTION NO. 20-010

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS
RECOMMENDING THAT THE CITY COUNCIL ADOPT A CITY-INITIATED
ZONING TEXT AMENDMENT TO AMEND SECTIONS OF CHAPTER 10 OF TITLE
XI OF THE MILPITAS MUNICIPAL CODE RELATING TO ACCESSORY
DWELLING UNITS, AND MAKING CEQA FINDING OF EXEMPTION FROM
ENVIRONMENTAL REVIEW PURSUANT TO CEQA GUIDELINES SECTION
15282(H)**

WHEREAS, the City of Milpitas, California (the “City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, California Government Code Section 65800 et seq. authorizes the adoption and administration of zoning laws, ordinances, rules and regulations by cities as a means of implementing the General Plan; and

WHEREAS, the Planning and Zoning Law authorizes cities to act by ordinance to provide for the creation and regulation of accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”); and

WHEREAS, in 2019, the California Legislature approved, and the Governor signed into law a number of bills (“New ADU Laws”) that, among other things, amended Government Code section 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and JADUs; and

WHEREAS, the New ADU Laws took effect January 1, 2020, and on that date the City’s ADU ordinance became null and void as a matter of law because it does not comply with the New ADU Laws; and

WHEREAS, the City desires to amend its local regulatory scheme for the construction of ADUs and JADUs to comply with the amended provisions of Government Code sections 65852.2 and 65852.22; and

WHEREAS, failure to comply with Government Code sections 65852.2 and 65852.22 (as amended) as of January 1, 2020 has rendered the City’s ordinance regulating ADUs and JADUs null and void, thereby limiting the City to the application of the few default standards provided in Government Code sections 65852.2 and 65852.22 for the approval of ADUs and JADUs; and

WHEREAS, the approval of ADUs and JADUs based solely on the default statutory standards, without local regulations governing height, setback, landscape, architectural review, among other things, may threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety; and

WHEREAS, staff and the City Attorney prepared the proposed ordinance, including the proposed language and terminology, and any additional information and documents deemed necessary; and

WHEREAS, the City has prepared Zoning Amendment No. ZA20-0003 (“Amendment”) to the City’s Municipal Code, including refinements to Table XI-10-4.02-1 “Residential Zone Uses”, Table IX-10-6.02-1 “Mixed Use Zone Uses”, 13.08 “Accessory Dwelling Units”, and Section XI-10-57 “Applications” of the Municipal Code; and

WHEREAS, the Planning Commission makes and accepts as its own the findings set forth in this Resolution; and

WHEREAS, the Planning Commission is an advisory body to the City Council; and

WHEREAS, as separate and independent bases, the Planning Commission hereby finds and determines that the project is exempt from further CEQA review pursuant to CEQA Guidelines section 15282(h) (the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code); and

WHEREAS, on May 13, 2020, the Planning Commission held a duly-noticed public hearing on the subject Amendment, at which all those in attendance were given the opportunity to speak on the Zoning Text Amendment; and

WHEREAS, the Planning Commission has considered all the written and oral testimony presented at the public hearing in making its decision.

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

SECTION 1. Recitals

The Planning Commission has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the Planning Commission. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2. CEQA Finding

The Planning Commission recommends that the City Council find, under CEQA Guidelines, Section 15282(h), that if this Ordinance is a project, it is nonetheless exempt from further environmental review because it is the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the

Public Resources Code.

SECTION 3. Findings for Zoning Amendment (Milpitas Municipal Code, Subsection XI-10-57-02(G)(3))

The Planning Commission makes the following findings based on the evidence in the public record in support of Zoning Text Amendment No. ZA20-0003:

1. The proposed amendment is consistent with the General Plan.

As summarized in Table 1, the proposed zoning amendments are consistent with the Milpitas General Plan. Specifically, the amendments implement Guiding Principle 2.a-G-3 and Implementing Policy 2.a-I-19 of the Land Use Element, which speak to the need to provide a variety of housing types suited to a range of household types (e.g. individuals, families) and income levels. The zoning amendments would also help to realize the intent of Goals C and D of the Housing Element, which call for the City to facilitate new housing production and support diversity and affordability in Milpitas' housing stock. Adoption of the proposed amendments to the zoning ordinance would make it easier, faster, and more cost-efficient for property owners to create ADUs and JADUs, which are typically smaller housing unit types that tend to be inherently more affordable. Adding more ADUs and JADUs within the City's existing neighborhoods would greatly help to meet local housing demand, especially for smaller households with lower- to moderate incomes such as students, single working individuals, and seniors.

In addition, consistent with Government Code Section 65852.2(a)(1)(C), the proposed zoning amendments include a provision stating that ADUs and JADUs are a residential use that is consistent with the existing general plan designation for the subject property.

2. The proposed amendment will not adversely affect the public health, safety and welfare.

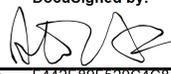
The proposed zoning amendments introduce new, streamlined review procedures and standards for ADUs and JADUs to ensure that future units are compatible with surrounding single-family residential uses and avoid potential impacts (e.g. to privacy and solar access) on adjacent properties. In this respect the amendments will serve to protect neighborhood character and property owner rights, thereby maintaining the public health, safety, and welfare.

SECTION 4: Planning Commission Action

The Planning Commission of the City of Milpitas hereby adopts Resolution No. 20-010 recommending that the City Council adopt Zoning Text Amendment ZA20-0003 based on the above Findings.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on May 13, 2020.

Resolution No. 20-010

DocuSigned by:

F442E89F520C4C8...

Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on May 13, 2020 and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Ricky Ablaza	✓			
Mercedes Albana	✓			
Tim Alcorn				
Evelyn Chua				
Bill Chuan				
Steve Belong				
Steve Tao	✓			



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Receive Report and Presentation on Application Process and Timeline for Development Projects
Category:	Community Development
Meeting Date:	6/2/2020
Staff Contact:	Sharon Goei, 408-586-3260
Recommendation:	Receive Report and Presentation on Application Process and Timeline for Development Projects

Background:

At the FY 2020-21 preliminary budget study session on January 28, 2020, the City Council reaffirmed its seven priority areas to guide budget development, heard the preliminary financial forecast, and provided input regarding the City’s fiscal policies and proposed community engagement plan. During the study session, a discussion about the application process for development projects was included in the budget presentation. Council requested more information about the development review process total length of time required to process planning and building permit applications.

Analysis:

To assist in understanding the City’s development review process, staff has prepared a presentation that provides: 1) an overview of the planning and building permit application process; 2) example timelines for processing development applications for different projects; 3) variables that affect the process timeline; and 4) streamlining efforts that staff has implemented or will be implementing to improve the process.

The presentation will graphically outline the overall application process and timeline for example projects. The graphs identify the initial planning review process followed by the building permit process. The graphs also demonstrate how the two primary components of the permit process: (1) the time for City staff to process and approve a project, and (2) the time for the applicant to prepare submittals and respond to City comments. The example timelines demonstrate that timeframes are often lengthened by the elapsed time between planning approval of a project and when the applicant submits a building permit application. The project examples illustrate that the applicant’s cumulative response time can vary widely. With much of the processing time falling under the applicant’s control, City teams have focused on streamlining and improving the segments of the project approval process under the City’s control.

Fiscal Impact:

Not applicable

California Environmental Quality Act:

The action being considered has no potential for causing a significant effect on the environment and is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3), which states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Recommendation:

Receive Report and Presentation on Application Process and Timeline for Development Projects.

City Council Meeting

Item # 12:

Application Process and Timeline for Development Projects

June 2, 2020

City of Milpitas

455 E. Calaveras Blvd., Milpitas, CA 95035
www.ci.milpitas.ca.gov • (408)-586-3000

Application Process

- Planning Application Process
 - Pre-application meetings with staff
 - Planning Application Submittal
 - City Review and Applicant Response
 - Planning – General Plan, Zoning, Specific Plans
 - Fire Prevention
 - Engineering – Land Development
 - Building – preliminary review
 - Other agencies (MUSD, VTA, Valley Water, etc.)
 - Environmental Review (CEQA)
 - Neighborhood Meeting(s)
 - Public Hearing(s) – Planning Commission/City Council

Application Process

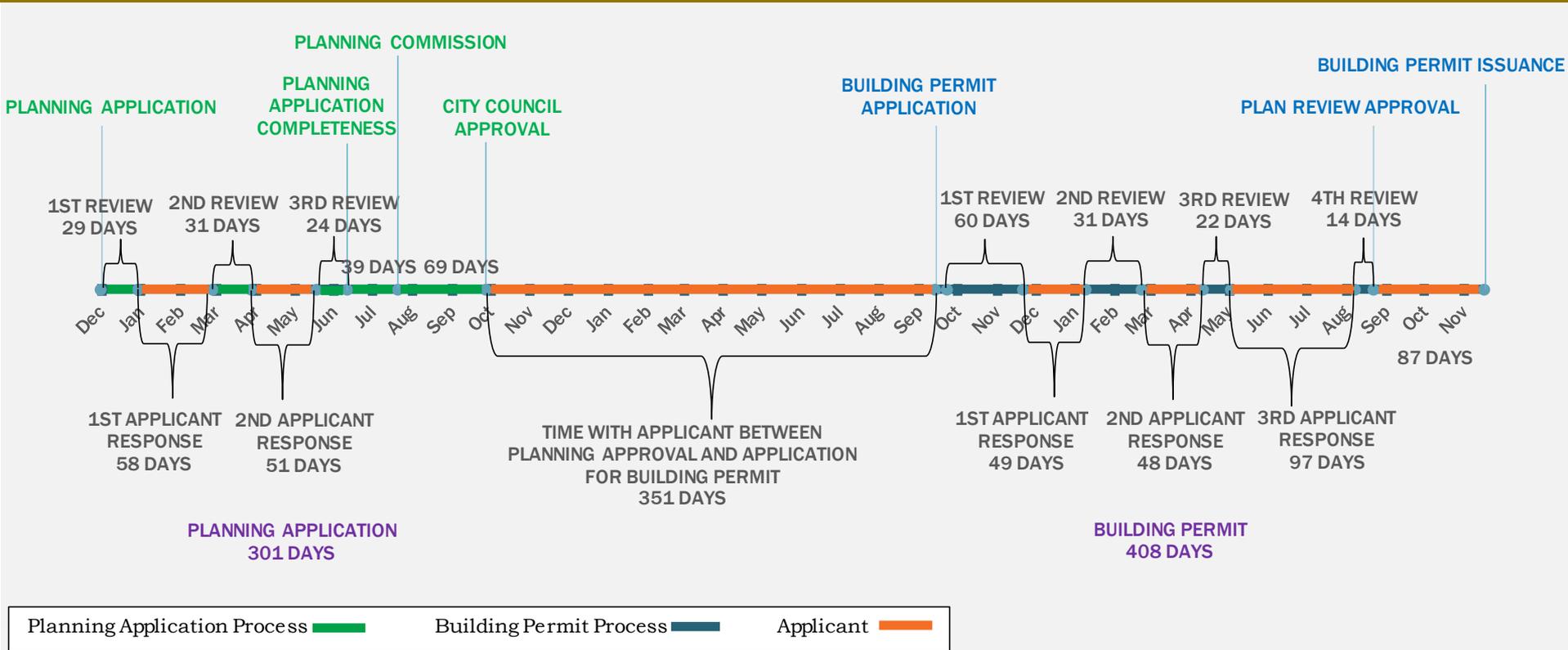
- Building Permit Application Process
 - Preliminary review with staff for complex projects
 - Building Permit Submittal
 - Detailed construction drawings, structural calculations, specifications
 - City Review and Applicant Response
 - Multiple departments and disciplines
 - Building – architectural, structural, electrical, mechanical, plumbing, energy efficiency, green building
 - Fire Prevention
 - Planning
 - Engineering – Land Development
 - Other agencies (County Health, BAAQMD, etc.)
 - Plan Review Approval
 - Building Permit Issuance

Process Timeline Variables

- Operational Constraints
 - Staff vacancies and turnover
 - Training for new staff
 - Priorities and special projects
- Application
 - Quality and completeness of submittals
 - Quality and completeness of responses; time for responses
 - Time between planning approval and building permit application
 - Complexity of project; level of CEQA required; code analysis
 - Outside agency approvals
 - Financing; construction planning
 - Time between plan review approval and building permit issuance

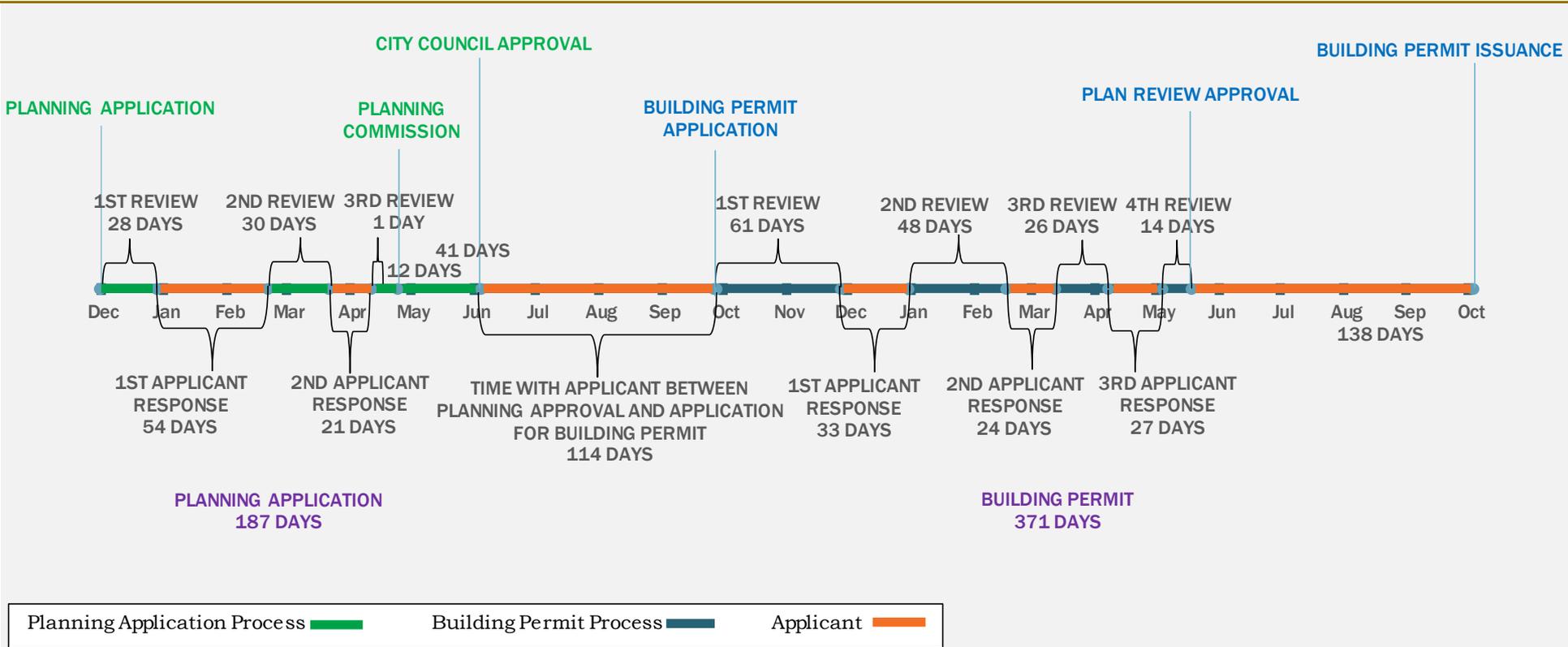
Example Application Timeline

- New Multifamily Townhome Development



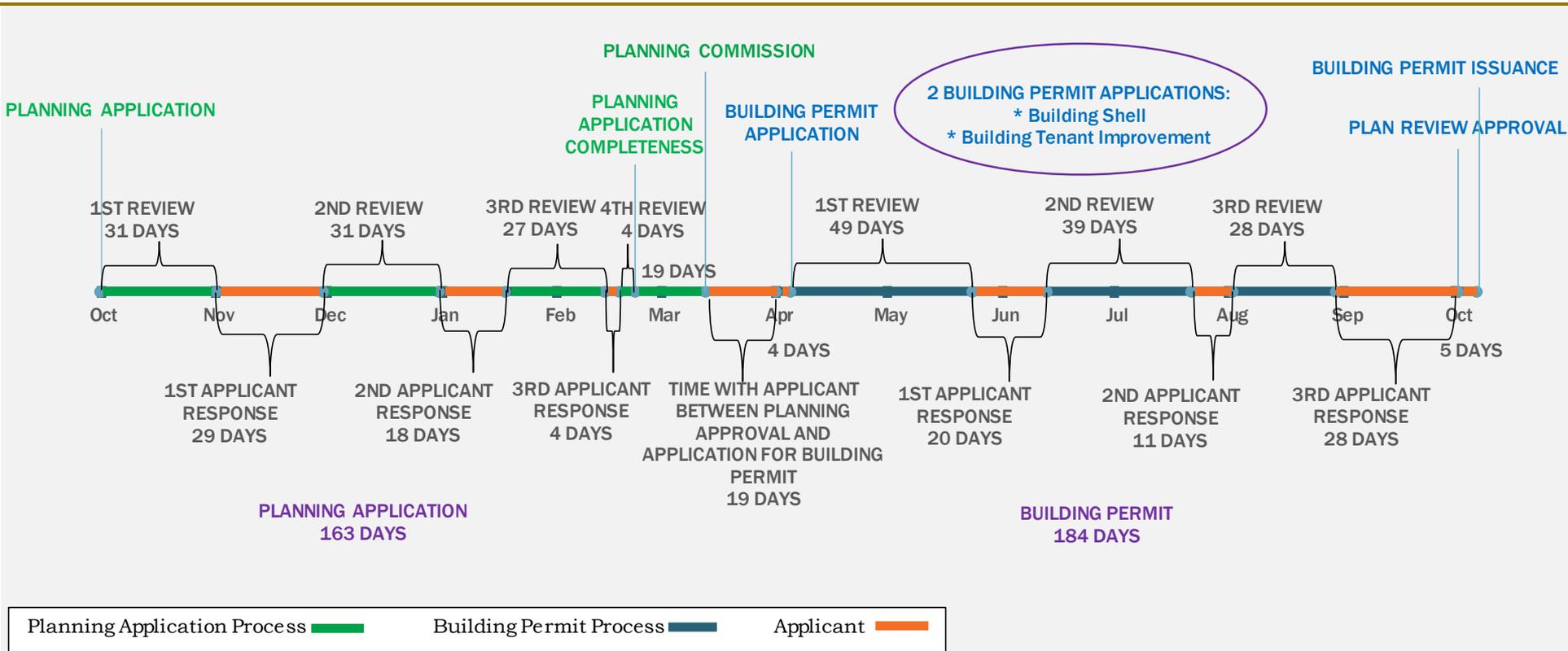
Example Application Timeline

- New Multifamily Large Apartment Project



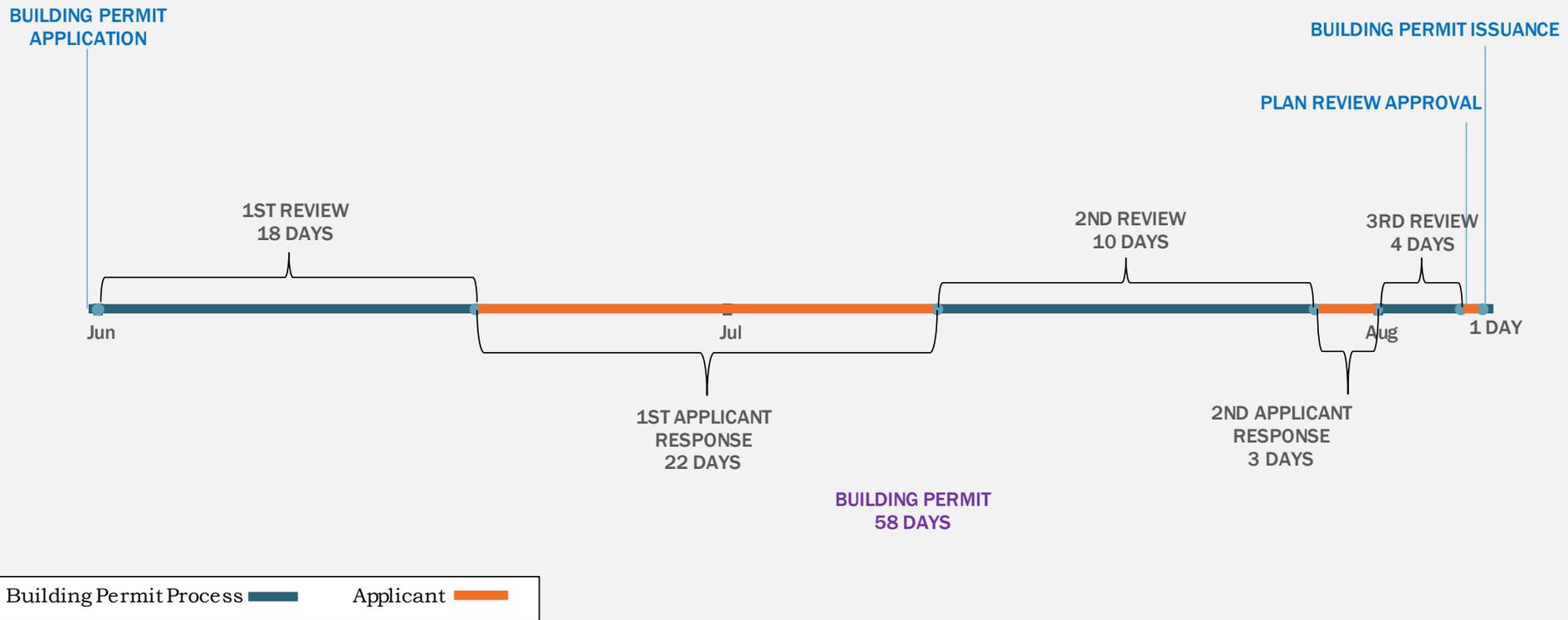
Example Application Timeline

- New Commercial Building

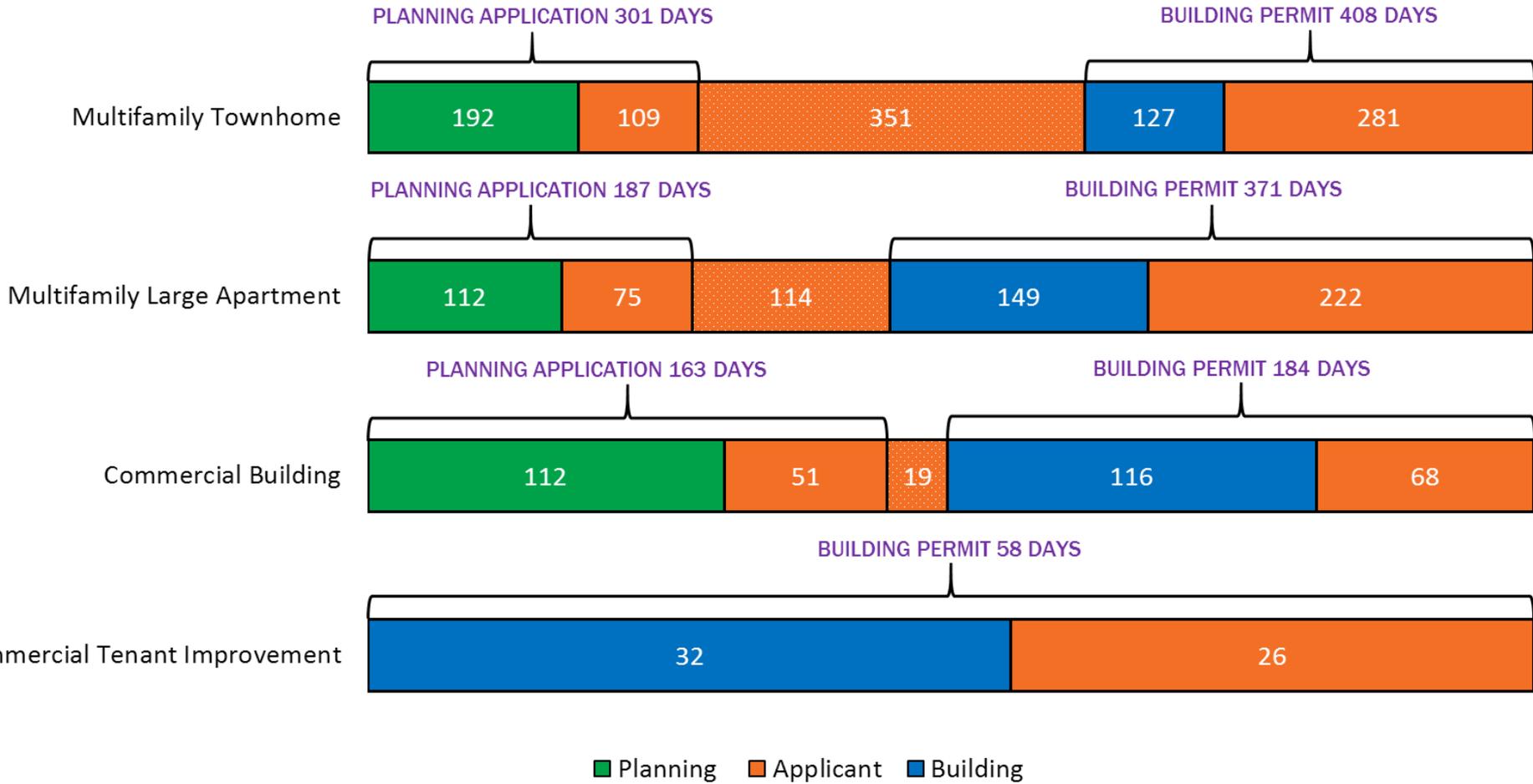


Example Application Timeline

- Commercial Tenant Improvement



Example Application Timeline



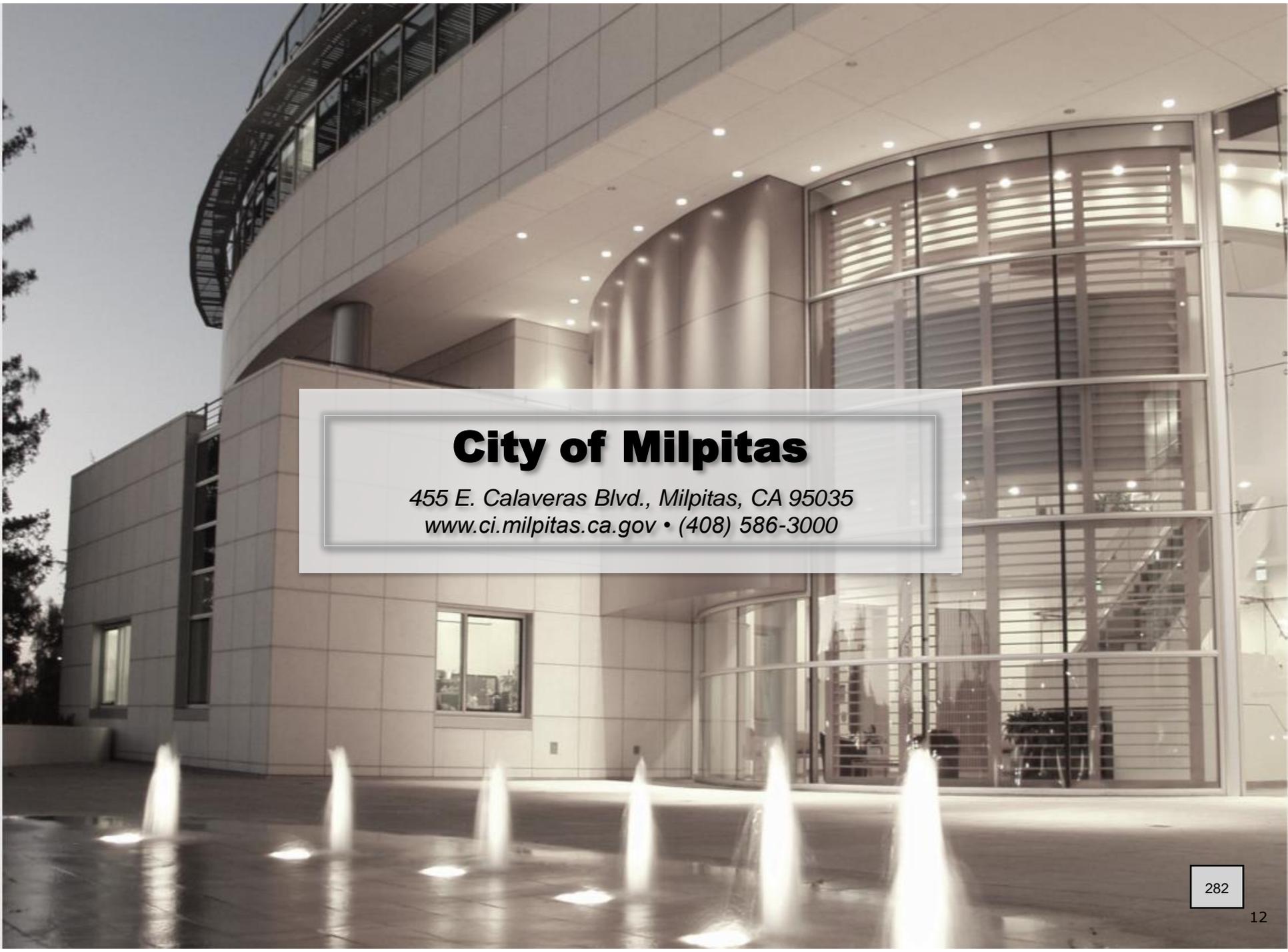
Process Streamlining

- Planning Application
 - Preliminary Review – Staff and Planning Commission
 - Zoning Administrator hearing process
 - Future zoning ordinance update
 - Concurrent review of Planning and Building Permit applications
- Building Permit
 - Express (over-the-counter) plan review; plan review by appointment; preliminary plan review
 - Electronic submittal and plan review
 - Project coordinator as single point of contact for applicants
 - Online building permits
 - Fee structure and fee calculation methodology streamlining
 - Submittal checklists; design guidelines

Recommendation

Receive report and presentation on application process and timeline for development projects.



A photograph of the City of Milpitas building at dusk. The building is a modern, curved structure with a light-colored facade and large glass windows. The interior lights are on, and the sky is a deep twilight blue. In the foreground, a fountain with several jets of water is illuminated from below, creating a shimmering effect on the wet pavement.

City of Milpitas

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HOUSING AUTHORITY AGENDA REPORT (AR)

Item Title:	Housing Authority: Approve and Authorize the Executive Director to execute a term extension to the predevelopment loan agreement entered into by Resources for Community Development and the City of Milpitas Housing Authority for 355 Sango Court
Category:	Consent Calendar-Community Development
Meeting Date:	5/19/2020
Staff Contact:	Sharon Goei, 408-586-3260; Robert Musallam, 408-586-3275
Recommendation:	Approve and Authorize the Executive Director to execute a term extension to the predevelopment loan agreement entered into by Resources for Community Development and the City of Milpitas Housing Authority for 355 Sango Court.

Background:

On November 7, 2017, the City Council/Milpitas Housing Authority approved a \$150,000 predevelopment loan from the Housing Authority Fund to assist with the predevelopment expenditures of the 355 Sango Court project. These funds were for architecture work, an appraisal, environmental studies, a land use attorney, and various engineering drawings and studies.

On November 29, 2017, the predevelopment loan agreement was entered into by Resources for Community Development (RCD), the developer of the project, and the City of Milpitas Housing Authority. The term of the loan was twenty-four months with a six-month extension, or such earlier date as the close of construction financing. Interest on the loan currently accrues at a rate of 3%.

On June 12, 2018, the City Council approved and entitled 355 Sango Court for 101 affordable units and one manager’s unit.

On October 31, 2019, in accordance with the original predevelopment loan agreement, RCD requested a six-month extension of the loan term. The Milpitas Housing Authority Executive Director accepted the request to extend the term of the agreement an additional six months to May 29, 2020. Recently, RCD requested to amend the term of the repayment agreement from twenty-four months to fifty-four months, or such earlier date as construction closing.

Analysis:

Per the terms of the proposed amendment to the predevelopment loan agreement, the loan shall have a term that expires fifty-four months from the agreement date, or such earlier date on which construction financing for the project is closed. This means the loan would be repaid by May 29, 2022, or the close of construction financing, whichever is earlier.

The developer’s request adds an additional twenty-four months to the existing term. However, the predevelopment loan with accrued interest would be paid back at the time construction financing is secured or the end of the loan period, whichever occurs first. The developer submitted the initial building permit application for this project near the end of 2019. Several recent updates from the developer indicate that they project to close on construction financing in November 2020 and to begin construction at that time. Assuming a November 2020 date, this would effectively represent an additional six-month extension of the current term expiration date of May 29, 2020.

Per the developer, they anticipate closing on construction financing in November 2020, but closing is dependent on receiving an award for tax credits and bonds. They note that previously, bond financing was non-competitive but has now become a competitive process. If the developer does not receive an allocation in August 2020, when the allocations are announced, they will need to re-apply for this funding next year. As a result, the additional time requested is to hedge against any further delays in financing and needing to request another extension. Please see Attachment C for an overview of the updated project schedule.

Staff's recommendation is for the Milpitas Housing Authority to approve and authorize the Executive Director to execute a term extension to the predevelopment loan agreement for 355 Sango Court.

Policy Alternative:

Alternative: Do not accept the extension request.

Pros: The City would soon add \$150,000 to the Housing Authority Fund.

Cons: The developer would have to produce the funds from an alternate, currently unknown funding source.

Sourcing additional funds could also result in a delay of the project.

Reason not recommended: It would assist the project for the City to extend the loan term and receive payment when the developer secures their construction financing.

Fiscal Impact:

Approving the recommendation means a \$150,000 payment into the Housing Authority Fund will be received by May 29, 2022, or the close of construction financing, whichever is earlier.

California Environmental Quality Act:

The action being considered has no potential for causing a significant effect on the environment and is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3), which states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Recommendation:

Approve and Authorize the Executive Director to execute a term extension to the predevelopment loan agreement entered into by Resources for Community Development and the City of Milpitas Housing Authority for 355 Sango Court.

Attachments:

- A. Amendment to Predevelopment Loan Agreement
- B. Predevelopment Loan Agreement
- C. Updated Project Schedule

**AMENDMENT TO PREDEVELOPMENT LOAN AGREEMENT
AND PROMISSORY NOTE**

This Amendment to Predevelopment Loan Agreement and Promissory Note (“Amendment”) is dated effective as of _____, 2020, by and between the City of Milpitas Housing Authority (“Authority”) and Resources for Community Development, a California nonprofit public benefit corporation (“Borrower”).

WHEREAS, Authority and Borrower entered into that certain Predevelopment Loan Agreement dated November 29, 2017 (the “Loan Agreement”), whereby Authority agreed to make a loan to Borrower in the amount of \$150,000 for the purpose of providing funds for certain predevelopment costs necessary for the development of the property located at 355 Sango Court, Milpitas, California (the “Property”); and

WHEREAS, Borrower executed a Promissory Note in the amount of \$150,000 (the “Note”) in favor of the Authority in connection with the Loan Agreement; and

WHEREAS, Authority and Borrower wish to amend the Loan Agreement as set forth herein; and

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. Section 1.3(a) of the Loan Agreement is hereby deleted in its entirety and replaced as follows:

(a) Term. The Authority Loan shall have a term (the "Term") that commences on the Agreement Date and expires on the date which is fifty-four (54) calendar months from the Agreement Date, or such earlier date on which construction financing for the Project is closed.

2. Section 3 of the Note is hereby deleted in its entirety and replaced as follows:

Term. The Authority Loan shall have a term (the "Term") that commences on the Agreement Date and expires on the date which is fifty-four (54) calendar months from the Agreement Date, or such earlier date on which construction financing for the Project is closed.

3. All capitalized terms used but not otherwise defined herein, shall have the meanings ascribed to them in the Loan Agreement.

4. Except as modified hereby, the Loan Agreement remains in full force and effect.

5. This Amendment may be signed in any number of counterparts, all of which taken together shall constitute one and the same instrument.

6. This Amendment shall be governed by, and construed and enforced in accordance with, the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date set forth above.

AUTHORITY:

THE CITY OF MILPITAS HOUSING AUTHORITY

By: _____
Steven G. McHarris,
Executive Director

APPROVED AS TO FORM

By: _____
Christopher J. Diaz,
Authority Counsel

BORROWER:

RESOURCES FOR COMMUNITY DEVELOPMENT,
a California nonprofit public benefit corporation

By: _____
Daniel Sawislak,
Executive Director

PREDEVELOPMENT LOAN AGREEMENT
355 Sango Court, Milpitas, CA

This Predevelopment Loan Agreement (the "Agreement") is entered into as of November 29, 2017 (the "Agreement Date"), by and between the City of Milpitas Housing Authority, ("Authority"), and **Resources for Community Development**, a California nonprofit public benefit corporation, or its assignee ("Borrower").

Recitals

A. Borrower and Ted Company LLC ("Owner") have entered into a Purchase and Sale Agreement dated as of January 26, 2017, as amended (the "Purchase Agreement") for the purchase of real property located at 355 Sango Court, Milpitas, California (the "Property"). The Borrower intends to acquire the Property and develop on the Property an approximately 100-unit affordable rental housing development (the "Project"). In order to qualify for County of Santa Clara Measure A funding, approximately twenty-five (25) of the units will be set aside for homeless veterans or other households which include at least one member who is homeless and disabled, and twenty-five (25) units will be set aside as Rapid Rehousing for individuals or families who are extremely low income (earning up to 30% of area median income) and who are homeless or at imminent risk of homelessness. The remaining units shall be rented to households earning no more than sixty percent (60%) of area median income.

B. On August 1 2017, the Authority approved a loan commitment of \$150,000 from the Milpitas Housing Authority Fund to pay for certain predevelopment costs necessary for the development of the Project.

C. The activities to be funded under this Agreement are excluded from review under the National Environmental Policy Act pursuant to 24 CFR 58.35(b)(6).

Agreements

In consideration of the terms and conditions of this Agreement, the parties hereto agree as follows:

ARTICLE 1 LOAN TERMS

Section 1.1 Loan.

(a) The Authority shall loan to the Borrower, and the Borrower shall borrow from the Authority, the principal amount of One Hundred Fifty Thousand Dollars (\$150,000) (the "Authority Loan") for the purposes set forth in Section 1.2 of this Agreement. The Authority Loan shall be evidenced by a Promissory Note in favor of the Authority (the "Authority Note") and secured by an assignment of collateral documents (the "Assignment of Collateral Documents"), each in form and content satisfactory to the parties. This Agreement, the Authority Note and Assignment of Collateral Documents are referred to collectively as the "Loan Documents."

(b) The outstanding principal balance of the Authority Loan shall bear interest at a simple rate of three percent (3%). In the event of a Default, interest on the Authority Loan shall begin to accrue on the date of the Default and continue until the Authority Loan is repaid in full or the Default is cured, at the default rate of the lesser of ten percent (10%), compounded annually, or the highest rate permitted by law.

Section 1.2 Use of Loan Funds

(a) "Predevelopment Budget" means the predevelopment budget, including a list of the activities to be funded by the proceeds of the Authority Loan (the "Predevelopment Activities"), the consultants performing such activities (the "Predevelopment Consultants"), , and sources and uses of funds for such activities, attached hereto and incorporated herein as Exhibit A, which may be amended with the approval of the Authority as set forth in Subsection (c). "Schedule" means the schedule for performance of the Predevelopment Activities, which may be amended with the approval of the Authority as set forth in Subsection (c).

(b) Borrower shall use the proceeds of the Authority Loan (the "Funds") to only pay for costs of the Predevelopment Activities, as such costs are incurred, in the amounts and for the cost items set forth in the Predevelopment Budget, unless the Authority's Executive Director or designee approves in writing the use of the Funds for another purpose. Borrower shall not use the Loan funds for any other purpose without the prior written consent of the Authority's Executive Director or designee.

(c) Borrower shall submit any revisions to Predevelopment Budget or the Schedule to the Authority's Executive Director or designee for approval within fifteen (15) days of the date Borrower receives information indicating that actual predevelopment costs or schedule for the Predevelopment Activities vary or will vary from the costs shown on the Predevelopment Budget or the dates shown in the Schedule, which approval shall not be unreasonably withheld. If the Authority's Executive Director or designee does not disapprove such revision(s) to the Predevelopment Budget or Schedule, as applicable, within ten (10) business days of submission by the Borrower, such revision(s) shall be deemed approved.

Section 1.3 Repayment

(a) Term. The Authority Loan shall have a term (the "Term") that commences on the Agreement Date and expires on the date which is twenty-four (24) calendar months from the Agreement Date, subject to Borrower's right to extend the Term for an additional six (6) months, as provided in the Note; or such earlier date as the close of construction financing for the Project.

(b) Payment in Full. Subject to Sections 1.3(c) (regarding Subsequent Authority Financing) and Sections 1.5 and 1.6 (regarding termination for an Infeasibility Condition), the entire principal balance of the Authority Loan and all accrued and unpaid interest shall be due in one lump sum upon the earliest of:

(i) Any Transfer of the Property and/or the Project other than a Transfer permitted or approved by the Authority as provided in Section 2.6;

(ii) The occurrence of a Default under this Agreement for which the Authority exercises its right to cause the Authority Loan to become immediately due and payable, or for which the Authority Loan is automatically specified to become immediately due and payable pursuant to applicable subsections of Article 3 below; or

(iii) The expiration of the Term without the Authority providing any Subsequent Authority Financing.

(c) Subsequent Authority Financing.

(i) In the event the Authority provides construction financing for the Project (the "Subsequent Authority Financing"), the principal balance of the Authority Loan plus all accrued and unpaid interest shall become part of the principal balance of the Subsequent Authority Financing. However, nothing in this Agreement is construed as a commitment by the Authority to provide any Subsequent Authority Financing, or a limitation on the Authority's discretion as to whether to provide any Subsequent Authority Financing.

(ii) It is anticipated that the County of Santa Clara will provide additional predevelopment funding for the Project which would also be secured by an Assignment of Collateral Documents. It is also anticipated that Subsequent Authority Financing would be secured by the Property by a deed of trust in a lien priority equal to that of any acquisition financing which might be provided by the County of Santa Clara. In both cases, the Subsequent Authority Financing and any such County financing would be repayable on a pro rata basis, based on the respective principal amounts of such financing, and would have equal rights to the security for their respective financing. It is anticipated that the Authority and the County would enter into an intercreditor agreement to describe their respective rights to repayment and to the collateral for their respective loans.

(d) Prepayment. Borrower may pay the principal and any interest due on the Authority Loan in advance of the time for payment thereof as provided in this Agreement, without penalty, at which time the Authority shall cancel the Authority Note and the Assignment of Collateral Documents.

Section 1.4 Conditions Precedent to Disbursements for Predevelopment Costs.

(a) The Authority shall not be obligated to make any disbursements of the Authority Loan unless the following conditions have been satisfied:

(i) There exists no Default nor any act, failure, omission or condition that would constitute an event of Default under this Agreement;

(ii) Borrower has executed and delivered to the Authority this Agreement, the Authority Note, and the Assignment of Collateral Documents.

(iii) Borrower has furnished the Authority with evidence of the insurance coverage meeting the requirements of Section 4.15 below.

(iv) The Authority has received a written draw request from Borrower setting forth the proposed uses of the funds consistent with the approved Predevelopment Budget, specifying the amount of funds needed. A copy of the bill or invoice documenting the expense shall be attached to the request.

(b) Subject to satisfaction of the conditions in Subsection (a), disbursements may be made for costs incurred by the Borrower both prior to and following the Agreement Date.

Section 1.5 Termination of Agreement for Infeasibility.

Upon the occurrence of an Infeasibility Condition, this Agreement may be terminated at any time during the Term in the Authority's sole discretion, and the Loan forgiven, subject to the requirements of Section 1.6 below. For purposes of this Agreement, "Infeasibility Condition" means a condition that is an impediment to development of the Project that is beyond the control of Borrower. Only the following conditions are Infeasibility Conditions:

(a) Borrower does not receive the discretionary permits and approvals (other than a building permit) including approvals required under CEQA and/or NEPA, necessary for the construction of the Project by the date set forth in the schedule of performance attached as Exhibit B (the "Schedule") (as such date may be extended), despite Borrower's good faith efforts to obtain such approvals;

(b) Borrower does not receive commitments of projected financial assistance or reasonable substitutions therefor, including grants and loans, necessary to construct the Project by the date set forth in the Schedule (as such date may be extended), despite Borrower's good faith efforts to obtain such funding;

(c) Borrower and the Authority determine that any environmental remediation work with respect to hazardous materials discovered on the Property is so costly as to make the Project economically infeasible.

(e) Borrower and the Authority determine that the Project as contemplated herein is infeasible, irrespective of any possible modifications which may be agreed to by the Authority.

Following termination under this Section 1.5 and Section 1.6, neither Party will have any rights or obligations under this Agreement, except that the provisions of Sections 4.4, 4.6 and 4.11 of this Agreement will survive such termination and remain in full force and effect.

Section 1.6 Forgiveness of Predevelopment Loan.

Upon the occurrence of an Infeasibility Condition, at the discretion of the Authority, the Authority Loan shall be forgiven upon termination of this Agreement pursuant to Section 1.5 above, subject to the following conditions:

(a) No Default has occurred and is continuing under this Agreement; and

(b) Borrower has taken all actions necessary to implement the Assignment of Collateral Documents and has delivered the Collateral Documents (as defined in the Assignment of Collateral Documents) to the Authority.

(c) The Borrower shall have provided written notice to the Authority of the Infeasibility Condition and the request to terminate this Agreement.

Section 1.7 Non-Recourse.

Except as provided below in this Section 1.7, neither the Borrower nor any officer, director, or partner of the Borrower shall have any direct or indirect personal liability for payment of the principal of, or interest on, the Authority Loan or the performance of the covenants of the Borrower under the Loan Documents. The sole recourse of the Authority with respect to the principal of, or interest on, the Authority Note and defaults by Borrower in the performance of its covenants under the Loan Documents shall be to the Assignment of Collateral Documents. The foregoing limitation of liability is intended to apply only to the obligation for the repayment of the principal of, and payment of interest on the Authority Note and the performance of the Borrower's obligations under the Loan Documents, except as hereafter set forth; nothing contained herein is intended to relieve the Borrower of its obligation to indemnify the Authority under this Agreement, or liability for (i) fraud or willful misrepresentation; or (ii) the misappropriation of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Property.

ARTICLE 2 LOAN REQUIREMENTS

Section 2.1 Information.

Borrower shall provide any information reasonably requested by the Authority in connection with the Project and Borrower's use of the Authority Loan funds.

Section 2.2 Records.

(a) Borrower shall maintain complete, accurate, and current records pertaining to the Project for a period of five (5) years after the creation of such records, and shall permit any duly authorized representative of the Authority to inspect and copy records. Such records shall include all invoices, receipts, and other documents related to expenditures from the Authority Loan funds. Records must be kept accurate and current.

(b) The Authority shall notify Borrower of any records it deems insufficient. Borrower shall have fifteen (15) calendar days after the receipt of such a notice to correct any deficiency in the records specified by the Authority in such notice, or if a period longer than fifteen (15) days is reasonably necessary to correct the deficiency, then Borrower shall begin to correct the deficiency within fifteen (15) days and correct the deficiency as soon as reasonably possible.

Section 2.3 Audits.

Borrower shall make available for examination at reasonable intervals and during normal business hours to Authority all books, accounts, reports, files, and other papers or property with respect to all matters covered by this Agreement, and shall permit Authority to audit, examine, and make excerpts or transcripts from such records. Authority may make audits of any conditions relating to this Agreement.

Section 2.4 Nondiscrimination.

The Borrower covenants by and for itself and its successors and assigns that there shall be no discrimination against or segregation of a person or of a group of persons on account of race, color, religion, creed, age, disability, sex, sexual orientation, marital status, ancestry or national origin in the performance of the activities described in this Agreement or the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall the Borrower or any person claiming under or through the Borrower establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the Property. The foregoing covenant shall run with the land.

Section 2.5 Transfer.

(a) For purposes of this Agreement, "Transfer" shall mean any sale, assignment, or transfer, whether voluntary or involuntary, of (i) any rights and/or duties under this Agreement, and/or (ii) any interest in the Project, including (but not limited to) a fee simple interest, a joint tenancy interest, a life estate, a partnership interest, a leasehold interest, a security interest, or an interest evidenced by a land contract by which possession of the Project is transferred and Borrower retains title. The term "Transfer" shall exclude (1) the leasing of any single unit in the Project to an occupant in compliance with the Loan Documents, or (2) the granting of a security interest that is specifically authorized by this Agreement.

(b) Notwithstanding Subsection (a), none of the following shall constitute a “Transfer” under this Section:

- (i) Borrower’s transfer of the Loan Documents or the Purchase Agreement to a nonprofit public benefit corporation affiliated with the Borrower or to a limited partnership or limited liability company of which Borrower or an affiliated nonprofit public benefit corporation or limited liability company is the general partner or managing member pursuant to assignment documents reasonably acceptable to the Authority;
- (ii) the admission of a limited partner of Borrower in connection with the tax credit syndication of the Project;
- (iii) the execution and delivery by Borrower’s general partner of the purchase option and right of first refusal agreement to be described in Borrower’s partnership agreement; or
- (iv) the withdrawal, removal, and/or replacement of a general partner of the Borrower pursuant to the terms of the Borrower’s partnership agreement, provided that any required substitute general partner is reasonably acceptable to the Authority and is selected with reasonable promptness.

(c) No Transfer shall be permitted without the prior written consent of the Authority, which the Authority may withhold in its sole discretion. The Authority Loan shall automatically accelerate and be due in full upon any unauthorized Transfer.

Section 2.6 Insurance Requirements.

Borrower shall maintain, or cause its consultants performing the Predevelopment Activities to maintain the following insurance coverage throughout the Term of the Loan:

(a) Workers' Compensation insurance to the extent required by law, including Employer's Liability coverage, with limits not less than One Hundred Thousand Dollars (\$100,000) each accident.

(b) Commercial General Liability insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence combined single limit for Bodily Injury and Property Damage, including coverage for Contractual Liability, Personal Injury, Broadform Property Damage, and Products and Completed Operations.

(c) Comprehensive Automobile Liability insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence combined single limit for Bodily Injury and Property Damage, including coverage for owned, non-owned and hired vehicles, as applicable; provided, however, that if Borrower does not own or lease vehicles for purposes of this Agreement, then no automobile insurance shall be required.

(d) If applicable, professional liability insurance insuring Borrower’s consultants against professional errors and omissions for the specific professional services provided under this agreement, in an amount not less than \$1,000,000 each occurrence. If such professional

liability insurance is provided on a "claims made" policy form, Consultant shall also maintain a policy retroactive date which is not later than the effective date of this agreement and such retroactive date shall be maintained for at least two years following cessation of all professional services provided under this agreement.

(e) The required insurance shall be provided under an occurrence form (except as permitted with respect to professional liability insurance under Subsection (d)), and Borrower shall maintain such coverage continuously throughout the Term. Should any of the required insurance be provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit shall be two times the occurrence limits specified above.

(f) Commercial General Liability and Comprehensive Automobile Liability insurance policies shall be endorsed to name as an additional insured the Authority, and its officers, agents, employees and members of the Housing Authority Commission.

(g) All policies and bonds shall contain (i) the agreement of the insurer to give the Authority at least thirty (30) days' notice prior to cancellation (including, without limitation, for non-payment of premium) or any material change in said policies; (ii) an agreement that such policies are primary and non-contributing with any insurance that may be carried by the Authority; (iii) a provision that no act or omission of Borrower shall affect or limit the obligation of the insurance carrier to pay the amount of any loss sustained; and (iv) a waiver by the insurer of all rights of subrogation against the Authority and its authorized parties in connection with any loss or damage thereby insured against.

(h) The Borrower shall cause any general contractor, agent, or subcontractor working on the Project under direct contract with the Borrower to maintain insurance of the types and in at least the minimum amounts described above other than property insurance.

ARTICLE 3 DEFAULT AND REMEDIES

Section 3.1 Events of Default.

Each of the following shall constitute a "Default" by Borrower under this Agreement:

(a) Failure to Make Payment. Failure to make any payment due on the Authority Loan within ten (10) days of receipt of written notice from the Authority that such payment is due pursuant to the Loan Documents.

(b) Breach of Covenants. Failure by Borrower to duly perform, comply with, or observe any of the conditions, terms, or covenants of any of the Loan Documents, and such failure having continued uncured for thirty (30) days after receipt of written notice thereof from the Authority to the Borrower. If the breach is of a nature that cannot be cured within thirty (30) days, the Borrower shall not be in breach so long as Borrower is diligently undertaking to cure such breach and such breach is cured within ninety (90) days; provided, however, that if a

different period or notice requirement is specified under any other section of this Article 3, the specific provisions shall control.

(c) Insolvency. A court having jurisdiction shall have made or entered any decree or order (i) adjudging Borrower to be bankrupt or insolvent, (ii) approving as properly filed a petition seeking reorganization of Borrower or seeking any arrangement for Borrower under the bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction, (iii) appointing a receiver, trustee, liquidator, or assignee of Borrower in bankruptcy or insolvency or for any of its properties, (iv) directing the winding up or liquidation of Borrower, if any such decree or order described in clauses (i) to (iv), inclusive, shall have continued unstayed or undischarged for a period of ninety (90) days; or (v) Borrower shall have admitted in writing its inability to pay its debts as they fall due or shall have voluntarily submitted to or filed a petition seeking any decree or order of the nature described in clauses (i) to (iv), inclusive. The occurrence of any of the events of Default in this paragraph shall act to accelerate automatically, without the need for any action by the Authority, the indebtedness evidenced by the Authority Note

(e) Assignment; Attachment. Borrower shall have assigned its assets for the benefit of its creditors or suffered a sequestration or attachment of or execution on any substantial part of its property, unless the property so assigned, sequestered, attached or executed upon shall have been returned or released within ninety (90) days after such event or, if sooner, prior to sale pursuant to such sequestration, attachment, or execution. The occurrence of any of the Defaults in this subsection shall act to accelerate automatically, without the need for any action by the Authority, the indebtedness evidenced by the Authority Note.

(f) Suspension; Termination. Borrower shall have voluntarily suspended its business.

(g) Unauthorized Transfer. Any Transfer other than as permitted by Section 2.5.

(h) Representation or Warranty Incorrect. Any Borrower representation or warranty contained in this Agreement, or in any application, financial statement, certificate, or report submitted to the Authority in connection with any of the Loan Documents, proving to have been incorrect in any material respect when made. After issuance of the Certificate of Completion, Default may be declared under this subsection only if the failure of representation or warranty also has a material adverse effect on the operation of the Project.

Section 3.2 Remedies.

The occurrence of any Default hereunder following the expiration of all applicable notice and cure periods will, either at the option of the Authority or automatically where so specified, relieve the Authority of any obligation to make or continue the Authority Loan and shall give the Authority the right to proceed with any and all remedies set forth in this Agreement and the Loan Documents, including but not limited to the following:

(a) Acceleration of Note. The Authority shall have the right to cause all indebtedness of the Borrower to the Authority under this Agreement and the Authority Note, together with any

accrued interest thereon, to become immediately due and payable. The Borrower waives all right to presentment, demand, protest or notice of protest or dishonor. The Borrower shall be liable to pay the Authority on demand all reasonable expenses, costs and fees (including, without limitation, reasonable attorney's fees and expenses) paid or incurred by the Authority in connection with the collection of the Authority Loan and the preservation, maintenance, protection, sale, or other disposition of the security given for the Authority Loan.

(b) Specific Performance. The Authority shall have the right to mandamus or other suit, action or proceeding at law or in equity to require Borrower to perform its obligations and covenants under the Loan Documents or to enjoin acts on things which may be unlawful or in violation of the provisions of the Loan Documents.

(c) Right to Cure at Borrower's Expense. Subject to the required consent of an applicable lender, the Authority shall have the right (but not the obligation) to cure any monetary default by Borrower under a loan related to the Project other than the Authority Loan. The Borrower agrees to reimburse the Authority for any funds advanced by the Authority to cure a monetary default by Borrower upon demand therefor, together with interest thereon at the lesser of the maximum rate permitted by law or ten percent (10%) per annum from the date of expenditure until the date of reimbursement.

(d) Assignment of Collateral Documents. Upon the occurrence of any Default, the Authority may exercise all remedies available under the Assignment of Collateral Documents.

Section 3.3 Right of Contest.

Borrower shall have the right to contest in good faith any claim, demand, levy, or assessment the assertion of which would constitute a Default hereunder. Any such contest shall be prosecuted diligently and in a manner unprejudicial to the Authority or its rights hereunder.

Section 3.4 Remedies Cumulative.

No right, power, or remedy given to the Authority by the terms of this Agreement or the Loan Documents is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given to the Authority by the terms of any such instrument, or by any statute or otherwise against Borrower and any other person. Neither the failure nor any delay on the part of the Authority to exercise any such rights and remedies shall operate as a waiver thereof, nor shall any single or partial exercise by the Authority of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

ARTICLE 4 GENERAL PROVISIONS

Section 4.1 Relationship of Parties.

Nothing contained in this Agreement shall be interpreted or understood by any of the Parties, or by any third persons, as creating the relationship of employer and employee, principal

and agent, limited or general partnership, or joint venture between the Authority and Borrower or its agents, employees or contractors, and Borrower shall at all times be deemed an independent contractor and shall be wholly responsible for the manner in which it or its agents, or both, perform the services required of it by the terms of this Agreement. Borrower has and retains the right to exercise full control of employment, direction, compensation, and discharge of all persons assisting in the performance of services under the Agreement. In regard to the acquisition of the Property, construction of the Improvements, and operation of the Project, Borrower shall be solely responsible for all matters relating to payment of its employees, including compliance with Social Security, withholding, and all other laws and regulations governing such matters, and shall include requirements in each contract that contractors shall be solely responsible for similar matters relating to their employees. Borrower shall be solely responsible for its own acts and those of its agents and employees.

Section 4.2 No Claims.

Nothing contained in this Agreement shall create or justify any claim against the Authority by any person that Borrower may have employed or with whom Borrower may have contracted relative to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to the lease of the Property, the construction of the Project, or the operation of the Project, and Borrower shall include similar requirements in any contracts entered into for the lease of the Property, the construction of the Improvements, or the operation of the Project.

Section 4.3 Amendments.

No alteration or variation of the terms of this Agreement shall be valid unless made in writing by the Parties. The Authority acknowledges that the Borrower and/or tax credit investor may require amendments to the Loan Documents in connection with any tax credit syndication of the Project. The Authority agrees to amend the Loan Documents as reasonably required as a condition of the tax credit syndication of the Project.

Section 4.4 Indemnification.

The Borrower shall indemnify, defend and hold the Authority, its officers, officials, employees, agents and volunteers harmless against all claims, liabilities, losses and judgments made against it and expenses (including reasonable attorneys' fees) which arise out of or in connection with the Borrower's activities under this Agreement, , except to the extent such claim arises from the grossly negligent or willful misconduct of the Authority, its officers, officials, employees, agents and volunteers. The provisions of this Section 4.4 shall survive the expiration of the Term.

Section 4.5 Non-Liability of Authority Officials, Employees and Agents.

No member, official, employee, officer, volunteer or agent of the Authority shall be personally liable to Borrower in the event of any default or breach by the Authority or for any

amount which may become due to Borrower or its successor or on any obligation under the terms of this Agreement.

Section 4.6 No Third-Party Beneficiaries.

There shall be no third-party beneficiaries to this Agreement.

Section 4.7 Discretion Retained by Authority.

The Authority's execution of this Agreement in no way limits the discretion of the Authority or the Authority in the permit and approval process in connection with development of the Project.

Section 4.8 Notices, Demands and Communications.

All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, or electronic mail, shall be deemed received upon (i) if personally delivered, the date of delivery to the address of the person to receive such notice, (ii) if mailed, three (3) business days after the date of posting by the United States post office, (iii) if delivered by overnight delivery, one (1) business day after mailing, and (iv) if given by electronic mail, when sent. Any notice, request, demand, direction or other communication sent by electronic mail must be confirmed by letter mailed or delivered within two (2) business days of such electronic mail notice in accordance with subsection (i), (ii) or (iii).

To the Authority:

Executive Director
Milpitas Housing Authority
455 E. Calaveras Blvd.
Milpitas, CA 95035

To the Borrower:

Resources for Community Development
2220 Oxford Street
Berkeley, CA 94704
Attention: Executive Director
Email: Dsawislak@rcdhousing.org

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected Party may from time to time designate by mail as provided in this Section. Receipt shall be deemed to have occurred on the date shown on a written receipt as the date of delivery or refusal of delivery (or attempted delivery if undeliverable).

Section 4.9 Applicable Law.

This Agreement shall be governed by California law.

Section 4.10 Parties Bound.

Except as otherwise limited herein, the provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their heirs, executors, administrators, legal representatives, successors, and assigns. This Agreement is intended to run with the land and shall bind Borrower and its successors and assigns in the Property and the Project for the entire Term, and the benefit hereof shall inure to the benefit of the Authority and its successors and assigns.

Section 4.11 Attorneys' Fees.

If any lawsuit is commenced to enforce any of the terms of the Loan Documents, the prevailing Party will have the right to recover its reasonable attorneys' fees and costs of suit from the other Party.

Section 4.12 Severability.

If any term of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

Section 4.13 Force Majeure.

In addition to specific provisions of this Agreement, performance by either Party shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; quarantine restrictions; freight embargoes; lack of transportation; or court order; or any other similar causes (other than lack of funds of Borrower or Borrower's inability to finance the construction of the Project) beyond the control or without the fault of the Party claiming an extension of time to perform. An extension of time for any cause will be deemed granted if notice by the Party claiming such extension is sent to the other within ten (10) days from the commencement of the cause and such extension of time is not rejected in writing by the other Party within ten (10) days of receipt of the notice. In no event shall the Authority be required to agree to cumulative delays in excess of one hundred eighty (180) days.

Section 4.14 Authority Approval.

Except as otherwise specifically provided in this Agreement, whenever this Agreement calls for Authority approval, consent, or waiver, the written approval, consent, or waiver of _____ or designee shall constitute the approval, consent, or waiver of the Authority, without further authorization required from the Authority.

Section 4.15 Waivers.

Any waiver by the Authority of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by the Authority to take action on any breach or Default of Borrower or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to Borrower to perform any obligation under this Agreement shall not operate as a waiver or release from any of its obligations under this Agreement. Consent by the Authority to any act or omission by Borrower shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for the Authority's written consent to future waivers.

Section 4.16 Entire Understanding of the Parties

This Agreement constitutes the entire understanding and agreement of the Parties with respect to the Authority Loan.

Section 4.17 Multiple Originals; Counterpart.

This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

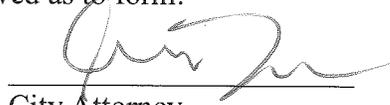
WHEREAS, this Agreement has been entered into by the undersigned as of the Agreement Date.

AUTHORITY:
THE CITY OF MILPITAS HOUSING AUTHORITY

By:  _____

Title: INTERIM CITY MANAGER / EXEC. DIR.

Approved as to form:

By:  _____
City Attorney

BORROWER:

RESOURCES FOR COMMUNITY DEVELOPMENT, a
California nonprofit public benefit corporation

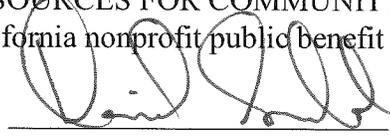
By:  _____
Daniel Sawislak
Executive Director

EXHIBIT A
Predevelopment Budget

Sango Court, Milpitas

Predevelopment Budget	
Architecture	66,611.00
Appraisal	4,000.00
Phase I, II Environmental, CEQA Studies	37,250.21
Land Use Attorney	187.00
Engineering	21,951.79
City Fees	20,000.00
Total Budget	150,000.00

EXHIBIT B
Schedule

Date	Milestone	Achieved?
January 2017	Site Control	Yes
July 2017	Submit preliminary planning application to city	Yes
August 2017	Predevelopment funding commitment from city	Yes
September 2017	Submit final planning application to city	Yes
October 2017	Community engagement	In process
March 2018	Planning approvals	
June 2018	Apply for funding for VHHP and HOME Funds	
July 2018	Submit plans and applications for plan check and building permit	
September 2018	Apply for 4% credits	
March 2019	Construction Loan/Syndication Closing	
March 2019	Begin construction	
September 2020	Complete construction	
December 2020	100% Occupancy	

Attachment C – Updated Project Schedule – 355 Sango Court

Date	Milestone	Achieved?
Jan-17	Site Control	Yes
Aug-17	Predevelopment funding commitment from City	Yes
Feb-18	Community Engagement	Yes
Jun-18	Planning Approvals	Yes
Feb-19	HOME Funding Award	Yes
May-19	Construction and Permanent funding commitment from City	Yes
Nov-19	MHP Funding Award	Yes
Dec-19	Submit Plans and applications for Plan Check and Building Permit	Yes
May-20	Apply for 4% Credits and Bonds	Yes
Nov-20	Construction Loan/ Syndication Closing	
Nov-20	Begin Construction	
May-22	Complete Construction	
Sep-22	100% Occupancy	



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve and Authorize the City Manager to Execute Amendment No. 1 to the Agreement with De Novo Planning Group for the General Plan Update Extending the Term of Service Date from February 28, 2019 to December 31, 2021
Category:	Consent Calendar-Community Development
Meeting Date:	5/19/2020
Staff Contacts:	Jessica Garner, Planning Manager, 408-586-3284 Chris Schroeder, Purchasing Agent, 408-586-3161
Recommendation:	Approve and authorize the City Manager to execute Amendment No. 1 to the agreement with De Novo Planning Group for the General Plan update to extend the term of service date from February 28, 2019 to December 31, 2021.

Background:

The City of Milpitas adopted its current General Plan in 1994. Over time, the General Plan has been amended several times to include the following:

- Incorporate the Midtown Specific Plan in 2002;
- Include the Transit Area Plan in 2008;
- Integrate the City’s Park and Recreation Master Plan and Bikeway Master Plan as well as to make minor revisions to update various exhibits, tables, and figures to include land use changes and reflect changing conditions in 2010; and,
- Update the Housing Element in 2015.

While the City has made various amendments to incorporate new planning documents, the City has grown and changed significantly since the last comprehensive update to the General Plan in 1994. Additionally, new laws affecting General Plans have been passed, new social and environmental issues have emerged, and new planning strategies and practices have been developed. These changes require a reevaluation of the existing General Plan and confirmation of the vision for Milpitas. The update also brings the General Plan into compliance with new laws related to climate change, multimodal transportation, and safety. This General Plan update looks ahead to the year 2040, making adjustments based on current issues and emergent trends, and positioning the City of Milpitas for high-quality growth and development over the next 20 to 25 years.

In 2016, the City Council directed staff to prepare a comprehensive update to the Milpitas General Plan. On May 9, 2016, De Novo Planning Group (De Novo) entered into a Consulting Services Agreement (Agreement) for a comprehensive General Plan update for the maximum amount of \$1,200,000.00, and with a term period of May 9, 2016 to February 28, 2019.

De Novo has been making steady progress toward completion of the General Plan update, including finalization of the remaining elements, completing the draft Plan and Draft Environmental Impact Report (DEIR) to be reviewed by the General Plan Advisory Committee and City Council prior to its release for public review and comment period in early summer. The DEIR will meet the requirements of the California Environmental Quality Act (CEQA) and provide thorough analysis of potential environmental impacts from implementation of the General Plan. The EIR will also provide the public, the Planning Commission, and the City Council with a useful tool to evaluate and consider the full impact of the updated General Plan on the overall community.

Analysis:

While preparing the General Plan Update, the following set of issues to be addressed by the update to the General Plan were identified by staff and confirmed by the City Council and Planning Commission:

- Land Use
- Housing (adopted in 2015)
- Circulation
- Noise
- Safety
- Conservation and Open Space
- Community Design
- Flood Management
- Parks and Recreation
- Water
- Community Health and Wellness
- Economic Development

The City Council appointed several community members to serve on a General Plan Advisory Committee (GPAC) to help guide the process. The GPAC held 12 meetings between June 2016 and October 2018. In addition to providing valuable feedback to the consultant team and staff on the Community Visioning workshops, Existing Conditions Report, and various draft policy sets, the GPAC also reviewed and discussed the draft Land Use Alternatives Report and provided recommendations to the Council.

On May 21, 2019, the Council reviewed the recommendations from the GPAC and provided direction to the consultant team and staff on a Preferred Land Use Map. The Council also requested additional analysis for those Opportunity Areas where opinions were varied and directed the consultant team and staff to return with clear recommendations for land uses in those areas.

On October 8, 2019, the consultant team and staff provided land use recommendations, received direction from the Council to finalize the Preferred Land Use Map.

On February 7, 2020, the Planning Director provided an Informational Memo to the City Council to confirm the direction given by the City Council at the study session held on October 8, 2019. Based on direction received from the City Council, De Novo is now moving forward with preparation of the draft General Plan Update document and DEIR. These draft documents will be presented to the GPAC and the City Council later this year for further consideration.

Major steps currently underway in the Plan Update process include finalizing the Goals, Policies, and Actions that comprise each of the General Plan Elements (chapters) and completing the environmental impact analysis required under the California Environmental Quality Act (CEQA). Staff expects to return to the Council for review and discussion after the draft General Plan Update document and DEIR are released later this summer. The draft General Plan Update and DEIR will also include additional community outreach and Planning Commission hearings before final consideration for City Council approval.

The original term of services in the Agreement to complete the General Plan update was February 28, 2019. Noting there has been a significant lapse in time since the expiration of the original Agreement, staff seeks to extend the term of the Agreement for an additional thirty-four months retroactively and amend the Scope of Services and Compensation Schedule accordingly to reflect the new completion deadline of the General Plan update to no later than December 31, 2021. This will allow ample time to for the consultants to complete all work on the General Plan update and any follow-up tasks related to initial implementation and recording of documents. It is important to note that during the last four months, the Finance Department has implemented a contract management database for active contracts originated in Purchasing alerting staff six months in advance regarding expiration of contracts. Since this contract expired over a year ago, this contract was not captured.

Following the City Council's initial review of the Draft General Plan, both the General Plan and DEIR will be released for a six-week public review and comment period. Members of the public will be invited to review and

comment on the documents. All public comments will then be presented to the City Council for their review and considerations during adoption hearings. A public workshop will be held during the public review period. The workshop will include an overview of the documents, provide an opportunity for the community to ask questions, and provide opportunities for feedback and input on the Draft General Plan and DEIR. The public review period is anticipated to occur in the summer of 2020. Following the review period, a Final Environmental Impact Report (FEIR) will be prepared by De Novo that responds to all public comments received, including amendments to the DEIR as necessary. The FEIR must be certified by the Council prior to or concurrent with adoption of the General Plan.

While De Novo has been making steady progress on the Plan update, neither the consultant nor City staff were aware of the significant lapse in the contract expiration. Despite the lapse, staff has been making steady progress towards completion of the lengthy project, regularly providing updates and seeking direction from the City Council on project milestones. During the past year, staff has processed invoices for De Novo and anticipates a completion date for the draft Plan and DEIR to be ready by late summer with a goal of certifying the FEIR and adopting the General Plan by Winter, 2020. To date, all consultant work has been completed on time in a satisfactory manner and within the budget and scope of the project. Staff is not requesting to increase the contract amount for the remaining deliverables, and an updated Scope of Services and budget, with completion dates for those items that have already been completed and anticipated delivery dates for all remaining deliverables, are included for the Council's review.

Policy Alternative:

Alternative: Deny the authorization of the amendment to extend the term of service for the Agreement to De Novo to complete the General Plan Update.

Pros: The expired contract would not require an amendment, and no further work on the Plan update would occur.

Cons: The General Plan Update is an approved City Council priority and nearing completion after several years of work and much anticipation in the community. Denying the amendment would require staff to request additional CIP funds to initiate a new General Plan Update, hire a new consultant, and restart the process. This would delay adoption of a much-needed General Plan Update by several years and nullify the significant work and progress achieved by both the City Council and the community.

Reason not recommended: The time and cost delays of halting the project and starting over again are neither cost-effective nor sensitive to the progress and achievements of the Plan update to date. The City should have an updated General Plan to guide future land use decisions.

Fiscal Impact:

There is no additional fiscal impact to the budget. The total not-to-exceed contract amount of \$1.2 million is fully encumbered and there's an unspent amount of approximately \$519,000 remaining in the contract.

California Environmental Quality Act:

The City will prepare a full Environmental Impact Report (EIR) as part of the General Plan Update project. The current phase of the overall process is not a project under CEQA.

Recommendation:

Approve and authorize the City Manager to execute Amendment No. 1 to the agreement with De Novo Planning Group for the General Plan update to extend the term of service date from February 28, 2019 to December 31, 2021.

Attachments:

- a) Amendment No. 1 to Agreement with De Novo Planning
- b) 2016 Executed Agreement with De Novo



**AMENDMENT NO. 1
TO CONSULTING SERVICES AGREEMENT
WITH
DE NOVO PLANNING GROUP
FOR
CITY GENERAL PLAN UPDATE**

This Amendment No. 1 is entered into this _____ day of May 2020, by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "City"), and **De Novo Planning Group**, a California Corporation (hereafter referred to as "Consultant"). City and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Amendment No 1.

RECITALS

WHEREAS, on May 9, 2016, the Parties entered into a Consulting Services Agreement for the preparation of the City's General Plan Update (the "Agreement") in an amount not to exceed \$1,200,000.00, and with a term period of May 9, 2016 to February 28, 2019; and

WHEREAS, the Parties now desire to amend the Agreement by retroactively extending the term period expiration date of February 28, 2019 for an additional 34 months to December 31, 2021, and to amend the Scope of Services and Compensation Schedule accordingly.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, the Parties agree to amend the Agreement as follows:

1. Subsection 1.1 (Term of Services) is deleted and replaced in its entirety with the following:
 - 1.1 **Term of Services**. "The term of this Agreement shall begin on **May 9, 2016** and shall end on **December 31, 2021**, and Consultant shall complete all the work described in Exhibit A prior to that date, unless the term of the agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the City's right to terminate the Agreement, as provided for in Section 8."
2. Exhibit A (Scope of Services) to the Agreement is deleted and replaced with Exhibit A-1 (Scope of Services), attached hereto and incorporated herein.
3. Exhibit B (Compensation Schedule) to the Agreement is deleted and replaced with Exhibit B-1 (Compensation Schedule), attached hereto and incorporated herein.

4. All other provisions of the Agreement not amended by this Amendment No. 1 shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Amendment No. 1 as of the date first written above.

CITY OF MILPITAS

Approved By:

Steven G. McHarris, Interim City
Manager

Date

Approved As To Form:

Christopher J. Diaz, City Attorney

Approved:

Walter C. Rossmann, Risk
Manager/Director of Finance

Approved As To Content:

Ned Thomas, Planning Director

DE NOVO PLANNING GROUP

Signature

Name

Title

Date

DIR Registration Number (If
Applicable)

EXHIBIT A-1

SCOPE OF SERVICES

TASK 1

Consultant shall meet with staff to establish an initial three-month schedule of events and work product. The schedule shall be detailed by task and time and presented in CPM format. This initial three-month schedule shall be regularly updated such that within one week prior to the completion of the initial three-month work plan Consultant shall provide a detailed CPM schedule for the next three months for review by staff. This process shall continue through the time of this Agreement.

Completed (June 2016)

TASK 2

Consultant shall work with staff to prepare a report to the City Council recommending the constituents of a General Plan Advisory Group to provide advice and recommendations to the Consultants and staff regarding all aspects of the General Plan. Within this report, Consultant shall also prepare and provide a recommended schedule of meetings and topics for the Advisory Group. The Consultant shall also prepare and provide recommendations regarding other public meetings, such as with community groups, neighborhood associations, housing advocates, developers, outside agencies, and City Council and Planning Commission. Within this Task, Consultant shall also initiate design and implementation of a website and a community newsletter in coordination with City staff.

Completed (September 2016)

TASK 3

Consultant shall prepare an Existing Conditions Report that will serve as the baseline for programs and goals in the General Plan. The technical reports and analyses shall be coordinated with appropriate City staff, as determined by the Planning Director. At a minimum, the Existing Conditions Report shall provide information and data on the following areas:

- Land Use
- Population and Housing
- Economic Development
- Circulation
- Community Services and Facilities (including schools)
- Utilities
- Public Safety
- Parks and Recreation
- Noise
- Cultural Resources
- Conservation
- Hydrology

- Hazards and Hazardous Materials
- Biological Resources
- Air Quality
- Geology
- Mineral and other resources
- Aesthetics and Visual Resources

Completed (May 2017)

Task 4

Consultant shall prepare an Opportunities and Constraints Report based on public meetings, meetings with staff and other City representatives, and the Existing Conditions Report. The Report shall be structured with the topics to be included in the Final General Plan. The final topics and structure shall be those established with staff in Task 1. Within this Task, Consultant shall prepare a Land Use Alternatives report. The land use alternatives shall be evaluated with respect to each alternative's consistency with the vision expressed by the community and other specific factors and constraints as agreed to by staff. Within the Land Use Alternatives, consultant shall also prepare an Economic Analysis of the Land Use Alternatives evaluated and described within the Land Use Alternatives Report.

Completed (September 2018)

Task 5

Consultant shall prepare the new General Plan. The initial work product shall be an Administrative Draft for review and approval by staff. This Administrative Draft shall contain all elements and topics of the General Plan as agreed to in Task 1. Upon review and coordination with staff, Consultant shall prepare a screen-check Draft General Plan for presentation to the public at forums as agreed to by staff. Upon completion of a public review process, Consultant shall incorporate all comments and changes as directed by staff to prepare the Final General Plan document.

Ongoing

Task 6

Consultant shall prepare the Environmental Impact Report for the General Plan. Consultant shall prepare an Administrative Draft for review and approval by staff. Based on comments from staff, Consultant shall prepare a Draft Environmental Impact Report for public circulation. It shall be the responsibility of Consultant to assure circulation to reviewing agencies and other interested parties. Consultant shall assist staff in preparing and presenting the Report to the public through scoping sessions, Planning Commission hearings, and City Council hearings. Consultant shall prepare a Final Environmental Impact Report in conformance with the requirements of state law and assist staff in the completion of all administrative requirements associated with certification and recordation of the Final Report.

Ongoing

Task 7

Consultant shall coordinate with staff and the Milpitas Economic Development Commission directly, as the Steering Committee to prepare an Economic Development Strategic Plan based on the Fiscal Impact Report prepared as an integral portion of the General Plan. Consultant shall

1. Meet with the Commission at least five times during the development and completion of the Strategic Plan
2. Based on the Conditions and Trends report prepared as part of the Draft General Plan, conduct any additional research (e.g., interviews with stakeholders, business surveys, etc.), as directed by staff or the Commission
3. Prepare Draft Goals, Policies, Strategies Document
4. Revise Draft Strategic Plan, based on Commission, public, and staff comments and directions.
5. Prepare Final Strategic Plan Document

TBD. Start of this task is not yet authorized by City.

Additional Services

Upon written request by Consultant or staff work related to the project but not specifically anticipated in this Agreement, the Consultant may be requested to provide a specific request for funds and/or time. Staff will review such request and issue a written acceptance or denial.

Ongoing

EXHIBIT B-1

COMPENSATION SCHEDULE

Task 1	\$21,510
Task 2	\$126,910
Task 3	\$213,759
Task 4	\$128,690
Task 5	\$192,685
Task 6	\$201,090
Task 7	\$37,915
Administration	\$77,423
Additional Services/Contingency	\$200,018
Total Compensation	\$1,200,000

Funds may be shifted between Tasks upon written request by Consultant and written approval by staff, except no actions shall be taken that exceed the authorized funding of the entire project.

PROJECT NAME: City General Plan Update
PROJECT NO.: CIP # 3461

CITY COUNCIL APPROVAL
DATE: 04/05/16

**CONSULTING SERVICES AGREEMENT BETWEEN
THE CITY OF MILPITAS AND
DENOVO PLANNING GROUP**

THIS AGREEMENT for consulting services is made by and between the City of Milpitas ("City") and DeNovo Planning Group ("Consultant") as of May 09, 2016

AGREEMENT

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 **Term of Services.** The term of this Agreement shall begin on the date first noted above and shall end on February 28, 2019 the date of completion specified in Exhibit A, and Consultant shall complete all the work described in Exhibit A prior to that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the City's right to terminate the Agreement, as provided for in Section 8.
- 1.2 **Standard of Performance.** Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices its profession. Consultant shall prepare all work products required by this Agreement in a substantial, first-class manner and shall conform to the standards of quality normally observed by a person practicing in Consultant's profession.
- 1.3 **Assignment of Personnel.** Consultant shall assign only competent personnel to perform services pursuant to this Agreement. Exhibit A shall name any specific personnel who shall be performing services. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 **Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 1.1 above and to complete Consultant's obligations hereunder.

Section 2. COMPENSATION. City hereby agrees to pay Consultant a guaranteed maximum price not to exceed \$ 1,200,000.00 for all services to be performed and reimbursable costs incurred under this Agreement. City shall pay Consultant for services rendered pursuant to this Agreement at the time and in

the manner set forth herein. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Hourly rates for personnel performing services shall be as shown in Exhibit B. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 Invoices. Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred during the billing period. Invoices shall contain the following information:

- Serial identification of bills;
- The beginning and ending dates of the billing period;
- A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion, if applicable;
- At City's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
- The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder, as well as a separate notice when the total number of hours of work by Consultant and any individual employee, agent, or subcontractor of Consultant reaches or exceeds 800 hours, which shall include an estimate of the time necessary to complete the work described in Exhibit A;
- The Consultant's signature.

2.2 Monthly Payment. City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above and is otherwise acceptable to the City to pay Consultant. In the event that an invoice is not acceptable to the City, said invoice shall be returned to Consultant within thirty (30) days of the City's receipt of the invoice with a detailed explanation of the deficiency. City's obligation to pay a returned invoice shall not arise earlier than thirty (30) days after resubmission of the corrected invoice.

- 2.3 **Total Payment.** City shall pay for the services to be rendered by Consultant pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.

In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment. In the event that Consultant identifies additional work outside the scope of services specified in Exhibit A that may be required to complete the work required under this Agreement, Consultant shall immediately notify the City and shall provide a written not-to-exceed price for performing this additional work.

- 2.4 **Hourly Fees.** Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on Exhibit B.

- 2.5 **Reimbursable Expenses.** Reimbursable expenses are shown on Exhibit B, and shall not exceed Three Hundred Ninety Thousand Dollars (\$390,000.00). Expenses not listed in Exhibit B are not chargeable to City. Reimbursable expenses are included in the total not-to-exceed amount of compensation provided under this Agreement.

- 2.6 **Payment of Taxes.** Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any other applicable federal or state taxes.

- 2.7 **Payment upon Termination.** In the event that the City or Consultant terminates this Agreement pursuant to Section 8, the City shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets in order to verify costs incurred to that date. The City shall have no obligation to compensate Consultant for work not verified by logs or timesheets.

- 2.8 **Authorization to Perform Services.** The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of a written Notice to Proceed from the City.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

City shall furnish physical facilities such as desks, filing cabinets, public meeting venues, and conference space, as may be reasonably necessary for Consultant's use while conducting public meetings associated with the project, consulting with City employees and reviewing records and the information in possession of the City. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of City.

In no event shall City be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, cellular telephone, long-distance telephone, or other communication charges, vehicles, and reproduction facilities.

If the performance of the work specified in Exhibit A requires destructive testing or other work within the City's public right-of-way, Consultant, or Consultant's subconsultant, shall obtain an encroachment permit from the City.

Section 4. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Consultant shall procure "occurrence coverage" insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant and its agents, representatives, employees, and subcontractors. Consultant shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects to the City. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement and shall produce said policies to the City upon demand. The cost of such insurance shall be included in the Consultant's price. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution.

4.1 Workers' Compensation. Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per accident. In the alternative, Consultant may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the City Attorney. The insurer, if insurance is provided, or the Consultant, if a program of self-insurance is provided, shall waive all rights of subrogation against the City and its officers, officials, employees, and volunteers for loss arising from work performed under this Agreement.

An endorsement shall state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

4.2 Commercial General and Automobile Liability Insurance.

4.2.1 General requirements. Consultant, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an

Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

4.2.2 Minimum scope of coverage. Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (ed. 11/88) or Insurance Services Office form number GL 0002 (ed. 1/73) covering comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (ed. 12/90) Code 1 ("any auto"). No endorsement shall be attached limiting the coverage.

4.2.3 Additional requirements. Each of the following shall be included in the insurance coverage or added as an endorsement to the policy:

- a. City and its officers, employees, agents, contractors, consultants, and volunteers shall be covered as insureds with respect to each of the following: liability arising out of activities performed by or on behalf of Consultant, including the insured's general supervision of Consultant; products and completed operations of Consultant; premises owned, occupied, or used by Consultant; and automobiles owned, leased, or used by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City or its officers, employees, agents, contractors, consultants, or volunteers.
- b. The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- c. An endorsement must state that coverage is primary insurance with respect to the City and its officers, officials, employees, contractors, consultants, and volunteers, and that no insurance or self-insurance maintained by the City shall be called upon to contribute to a loss under the coverage.
- d. Any failure of CONSULTANT to comply with reporting provisions of the policy shall not affect coverage provided to CITY and its officers, employees, agents, and volunteers.

- e. An endorsement shall state that coverage shall not be suspended, voided, or canceled by either party, reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

4.3 Professional Liability Insurance. If Consultant shall be performing licensed professional services, Consultant shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) covering the licensed professionals' errors and omissions.

4.3.1 Any deductible or self-insured retention shall not exceed \$150,000 per claim.

4.3.2 An endorsement shall state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

4.3.3 The policy must contain a cross liability clause.

4.3.4 The following provisions shall apply if the professional liability coverages are written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least three years after completion of the Agreement or the work, unless waived in writing by the City.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant must provide extended reporting coverage for a minimum of five years after completion of the Agreement or the work. The City shall have the right to exercise, at the Consultant's sole cost and expense, any extended reporting provisions of the policy, if the Consultant cancels or does not renew the coverage.
- d. A copy of the claim reporting requirements must be submitted to the City prior to the commencement of any work under this Agreement.

4.4 Requirements for All Policies.

4.4.1 **Acceptability of insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A.

4.4.2 **Verification of coverage.** Prior to beginning any work under this Agreement, Consultant shall furnish City with certificates of insurance and with original endorsements effecting coverage required herein. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The City reserves the right to require complete, certified copies of all required insurance policies at any time.

4.4.3 **Subcontractors.** Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

4.4.4 **Deductibles and Self-Insured Retentions.** Consultant shall disclose to and obtain the approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement.

During the period covered by this Agreement, only upon the prior express written authorization of the City, Consultant may increase such deductibles or self-insured retentions with respect to City, its officers, employees, agents, contractors, consultants, and volunteers. The City may condition approval of an increase in deductible or self-insured retention levels with a requirement that Consultant procure a bond, guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to the City.

4.4.5 **Notice of Reduction in Coverage.** In the event that any coverage required by this section is reduced, limited, or materially affected in any other manner, Consultant shall provide written notice to City at Consultant's earliest possible opportunity and in no case later than five days after Consultant is notified of the change in coverage.

4.5 **Remedies.** In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;

- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
- Declare Consultant in material breach of the Agreement and terminate the Agreement.

4.6 **Waiver.** The Risk Manager of the City has the authority to waive or vary any provision of Sections 4.2 through 4.5. Any such waiver or variation shall not be effective unless made in writing.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES. Consultant shall indemnify, defend with counsel reasonably acceptable to the City, and hold harmless the City and its officials, officers, employees, agents, contractors, consultants, and volunteers from and against any and all losses, liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct or negligent acts or omissions of Consultant or its employees, subcontractors, or agents, by acts for which they could be held strictly liable, or by the quality or character of their work. The foregoing obligation of Consultant shall not apply when (1) the injury, loss of life, damage to property, or violation of law arises wholly from the negligence or willful misconduct of the City or its officers, employees, agents, contractors, consultants, or volunteers and (2) the actions of Consultant or its employees, subcontractor, or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law. It is understood that the duty of Consultant to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Section 6. STATUS OF CONSULTANT.

6.1 **Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3. Otherwise, City shall not have the right to control the means by which Consultant

accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

- 6.2 **Consultant No Agent.** Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 7. LEGAL REQUIREMENTS.

- 7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 **Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.
- 7.4 **Licenses and Permits.** Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to City that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions and to perform this Agreement. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid business license from City.
- 7.5 **Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this

Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the City or this Agreement.

Section 8. TERMINATION AND MODIFICATION.

- 8.1 Termination.** City may terminate this Agreement at any time and without cause upon written notification to Consultant.

In the event of termination, Consultant shall be entitled to compensation for services performed prior to the effective date of termination as provided in Section 2. City, however, may condition payment of such compensation upon Consultant delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or the City in connection with this Agreement.

- 8.2 Extension.** City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the City, City shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.

- 8.3 Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.

- 8.4 Assignment and Subcontracting.** City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the City. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors listed in the Consultant's proposal, without prior written approval of the City.

- 8.5 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant shall survive the termination of this Agreement.

8.6 Options upon Breach by Consultant. If Consultant materially breaches any of the terms of this Agreement, City's remedies shall include, but not be limited to, any or all of the following:

8.6.1 Immediate cancellation of the Agreement;

8.6.2 Retention of the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement prior to cancellation; and

8.6.3 Retention of a different consultant at Consultant's cost to complete the work described in Exhibit A not finished by Consultant.

Section 9. KEEPING AND STATUS OF RECORDS.

9.1 Records Created as Part of Consultant's Performance. All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Consultant hereby agrees to deliver those documents to the City at any time upon demand of the City. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. Failure by Consultant to deliver these documents to the City within the time period specified by the City shall be a material breach of this Agreement. City and Consultant agree that, until final approval by City, all data, plans, specifications, reports and other documents are preliminary drafts not kept by the City in the ordinary course of business and will not be disclosed to third parties without prior written consent of both parties.

9.2 Consultant's Books and Records. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.

9.3 Inspection and Audit of Records. Any records or documents that Section 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds TEN THOUSAND DOLLARS (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of three (3) years after final payment under the Agreement.

Section 10 **MISCELLANEOUS PROVISIONS.**

- 10.1 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Santa Clara or in the United States District Court for the Northern District of California.
- 10.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 **No Implied Waiver of Breach.** The waiver of performance or any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
- 10.6 **Use of Recycled Products.** Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 10.7 **Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

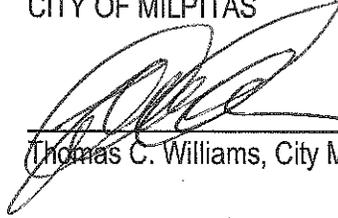
Consultant hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Consultant were an employee, agent, appointee, or official of the City in the previous twelve months, Consultant warrants that it did not participate in any manner in the forming of this

Agreement. Consultant understands that, if this Agreement is made in violation of Government Code §1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, may be disqualified from holding public office in the State of California.

Consultant certifies that it has not paid any direct or contingent fee, contribution, donation or consideration of any kind to any firm, organization, or person (other than a bona fide employee of Consultant) in connection with procuring this Agreement, nor has Consultant agreed to employ or retain any firm, organization, or person in connection with the performance of this Agreement as a condition for obtaining this Agreement.

- 10.8 Solicitation.** Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.
- 10.9 Contract Administration.** This Agreement shall be administered by the Director of Planning who is authorized to act for, and on behalf of, City. All correspondence shall be directed to or through the Contract Administrator or his or her designee.
- 10.10 Notices.** Any written notice to Consultant shall be sent to:
- Ben Ritchie
De Novo Planning Group
1020 Suncastr Lane, Suite 106
El Dorado Hills, CA 95762
- Any written notice to City shall be sent to:
Director of Planning
455 East Calaveras Boulevard
Milpitas, California 95035
- 10.11 Professional Seal.** Where applicable in the determination of the City, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.
- 10.12 Integration.** This Agreement, including the exhibits, represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.
- 10.13 Exhibits.** All exhibits referenced in this Agreement are incorporated by reference herein.

CITY OF MILPITAS


Thomas C. Williams, City Manager

CONSULTANT


BEN RITCHIE, Principal

APPROVED AS TO CONTENT:


Bill Ekern
Interim Director of Planning & Neighborhood Services

26-2962235
Taxpayer Identification Number

City of Milpitas Business License Number

APPROVED AS TO FORM:

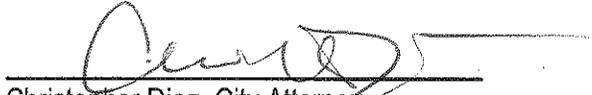

Christopher Diaz, City Attorney

EXHIBIT A

SCOPE OF SERVICES

TASK 1

Consultant shall meet with staff to establish an initial three-month schedule of events and work product. The schedule shall be detailed by task and time and presented in CPM format. This initial three-month schedule shall be regularly updated such that within one week prior to the completion of the initial three-month work plan Consultant shall provide a detailed CPM schedule for the next three months for review by staff. This process shall continue through the time of this Agreement. (within 1 week of execution)

TASK 2

Consultant shall work with staff to prepare a report to the City Council recommending the constituents of a General Plan Advisory Group to provide advice and recommendations to the Consultants and staff regarding all aspects of the General Plan. Within this report, Consultant shall also prepare and provide a recommended schedule of meetings and topics for the Advisory Group. The Consultant shall also prepare and provide recommendations regarding other public meetings, such as with community groups, neighborhood associations, housing advocates, developers, outside agencies, and City Council and Planning Commission. Within this Task, Consultant shall also initiate design and implementation of a website and a community newsletter in coordination with City staff. (within 45 days of Task 1)

TASK 3

Consultant shall prepare an Existing Conditions Report that will serve as the baseline for programs and goals in the General Plan. The technical reports and analyses shall be coordinated with appropriate City staff, as determined by the Planning Director. At a minimum, the Existing Conditions Report shall provide information and data on the following areas:

- Land Use
- Population and Housing
- Economic Development
- Circulation
- Community Services and Facilities (including schools)
- Utilities
- Public Safety
- Parks and Recreation
- Noise
- Cultural Resources
- Conservation
- Hydrology
- Hazards and Hazardous Materials

- Biological Resources
- Air Quality
- Geology
- Mineral and other resources
- Aesthetics and Visual Resources

(within 5 months of Task 1)

Task 4

Consultant shall prepare an Opportunities and Constraints Report based on public meetings, meetings with staff and other City representatives, and the Existing Conditions Report. The Report shall be structured with the topics to be included in the Final General Plan. The final topics and structure shall be those established with staff in Task 1. Within this Task, Consultant shall prepare a Land Use Alternatives report. The land use alternatives shall be evaluated with respect to each alternative's consistency with the vision expressed by the community and other specific factors and constraints as agreed to by staff. Within the Land Use Alternatives, consultant shall also prepare an Economic Analysis of the Land Use Alternatives evaluated and described within the Land Use Alternatives Report. (within 7 months of Task 1)

Task 5

Consultant shall prepare the new General Plan. The initial work product shall be an Administrative Draft for review and approval by staff. This Administrative Draft shall contain all elements and topics of the General Plan as agreed to in Task 1. Upon review and coordination with staff, Consultant shall prepare a screen-check Draft General Plan for presentation to the public at forums as agreed to by staff. Upon completion of a public review process, Consultant shall incorporate all comments and changes as directed by staff to prepare the Final General Plan document. (draft within 15 months of Task 4; final within 5 months of completion of public comment period)

Task 6

Consultant shall prepare the Environmental Impact Report for the General Plan. Consultant shall prepare an Administrative Draft for review and approval by staff. Based on comments from staff, Consultant shall prepare a Draft Environmental Impact Report for public circulation. It shall be the responsibility of Consultant to assure circulation to reviewing agencies and other interested parties. Consultant shall assist staff in preparing and presenting the Report to the public through scoping sessions, Planning Commission hearings, and City Council hearings. Consultant shall prepare a Final Environmental Impact Report in conformance with the requirements of state law and assist staff in the completion of all administrative requirements associated with certification and recordation of the Final Report. (begin in consultation with staff, but within one year of execution)

Task 7

Consultant shall coordinate with staff and the Milpitas Economic Development Commission directly, as the Steering Committee to prepare an Economic Development Strategic Plan based on the Fiscal Impact Report prepared as an integral portion of the General Plan. Consultant shall

1. Meet with the Commission at least five times during the development and completion of the Strategic Plan
2. Based on the Conditions and Trends report prepared as part of the Draft General Plan, conduct any additional research (e.g., interviews with stakeholders, business surveys, etc.), as directed by staff or the Commission
3. Prepare Draft Goals, Policies, Strategies Document
4. Revise Draft Strategic Plan, based on Commission, public, and staff comments and directions.
5. Prepare Final Strategic Plan Document

(initiate within one month of execution and complete within one year)

Additional Services

Upon written request by Consultant or staff work related to the project but not specifically anticipated in this Agreement, the Consultant may be requested to provide a specific request for funds and/or time. Staff will review such request and issue a written acceptance or denial.

EXHIBIT B

COMPENSATION SCHEDULE

Task 1	\$21,510	begin within 1 week of Execution
Task 2	\$126,910	begin within 45 days of Task 1
Task 3	\$213,759	begin within 5 months of Task 1
Task 4	\$128,690	begin within 7 months of Task 1
Task 5	\$192,685	begin Draft within 6 months of Task 1 begin Final upon conclusion of Public comment
Task 6	\$201,090	begin within 1 year of Task 1
Task 7	\$37,915	begin within 1 month of Task 1
Administration	\$77,423	
Additional Services/Contingency	\$200,018	
Total Compensation	\$1,200,000	

Funds may be shifted between Tasks upon written request by Consultant and written approval by staff, except no actions shall be taken that exceed the authorized funding of the entire project

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

Request No.	Topic	Submitted by:	A, F, or CM	Date requested or Rec'd Form	To CC Rules Subcomm:	on City Council meeting agenda this date (or other action):
2020						
7	Community Workforce Agreement	Nuñez	A	2/18/2020		
6	Responsible Construction Ordinance	Phan	A	2/4/2020		
5	Proposed ban on vaping, restrict smoking	Montano	A	1/7/2020		Ordinance pending. Discussed 3/03/2020
2019						
4	Establish Railroad quiet zone	Tran, Montano	F	9/17/2019	9/20/2019	
3	Consider Community Museum and Park on Main St.	Nuñez, Phan	F	8/20/2019	8/23/2019	3/24 and 6/02/2020 pending
2	policy for Proclamations and Commendations	Nuñez, Phan	F	8/20/2019	8/23/2019	
1	policy for Social Media	Nuñez, Phan	F	8/20/2019	8/23/2019	

2020	COMPLETED ITEMS					
	Discussion on possible tax measures	Tran, Phan	A	4/21/2020		5/15/2020
	Support for Laura's Law	Phan	A	2/4/2020		5/19/2020
	Resolution in support of elimination of discrimination v. women	Dominguez	A	1/7/2020		5/19/2020
	Request for Dumpster Days	Tran	A	1/7/2020		5/12/2020 in FY 2020-21 budget
	Adopt Resolution similar to County's re: xenophobia, discrimination	Dominguez	A	4/21/2020		5/5/2020
	Support community distribution of masks	Dominguez	A	4/7/2020		4/21/2020

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

	Proclamation and support for face coverings	Montano	A	4/7/2020		4/21/2020. CC directed City Manager to issue regs
	Establish coronavirus testing site in Milpitas	Phan	A	4/7/2020		done
	Discuss having 4th of July parade	Nuñez	A	2/18/2020		no longer under discussion
	Parade for MHS Trojans Football	Tran, City Manager	A	1/21/2020		1/28/2020
	Report on speed cameras like Fremont (radar displays) - no enforcement	Phan	A	1/7/2020		1/28/2020, 3/24/2020, 4/14/2020
	Street/traffic calming update	Nuñez	A	1/7/2020		3/3/2020
	Report on parking in The Pines	Nuñez	A	1/7/2020		2/18/2020
	Info. on new SB 50 (housing, transit bill)	Phan	A	1/7/2020		by memo to City Council
2019						
	Have "Dumpster Days"	Tran, Montano	F	9/17/2019	9/20/2019	5/12/2020 in FY 2020-21 budget
	Rename portion of Dixon Landing Rd. as Barack Obama Blvd	Nuñez, Phan	F	8/20/2019	8/23/2019	deferred indefinitely
	Maintain Dagupan, P.I. as a Sister City	Tran, Montano	F	9/17/2019	9/20/2019	12/17/2019
	Add Green Bike Lanes	Tran, Montano	F	9/17/2019	9/20/2019	done - in CIP
	Rename Augustine Park to include "Sunnyhills"	Tran, Montano	F	9/17/2019	9/20/2019	2/4/2020
	Community Theater, perhaps with MUSD	Nuñez, Phan	F	8/20/2019	8/23/2019	5/14/2020 @CIP Study Session

A: @Announcements
 F: on a Form
 CM: to/from City Manager

WORKING PARTNERSHIPS USA

June 2, 2020

Re: Item #15 – Agenda Items Requested by City Councilmembers – Community Workforce Agreement

Dear Mayor Tran and City Councilmembers,

On behalf of Working Partnerships USA, I am writing to offer our strong support for the Council's consideration of a Community Workforce Agreement policy to ensure safe and healthy worksites on public works projects and expand the pipeline to local construction careers for public works projects.

Community Workforce Agreements are a critical step towards tackling one of the biggest challenges facing our communities: access to good, middle-wage jobs that provide a pathway out of poverty to a lifelong career where you can provide for yourself and your family.

Construction apprenticeship jobs offer that pathway. State-registered apprenticeship is an amazing opportunity to earn while you learn, to get a living wage, benefits, and regular pay increases, all while learning a skill as part of a State-recognized post-secondary education.

But first you have to get a foot in the door. For on-the-job training to work, there need to be jobs -- and employers willing to train.

That's where Community Workforce Agreements (CWAs) are needed. Through apprentice ratios and targeted hiring provisions, CWAs can create a direct pipeline for disadvantaged or under-represented community members – such as veterans, former foster youth, low-income parents and others -- to get onto that first rung.

The County of Santa Clara and the City of San Jose have already adopted CWA policies. VTA and the Water District are in the process of doing the same. Milpitas Unified and many other school and community college districts in the region have similar policies in place for their projects.

CWAs do more than just improve your project delivery – with this new generation of policies, we have the opportunity to create a regional network of aligned pathways from high school, community college, or adult education into a construction career pathway so more of our young people can enter a lifelong, family-supporting, skilled construction career.

Expanding these pipelines brings the added long-term benefit of growing our local skilled construction workforce, which will be necessary if we are to avoid future labor shortages in construction.

I urge the City Council to move forward with this policy.

Sincerely,



Louise Auerhahn
Director of Economic and Workforce Policy
Working Partnerships USA



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve Milpitas Small Business Loan Program and Enterprise Foundation and Kiva as proposed Fiscal Agent
Category:	Reports of Mayor and Councilmembers
Meeting Date:	6/2/2020
Contacts:	Subcommittee Chair Carmen Montano, 408-586-3024 Councilmember Karina Dominguez, 408-586-3031
Recommendation:	Approve a \$200,000 Milpitas Small Business Loan Program and authorize the City Manager, or his designee, to execute a contract with Enterprise Foundation and Kiva to act as fiscal agent of the small business loan program.

Background:

The World Health Organization (WHO) declared COVID-19 a global pandemic. The Governor's Office of Emergency Services and Santa Clara County's Office of Emergency Management also declared emergency proclamations. At the March 17, 2020 meeting, the City Council adopted a Resolution to ratify the City of Milpitas Emergency Proclamation signed on March 12, 2020 by the City of Milpitas' Emergency Services Director, City Manager Steve McHarris, regarding COVID-19. At the same meeting, the Council established the Economic Development Council Subcommittee to explore small business loan and relief programs as well as business assistance from higher levels of government including federal, state and county. The City Council selected Councilmember Carmen Montano and Councilmember Karina Dominguez to serve as Subcommittee representatives.

On March 24, 2020, the newly established Economic Development Council Subcommittee met for the first time and focused on COVID-19 small business assistance and recovery responses. The Subcommittee selected Councilmember Carmen Montano as Chair, they received a presentation from staff on the impacts of the COVID-19 pandemic on the City's budget and services and adopted a Subcommittee purpose to assist and preserve small businesses with various types of business assistance and relief. In addition, a draft work plan to explore recommendations for the City Council regarding small business loans (including similar programs implemented by other cities), relief assistance, small business survey, and tracking of business assistance requests.

On April 6, 2020, the Subcommittee received presentations from Dennis King (Executive Director of Small Business Development Center Silicon Valley/SBDC Hispanic Satellite and Hispanic Chamber of Commerce) and Erica Wood (Executive Vice President of Community Impact for the Silicon Valley Community Foundation) on various financial and non-financial business assistance and relief programs. Staff presented a status report on the Office of Economic Development's response to COVID-19 including conducting a business survey, developing a virtual business assistance center and planning a webinar focused on business resiliency and recovery. The Subcommittee motioned to change the name to Small Business Assistance Subcommittee, which was approved by Council at its April 21, 2020 meeting.

On May 1, 2020, the Subcommittee was presented with a tentative proposal for the small business loan program in partnership with the Silicon Valley Community Fund and Opportunity Fund as administrator and fiscal agent, respectively. While the Subcommittee had concerns regarding the administration fee, annual interest rate and loan versus grant approach, they appreciated the Opportunity Fund's financial support, technical assistance and business guidance, funds being available to underserved communities such as

women and immigrants, and a swift fund disbursement timeline through a revolving loan fund program. The Subcommittee directed staff to return with improved Silicon Valley Community Fund and Opportunity Fund terms, and to research other loan program models. The Subcommittee requested that loan funds be available for rent and mortgage purposes in order to assist the small business community with those needs.

On May 13, 2020, staff presented three small business loan program models to the Subcommittee. The loan program models included the Silicon Valley Community Foundation and Opportunity Fund, Los Altos Community Foundation and Main Street Launch, and Enterprise Foundation and Kiva. Key takeaways consist of Opportunity Fund reducing their initial administration fee of 15% to 12% and program being ready for implementation, Los Altos Community Foundation and Main Street Launch's 15% administration fee but a 0% annual interest rate, and Enterprise Foundation and Kiva's 5% administration fee and 0% annual interest rate. In addition, the Subcommittee reached consensus on the following aspects of the proposed small business loan program:

- Funding for Milpitas Small Business Loan Program is \$200,000;
- Immediate financial assistance to the small business community is the number one priority;
- Loans offered at \$10,000 per applicant;
- Utilizing a lottery to select loan recipients as opposed to first come/first served basis; and
- Utilizing a revolving loan fund system.

The Subcommittee motioned (2-0) to select the Silicon Valley Community Foundation and Opportunity Fund as the recommended small business loan program fiscal agent to City Council. And, the Subcommittee discussed a proposal to recommend to the City Council a Community Foundation or Economic Development Corporation as potential vehicles to fund City philanthropic priorities along with applying \$50,000 as seed money. Finally, Councilmember Dominguez proposed that City staff look into an outdoor dining program to assist local restaurants.

Analysis:

At the April 21, 2020 meeting, the City Council acknowledged that the current Shelter-in-Place Order has been devastating to the local economy especially for businesses that are not deemed as “essential businesses” and employees that have lost their jobs. The Council directed staff to develop a small business loan program in collaboration with the Subcommittee that incorporates the eligibility criteria summarized below:

- \$200,000-\$250,000 – 50 individual, \$5,000 loans with 0% interest, 24-month repayment term; tied to performance;
- Businesses must have a long-standing presence in Milpitas (minimum of 3 years);
- Retail, restaurants, service sectors and “mom and pop” businesses with physical storefronts;
- Applicants cannot exceed \$2M in revenues for the prior 2 calendar years;
- Not eligible if previously involved in wage theft or any other illegal activities;
- No history of being delinquent or default on prior loans (previous 7 years);
- Funds may be used for rent/mortgage (recommended by Subcommittee on May 1, 2020), payroll, operating expenses for products or services in Milpitas, and must show receipts to City of Milpitas or potentially be penalized; and
- Obtain and review copies of loan materials from applicants.

Furthermore, after the May 13, 2020 Subcommittee selection of Silicon Valley Community Foundation and Opportunity Fund as the recommended small business loan program fiscal agent, on May 14, 2020, Chair Montano requested another Subcommittee meeting in order to receive presentations from the Silicon Valley Community Foundation and Opportunity Fund, Los Altos Community Foundation and Main Street Launch, and Enterprise Foundation and Kiva. As a result, a May 28, 2020 Subcommittee meeting was held with presentations from Mike Torres (Opportunity Fund) and Dennis King (Enterprise Foundation).

The Subcommittee members reached consensus on selecting Enterprise Foundation and Kiva as the recommended Milpitas Small Business Loan Program fiscal agent for a Small Business Loan Program with the

amount of \$200,000. They also discussed employing an additional \$50,000 for future use as seed funding for a separate Community Foundation or Economic Development Corporation but did not reach agreement.

Pursuant to the work plan, the Subcommittee set out to develop a small business loan program that would provide financial relief to preserve Milpitas' small businesses and aid in reducing layoffs during the crisis. The federal government established the Coronavirus Aid, Relief, and Economic Security Act or the CARES Act, which provides aid through direct payments, unemployment, payroll taxes, and business loans among other types of relief. On April 2, 2020, the U.S. Department of Housing and Urban Development (HUD) announced that the City will receive \$397,911 in supplemental Community Development Block Grant (CDBG) funding as part of the CARES Act, whereby these funds may be used to prevent, prepare for, and respond to the COVID-19 crisis. HUD has provided jurisdictions significant flexibility in determining eligible uses of CDBG funds during this period. Generally, funds may be utilized to provide direct economic assistance for American workers, families, and small businesses, and preserve jobs for American industries. Given that the current Milpitas unemployment rate is 12.7% as of May 22, 2020, employing CDBG funds to assist small businesses and rehiring of previously laid off or furloughed employees meets the purpose of the supplemental dollars. Staff will continue to actively work with its HUD representative to confirm CDBG-eligible uses and to ensure that the City understands and upholds the most current information and reporting requirements.

While the Subcommittee discussed utilizing CDBG funds for the proposed Milpitas Small Business Loan Program at the May 28, 2020 meeting, the Subcommittee did not reach a consensus on utilizing either CDBG funds or funds from the City's General Fund. Subcommittee members agreed to have the City Council make the ultimate decision on a funding source for the proposed Milpitas Small Business Loan Program.

Fiscal Impact

The City Council may utilize a portion of the CARES' Act CDBG allocation to fund the small business loan program in order to preserve General Fund dollars. If the Council chooses to fund the small business loan program with the General Fund, staff recommends reallocating anticipated General Fund budgetary savings from the City Council and Office of Economic Development FY 2019-20 budgets as outlined below.

City Council Budgetary Savings:

- Vacancy Savings (Temporary Salaries)
- Benefits Costs
- Travel and Training

Office of Economic Development Budgetary Savings:

- Pilot Façade Improvement Grant Program (General Fund allocation)
- Better Block (requires termination of contract)
- Vacancy Savings

California Environmental Quality Act:

By the definition provided in the California Environmental Quality Act (CEQA) Guidelines Section 15378, this action does not qualify as a "project" for the purpose of CEQA as this action has no potential to result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

Recommendation:

Approve a \$200,000 Milpitas Small Business Loan Program and authorize the City Manager, or his designee, to execute a contract with Enterprise Foundation and Kiva to act as fiscal agent of the small business loan program.

Attachment:

None

MILPITAS CITY COUNCIL

PREVIEW LIST of AGENDA ITEMS

JUNE 16, 2020

PRESENTATION

Proclaim July as Parks and Recreation Month

CONSENT CALENDAR

- 1) Receive City Council calendar for June and July 2020 (Mary Lavelle)
- 2) Approve City Council meeting minutes of June 2, 2020 (Mary Lavelle)
- 3) 2nd Reading/Adopt Ordinance No. 38.840 Amending Regulations on Accessory Dwelling Units (Rozalynne Thompson)
- 4) Adopt a Resolution Calling for Municipal Election on November 3, 2020 (Mary Lavelle)
- 5) Adopt a Resolution Accepting Lyon Development Lot 1 (Kan Xu)
- 6) Adopt a Resolution Accepting Lennar Park Development Project at 450 Montague Exp. (Kan Xu)
- 7) Adopt a Resolution Accepting VTA Curtis Grant Deed (Kan Xu)
- 8) Adopt a Resolution Authorizing City Manager to Submit Application for \$300,000 in Non-competitive Grant from state HCD under Local Early Action Planning (LEAP) Program (Ned Thomas)
- 9) Adopt a Resolution granting acceptance of Street Resurfacing 2019 Projects No. 4291 & 4296, authorize City Engineer to file Notice of Completion and authorize him to issue Notice of Final Acceptance after 1 year (Steve Chan)
- 10) Adopt a Resolution Authorizing Purchase of MSA Brand Self-Contained Breathing Apparatus for the Fire Department from L.N. Curtis & Sons for \$701,648.26 Through Coop Contract (Galahad Zamora, Chris Schroeder)
- 11) Approve Agreement with Kaiser Permanente for On the Job Medical Services for Fire Dept. staff (Rick Frawley)
- 12) Approve and Authorize City Manager to Execute a Professional Services Agreement with Pacific Coast Locators for \$201,000 for Underground Utility Locating Services within the City (S. Erickson)
- 13) Report on Bids and Award Construction Contract to Platinum Pipeline Inc. in the amount of \$190,532.00 for the Replacement of City Fire Hydrants (Tony Ndah)
- 14) Award IFB 2435 to ISC Sales and Authorize the City Manager to Purchase 25,000 Fil-Trek POMF-1A-2-PS-NDS Filters for Flushing of the City's Water Distribution System (Tony Ndah)
- 15) Approve Agreements with 2 Firms to Provide Homeless Camps clean-up service (Tony Ndah)

COMMUNITY SERVICES

- 16) Joint Use Agreement with MUSD – McCandless School & Park (Renee Lorentzen)

LEADERSHIP

- 17) Report on Information Technology Strategic Plan (Mike Luu)
- 18) 1st reading/Intro Ordinance to combat Discrimination v. Women per Resolution No. 8973 (City Attorney, Councilmember Dominguez)

REPORTS from Mayor and Councilmembers on assigned Committees, Commissions and outside bodies