



**MILPITAS CITY COUNCIL MEETING AGENDA
NOVEMBER 18, 2008**

**6:30 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)
455 E. CALAVERAS BOULEVARD**

SUMMARY OF CONTENTS

- I. CALL TO ORDER/ROLL CALL (6:30 p.m.)**
- II. ADJOURN TO CLOSED SESSION OF CITY COUNCIL**
PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Pursuant to CA Government Code §54957. Position: City Attorney Michael Ogaz
- III. CLOSED SESSION ANNOUNCEMENT:** Report on action taken in Closed Session, if required pursuant to CA Govt. Code §54957.1, including the vote on abstention of each member present
- IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- V. INVOCATION (Councilmember Giordano)**
- VI. APPROVAL OF COUNCIL MEETING MINUTES – November 4, 2008**
- VII. SCHEDULE OF MEETINGS – Council Calendars for November and December 2008**
- VIII. PRESENTATIONS**
Proclamation: Family Week – November 23-29, 2008
Special Presentation: Delegation from Sister City Dagupan, Philippines
Commendations: Ninth Annual Neighborhood Beautification Awards
- IX. 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.

- X. ANNOUNCEMENTS**
- XI. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XII. APPROVAL OF AGENDA**
- XIII. CONSENT CALENDAR (Items with asterisk*)**

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 member of the City Council, member of the audience, or staff requests the Council to remove an item from or be added to the consent calendar. Any person desiring to speak on any item on the consent calendar should ask to have that item removed from the consent calendar. If removed, this item will be discussed in the order in which it appears on the agenda.

XIV. PUBLIC HEARINGS

- 1. Introduce Ordinance No. 38.784 for Zoning Ordinance Text Amendments Related to Massage Establishments (Staff Contact: Julie Moloney, 586-3384)**
- 2. Introduce Ordinance No. 38.781 and Adopt a Resolution in Consideration of Actions Related to the Midtown Specific Plan Amendments: Approve Specific Plan Amendment ST08-0001, General Plan Amendment GP08-0003, Zoning Amendment ZA08-0006 Relating to Zoning Ordinance and Map Changes (Staff Contact: Julie Moloney, 586-3384)**
- 3. Introduce Ordinance 38.785 to Modify the City's Parking Regulations and Adopt a Resolution for Midtown Specific Plan Amendment (No. ST08-0003) Increasing the Amount of Guest Parking in the Midtown Area (Staff Contact: Sheldon Ah Sing, 586-3278)**
- 4. Consider Actions Related to the Landmark Tower Residential Project: Approve Environmental Impact Report by Resolution, Approve the General Plan Amendment by Resolution, Introduce Ordinance No. 38.782 Relating to Zoning Ordinance and Map Changes, and Approve the Major Tentative Map, Site Development Permit, and Conditional Use Permit by Resolution (Staff Contact: Judie Gilli, 586-3280)**

XV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

- RA1. Call to Order by the Mayor/Chair**
- RA2. Roll Call**
- RA3. Approval of Minutes (November 4, 2008)**
- RA4. Approval of Agenda and Consent Calendar (Items with asterisk*)**
- *RA5. Adopt a Resolution Granting Final Acceptance of the Milpitas East Parking Garage Project No. 8161 (Staff Contact: Greg Armendariz, 586-3317)**
- *RA6. Adopt a Resolution Granting Initial Acceptance of the Slurry Seal Project FY 2008-09, Projects No. 8194 and No. 6073 (Staff Contact: Jaime Rodriguez, 586-3335)**
- *RA7. Approve Budget Appropriation of Developer Fees to the New Milpitas Senior Center, Project No. 8176 (Staff Contact: Greg Armendariz, 586-3317)**
- *RA8. Approve Amendment No. 1 to the Agreement with Landtech Consultants and Budget Appropriation for Bay Area Rapid Transit (BART) Extension, Project No. 8164 (Staff Contact: Greg Armendariz, 586-3317)**
- *RA9. Approve Staff Recommended Pre-Qualified Bidder List, Authorize Advertisement for Bids; Authorize the Advertisement for Bids and Approve Amendment No. 3 to the Agreement with Noll & Tam Architects for the Milpitas Senior Center, Project No. 8176 (Staff Contact: Greg Armendariz, 586-3317)**
- *RA10. Authorize the City Engineer to Execute a Contract Change Order with Granite Construction for the Singley Area Street Rehabilitation, Phase V, Projects No. 8193 and No. 8194 (Staff Contact: Jaime Rodriguez, 586-3335)**
- *RA11. Authorize \$750,000 Grant to Senior Housing From the Low and Moderate Income Housing Fund for the Acquisition and Rehabilitation of a Single Family Residence to Develop Affordable Housing for Seniors (Staff Contact: Felix Reliford, 586-3071)**

RA12. Agency Adjournment

XVI. REPORTS OF OFFICER

City Council

- * 5. Approve Mayor's Recommendation for \$500 Donation to Curtner Elementary School 3rd Grade Walk-a-thon Fundraiser (Contact: Mayor Esteves, 586-3029)
- * 6. Consider Mayor's Recommendations for Appointments to Milpitas Commissions (Contact: Mayor Esteves, 586-3029)

XVII. ORDINANCE

- 7. Waive the First Reading and Introduce Purchasing Ordinance No. 23.11, Title I, Chapter 2 (Purchasing) of the Milpitas Municipal Code (Staff Contact: Bronwen Lacey, 586-3040)

XVIII. RESOLUTIONS

- * 8. Adopt a Resolution Deleting Time-in-Grade Benefit Exception Applicable to City Attorney (Staff Contact: Michael Ogaz, 586-3041)
- * 9. Adopt a Resolution Amending the City of Milpitas Classification Plan (Staff Contact: Carmen Valdez, 586-3086)

XIX. BIDS AND CONTRACTS

- * 10. Approve Amendment No. 3 to the Agreement with Valley Recycling for a Debris Box (Staff Contact: Kathleen Phalen, 596-3345)
- * 11. Approve Amendment No. 1 to the Consultant Agreement with Bartle Wells Associates to Update the Financial Utility Master Plan, Projects No. 7103 and No. 6105 (Staff Contact: Kathleen Phalen, 586-3345)
- * 12. Award the Bid for 2009 Ford Trucks to Mission Valley Ford and Salinas Valley Ford (Staff Contact: Chris Schroeder, 586-3161)
- * 13. Award the Bid for 2009 Ford Vehicle Purchase to Hansel Ford Lincoln Mercury (Staff Contact: Chris Schroeder, 586-3161)
- * 14. Approve the Purchase and Standardize Rain Master Irrigation Equipment for the City Park Irrigation System Rehabilitation Project (Staff Contact: Chris Schroeder, 586-3161)
- * 15. Authorize City Manager to Execute Agreement with Custom Benefit Administrators (CBA) to Provide Flexible Spending Account (Uninsured Medical and Dependent Care Account) and COBRA Administrative Services for City of Milpitas Employees (Staff Contact: Carmen Valdez, 586-3086)
- * 16. Authorize City Manager to Execute Agreement with Lincoln Financial Group to Provide Life Insurance, Accidental Death and Dismemberment and Long Term Disability for City of Milpitas employees (Staff Contact: Carmen Valdez, 586-3086)

XX. CLAIM AND DEMAND

- * 17. Receive Report of Emergency Repair of the Abbott Street Water Main and Authorize Payment for Repair Work Invoices Not to Exceed \$40,000 (Staff Contact: Greg Armendariz, 586-3317)

**NEXT REGULAR MEETING
TUESDAY, DECEMBER 2, 2008**

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, 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: 408-586-3056 / 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

Materials related to an item on this agenda submitted to the City Council/Redevelopment Agency after initial distribution of the agenda packet are available for public inspection at the City Clerk's Office/Information Desk at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, and at the Milpitas Library during normal business hours.

BECOME A CITY COMMISSIONER!

Currently, there are openings for the:

Public Art Committee (at large)

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.

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, call the City Clerk at 586-3001 or send an email to mlavelle@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the Council Chambers for all meetings. TDD phone number (408) 586-3013.

AGENDA REPORTS

IX. PRESENTATIONS

Ninth Annual Neighborhood Beautification Awards

Building a Sense of Community Winner
Stonegate H.O.A. – Charles Tang, Board President
Attractive Non-Residential Winner
47 – 89 S. Park Victoria Drive – Mamey Lam, Trustee

Staff Choice Award Winner
142 Midwick Drive – Gina Custodio

Central Area

Attractive Residential Winner
243 Washington Drive – Mr. & Mrs. Ooka

Attractive Residential Nominees
373 Chad Drive – Stephen Sullivan

Attractive Homeowners Associations Winner
971 Sandalridge Court – Foothill Square – Rueben Baltazar

Attractive Multi-Family Units Winner
60 Wilson Way #80 – Pioneer Mobile Home Park – Maria Bettencourt

Hillside Area

Attractive Residential Winner
2237 N. Park Victoria Drive – Mr. & Mrs. Mujtaba

Attractive Homeowners Association Winner
1149 Fox Hollow Court – Fox Hollow - Mr. & Mrs. Valliani

East Valley Floor Area

Attractive Residential Winner
1429 Yosemite Drive - Mr. & Mrs. Araya

Attractive Homeowners Associations Winner
1499 David Lane – Stonegate – Mr. & Mrs. Tang

Attractive Multi-Family Units Winner
283 & 285 Fanyon Street – Gary Wheeler

West Area

Attractive Residential Winner
495 Heath Street – Mr. & Mrs. Ware

Attractive Residential Nominees
231 Smithwood Street – Wilfredo Somera
1117 Pescadero Street – Mr. & Mrs. Winston

Attractive Homeowners Association Winner
24 Cedar Court – Starlite Pines – Mr. & Mrs. Rudisill

Attractive Homeowners Association Nominees
47 Cedar Way – Starlite Pines – Thanh Nguyen
64 Cedar Court – Starlite Pines – Mr. & Mrs. Haugen
83 Cedar Way – Starlite Pines – Janet Wilson
95 Cedar Way – Starlite Pines - Joana De Jesus
1626 Fallen Leaf Drive – Starlite Pines – Amelia Gomez

Attractive Multi-Family Units Winner
1723 Starlite Drive – Mr. & Mrs. Bennet

XV. PUBLIC HEARINGS

1. Introduce Ordinance No. 38.784 for Zoning Ordinance Text Amendments Related to Massage Establishments (Staff Contact: Julie Moloney, 586-3384)

Background: Massage establishments are currently listed as a conditional use (requiring a use permit) only in the Highway Services (HS) zoning district. Massage practices are allowed as accessory uses in medical offices, i.e. doctor’s offices, chiropractic offices and acupuncture clinics and as a part of commercial service uses such beauty salons, limited to the head, neck and shoulders. Earlier this year, the Planning Commission approved a use permit for a massage establishment in the Town Center (TC) zoning district pursuant to Milpitas Municipal Code (MCC) section XI-10-22.04-11. This unique section in the TC district gives the Commission the ability to conditionally approve uses that are not specifically listed as permitted or conditional, if it finds that the use meets the intent of the district and does not impair any other businesses.

Topline Properties, the owners of the Milpitas Square shopping center on Barber Lane, filed an application to amend the zoning ordinance to conditionally allow massage establishments in the General Commercial (C2) and Mixed-Use (MXD) districts. Staff added the TC district to the proposal to be consistent with the recent Planning Commission decision. The staff report to the Planning Commission contains a detailed discussion of the proposed changes and is included in the Council’s agenda packet. None of these changes affect the massage licensing and screening procedure conducted by the Police Department.

Fiscal Impact: None.

Recommendations:

1. Hold public hearing and move to close the public hearing following any testimony.
2. Waive the first reading beyond the title of Zoning Ordinance No. 38.784.
3. Introduce Ordinance No. 38.784.

2. Introduce Ordinance No. 38.781 and Adopt a Resolution in Consideration of Actions Related to the Midtown Specific Plan Amendments: Approve Specific Plan Amendment ST08-0001, General Plan Amendment GP08-0003, Zoning Amendment ZA08-0006 Relating to Zoning Ordinance and Map Changes (Staff Contact: Julie Moloney, 586-3384)

Background: The Midtown Specific Plan was adopted in 2002 as a guiding policy document for the Midtown area. The Plan identifies opportunities for development, redevelopment and preservation, as well as specific development standards for the area. On June 3, 2008, the Milpitas City Council adopted the Transit Area Specific Plan (TASP). This plan was developed in response to Policy 7.5 of the Midtown Specific Plan that required the preparation of a coordinated development plan for the area identified as the Capitol Avenue High-Density Residential Zone. The TASP overlaps approximately 100 acres of the Midtown Plan.

Amendments to the Midtown Specific Plan, General Plan and Zoning Ordinance are necessary to change the boundary of the Midtown Specific Plan, change any figures, policies and references that are now captured by the TASP and update the General Plan and Zoning Ordinance accordingly. These changes include removing an industrial area at the southeastern portion of the plan area (along Montague Expressway); and removing the Transit Oriented Development (TOD) overlay in the northern portion of the plan area (along North Main Street). The northern TOD area was originally put in place with the possibility that a Bay Area Rapid Transit (BART) station be located near Calaveras Boulevard. The Planning Commission unanimously recommended the City Council adopt the changes at the July 23, 2008 meeting.

Fiscal Impact: None.

Recommendations:

1. Hold public hearing and move to close the public hearing following any testimony.
 2. Adopt a Resolution approving Specific Plan Amendment ST08-0001 and General Plan Amendment GP08-0003.
 3. Waive the first reading beyond the title of Zoning Ordinance No. 38.781.
 4. Introduce Ordinance No. 38.781.
- 3. Introduce Ordinance 38.785 to Modify the City's Parking Regulations and Adopt a Resolution for Midtown Specific Plan Amendment (No. ST08-0003) Increasing the Amount of Guest Parking in the Midtown Area (Staff Contact: Sheldon Ah Sing, 586-3278)**

Background: In April 2007, the City Council created a Parking Task Force to address parking issues throughout the City. Since that time staff and the Task Force have progressed through various tasks including research and public outreach. The culmination of this effort is being presented as a number of recommended modifications to the City's parking regulations.

The parking issues identified through the outreach effort and addressed in the proposed changes are:

- *Spillover parking impacts in both new and existing residential areas.* The proposed solution is to increase the parking requirements for both new homes and future home remodels that have four or more bedrooms outside the Transit Area Specific Plan (TASP). The increase would be from 2 on-site spaces currently required for a home with two or more bedrooms to 2 required on-site spaces plus one additional space for each additional bedroom over three (four or more). The proposed changes also include an increase in the guest parking requirement to 20% in all multi-family zoning districts outside of the Transit Area Specific Plan. This would result in an increase of 5% (15% to 20%) in the MXD and R4 zoning districts located primarily in the Midtown Specific Plan Area. The Planning Commission recommended that a guest parking requirement of 25% be applied to all multi-family districts including those in the Transit Area Specific Plan.
- *Lack of available parking for restaurants.* Currently parking demand for restaurants is calculated based on the number of seats shown on a floor plan. The proposed changes would calculate demand based on the allowable occupancy of the dining area - one parking space for every 2.6 persons. This would be a more accurate method of calculating demand and provide a self-regulating method of compliance.
- *Insufficient back-up distance in new residential projects.* A new requirement is proposed to maintain a minimum unobstructed maneuvering distance of 25 feet from the opening of a garage or carport.
- *Allow compact spaces in commercial parking lots.* The proposed changes would allow up to 40% compact spaces in commercial lots (the same requirement as industrial lots) and require the compact spaces be dispersed throughout. Allowing compact spaces would encourage efficient use of parking lots and provide more parking opportunities.
- *Residential tandem limitations.* The Parking Task Force and the Planning Commission both recommended limitations for tandem parking in residential projects. All tandem

parking requires approval of the Planning Commission through a conditional use permit but only the newer zoning districts created within the Transit Area Specific Plan limit tandem to no more than 75% of a project's total parking requirement. Staff supports broadening the limits to apply to all residential districts, but believes the 75% limit just recently established in the TASP should remain. The Parking Task Force recommended that the limit be reduced to 50% and apply to all residential zoning districts.

Staff is recommending that the proposed changes would only affect projects that have submitted a Planning or Building Permit application after January 1, 2009. The resolution for the Midtown Specific Plan is included to amend the residential guest parking requirements from 15% to 20% within the text of the Specific Plan.

Fiscal Impact: None.

Recommendations:

1. After hearing any public testimony, move to close the public hearing.
 2. Adopt a Resolution for Specific Plan changes.
 3. Waive the first reading beyond the title of Ordinance No. 38.785.
 4. Introduce Ordinance No. 38.785.
4. **Consider Actions Related to the Landmark Tower Residential Project: Approve Environmental Impact Report by Resolution, Approve the General Plan Amendment by Resolution, Introduce Ordinance No. 38.782 Relating to Zoning Ordinance and Map Changes, and Approve the Major Tentative Map, Site Development Permit, and Conditional Use Permit by Resolution (Staff Contact: Judie Gilli, 586-3280)**

Background: The Landmark Tower project proposal consists of the following components: 1) a completed environmental impact report (EA2007-1) consisting of the Draft Environmental Impact Report (EIR) and Final EIR; 2) a General Plan amendment (GP07-6) to change the land use designation of the 3 acres site located at 600 Barber Lane from General Commercial to Very High Density Mixed-Use with a new High Rise Overlay; 3) a Zoning Ordinance and map amendment (ZC207-3) to change the zoning to Very High Density Mixed-Use and create the new High Rise Overlay District with development standards for the overlay district; 4) a water supply assessment determining that water supply can be provided for the project; and 5) a Major Tentative Map (MT08-03), Site Development Permit (SZ07-02), and Conditional Use Permit (UP08-41) to allow construction of the building.

The building being proposed would be an 18-story high mixed building that would include vertical integration of residential (375 condominium units), retail (148,805 square feet) and office (48,690 square feet) uses. The Draft EIR was circulated for public review between May 1, 2008 and June 16, 2008, and the Final EIR contains the response to public comments. The Planning Commission considered the Landmark Tower project on October 22, 2008 and unanimously recommended that the City Council approve it.

Fiscal Impact: None.

Recommendations:

1. Hold public hearing; and, move to close the public hearing following any testimony.
2. Adopt Resolution certifying the Landmark Tower Environmental Impact Report and adopting the Statement of Overriding Considerations for the significant unavoidable environmental impacts.
3. Adopt Resolution approving the General Plan amendment.
4. Adopt Resolution approving the Landmark Tower Major Tentative Map, Site Development Permit, Water Supply Assessment, and Conditional Use Permit.
5. Waive the first reading beyond the title of Ordinance No. 38.782, for rezoning.
6. Introduce Ordinance No. 38.782, related to the Landmark Tower Project.

XV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor/Chair

RA2. Roll Call

RA3. Approval of Minutes (November 4, 2008)

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

***RA5. Adopt a Resolution Granting Final Acceptance of the Milpitas East Parking Garage Project No. 8161 (Staff Contact: Greg Armendariz, 586-3317)**

Background: This project, which was initially accepted on October 2, 2007, has passed the one-year warranty period. A satisfactory final inspection has been made of the public improvements that include a new parking garage. Therefore, the Redevelopment Agency/Council may grant final acceptance and the contractor's bond may be released.

Fiscal Impact: None.

Recommendation: Adopt a Resolution granting final acceptance of the Milpitas East Parking Garage, Project No. 8161, and release of the contractor's bond.

***RA6. Adopt a Resolution Granting Initial Acceptance of the Slurry Seal Project FY 2008-09, Projects No. 8194 and No. 6073 (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: City Council at its June 17, 2008 meeting awarded the Slurry Seal Project FY 2008-09, Project No. 8194, to Valley Slurry Seal Company for the installation of slurry seal to preserve pavement surface and the installation of roadway markings on the following:

<u>Street</u>	<u>Segment</u>
Ashland Drive	Entire Segment
Beaumere Way	Entire Segment
Belbrook Place	Entire Segment
Belbrook Way	Entire Segment
Berrendo Drive	Entire Segment
Boulder Street	Entire Segment
California Circle	I-880 On/Off Ramp and Milmont Drive
Carnegie Drive	Yosemite Drive and Edsel Drive
Clauser Drive	Escuela Parkway and Corinthia Drive
Corinthia Drive	Escuela Parkway and Clauser Drive
Cortez Street	Entire Segment
Escuela Place	Entire Segment
Fontainbleu Avenue	Midwick Drive and Rose Drive
Fontainbleu Court	Entire Segment
Knollview Drive	Entire Segment
Kovanda Way	Entire Segment
Martil Way	Escuela Parkway and Corinthia Drive
Midwick Drive	Entire Segment
Milmont Drive	California Circle and Dixon Landing Road
Monmouth Drive	Entire Segment
Roswell Court	Entire Segment
Roswell Drive	Yosemite Drive and Canton Drive
Sudbury Court	Entire Segment
Sudbury Drive	Entire Segment
Tirol Court	Entire Segment
Vienna Drive	Entire Segment

The project is complete and staff recommends that Council adopt a resolution to grant the Initial Acceptance of the project authorizing the reduction of the contractor's faithful performance bond to 10% of the contract amount or \$52,626. The project will remain under warranty for a one-year period.

Fiscal Impact: None

Recommendation: Adopt a resolution granting initial acceptance of the Slurry Seal Project FY 2008-09, Projects No. 8194 and No. 6073.

***RA7. Approve Budget Appropriation of Developer Fees to the New Milpitas Senior Center, Project No. 8176 (Staff Contact: Greg Armendariz, 586-3317)**

Background: The City received developer in lieu fees for off-site public improvements, in the amount of \$92,400 for the reconstruction of a sidewalk connection at the Civic Center, along the north side of the existing library. The sidewalk improvements will be installed as part of the new Senior Center.

Fiscal Impact: None.

Recommendation: Approve budget appropriation of \$92,400 to the new Milpitas Senior Center Project No. 8176.

***RA8. Approve Amendment No. 1 to the Agreement with Landtech Consultants and Budget Appropriation for the Bay Area Rapid Transit (BART) Extension, Project No. 8164 (Staff Contact: Greg Armendariz, 586-3317)**

Background: On August 5, 2008, the Agency approved an agreement with Landtech Consultants in the amount of \$18,000 to provide structural review services for Bay Area Rapid Transit (BART) Extension Project. Santa Clara Valley Transportation Authority (VTA) has since completed the design, received bids and on November 6, 2008, awarded a construction contract - C210, for the relocation of Union Pacific Railroad freight rail relocation, realignment of Berryessa Creek and the seismic retrofit of the Abel Street overcrossing bridge. The Abel Street overcrossing bridge is City owned and maintained, and because it goes over the future BART tracks, VTA is seismically retrofitting the bridge to a "no collapse" design standard.

The work will be done under a City permit and oversight inspection of the bridge work will be performed by the City. Additionally, staff recommends that Landtech perform structural construction related support services. An amendment to the agreement with Landtech is proposed for these additional services. Staff has negotiated a scope and fee for these services, based on time and materials, not to exceed \$41,000, which is considered reasonable. Approval of this agreement amendment brings the total contract amount to \$59,000. An additional \$34,000 is estimated for City staff administration and inspection.

Fiscal Impact: A budget appropriation in the amount of \$75,000 from the RDA Fund is proposed to cover the costs associated with this work. The permit fees will provide reimbursement of these costs.

Recommendations:

1. Approve amendment No. 1 to the agreement with Landtech Consultants, in the amount of \$41,000, subject to approval as to form by the City Attorney.
2. Approve the budget appropriation in the amount from \$75,000 for the RDA fund into Project No. 8164.

***RA9. Approve Staff Recommended Pre-Qualified Bidder List, Authorize Advertisement for Bids; Authorize the Advertisement for Bids and Approve and Authorize the Agency Director to**

Execute Amendment No. 3 to the Agreement with Noll & Tam Architects for the Milpitas Senior Center, Project No. 8176 (Staff Contact: Greg Armendariz, 586-3317)

Background: On August 5, 2008, the Agency authorized staff to issue a bidder pre-qualification package for the Project. Interested bidders have submitted their qualifications to the City for review and approval. Staff reviewed the submitted qualification statements and determined that ten contractors have met the threshold criteria to bid on the Project. A copy of the pre-qualified bidder list is included in the Council's packets. Only bidders who have been approved through the pre-qualification process will be authorized to submit bids for the project.

At the November 4, 2008 meeting, the Agency approved the plans and specifications for the Senior Center Project. The Engineer's Estimate for the work is approximately \$11,000,000. A copy of the project plan title sheet is included in the Council's agenda packets. A complete set of the plans and specifications are available for review in the City Engineer's office.

On August 1, 2006, the Agency approved a consultant agreement with Noll & Tam Architects in the amount of \$968,175 to provide professional design services for the Milpitas Senior Center. Subsequently, two agreement amendments have been approved in the amounts of \$49,975 and \$289,000. Staff recommends that Noll & Tam Architects perform construction related support services for the Milpitas Senior Center. An amendment to the agreement with Noll & Tam Architects is proposed for these additional services. Staff negotiated a scope and fee for these services not to exceed \$ 365,160, which is considered reasonable.

Fiscal Impact: Approval of this agreement amendment brings the total contract amount to \$1,672,310. There are sufficient funds in the project budget for these consultant services.

Recommendations:

1. Approve staff recommended bidder pre-qualification list for the new Milpitas Senior Center, Project No. 8176.
2. Authorize advertising the project for bids.
3. Approve and authorize the Agency Director to execute Amendment No. 3 to the Agreement with Noll & Tam Architects, in the amount of \$365,160, subject to approval as to form by the City Attorney.

***RA10. Authorize the City Engineer to Execute a Contract Change Order with Granite Construction for the Singley Area Street Rehabilitation, Phase V, Projects No. 8193 and No. 8194 (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: The City Council awarded the Singley Area Street Rehabilitation Phase V project for \$772,245 to Granite Construction Company on June 17, 2008. The project provides reconstruction of roadway sections, including installation of drainage improvements in the Singley Area to eliminate water ponding on the streets, due to differential settlement of concrete gutters and road pavement surfaces. Construction of these improvements is programmed for the following streets:

<u>Street</u>	<u>Segment</u>
Hamilton Avenue	Merz Court to Enriquez Court
Hamilton Avenue	Tramway Drive to Escuela Parkway
Tramway Drive	Milpitas Boulevard to Donahue Drive
Tramway Drive	Escuela Parkway to Wyoma Place
Chad Drive	Singley Drive to Aaron Park Drive
Whittier Street	Entire Segment

Staff recommends that additional work to improve the pavement condition of North Milpitas Boulevard between Hanson Court and Abel Street/Jacklin Road be included in the project. This work will eliminate the two pavement "dips" in the number one southbound lane of Milpitas

Boulevard. The work involves reconstruction of the two storm drain inlets at these locations adjusting to new conform elevations and paving to these new elevations. Staff negotiated a change order, based on time and materials, not to exceed \$68,000 for this additional work, which is considered reasonable for the work involved.

Fiscal Impact: None. Sufficient funds are available in Project No. 8194.

Recommendation: Authorize the City Engineer to execute a contract change order with Granite Construction for the Singley Area Street Rehabilitation, Phase V, Projects No. 8193 and 8194 in an amount not to exceed \$68,000.

***RA11. Authorize \$750,000 Grant to Senior Housing From the Low and Moderate Income Housing Fund for the Acquisition and Rehabilitation of a Single Family Residence to Develop Affordable Housing for Seniors (Staff Contact: Felix Reliford, 586-3071)**

Background: California Redevelopment Law Section 33334.2 authorizes the Redevelopment Agency to set-aside at least 20% of all tax increment revenue generated from the project area(s) for the purpose of increasing, improving, and preserving the community's supply of low and moderate-income housing. These set-aside funds are known as the Agency's Low and Moderate Income Housing (LMIH) Fund.

Senior Housing Solutions is requesting the Redevelopment Agency to consider providing financial assistance in the amount of \$750,000 to purchase and rehabilitate another single-family home to provide affordable housing for seniors. Rents would be held at extremely low income levels (30% of the area median income) with a target to seniors whose income is \$1,000 per month or less. Senior Housing Solutions has provided 42 units of affordable housing for extremely low-income seniors in nine single-family homes throughout Santa Clara County including Milpitas. In November 2005, the Agency approved an allocation of \$250,000 from the LMIH Fund for the Senior Housing Solutions project in Milpitas that has since been completed. Senior Housing Solutions proposes again to leverage the requested Agency funds with funding from the County of Santa Clara Housing Trust Fund and Milpitas' CDBG Rehabilitation Loan Program during the next funding cycle in January 2009.

Given the success of the previous Senior Housing Solutions project in Milpitas, the long-term affordability for 99 years, and need for additional senior housing in Milpitas (staff received over 560+ senior applications for the 103 units DeVries Place Senior Housing project), staff recommends approval of the request from Senior Housing Solutions. Included in the Agency's agenda packet is a letter from Senior Housing Solutions describing project financing and the non-profit's previous experience with similar projects in other South Bay cities.

Fiscal Impact: None. There is sufficient funding in the Redevelopment Agency's LMIH Fund.

Recommendations:

1. Adopt a Resolution approving the allocation of \$750,000 from the RDA Low and Moderate Income Housing Fund to Senior Housing Solutions and requiring the execution of a Grant and Development Agreement, Regulatory Agreement, Deed of Trust with Assignment of Rents, and Security Agreement and Fixture Filing.
2. Direct staff to prepare a letter to the Housing Trust Fund of Santa Clara County in support of this project and the allocation of \$100,000 provided for affordable housing in Milpitas.

RA12. Agency Adjournment

XVI. REPORTS OF OFFICER

City Council

- * 5. **Approve Mayor's Recommendation for \$500 Donation to Curtner Elementary School 3rd Grade Walk-a-thon Fundraiser (Contact: Mayor Esteves, 586-3029)**

Background: Mayor Esteves received a request for a donation from Rachel Decker, a third grade teacher at Curtner Elementary School in Milpitas. The City Council is requested to consider the Mayor's recommendation to support the class walk-a-thon event. The school's fundraising event, held on October 17, was intended to raise money for field trips and computer upgrades.

The Council's Finance Subcommittee considered this request on October 29 and recommended a donation in the amount of \$500 (same amount donated last year).

Fiscal Impact: None. If authorized, funding would be allocated from the Community Promotions Unallocated budget line item. The budgeted amount for that line item for FY 2008-09 was \$10,000, and the current balance is \$7,000.

Recommendation: Approve the Mayor's request and Finance Subcommittee's recommendation of a \$500 donation to Curtner Elementary School Walk-a-thon.

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

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

Arts Commission/Public Art Committee

Appoint Tess Santos as Alternate No. 1 to a term that expires in October 2010.

Appoint Kim Chu as Alternate No. 2 to a term that expires in October 2009.

Emergency Preparedness Commission

Appoint Michael Caulkins as Alternate No. 2 to a term that expires in June 2009.

Parks, Recreation and Cultural Resources Commission

Appoint Michael Bangsal as Alternate No. 2 to a term that expires in June 2009.

Recommendation: Consider the Mayor's recommendations for appointments to Milpitas City Commissions and vote on four appointments.

XVII. ORDINANCE

7. **Waive the First Reading and Introduce Purchasing Ordinance No. 23.11, Title I, Chapter 2 (Purchasing) of the Milpitas Municipal Code (Staff Contact: Bronwen Lacey, 586-3040)**

Background: A minor clarification to the existing Purchasing Ordinance, codified as Milpitas Municipal Code Title I, Chapter 2, is necessary to confirm City staff's current practice. The existing ordinance requires that all purchases for goods or services over \$20,000 or more comply with formal bidding procedures, including award to the lowest responsive and responsible bidder (in Milpitas Municipal Code section I-2.03). The Purchasing Ordinance also authorizes the Purchasing Agent to use Requests for Sealed Proposals (RFP) where the competitive bidding is not practical or advantageous because of several considerations, per Milpitas Municipal Code I-2.06. The RFP process allows the City to solicit competitive bids from suppliers for goods and services using more flexible criteria than does the formal bid process. Use of the RFP process would not apply to Public Works construction where a formal bid process is required under the Public Contracts Code.

The Council award process contains several exceptions to the formal bidding procedures, but does not include the RFP process as an exception. Consequently, the Municipal Code could be interpreted to restrict the City's use of the RFP process for purchases of less than \$20,000. This

possible construction severely limits staff's ability to procure the goods and services that will best suit the City's needs.

The proposed amendment will include the RFP process as an exception to the formal bid requirements for the purchases of goods or services over \$20,000. This minor amendment would confirm and formalize the City's existing practice.

Fiscal Impact: None

Recommendations:

1. Waive the first reading beyond the title of Ordinance No. 23.11.
2. Introduce Ordinance No. 23.11 amending Title I, Chapter 2 (Purchasing) of the Milpitas Municipal Code.

XXII. RESOLUTIONS

- * **8. Adopt a Resolution Deleting Time-in-Grade Benefit Exception Applicable to City Attorney (Staff Contact: Michael Ogaz, 586-3041)**

Background: Currently the benefit group consisting of the City Council and its directly appointed personnel, i.e., the City Manager and City Attorney, are entitled to have their PERS employee contribution paid by the City. It was determined, however, that the City Attorney should not receive that benefit until he had received his first yearly review, if appropriate. At this time, the City Attorney has had his one year review before the City Council in closed session and the City Attorney Subcommittee has considered in its open session meeting of October 31, 2008, City Attorney compensation issues. With successful completion of his first year as City Attorney, the Subcommittee recommends eliminating the restriction and providing the City Attorney with the PERS benefit allowed to other direct Council appointees.

Fiscal Impact: None. Cost differential will be absorbed within the existing City Attorney Department budget.

The City Attorney Subcommittee makes the following recommendation:

Recommendation: Adopt a Resolution deleting the time-in-grade benefit exception applicable to the City Attorney.

- * **9. Adopt a Resolution Amending the City of Milpitas Classification Plan (Staff Contact: Carmen Valdez, 586-3086)**

Background: Amendments to the Classification Plan are periodically required to account for organization change and new responsibilities. The proposed modifications listed below reflect desired changes in the organization as well as assigned responsibilities.

1. Reallocate one position in the Public Works Department from a Maintenance Custodian I/II to a Maintenance Worker I/II. Facilities Maintenance is the only section that operates full time seven days a week (day shift 5 days, swing shift 7 days.) The section maintains and serves 12 city buildings. With our facilities practically operating 24/7, there are numerous calls after hours that require more technical expertise than a custodian can provide. On the day shift, a Maintenance Worker II (facility technician) and a Maintenance Worker II (groundskeeper) are available to handle building issues on a routine basis. However, the swing shift only has custodian staff available and no maintenance worker staff on duty. When a building emergency arises, a Maintenance Worker II is dispatched from the stand-by list.

It is recommended that a Maintenance Worker I/II position be *added* to the swing shift and a Maintenance Custodian I/II position be *deleted* from the swing shift. The responsibilities would include performing mechanical, electrical and plumbing repairs, overseeing contractors, doing

work required to be performed during non-business hours, such as annual fire alarm servicing, HVAC servicing, etc. This transition would also reduce overtime due to weeknight stand-by callouts during emergencies. When a position becomes vacant in the Maintenance Custodian I/II series, the position could be deleted at that time, simultaneously adding the Maintenance Worker I/II. This would allow a seamless transition of the position, and an appointment for the Maintenance Worker I/II could be from a lateral opportunity or the newly created eligibility list being finalized.

Fiscal Impact: None – this add/delete recommendation will provide a cost savings of 3% - 5% of the annual salary (\$1,890 to \$3,150) due to reduced overtime and elimination of call-outs after 5:00 pm.

2. Reallocate one position in the Planning and Neighborhood Services Department from a Principal Administrative Analyst to an Administrative Analyst I/II. Due to the recent retirement of the Principal Administrative Analyst, the Department has analyzed the need for such a position and has determined that the department will best be served by *deleting* the Principal Administrative Analyst and *adding* an Administrative Analyst I/II for basic administrative support. The new analyst will be expected to assist the department with budgets, contracts, technical assistance with the Community Development Block Grant (CDBG) program, affordable housing programs and to provide basic zoning information.

Fiscal Impact: None - It is estimated that the saving for this reallocation would be at least \$51,688.

3. Reallocate one position in the Financial Services Department from an Administrative Analyst I/II to a newly created Budget Manager in the Administrative Division. Due to the upcoming retirement of the Administrative Analyst I/II, the Department has analyzed the need for a Budget Manager and has determined that it would best be served to *delete* one Administrative Analyst I/II and *add* a Budget Manager. The Budget Manager will be responsible for planning, organizing, and coordinating the budget process, performing analysis and forecasting expenditures and revenues. In addition, he or she will directly supervise Administrative Division staff in their regular activities of investment, risk management, and debt management. Currently the Administrative Analyst position does not supervise staff. Human Resources established the job specifications and salary range of the Budget Manager position. Enclosed in the agenda packet for City Council's review is the job specification. The recommended salary at its top range is \$117,245. The difference in top range salary between a Budget Manager and the Administrative Analyst I/II including related benefits is approximately \$30,000.

4. Reallocate one position in the Financial Services Department from a Meter Reader Supervisor to a half-time meter reader position. Due to the upcoming retirement of the Meter Reader Supervisor, the Department analyzed the need for this position and determined that it would best be served to *delete* the Meter Reader Supervisor and *add* a half time meter reader position. Based on the workload of the meter readers, it will warrant an additional half-time meter reader to provide support for billing cycles that have more readings, or when one meter reader is on vacation or on leave. The savings from eliminating the Meter Reader Supervisor position and adding a part-time water meter reader position is approximately \$60,000 including related benefits.

Fiscal Impact: The overall fiscal impact of these recommendations is approximately \$30,000 savings to the City.

Recommendation: Adopt a Resolution amending the Classification Plan to include four major changes in personnel classifications (as specified in the resolution).

XXIII. BIDS AND CONTRACTS

- * 10. **Approve Amendment No. 3 to the Agreement with Valley Recycling for a Debris Box (Staff Contact: Kathleen Phalen, 586-3345)**

Background: Debris box haulers are required to enter into a standard three-year agreement with the City, with allowable term extensions, authorizing them to collect and dispose of non-organic solid waste and/or construction and demolition debris. The City entered into an agreement with Valley Recycling on July 5, 2005. The first amendment to this agreement included minor changes such as insurance requirements and contract language updates. The second amendment extended the contract term for six (6) months. This third amendment extends the agreement term for another two and one-half (2 ½) years, thereby filling out the first of two extensions terms allowed by the agreement. All other contract provisions remain unchanged.

Fiscal Impact: None

Recommendation: Approve Amendment No. 3 to the agreement with Valley Recycling for a debris box, subject to approval as to form by the City Attorney.

- * 11. **Approve Amendment No. 1 to the Consultant Agreement with Bartle Wells Associates to Update the Financial Utility Master Plan, Projects No. 7103 and No. 6105 (Staff Contact: Kathleen Phalen, 586-3345)**

Background: The City Council retained Bartle Wells Associates (BWA) to prepare a Financial Utility Master Plan (FUMP) and adopted this plan on April 15, 2003. The FUMP established financial policies for the utility enterprise funds, provided long-range projections of expected revenues and expenses for the utility enterprise funds, and recommended annual utility rates to keep revenues and expenses in balance. Several FUMP-recommended financial policies and principles have been incorporated into the City budget processes and policies, including: utility rate review, fund reserve levels, fund capital and operation and maintenance, self-supporting enterprise funds, and pass-through wholesale costs (rather than deferring to future budgets).

As time passes, the FUMP long-range projections require updating, due to divergences between projected and actual cost and revenue factors. Examples of these factors are the wholesale water and sewer costs and the City's capital program. Revenues also fluctuate from changes in the customer base such as from economic slowdowns or population growth, customer behavior such as from conservation or in response to weather, or rate increases that differ from plan. Staff recently retained BWA, the financial consultant who prepared the original FUMP, to compare projected and actual costs for the past five years. The value of this Consultant Agreement of \$8,000 was within the City Manager's signature authority for approval. The preliminary findings show that after five years, the FUMP projections have diverged to the point where the rate recommendations require substantial revisions. Thus new FUMP modeling and analysis is required.

Staff now recommends that the agreement be amended to have BWA update the FUMP such that it will serve as a reliable plan for establishing the future rates needed to sustain the utility services. The work includes updating the Water and Sewer Cash Flow tables using current values as the basis for revised projections for future revenues, expenses, and fund balances. Most expenses are outside the ability of the City to control, such as wholesale water purchase costs. The one large expense that the City controls is its capital improvement program for construction, repair, or replacement of the water distribution and sewer collection infrastructure. Staff recommends analysis of up to four cash flow scenarios with varying levels of capital improvements to assess the impact on rates.

Staff negotiated an amendment to the scope of work with BWA and a fee not-to-exceed \$18,000, which is considered reasonable for this work. The original agreement of \$8,000, and this

amendment will bring the total not-to-exceed agreement amount to \$26,000. An amendment to the consultant agreement is included in the Council packet.

Fiscal Impact: None. Sufficient funds are available in the CIP No. 7103 Miscellaneous Minor Water and CIP No. 6105 Miscellaneous Minor Sewer.

Recommendation: Approve Amendment No. 1 to the Bartle Wells Associates Consultant Agreement to Update the Financial Utility Master Plan in the amount of \$18,000, subject to approval as to form by the City Attorney.

*** 12. Award the Bid for 2009 Ford Trucks to Mission Valley Ford and Salinas Valley Ford (Staff Contact: Chris Schroeder, 586-3161)**

Background: The current fiscal year's budget includes funds to purchase two (2) 2009 F-650 Ford trucks. The first truck is a regular cab 4x2 with an 1800 gallon water tank. The second truck is also a regular cab 4x2, but with a Loadmaster rear dump body. Purchasing worked with Fleet Maintenance and Public Works Trees and Landscape staff to develop the first specification, and with Parks staff to develop the second specification. Specifications were sent to five (5) regional and Bay Area Ford truck dealers on Purchasing's bidders list. In addition, the bid was advertised in the local newspaper and on the City website. Four bids were received and are summarized below:

Truck No. 1 (Tank)		Truck No. 2 (Dump)	
<u>Bidder</u>	<u>Total Bid</u>	<u>Bidder</u>	<u>Total Bid</u>
Salinas Valley Ford	<u>\$76,198.00</u>	Salinas Valley Ford	\$127,996.00
East Bay Ford	\$93,000.00	East Bay Ford	\$127,371.00
Hansel Ford Lincoln-Mercury	\$77,595.00	Hansel Ford Lincoln-Mercury	\$129,295.00
Mission Valley Ford	\$95,049.50	Mission Valley Ford	<u>\$126,944.50</u>

Fiscal Impact: \$219,922.77. Sufficient funding is available from the Equipment Fund and the Parks and Public Works Operating Budgets for the purchase of these vehicles.

Recommendation: Award the bid for 2009 Ford trucks to Salinas Valley Ford for the not-to-exceed amount of \$82,494.84 for truck No. 1, and to Mission Valley Ford for the not-to-exceed amount of \$137,427.93 for truck No. 2, including sales and tire tax.

*** 13. Award the Bid for 2009 Ford Vehicle Purchase to Hansel Ford Lincoln Mercury (Staff Contact: Chris Schroeder, 586-3161)**

Background: The current fiscal year's budget includes funds to purchase two (2) 2009 Ford Crown Victoria Police Interceptors. Purchasing worked with Fleet Maintenance and Police Department staff to develop specifications for the vehicles. The bids were sent to nineteen (19) regional and Bay Area Ford dealers on Purchasing's bidders list. In addition, the bid was advertised in the local newspaper and on the City website. Twelve bids were received and are summarized below:

<u>Bidder</u>	<u>Total Bid</u>
Hoblit Motors	\$ 67,623.25
Hansel Ford Lincoln-Mercury	<u>\$ 66,699.50</u>
Stan Morri Ford	\$ 68,826.06
Frontier Ford	\$ 68,882.02
Gilroy Ford	\$ 68,153.37
San Francisco Ford	\$ 67,534.50
Serramonte Ford	\$ 68,841.92
Salinas Valley Ford	\$ 67,338.18
Downtown Ford	\$ 66,812.51
Theodore Robbins Ford	\$ 69,007.82

Wondries Ford	\$ 68,685.49
Albany Ford	\$ 67,546.04

Fiscal Impact: \$66,699.50. Sufficient funding is available from the Equipment Fund and the Police Operating Budget for the purchase of these vehicles.

Recommendation: Award the bid for two 2009 Ford vehicles to Hansel Ford Lincoln Mercury for the not-to-exceed amount of \$66,699.50, including sales and tire tax.

* 14. **Approve the Purchase and Standardize Rain Master Irrigation Equipment for the City Park Irrigation System Rehabilitation Project (Staff Contact: Chris Schroeder, 586-3161)**

Background: The City of Milpitas has 30 parks with 53 irrigation controllers. Under the Park Irrigation System Rehabilitation Project, staff plans to upgrade all of the controllers to be operated by radio from one centralized control location. Precise “real time” monitoring will save the City money by protecting the landscape from damage caused by under watering and reduce waste of water caused by over watering. It will also save staff time to make manual adjustments in the park at the individual controller.

Currently all of the park irrigation controllers are Rain Master brand. John Deere Landscapes is the sole authorized distributor of Rain Master irrigation equipment for California, including controllers and software. Staff is requesting that the equipment be purchased as a sole source procurement as sanctioned in Section I-2-5.03-4 of the Milpitas Municipal Code. Staff also recommends that Rain Master be officially designated as the standard brand of irrigation equipment based on existing compatibility, pursuant to under Municipal Code Section I-2-3.13

John Deere Landscape has worked closely with staff to determine the exact quantity, type and layout of irrigation equipment for each park. Based on a combination of factors including frequency of use of the park, condition of the existing landscape, and age of the existing irrigation equipment, the following fifteen (15) parks will be retrofitted in order of priority: Sports Center, Cardoza, Augustine, Russell Fields, Strickroth, Oliver Jones, Gill-Los Pinos/ Santa Rita, Gill, Murphy, Dixon Landing, Hillcrest, Ben Rogers, Pinewood, Hall Memorial and Adobe. Although the equipment is being acquired sole source, it is staff’s plan to bid out the installation service. The installation will be performed in the order of priority among the 15 parks indicated above, to the extent that funding is available.

Fiscal Impact: \$399,472 is available from Project No. 5086 Park Irrigation System Rehabilitation. The purchase price for the equipment is \$275,384.48, and the remaining \$124,087.52 will be used for installation service.

Recommendation: Approve the equipment purchase from John Deere Landscapes for the not-to-exceed amount of \$275,384.48, approve Rain Master as the City standard brand of irrigation equipment, and authorize staff to solicit proposals for the installation of the equipment.

* 15. **Authorize City Manager to Execute Agreement with Custom Benefit Administrators (CBA) to Provide Flexible Spending Account (Uninsured Medical and Dependent Care Account) and COBRA Administrative Services for City of Milpitas Employees (Staff Contact: Carmen Valdez, 586-3086)**

Background: The City currently has an agreement with Employee Benefit Specialist (EBS) to provide the services for Flexible Spending Accounts (Uninsured Medical and Dependent Care Account) and COBRA Administrative Services for City of Milpitas employees. Staff requested VRT Insurance Services, the City’s Employee Benefits Broker to conduct a marketing analysis to determine if obtaining lower administrative fees (paid for by employees) and better customer service from a different insurance provider was feasible. VRT received responses back from three carriers with various options. Staff analyzed the information and has chosen Custom Benefit Administrators (CBA) to work with the City of Milpitas to provide Flexible Spending

Accounts (Uninsured Medical and Dependent Care Account) and COBRA administrative services to employees and COBRA eligible ex-employees. All services remain the same, at reduced fees with a seamless transition for employees.

Fiscal Impact: The annual cost for COBRA administration is approximately \$2,400. There are sufficient funds in the FY 2008-09 Human Resources operating budget.

Recommendation: Authorize the City Manager to enter into an agreement with Custom Benefit Administrators, subject to approval by the City Attorney.

- * 16. **Authorize City Manager to Execute Agreement with Lincoln Financial Group to Provide Life Insurance, Accidental Death and Dismemberment and Long Term Disability for City of Milpitas employees (Staff Contact: Carmen Valdez, 586-3086)**

Background: The City currently has an agreement with CIGNA to provide the services for Life Insurance, Accidental Death and Dismemberment (AD&D) and Long Term Disability (LTD) for City of Milpitas employees. Staff requested VRT Insurance Services, the City's Employee Benefits Broker, to conduct a marketing analysis to determine if obtaining lower premiums from a different insurance provider was feasible. VRT received responses back from seven carriers with various options. Staff has analyzed the information and has chosen Lincoln Financial Group, an A+ (Superior) rated agency to work with the City of Milpitas to provide Life, AD&D and LTD insurance for employees. All benefit provisions remain the same at reduced premiums with seamless transition for employees.

Fiscal Impact: The annual cost for these benefits is approximately \$53,000. There are sufficient funds in the FY 2008-09 operating budget.

Recommendation: Authorize the City Manager to enter into an agreement with Lincoln Financial Group, subject to approval by the City Attorney.

XXIV. CLAIM AND DEMAND

- * 17. **Receive Report of Emergency Repair of the Abbott Street Water Main and Authorize Payment for Repair Work Not to Exceed \$40,000 (Staff Contact: Greg Armendariz, 586-3317)**

Background: Pursuant to State Public Contracts law and Council Resolution No. 7779, the Public Works Director must report all emergency public works repairs to the City Council. A twelve-inch diameter water main serving the commercial businesses between Calaveras Boulevard and Abbott Street, developed a leak that threatened fire suppression service to that area. A Public Works crew investigated and isolated this leak. To restore the fire flow capacity and to remedy this serious threat to public safety, the Public Works Director authorized Preston Pipeline to make emergency repairs. Preston excavated and replaced a 12-inch by 8-inch pipe tee segment and an 8-inch gate valve, backfilled the excavation with slurry, and replaced the street paving. The work is complete as of the date of this Council meeting and therefore does not require any special findings or other action by the City Council under state law, except for receipt of this report and the reasons for the emergency action. Preston Pipeline has not yet submitted an invoice for this work, but based on its known deployment of workers, materials and equipment, the cost should not exceed \$40,000.

Fiscal Impact: None. Sufficient funds are available in the Public Works utility maintenance budget for emergency work.

Recommendations: Receive report of emergency repair work and authorize payment to Preston Pipeline for the emergency repair of the Abbott Street water main, in an amount not to exceed \$40,000.

XXI. ADJOURNMENT

**NEXT REGULAR MEETING
TUESDAY, DECEMBER 2, 2008**