



**MILPITAS CITY COUNCIL MEETING AGENDA
NOVEMBER 6, 2007**

**7:00 P.M. (PUBLIC BUSINESS)
455 E. CALAVERAS BOULEVARD**

SUMMARY OF CONTENTS

- I. CALL TO ORDER/ROLL CALL (7:00 p.m.)**
- II. PLEDGE OF ALLEGIANCE**
- III. INVOCATION (Councilmember Polanski)**
- IV. APPROVAL OF MINUTES (October 16, 2007)**
- V. SCHEDULE OF MEETINGS – Council Calendar for November 2007**
- VI. PRESENTATIONS**

Proclamations:

- Program Benefiting People with Intellectual Disabilities – Saint Elizabeth’s Council #8747 and St. Peter the Apostle Council – Knights of Columbus
- Veterans Day, November 11, 2007
- Veterans of Foreign Wars of the United States - Buddy Poppy Promotional Month, November 2007

Certificates of Appreciation:

- Perry Pham, in recognition of his extraordinary life-saving effort
- Kana Suzuki, in recognition of her extraordinary life-saving effort
- Arlene Rancourt, in recognition of her extraordinary life-saving effort
- Rodney “Scott” Rancourt, in recognition of his extraordinary life-saving effort
- Milpitas Police Officer Christopher Nicholas, in recognition of his extraordinary life-saving effort
- Milpitas Police Officer Kris Strauss, in recognition of his extraordinary life-saving effort

VII. PUBLIC FORUM

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

- VIII. ANNOUNCEMENTS**
- IX. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- X. APPROVAL OF AGENDA**
- XI. CONSENT CALENDAR (*Items with Asterisks)**

XII. PUBLIC HEARINGS

- 1. Waive the First Reading Beyond Title and Introduce Ordinance No. 113.21, Adopting Specified Local Amendments of the 2007 Edition of the California Fire Code, and Adopt Resolutions for the Findings of Fact, Fee Adjustments and Penalty Fee Provisions (Staff Contact: Patricia Joki, 586-3370)**
- 2. Review and Approve Community Development Block Grant (CDBG) Program Two-Year Funding Priorities for FY 2009-11 (Staff Contacts: Felix Reliford, 586-3071, and Gloria Anaya, 586-3075)**
- 3. Receive Staff Report Recommending Water, Recycled Water and Sewer Rate Increases; Hold Public Hearing and Receive Protests to Proposed Rate Increases, Waive the Second Reading and Adopt Ordinances No. 120.44 and No. 208.41, Amendments to Title VIII of the Milpitas Municipal Code for Water, Recycled Water, and Sewer Rate Adjustments (Staff Contact: Kathleen Phalen, 586-3345)**

XIII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

- RA1. Call to Order by the Mayor/Chair**
- RA2. Roll Call**
- RA3. Approval of Minutes (October 16, 2007)**
- RA4. Approval of Agenda and Consent Calendar (Items with Asterisks*)**
- RA5. Receive Progress Report on the Library, East Parking Garage and Related Projects No. 8161, No. 8162, and No. 8165 (Staff Contact: Steve Erickson, 586-3414)**
- *RA6. City of Milpitas Investment Portfolio Status Report for the Quarter Ended September 30, 2007 (Staff Contact: Emma Karlen, 586-3145)**
- *RA7. Approve Certificate of Completion for Certain Residential Units within Tract No. 9697 for KB Home, Project No. 3160 (Staff Contact: Robert Wang, 586-3327)**
- *RA8. Authorize City Manager to Execute Agreement with Bellecci & Associates for Corporation Yard Canopies, Project No. 8183 (Staff Contact: Andrew Brozyna, 586-3315)**
- * RA9. Authorize City Manager to Execute Contract Agreements for Professional Financing Consulting Services with Economic & Planning Systems, Inc. (Staff Contact: Felix Reliford, 586-3071)**
- RA10. Agency Adjournment**

XIV. REPORT OF OFFICER

City Council

- * 4. Consider Mayor's Recommendations for Re-Appointments to Commissions (Contact: Mayor Esteves, 586-3029)**

XV. ORDINANCES

- * 5. Waive the Second Reading and Adopt Ordinance No. 38.774 for Zone Change No. ZC2005-11, Adopt Resolution for Planned Unit Development No. PD2007-4, Tentative Map No. MA2005-7, and “S” Zone No. SZ2005-13, and Approve Affordable Housing Regulatory Agreements for the Murphy Ranch Project (Staff Contact: Felix Reliford, 586-3071)
- * 6. Waive the Second Reading and Adopt Ordinance No. 38.775 Approving the First Amendment to the Development Agreement Between the City of Milpitas and Peery/Arrillaga (Staff Contact: Sheldon Ah Sing, 586-3278)
- * 7. Waive the Second Reading and Adopt Ordinance No. 275, Adding Section 3.02 to Chapter 1, Title I of the Milpitas Municipal Code Pertaining to Restrictions on Use of the City Seal and Penalties for Its Misuse (Staff Contact: Michael Ogaz, 586-3040)
- * 8. Waive the Second Reading and Adopt Ordinance No. 262.5, Amending the Open Government Ordinance (Staff Contact: Michael Ogaz, 586-3040)

XVI. RESOLUTION

- * 9. Adopt Resolution Authorizing the Filing of an Application for Federal Congestion Mitigation and Air Quality (CMAQ) Improvement Funding and Committing the Necessary non-Federal Match and Stating Assurance to Complete the South Main Street Streetscape Project – Phase I, Project No. 4243 (Staff Contact: Jaime Rodriguez, 586-3335)

XVII. BIDS AND CONTRACTS

- * 10. Approve Amendment No. 1 to the Design Services Agreement with DKS Associates for the South Main Street Streetscape - Phase 1 Project, Project No. 4243 (Staff Contact: Jaime Rodriguez, 586-3335)
- * 11. Approve Amendment to Contract with CSG Consultants, Inc. for Fire Plan Review Services (Staff Contact: Chris Schroeder, 586-3161)
- * 12. Approve Amendment to Contract with CSG Consultants, Inc. for Fire Inspection Services (Staff Contact: Chris Schroeder, 586-3161)
- * 13. Award the Bid for One Truck to Salinas Valley Ford (Staff Contact: Chris Schroeder, 586-3161)

XVIII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, NOVEMBER 27, 2007 AT 7:00 P.M.**

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, boards, councils and other agencies of the City exist to conduct the people's business.

This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN

GOVERNMENT ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE,

CONTACT THE OPEN GOVERNMENT SUBCOMMITTEE

at the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035

E-mail: mogaz@ci.milpitas.ca.gov / Fax: 408-586-3030 / Phone: 408-586-3040

A free copy of the Open Government Ordinance is available from the City Clerk's Office or by visiting the City's website www.ci.milpitas.ca.gov, select Open Government Ordinance under News Features.

BECOME A CITY COMMISSIONER!

Currently, there are openings on the following Commissions:

Economic Development Commission (Hotel Rep)

Planning Commission

Mobile Home Park Rental Review Board

Applications are available online at www.ci.milpitas.ca.gov or at the City Hall Information Desk. Contact the City Clerk's Office (586-3003) for more information.

AGENDA REPORTS

XII. PUBLIC HEARINGS

- 1. Waive the First Reading Beyond Title and Introduce Ordinance No. 113.21, Adopting Specified Local Amendments of the 2007 Edition of the California Fire Code, and Adopt Resolutions for Findings of Fact, Fee Adjustments and Penalty Fee Provisions (Staff Contact: Patricia Joki, 586-3370)**

Background: California State Building Standards Commission adopted the International Fire Code in January 2007. In order for jurisdictions to maintain their current level of regulation without interruption, the code must be adopted with local amendments by January 1, 2008. As with past code adoptions, the Santa Clara Co. Fire Marshal's Association collaborated to develop standardized amendments for use throughout the County that would maintain the existing level of regulation, for the protection of public health and safety, while eliminating duplicative regulatory requirements.

Fees for service are periodically adjusted to stay current with costs for service. Most Fire agencies adjust fees on a cyclic basis; the City's most recent adjustment occurred in 2003. In June 2007, the Council Finance Subcommittee directed staff to determine a rate that would recover costs. The Finance Department determined that rate to be \$140.00 per hour. Fire staff used this rate in calculating the proposed fees.

As part of the code adoption, the Fire Department seeks to adjust and make consistent penalty provisions for willful refusal or failure to comply with a Fire Department officer for serious health and safety violation. The Department prefers compliance through education and the willingness of the individual to comply, however, when this process fails, use of the penalty provisions of a misdemeanor prosecution can be used to persuade and penalize a non-compliant business.

Included in the Council's packet are: (1) draft Ordinance No. 113.21 (Milpitas Municipal Code Title V, Chapter 300), (2) Resolution for the findings of fact, (3) Resolution for adoption of the Penalty Fee Schedule, (4) Resolution for the Fire Department fee adjustments, and (5) a memo from the Fire Chief to the City Council.

Fiscal Impact: With the adoption of a revised fee schedule, there will be an increase in revenue proportionate to cost recovery for the service provided.

Recommendations:

1. Open the public hearing, and after hearing public comment, move to close the public hearing.
 2. Adopt a Resolution for Findings of Fact.
 3. Waive the first reading beyond the title of Ordinance No. 113.21.
 4. Move to introduce Ordinance No. 113.21.
 5. Adopt a Resolution for Fire Department penalty fee schedule, contingent upon the adoption of the Ordinance.
 6. Adopt a Resolution for Fire Department fee adjustments.
- 2. Review and Approve Community Development Block Grant (CDBG) Program Two-Year Funding Priorities for FY 2009-11 (Staff Contacts: Felix Reliford, 586-3071, and Gloria Anaya, 586-3075)**

Background: The City of Milpitas became a Community Development Block Grant (CDBG) entitlement city in 1997. In January 1998, the City Council established a policy to review CDBG funding priorities every two years. The Council previously reviewed the CDBG funding priorities on October 4, 2005. The next CDBG funding cycle will be in February 2008.

In accordance with the U.S. Department of Housing and Urban Development (HUD) guidelines, City of Milpitas CDBG funds are separated into two categories: 1) Public Services (typically, non-profit organizations offering public services that predominately benefit very low and low income households) and 2) Non-Public Services (other funding categories including housing activities and community improvements). For FY 2008-09, it is anticipated that the City will receive approximately \$600,000 in CDBG funds.

The City Council's previous 2006-08 CDBG funding priorities were:

Public Service:

1. Senior Services
2. Youth Teen Services
3. Homeless Sheltering/Services
4. Child Care
5. Battered Women Sheltering/Services

Non-Public Service:

1. Home Repair/Rehabilitation
2. Affordable Housing
3. Rental Apartment Rehabilitation

In addition, the Community Advisory Commission (CAC) and City Council, on October 4, 2005, also established two policies relating to the CDBG program:

- Annually allocate 25% of the total amount of CDBG Public Services funds for City of Milpitas Programs (i.e. City's Recreation Assistance Program) and services to low and moderate-income households.
- Increase the allocation from \$15,000 to \$25,000 for Fair Housing Services. Traditionally, \$15,000 has been allocated from CDBG Program Administration funds; the balance of \$10,000 will come from the Redevelopment Agency 20% Low-Income Housing Set-Aside Funds.

The existing CDBG funding priorities have allowed the Milpitas CDBG program to be extremely successful in assisting Milpitas very low, low and moderate-income residents with a variety of public services, housing activities and community development projects. Furthermore, the City has received positive feedback from HUD on meeting the goals and objectives outlined in the five year consolidated plan (2002-2007). Given the success of the existing priorities, staff and the CAC recommend maintaining the existing priorities with the two policy amendments, for the next two years 2009-2011.

On October 3, 2007, the CAC reviewed the existing CDBG two-year funding priorities and policy amendments and recommended no changes for FY 2009-11 and recommend approval to the City Council.

Notice of the CAC and City Council meetings was advertised in the Milpitas Post and has been sent to all CDBG service providers and other interested parties. Included in the Council agenda packet are the CAC minutes of the October 3, 2007 meeting.

Recommendations:

1. Open the public hearing for comments; and, move to close the public hearing.
2. Approve the CDBG Two-Year (2009-2011) Funding Priorities and the two policy amendments, as recommended by the Community Advisory Commission (CAC).
3. **Receive Staff Report Recommending Water, Recycled Water and Sewer Rate Increases; Hold Public Hearing and Receive Protests to Proposed Rate Increases, Waive the Second**

Reading and Adopt Ordinances No. 120.44 and No. 208.41, Amendments to Title VIII of the Milpitas Municipal Code for Water, Recycled Water, and Sewer Rate Adjustments (Staff Contact: Kathleen Phalen, 586-3345)

Background: The City of Milpitas provides water, recycled water, and sewer services to its residential, commercial, industrial, and institutional customers. The City maintains and operates these services in a manner protective of public health and safety. The utility systems contribute to the daily quality of life in Milpitas, successful commercial and industrial business operations, and are critical for fire fighting. The water, recycled water and sewer services are Enterprise Funds, and Council adopted a fiscal policy that requires all utility enterprise funds to be operated in a manner similar to private enterprise. As such, the City will set fees and user charges for each utility fund at a level that fully supports the total direct and indirect costs of the activity, including depreciation of assets, overhead charges, and reserves for unanticipated expenses and capital projects.

Discussion: At its August 7, 2007 meeting, the City Council discussed recommended rate increases for these utilities and introduced Water and Sewer Ordinance amendments. The “2007-08 Utility Rate Analysis” report, provided with the Council agenda packet, showed the City’s expected revenues and expenses for water, recycled water, and sewer and the recommended rates needed to meet the City’s short- and long-term needs for operation, maintenance, and capital improvement of the services. The rate analysis was developed in accordance with Council’s policies adopted in the “Financial Utility Master Plan,” in 2003 and in the FY08 budget. Briefly, these policies include:

- Strive for long-term rate stability; avoid balancing current budget at the expense of future budgets,
- Emphasize preventive over reactive maintenance to reduce long-term costs and improve customer service,
- Plan to replace aging infrastructure as needed to maintain system integrity; maintain and annually invest in infrastructure replacement funds,
- Maintain minimum reserve balances in the water, recycled water, and sewer funds for unanticipated emergencies,
- Maintain first tier residential water rates at no less than the average wholesale rate,
- Provide incentive for appropriate use of recycled water to encourage growth of the recycled water customer base.

Several critical factors are considered in this current utility rate analysis:

- The City’s water wholesale costs have increased by 7.5% from Santa Clara Valley Water District and 7% from San Francisco Public Utilities Commission (HetchHetchy system.)
- There is a significant chance that the available water supply may be limited by drought or court decisions (Delta smelt protection). Water use cut-back mandates (rationing) will reduce the City’s revenues, and simultaneously increase the operations costs, due to establishment of a water rationing program.
- The City’s water and sewer infrastructure needs improvement to enable it to withstand effects of a major seismic activity. The integrity of the water system is needed to fight fires and provide safe drinking water in the aftermath of a major earthquake or other disaster.
- Components of the City utility infrastructure are reaching the end of their lives and the City must begin their replacement. For example, the Gibraltar Pump Station, serving water to more than half of the City, is worn out and is experiencing repeated equipment failures. The State requires that its diesel-powered pumps be replaced to meet current air emission regulations. Design is now underway to reconstruct this vital infrastructure next year.
- The San Jose/Santa Clara wastewater treatment plant is aging. Its master plan, now under development, is expected to identify numerous necessary and expensive replacement

projects (over \$1.0 billion) and the City along with the other tributary agencies will share in these costs over the next 30 years.

Summary of the recommended rate increases and other fees:

- Increase water rates by 7%. Average single-family residential water customers in Milpitas using 2300 cubic feet of water in a two month billing period will see their bimonthly water bill increase from \$58.05 to \$62.03, an increase of \$1.99 per month.
- Increase single-family residential sewer rates by 4% (other rates would be increased proportionately). Average single-family residential customers will see their bimonthly sewer bill increase from \$59.70 to \$62.09, or an increase of \$1.20 per month.
- Increase the monthly construction meter charge from \$25 to \$75 per month to cover the City's actual maintenance costs for the meter.
- Allow up to three free meter tests in any 12-month period and charge \$50 for each subsequent test.
- Collect the deposit from single-family residents only, and refund the deposit without interest as a credit to the customer's next utility bill after a continuous twelve-month period of satisfactory payments.

At the August 21, 2007 meeting, the City Council discussed options if rates were not increased, reviewed and approved the property owner notification letter, set November 6, 2007 as the date for a Proposition 218 Protest Hearing, and directed staff to send the notification letters. A memorandum was included in the August 21, 2007 Council packet describing the impact on the water and sewer funds if increased rates are not adopted this year. The analysis also evaluated the following options available to the City to compensate for the resulting shortfall:

- Accept a zero rate increase this year and plan to increase rates over the following years at much higher percentage rates. Five years of 7% annual increases are equivalent to four years of 10% increases.
- Reduce utility expenses by reducing the number of Capital Improvement projects relating to major disaster emergency preparedness.
- Reduce utility expenses by reducing the City's maintenance and operating costs by deferring maintenance on the infrastructure.
- Add funding from the general fund or other sources in order to maintain the recommended infrastructure programs. The general fund has several mandatory commitments such as public safety, building and engineering permitting. Program cuts in discretionary programs would result.

This public hearing is conducted to receive verbal comment and written protests on the proposed rates. A total of 16,488 letters were sent prior to September 21 informing property owners of the proposed rates and protest process. Staff determined that several hundred of these properties did not receive City water or sewer services and should be removed from the tally. The total number of protests will be counted and if it is a simple majority of the number of properties receiving water or sewer services, then the proposed rates cannot be adopted. Staff is reviewing the protests to verify that only one protest per eligible parcel is counted and will provide a summary of the number of valid protests received and the number constituting a simple majority immediately upon the close of the public hearing.

Fiscal Impact: For water, the estimated fiscal impact from the recommended action is to increase the amount of revenue into the budget by an estimated \$800,000. These additional funds will cover the higher water wholesale cost increases and provide for the recommended infrastructure improvements. At the existing rate, water revenue is estimated to be \$13.6 million. The recommended increase raises this revenue to \$14.4 million, the amount included in the adopted FY08 budget.

For sewer, the estimated fiscal impact from the recommended action is to increase the amount of revenue into the budget by an estimated \$400,000. These additional funds will cover the higher

sewage treatment cost increases to the City, and provide for the recommended infrastructure improvements. At the existing rate, sewer revenue is estimated to be \$9.7 million. The recommended increase raises this revenue to \$10.1 million, the amount included in the adopted FY08 budget.

Recommendations:

1. Receive staff report recommending water, recycled water and sewer rate increases.
2. Open the public hearing to receive public comments on the proposed rates.
3. Move to close the public hearing.
4. Receive summary from staff of the number written protests received. If the quantity of protests is a simple majority, the rate increase shall not be adopted. If the quantity of protests is less than a simple majority, Council may proceed with the following recommendations:
5. Waive the second reading of Ordinance No. 120.44.
6. Adopt Ordinance No. 120.44 amending sections 6.06 and 6.08 relating to deposits for service and meter tests, and repealing and replacing sections 6.13, 6.14, 6.15 and 6.16 of Chapter 1, Title VIII, of the Milpitas Municipal Code setting water rates.
7. Waive the second reading of Ordinance No. 208.41.
8. Adopt Ordinance No. 208.41 repealing and replacing section 6.01 of Chapter 2, Title VIII, of the Milpitas Municipal Code setting sewer rates.

XIII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor/Chair

RA2. Roll Call

RA3. Approval of Minutes (October 16, 2007)

RA4. Approval of Agenda and Consent Calendar (Items with Asterisks*)

RA5. Receive Progress Report on the Library, East Parking Garage and Related Projects, No. 8161, No. 8162 and No. 8165 (Staff Contact: Steve Erickson, 586-3414)

Background: The Library Subcommittee met on October 23, and heard a progress report on the Library, Parking Garage, and North Main Streetscape redevelopment agency projects. Construction continues on the Library and Streetscape projects and signage and graphic design are underway for the garage. Staff will provide a brief presentation on their progress.

Library - S. J. Amoroso continues with construction of the library. Installation of metal stud framing on the exterior of the north and south wings is underway. Installation of interior framing, mechanical, electrical, and plumbing fixtures continue. The contractor is preparing the second concrete pour within the courtyard of the grammar school, and continues with roofing of this structure.

Parking Garage - Construction of the garage is complete, the project was initially accepted on October 2, 2007, and the structure is within the 1-year warranty period. The Architect, Chong Partners, continues with the design of signage and graphical display packages that will be bid early 2008 and installed next summer.

N. Main Streetscape - JJR Construction continues work on the first phase of the N. Main Streetscape from Weller Lane to the 237-off ramp. Work continues along the western half of the roadway, with installation of the decorative crosswalks and paving. Construction is being staged to maintain traffic and access.

Fiscal Impact: None

Recommendation: Receive Progress Report on Library, East Parking Garage and related Projects No. 8161, No. 8162 and No. 8165.

***RA6. City of Milpitas Investment Portfolio Status Report for the Quarter Ended September 30, 2007 (Staff Contact: Emma Karlen, 586-3145)**

Background: In compliance with the State of California Government Code and the City's Investment policy, the City of Milpitas Investment Report for the quarter ended September 30, 2007 is submitted for your review and acceptance.

The Portfolio Summary Report included in the Council's packet provides a summary of the City's investments by type. It lists the par value, market value, book value, percentage of portfolio, term, days to maturity and the equivalent yields for each type of investment. The Portfolio Details Report provides the same information for each individual investment in the City's portfolio as of September 30, 2007.

As of September 30, 2007, the principal cost and market value of the City's investment portfolio was \$212,514,296 and \$213,183,093 respectively. When market interest rates increase after an investment is purchased, the market value of that investment decreases. Conversely, when market interest rates decline after an investment is purchased, the market value of that investment increases. If the investments are not sold prior to the maturity date, there is no market risk. Therefore, in accordance with the City's investment policy, all investments are held until maturity to ensure the return of all invested principal.

The City's effective rate of return for the period ended September 30, 2007 was 4.24%. The comparative benchmarks for the same period were 4.98% for LAIF (Local Agency Investment Fund) and 4.61% for the 12-month average yield of the 2 year Treasury Note. Excluding the long-term GNMA securities and Repurchase Investment Agreement, the weighted average maturity of the portfolio was 500 days.

The investment portfolio is in compliance with the City's investment policy. A combination of securities maturing, new revenues, and tax receipts will adequately cover the anticipated cash flow needs for the next six months. Cash flow requirements are continually monitored and are considered paramount in the selection of maturity dates of securities.

Fiscal Impact: Not Applicable

Recommendation: Receive the investment report for the quarter ended September 30, 2007.

***RA7. Approve Certificate of Completion for Certain Residential Units within Tract No. 9697 for KB Home, Project No. 3160 (Staff Contact: Robert Wang, 586-3327)**

Background: On January 18, 2005, the City of Milpitas Redevelopment Agency and KB Home South Bay, Inc., entered into a Disposition and Development Agreement (DDA) concerning the residential development, Terra Serena, north and east of South Abel Street. The recorded grant deed, which conveyed the subject real property from the Agency to KB Home, requires that the Redevelopment Agency issue a Certificate of Completion upon the completion of the infrastructure improvements in accordance with the DDA. Certain improvements have been satisfactorily completed to serve certain residential units as shown on the Certificate of Completion, and therefore a certificate of completion may be granted to only those housing units.

Fiscal Impact: None

Recommendation: Authorize the Agency Executive Director to execute this Certificate of Completion, pertaining to certain residential units (described on the Certificate of Completion document), for KB Home Terra Serena Project No. 3160, subject to approval of the City Attorney as to form.

***RA8. Authorize City Manager to Execute Agreement with Bellecci & Associates for Corporation Yard Canopies, Project No. 8183 (Staff Contact: Andrew Brozyna, 586-3315)**

Background: This project is included in the approved five-year Capital Improvement Program (CIP). The project will provide for canopies to cover the vehicle fueling station, chemical fill & wash areas and material storage bins located at the Public Works Corporation Yard. Security cameras and lighting will be included with the canopies. The fueling station improvements will include card reader operation in addition to the enhanced vapor recovery system as required by new regulations. Staff has interviewed several professional consultants in conformance with the City's consultant selection process, and recommends that Bellecci & Associates, Inc. provide the required design services. Staff has negotiated a scope and fee for these services not to exceed \$81,170, which is considered reasonable for the work.

Fiscal Impact: There are sufficient funds in the project budget(s) to cover this expense.

Recommendation: Authorize the Agency Executive Director to execute the agreement with Bellecci & Associates, Inc. for the Corporation Yard Canopies, Project No. 8183 in the amount of \$81,170, subject to approval as to form by the City Attorney.

*** RA9. Authorize City Manager to Execute Contract Agreements for Professional Financing Consulting Services with Economic & Planning Systems, Inc. (Staff Contact: Felix Reliford, 586-3071)**

Background: Staff is currently working with consultants at Dyett & Bhatia to finalize the Draft Milpitas Transit Area Specific Plan (TASP) and its associated Environmental Impact Report (EIR). The Specific Plan and its EIR identify a number of necessary infrastructure improvements (roads, water, sewer, storm drainage and recycled water, etc.) and the need for additional public land for street rights-of-way, parks and open space. In order to pay for these improvements, funding mechanisms will be needed to appropriately and fairly distribute development costs among property owners and developers within the Transit Area.

In July of 2007, staff sent out a Request for Proposals (RFP) to a number of qualified consultants to seek professional assistance in the preparation of a Financing Plan for implementation of the Milpitas Transit Area Specific Plan. Five responses to the RFP were received and reviewed by a panel comprised of representatives from various City departments. A short list of the three most qualified firms was prepared, and on August 22, staff interviewed each of the three firms. Following these interviews, staff concluded that the firm of Economic & Planning Systems Inc. had prepared the best proposal and was the most qualified to prepare the Financing Plan for the TASP.

Economic & Planning Systems, Inc. (EPS) has extensive experience in preparation of similar financing plans for other jurisdictions, has excellent references, and has demonstrated success and knowledge in the complexities of preparing financing plans for public improvements involving numerous land owners and developers. EPS has worked on several transit-oriented development plans, and as requested by staff, will be assigning one of the firm's Principals, Walter Kieser, as the lead for this project. Included in the Council's agenda packet are the qualifications presented by EPS.

At its meeting on October 3, 2007, the Council Finance Subcommittee reviewed the request and recommended approval to the City Council. The budget for this assignment would be in the amount not-to-exceed \$98,520. Included in the Council's agenda packet is the background information regarding this matter.

Fiscal Impact: The Redevelopment Agency is advancing the funds necessary for this work. As part of EPS's scope of work, they will be preparing a Specific Plan reimbursement fee that will

allow the City to recover some or all of the costs associated with preparation of the Transit Area Specific Plan, including costs associated with preparation of this Financing Plan.

Recommendation: Authorize the Executive Director to execute a contract with Economic & Planning Systems to prepare a Financing Plan for the Transit Area Specific Plan, in an amount not-to-exceed \$98,520. Appropriate \$98,520 from Redevelopment Agency funds to the City's Planning Division operating budget.

RA10. Agency Adjournment

XIV. REPORT OF OFFICER

City Council

- * **4. Consider Mayor's Recommendations for Re-Appointments to Commissions (Contact: Mayor Esteves, 586-3029)**

Background: Mayor Esteves recommends the following Milpitas residents be re-appointed:

Arts Commission/Public Art Committee:

Re-appoint Robin Hayes to a term that expires in October 2010.

Re-appoint Bill Foulk to a term that expires in October 2010.

Citizens Emergency Preparedness Advisory Commission:

Re-appoint Nancy Martinez to a term that expires in June 2010.

Youth Advisory Commission:

Re-appoint Nida Asif to a term that expires in September 2008.

Re-appoint Lorden Fok to a term that expires in September 2008.

Fiscal Impact: None

Recommendation: Consider Mayor's recommendations for Commission re-appointments and vote on re-appointments.

XV. ORDINANCES

- * **5. Waive the Second Reading and Adopt Ordinance No. 38.774 for Zone Change No. ZC2005-11, Adopt Resolution for Planned Unit Development No. PD2007-4, Tentative Map No. MA2005-7, and "S" Zone No. SZ2005-13, and Approve Affordable Housing Regulatory Agreements for the Murphy Ranch Project (Staff Contact: Felix Reliford, 586-3071)**

Background: At its meeting on October 16, 2007, the City Council certified Environmental Impact Report No. EA No. 2005-9, adopted General Plan No. GP2005-11 and introduced the Zone Change Ordinance No. 38.774 for the Murphy Ranch Project. Subsequently, the Council directed staff to return at its next meeting with the appropriate planning documents to complete the approval of the project. The following planning documents have been prepared and are ready for adoption by the City Council.

- Resolution for approval of Planned Unit Development No. PD2007-4, Tentative Map No. MA2005-7 and "S" Zone No. SZ2005-13.
- Second reading of the Ordinance No. 38.774 for Zone Change No. ZC2005-11; and
- Approval of the Regulatory Agreements for the 132 units of affordable housing (88 units in the apartment complex and 44 units in the townhome units).

Ordinance No. 38.778 was introduced at the City Council meeting of October 16, 2007 and is now ready for adoption. Included in the Council agenda packet are the planning documents for adoption of the Murphy Ranch Project.

Fiscal Impact: None

Recommendations:

1. Adopt Resolution to approve Planned Units Development No. PD2007-4, Tentative Map No. MA2005-7 and "S" Zone No. SZ2005-12.
2. Waive the second reading of Ordinance No. 38.774.
3. Adopt Ordinance No. 38.774 for Zone Change No. ZC2005-11.
4. Approve the affordable housing Regulatory Agreements.

- * **6. Waive the Second Reading and Adopt Ordinance No. 38.775 Approving the First Amendment to the Development Agreement Between the City of Milpitas and Peery/Arrillaga (Staff Contact: Sheldon Ah Sing, 586-3278)**

Background: On October 16, 2007, the City Council introduced Ordinance No. 38.775, to allow a request by Cisco Systems to extend the term of the original development agreement for certain parcels within the Milpitas Business Park by ten years. The extended term will afford Cisco the certainty that they can develop their long-term expansion plans without the City changing the land use regulatory laws. Ordinance No. 38.775 is now ready for a second reading and adoption.

Fiscal Impact: None.

Recommendations:

1. Waive the second reading of Ordinance No. 38.775.
2. Adopt Ordinance No. 38.775 approving the first amendment to the original development agreement between the City of Milpitas and Peery/Arrillaga.

- * **7. Waive the Second Reading and Adopt Ordinance No. 275, Adding Section 3.02 to Chapter 1, Title I of the Milpitas Municipal Code Pertaining to Restrictions on Use of the City Seal and Penalties for Its Misuse (Staff Contact: Michael Ogaz, 586-3040)**

Background: On October 16, 2007, the City Council introduced Ordinance No. 275 adding Section 3.02 to Chapter 1, Title I of the Milpitas Municipal Code pertaining to restrictions on the use of the City seal setting penalties for its misuse.

Fiscal Impact: None

Recommendation: Waive the second reading and adopt Ordinance No. 275, adding Section 3.02 to Chapter 1, Title I of the Milpitas Municipal Code pertaining to restrictions on the use of the City seal setting penalties for its misuse.

- * **8. Waive the Second Reading and Adopt Ordinance No. 262.5, Amending the Open Government Ordinance (Staff Contact: Michael Ogaz, 586-3040)**

Background: On October 16, 2007, the City Council introduced Ordinance No. 262.5 approving the following amendments to the Open Government Ordinance:

1. Change the requirement for annual training in section I-310-4.40, reducing the requirement for Commissioners and Board members to receive training when appointed, and then again if re-appointed to subsequent terms, and for City staff to receive training when newly hired
2. Add "employee names" to the list of information that must be disclosed as a public record in section I-310-3.110(a)1.

3. Change the 45-day response time to 10 days, following receipt of an appeal to the Open Government Commission, regarding response to a petition for determination of whether a record is deemed public, in section I-310-3.20 (e).

Fiscal Impact: None

Recommendation: Waive the second reading and adopt Ordinance No. 262.5, amending the Open Government Ordinance.

XVI. RESOLUTION

- * **9. Adopt Resolution Authorizing the Filing of an Application for Federal Congestion Mitigation and Air Quality (CMAQ) Improvement Funding and Committing the Necessary non-Federal Match and Stating Assurance to Complete the South Main Street Streetscape Project – Phase I, Project No. 4243 (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: On September 18, 2007, the City Council adopted a resolution accepting a grant from the Valley Transportation Authority (VTA) - Community Design for Transportation (CDT) Program to fund the S Main Street Streetscape – Phase I Project. The City Council also approved the creation of a new CIP Project at that same time, CP4232 – S Main Street Streetscape Phase I, in the amount of \$1,200,000. The grant will provide \$850,000 for the construction of the project.

The VTA informed the City in October that the Metropolitan Transportation Commission (MTC) is requiring the use of a new Resolution of Local Support for programs receiving funding through the Congestion Mitigation and Air Quality (CMAQ) Improvement Program, which now includes the VTA CDT Program. The resolution provided is the new format requested by MTC.

Fiscal Impact: None

Recommendation: Approve Resolution authorizing the filing of an Application for Federal Congestion Mitigation and Air Quality (CMAQ) Improvement Funding and committing the necessary non-Federal Match and Stating Assurance to complete the South Main Street Streetscape Project – Phase I, Project No. 4243.

XVII. BIDS AND CONTRACTS

- * **10. Approve Amendment No. 1 to the Design Services Agreement with DKS Associates for the South Main Street Streetscape - Phase 1 Project, Project No. 4243 (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: On March 20, 2007, the City Council approved the South Main Street Plan Line Study Report identifying the preferred build-out of streetscape improvements on South Main Street and South Abel Street between Great Mall Parkway and Montague Expressway. On September 18, 2007, the City Council approved a resolution accepting a grant from the Valley Transportation Authority (VTA) to build Phase I of the streetscape improvements recommended in the Plan Line Study.

The original DKS Associates contract for the development of the Plan Line Study awarded on June 6, 2007 included provisions for additional design services. Staff recommends amending the agreement with DKS Associates for the development of Plans, Specifications, and Engineer's Estimates for construction of the Phase I improvements funded by the VTA grant.

Staff negotiated a price for the project with DKS Associates not to exceed One Hundred Thirty Thousand Dollars (\$130,000) which is considered reasonable for the work involved and includes a 5% contingency. The future construction phase of the project will be partially funded by the VTA - Community Design and Transportation (CDT) Program grant in the amount of \$850,000.

Fiscal Impact: Sufficient funds are available in the project budget to award this project, CIP No. 4243 – South Main Street Streetscape Project – Phase I.

Recommendation: Approve Design Services Agreement Amendment No. 1, to DKS Associates for the South Main Street Streetscape - Phase 1 Project, Project No. 4243.

* 11. **Approve Amendment to Contract with CSG Consultants, Inc. for Fire Plan Review Services (Staff Contact: Chris Schroeder, 586-3161)**

Background: A contract for Fire Plan Review Services was awarded to CSG Consultants, Inc. by the City Council on May 16, 2006. At this time the Fire Prevention Division wishes to extend the duration of the contract until June 30, 2009. Besides extending this multi-year contract, the amendment will change it from an open ended contract to a specific termination date. These changes fall outside the authority granted to the Purchasing Agent under MMC section I-2-3.11 “Authority to Modify Contracts Awarded by City Council” and are therefore subject to Council approval.

Fiscal Impact: This amendment represents an increase of \$51,450 to the contract. Sufficient funds have been appropriated within the Fire Department’s operating budget to pay for this service.

Recommendation: Approve the amendment of the contract with CSG Consultants, Inc. for *Fire Plan Review Services* to extend contract to June 30, 2009.

* 12. **Approve Amendment to Contract with CSG Consultants, Inc. for Fire Inspection Services (Staff Contact: Chris Schroeder, 586-3161)**

Background: A contract for Fire Inspection Services was awarded to CSG Consultants, Inc. by the City Council on January 2, 2007. At this time, Fire Prevention Division wishes to increase the not-to-exceed amount of the contract to \$30,000 and to extend the duration of the contract until June 30, 2008. These changes fall outside the authority granted to the Purchasing Agent under section 1-2-3.11 “Authority to Modify Contracts Awarded by City Council” and are therefore subject to Council approval.

Fiscal Impact: This amendment represents an increase of \$15,000 to the contract. Sufficient funds have been appropriated within the Fire Department’s operating budget to pay for this service.

Recommendation: Approve the amendment of the contract with CSG Consultants, Inc. for *Fire Inspection Services* to extend the contract to June 30, 2008.

* 13. **Award the Bid for One Truck to Salinas Valley Ford (Staff Contact: Chris Schroeder, 586-3161)**

Background: The current fiscal year’s budget includes the purchase of two replacement utility trucks for the Public Works Department. One of the vehicles will be used for the maintenance and installation of street signs. The body for this unit is still being configured and will be bought separately at a later time. Purchasing went out to bid for an F-350 cab and chassis only. Purchasing worked with representatives from Public Works and Fleet Maintenance to develop specifications on the vehicle. On October 4, 2007 bids were sent to 16 regional and Bay Area Ford dealers on Purchasing’s bidders list, as well as advertised in the Milpitas Post and on the City web site. Seven (7) bids were received and are detailed in the Bid Tabulation, included in the agenda packet.

Fiscal Impact: The cost of the cab and chassis is \$18,404.75. Sufficient funding is available in the Public Works budget and the Equipment Replacement fund for this purchase.

Recommendation: Award the bid for one truck to Salinas Valley Ford for the not to exceed amount of \$18,404.75.

XVIII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, NOVEMBER 27, 2007 AT 7:00 P.M.**

**CITY COUNCIL HAS ONLY ONE SCHEDULED MEETING NEXT MONTH
TUESDAY, DECEMBER 11, 2007 AT 7:00 P.M.**