



**MILPITAS CITY COUNCIL MEETING AGENDA
APRIL 7, 2009**

**7:00 P.M.
455 E. CALAVERAS BOULEVARD**

SUMMARY OF CONTENTS

- I. CALL TO ORDER by the Mayor**
- II. ROLL CALL by the City Clerk**
- III. PLEDGE OF ALLEGIANCE**
- IV. INVOCATION (Councilmember Giordano)**
- V. APPROVAL OF COUNCIL MEETING MINUTES – March 17, 2009**
- VI. SCHEDULE OF MEETINGS – Council Calendar for April 2009**
- VII. PRESENTATIONS**

Proclamations:

- Month of the Young Child and Child Abuse Prevention Month – April 2009
- Arbor Day – April 25, 2009

VIII. 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.

- IX. ANNOUNCEMENTS**
- X. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XI. APPROVAL OF AGENDA**
- XII. 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.

XIII. PUBLIC HEARING

- 1. Introduce Ordinance No. 38.789 Amending the Zoning Ordinance by Reformatting the Commercial and Industrial Sections, Removing Assembly Uses Not Associated with Businesses as Conditional Uses Within Industrial Districts, and Adding Ancillary Text Amendments for Internal Consistency (Staff Contact: Sheldon Ah Sing, 586-3278)**

XIV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

- RA1. Call to Order/Roll Call by the Mayor/Chair**
- RA2. Approval of Minutes – March 17, 2009**
- RA3. Approval of Agenda and Consent Calendar (Items with asterisk*)**
- RA4. Receive Progress Report on the New Senior Center, Project No. 8176 (Staff Contact: Steve Erickson 586-3301)**
- RA5. Authorize the Agency Executive Director to Execute an Agreement with Team San Jose for Participation in the 2010 North American Roller Hockey Championship Bid Proposal (Staff Contact: Diana Barnhart, 586-3059)**
- *RA6. Adopt a Joint Resolution of the City Council and the Redevelopment Agency Memorializing the Interfund Advance or Loan Policy (Staff Contact: Emma Karlen, 586-3145)**
- *RA7. Approve Plans and Specifications and Authorize Advertisement for Bid Proposals for the New Library Window Blind Improvements, Project No. 8162 (Staff Contact: Steve Erickson, 586-3301)**
- *RA8. Adopt a Joint Resolution Authorizing and Directing the City Manager and/or the Agency Executive Director to Execute Disadvantaged Business Enterprise Agreements and Related Documents When Required by the California Department of Transportation or Other Agencies for Federally Funded Projects (Staff Contact: Greg Armendariz, 586-3317)**
- *RA9. Approve and Authorize the Agency Executive Director to Execute Amendment No. 1 to the Agreement with HMH Engineers for the S. Park Victoria Drive Resurfacing Project, Project No. 8194 (Staff Contact: Jaime Rodriguez, 586-3335)**
- *RA10. Approve Plans and Specifications and Authorize Advertisement for Bid Proposals, Pending Caltrans Project Approval, for S. Park Victoria Drive Street Pavement Rehabilitation, Project No. 8194 (Staff Contact: Greg Armendariz, 586-3317)**
- *RA11. Approve Plans and Specifications and Authorize Advertisement for Bid Proposals for the Carlo Street Off-ramp Conversion Project No. 8195 (Staff Contact: Steve Erickson, 586-3301)**
- *RA12. Approve Amendment No. 5 to the Agreement with Consolidated Engineering Laboratories for the New Senior Center, Project No. 8176 (Staff Contact: Steve Erickson, 586-3301)**
- RA13. Agency Adjournment**

XV. REPORTS OF COMMISSION AND COMMITTEE

Arts Commission/Public Art Committee

- * 2. Move to Remove One Member of the Arts Commission/Public Art Committee Due to Lack of Attendance (Staff Contact: Mary Lavelle, 586-3001)**

Public Art Committee

- * 3. Approve Relocation of Cartwheel Kids from City Hall to the New Milpitas Library and Create a City Hall Project Subcommittee of Identified Stakeholders (Staff Contact: Renee Lorentzen, 586-3231)**
- * 4. Approve New Senior Center Art Installation Project Theme and Proposed Budget (Staff Contact: Renee Lorentzen, 586-3231)**

XVI. NEW BUSINESS

- * 5. Approve Fee Waiver and In-Kind Donation of Equipment and Staffing for the Milpitas Parks and Recreation Foundation's Second Annual Festival of Trees Gala Fundraiser at the City Hall Rotunda on December 3, 2009 (Staff Contact: Renee Lorentzen, 586-3231)

XVII. ORDINANCES

- * 6. Waive the Second Reading and Adopt Ordinance No. 196.10 Amending Chapter 213 of Title V of the Milpitas Municipal Code Relating to Noise Abatement (Staff Contact: Kathleen Phalen, 586-3345)
- * 7. Waive the Second Reading and Adopt Ordinance No. 38.785 for Amendments to the City's Parking Regulations (Staff Contact: Sheldon Ah Sing, 586-3278)

XVIII. RESOLUTIONS

- 8. Adopt a Resolution Approving a Memorandum of Understanding with the International Association of Firefighters Local 1699 (Staff Contact: Carmen Valdez, 586-3086)
- * 9. Adopt a Resolution Granting Initial Acceptance of the Water System Air Relief Valve Modifications – Phase II, Project No. 7086 (Staff Contact: Steve Erickson, 586-3301)
- * 10. Adopt a Resolution for the Purchase of Eighteen Taser International Stun Guns, Sixteen Audio Video Recording Units, and Two USB Camera Down Load Kits for the Not-to-Exceed Amount of \$22,986.07 from ProForce Law Enforcement (Staff Contact: Chris Schroeder, 586-3161)

XIX. BIDS AND CONTRACTS

- * 11. Approve a Consultant Services Agreement with Carollo Engineers for Well Upgrade Program, Phase III Curtis Well Pump Station, Project No. 7076 (Staff Contact: Kathleen Phalen, 586-3345)
- * 12. Approve Agreement with Pacific Gas and Electric Company for the Provision of Electrical Service, Make Findings Approving the Specification of Particular Equipment Brands, and Authorize Advertising the Project for Bid Proposals with this Specified Equipment for the Gibraltar Reservoir and Pump Station, Project No. 7101 (Staff Contact: Kathleen Phalen 586-3345)
- * 13. Approve Consultant Services Agreement with Swinerton Management & Consulting for Project Management Assistance for Various Capital Improvement Projects (Staff Contact: Greg Armendariz, 586-3317)
- * 14. Approve Agreement with HMM Engineers for Consulting Services for the Dixon Landing Road/I-880 Interchange, Project No. 4047 (Staff Contact: Steve Erickson, 586-3301)

XX. ADJOURNMENT

**NEXT REGULAR MEETING
TUESDAY, APRIL 21, 2009**

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 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

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

Materials related to an item on this agenda submitted to the City Council/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.

APPLY TO BECOME A CITY COMMISSIONER!

Current vacancies exist for the:

*Arts Commission and Public Art Committee
Economic Development Commission (Retail Rep.)
Emergency Preparedness Commission (Industry Rep)
Mobile Home Park Rental Review Board
Parks, Recreation & Cultural Resources Commission
Sister Cities Commission (alternates)*

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

XIV. PUBLIC HEARING

1. Introduce Ordinance No. 38.789 Amending the Zoning Ordinance by Reformatting the Commercial and Industrial Sections, Removing Assembly Uses Not Associated with Businesses as Conditional Uses Within Industrial Districts, and Adding Ancillary Text Amendments for Internal Consistency (Staff Contact: Sheldon Ah Sing, 586-3278)

Background: This zoning text amendment (No. ZA08-01) addresses two objectives. The first is to finish streamlining and reformatting the zoning ordinance. The second objective is to address non-industrial uses locating within the Industrial Zoning Districts. Building on the initial success of the reformatting effort started last year, this amendment includes text changes that combine similar sections of the code for the purpose of eliminating redundancy, continuing the new subsection numbering system, and including new tables for the purposes of clarification and ease of use.

In September 2007, the City Council requested the Planning Commission to consider issues surrounding non-industrial uses locating within the Industrial Zoning Districts. The Planning Commission considered this issue at its meetings of March 12, 2008 and March 11, 2009. The recommendation of staff and the Planning Commission is to remove assembly uses not directly associated with industrial businesses as conditional uses from the Industrial Zoning Districts. This would not affect existing uses that have valid conditional use permits. Assembly uses such as conference centers would continue to be allowed as conditional uses in the Industrial Districts.

For detailed information regarding the amendments, refer to the Planning Commission staff report and the underline and strikethrough exhibits included as attachments.

Fiscal Impact: None.

Attachments:

- A. Planning Commission Staff Reports and meeting minutes of March 11, 2009 & March 12, 2008.
- B. Underline and Strikethrough changes.
- C. Ordinance No. 38.789.

Recommendations:

- 1. Close the public hearing, after hearing any public testimony.
- 2. Waive the first reading beyond the title of Ordinance No. 38.789 to amend the Zoning Ordinance.
- 3. Introduce Ordinance No. 38.789.

XIV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order/Roll Call by the Mayor/Chair

RA2. Approval of Minutes – March 17, 2009

RA3. Approval of Agenda and Consent Calendar (Items with asterisk*)

RA4. Receive Progress Report on the New Senior Center, Project No. 8176 (Staff Contact: Steve Erickson, 586-3301)

Background: The City Council awarded the contract for construction to Swenson & Associates on March 3, 2009. The Notice of Award has been issued and the contractor is completing the product submittals process, creating the base line construction schedule, and completing other prerequisites required for the City's issuance of the Notice to Proceed. Staff anticipates the contractor will begin work in April 2009, and is working with the contractor to support this goal. The Senior Center project groundbreaking ceremony was held on March 30, 2009.

Fiscal Impact: None.

Recommendation: Receive staff report on the Senior Center Project, Project No. 8176.

RA5. Authorize the Agency Executive Director to Execute an Agreement with Team San Jose for Participation in the 2010 North American Roller Hockey Championship Bid Proposal (Staff Contact: Diana Barnhart, 586-3059)

Background: Representatives of Team San Jose and the Sales Manager of the Embassy Suites Hotel approached the City with a request for financial participation in a bid for the 2010 North American Roller Hockey Championships (NARCH) at the Silver Creek Sportsplex in San Jose. The Sportsplex is located off Highway 101 South and Hellyer Avenue and is easily accessible to Milpitas hotels as it is most of the major San Jose hotels.

NARCH Championships were held at the Sportsplex in 2008 from July 11 to 22, 2008. During that time, the City of Milpitas benefitted with participants staying at local hotels and nearly 2,600 hotel nights were in Milpitas. The hotels benefitting included most all of the major hotels and many value-priced motels, none of which were listed on the championship programs or registrations for the event.

With the City's financial participation in the 2010 NARCH bid proposal, 10 to 12 Milpitas hotels will be listed on the championship program and registration application which will hopefully draw more participants to local hotels. In addition, the City of Milpitas banner will be hung inside the Sportsplex for the duration of the Championship event and also listed equally to San Jose as a sponsor in the 2010 and 2011 Championship programs.

Fiscal Impact: The financial support for the Roller Hockey tournament is \$30,000 and is available in the FY 2008-09 Economic Development Operating Budget.

Recommendation: Authorize the Agency Executive Director to execute an agreement with Team San Jose for participation in the 2010 North American Roller Hockey Championships Bid Proposal.

***RA6. Adopt a Joint Resolution of the City Council and the Redevelopment Agency Memorializing the Interfund Advance or Loan Policy (Staff Contact: Emma Karlen, 586-3145)**

Background: The City's Fiscal Policy allows interfund loans to meet short-term cash flow needs. In the past, the City and/or the Agency utilized interfund loans or advances from time to time to meet operating or capital financing needs, especially when the borrowing was infrequent or the amount of financing needed was insufficient in size to warrant debt issuance.

Generally accepted accounting principals require these interfund loans or advances to be recorded and structured so that the payment and interest terms are defined. While City and Agency staff has always recorded such terms administratively, the resolution will formalize and memorialize existing practices. Terms stated in the resolution provide maximum flexibility for the City and the Agency, while still ensuring proper accounting and protection of public funds. The policy expressed in the resolution will apply to all past and future loans or advances between City and the Agency funds, unless there were separate agreements in place with specific fund terms or other explicit direction to the contrary from the City Council or the Redevelopment Agency Board.

Fiscal Impact: None.

Recommendation: Adopt a joint resolution of the City Council and the Redevelopment Agency Board memorializing the interfund advances or loan policy.

***RA7. Approve Plans and Specifications and Authorize Advertisement for Bid Proposals for the New Library Window Blind Improvements, Project No. 8162 (Staff Contact: Steve Erickson, 586-3301)**

Background: The new Library was completed in November of 2008. Staff has determined there is a need to provide additional window blinds within the library circulation lobby, quiet study, computer center, homework center, and multi-purpose room to improve the comfort and usability of the rooms by reducing glare from morning and afternoon sunlight.

The project architect has provided drawings and specifications for the additional blinds and related controls at no additional cost to the City. The engineer's estimate for installation of the additional blinds and related controls is \$50,000.

A copy of the drawing title sheet is included in the Council agenda packet, and the complete set of drawings and specifications are available for review in the office of the City Engineer.

Fiscal Impact: None. There are sufficient funds in the project budget to cover this expense.

Recommendation: Approve plans and specifications for the new library window blind improvements and authorize the advertisement for bid proposals for Project No. 8162.

***RA8. Adopt a Joint Resolution Authorizing and Directing the Agency Executive Director to Execute Disadvantaged Business Enterprise Agreements and Related Documents When Required by the California Department of Transportation or Other Agencies for Federally Funded Projects (Staff Contact: Greg Armendariz, 586-3317)**

Background: Title 49 of the Code of Federal Regulations requires local agencies to have a Disadvantaged Business Enterprise (DBE) program for federally-funded projects and to establish an annual overall percentage goal for disadvantaged businesses in federally-funded City contracts. This includes projects being recommended for funding by the American Recovery and Reinvestment Act (ARRA) 2009 – Economic Stimulus Program. Currently, the City is pursuing ARRA 2009 funds for S. Park Victoria Dr. Resurfacing Project – Yosemite Dr. to Big Basin Dr.

The purpose of a DBE program is to afford disadvantaged business enterprises, as defined by federal law, the maximum opportunity to participate in projects financed with federal funds to ensure nondiscrimination on award of contracts. The ARRA 2009 Program requires the use of race-conscious measures.

The resolution (included in the agenda packet) will allow the Agency Executive Director, or his designee, to complete a "Disadvantaged Business Enterprise Race-Conscious Implementation Agreement" and other related documents, as required by the State of California Department of Transportation (Caltrans) and other State agencies, which are overseeing the disbursement of ARRA 2009 funding. A delegation and authorization to sign DBE-related documents is requested because of the fast moving, evolving nature of federal stimulus program requirements and the time-sensitive nature of federal stimulus reimbursement and funding requests. This resolution will not affect or change City public works projects and contracts that do not receive federal funding.

Fiscal Impact: None.

Recommendation: Adopt a joint resolution authorizing the execution of disadvantaged business enterprise agreements and related documents for federally funded projects.

***RA9. Approve and Authorize the Agency Executive Director to Execute Amendment No. 1 to the Agreement with HMH Engineers for the South Park Victoria Drive Resurfacing Project, Project No. 8194 (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: On December 3, 2008, the Agency Executive Director awarded a consultant contract to HMM Engineers to complete the design work for the S. Park Victoria Drive Resurfacing Project for a not-to-exceed amount of \$19,960. The project includes the resurfacing on S. Park Victoria Drive between Yosemite Drive and Big Basin Drive along with the installation of Americans with Disabilities Act compliant handicap ramps, bus pads and new roadway marking improvements.

The City of Milpitas is pursuing construction funding for this project through the Federal American Recovery and Reinvestment Act 2009 (ARRA 2009) Program – Economic Stimulus Program. The ARRA 2009 Program requires modifications to the project that were not originally anticipated to comply with federal design standards. The required plan modifications include the removal of a slurry seal portion of the project and replacement with a rubberized asphalt overlay. This change will result in a more durable product for the City residents.

Staff has negotiated a scope and fee for these additional design services not to exceed \$5,940, which is considered reasonable for the work. The total design contract including this amendment is \$25,900.

Fiscal Impact: None. There are sufficient funds in the project budget to cover this additional expense.

Recommendation: Approve and authorize the Agency Executive Director to execute Amendment No. 1 to the Agreement with HMM Engineers for the South Park Victoria Drive Resurfacing Project, Project No. 8194.

***RA10. Approve Plans and Specifications and Authorize Advertisement for Bid Proposals, Pending Caltrans Project Approval, for S. Park Victoria Drive Street Pavement Rehabilitation, Project No. 8194 (Staff Contact: Greg Armendariz, 586-3317)**

Background: Staff is working with Caltrans, the Santa Clara Valley Transportation Authority, and the Metropolitan Transportation Commission to secure the City's allocation of Transportation Economic Stimulus Funding from the Federal American Recovery and Reinvestment Act 2009 (ARRA 2009) Program. One of the requirements of the ARRA 2009 Program is that projects be shovel-ready for construction and be able to successfully complete standard National Environmental Protection Agency (NEPA) requirements. At the March 3, 2009 Council meeting, the South Park Victoria Drive Street Pavement Rehabilitation Project, between Yosemite Drive and Big Basin Drive, was approved for this program because the project design is complete and additional outside funding would be required to construct this project.

Caltrans is administering ARRA 2009 Program funding and the City must comply with all state and federal funding requirements, prior to initiating the bid advertisement process. Staff is in the process of submitting all the environmental documentation, including cultural resources studies, traffic studies, and right-of-way clearance documentation. Staff is also working on submitting Disadvantaged Business Enterprise (DBE) documentation in order to obtain federal funding eligibility.

Staff is recommending approval of plans and specifications and authorization for bid proposals pending Caltrans project approval and issuance of a funding obligation for the City project. This would allow the City to advertise the project, in advance of other cities, which will be competing with the same contractors for bids on road projects.

Fiscal Impact: None. The Engineer's Estimate for the project is \$1.33 million. The ARRA 2009 program provides \$953,000 of the funding and the remaining \$377,000 would be funded from the Street Resurfacing Project 2009, Project No. 8194.

Recommendation: Approve Plans and Specifications and authorize the advertisement for bid proposals pending Caltrans Project approval, for South Park Victoria Drive Street Pavement Rehabilitation, Project No. 8194.

***RA11. Approve Plans and Specifications and Authorize Advertisement for Bid Proposals for Carlo Street Off-ramp Conversion, Project No. 8195 (Staff Contact: Steve Erickson, 586-3301)**

Background: The Carlo Street Off-ramp Conversion Project is included in the approved five year Capital Improvement Project Program, and provides for the conversion of the existing Carlo Street On-ramp eastbound Calaveras Blvd. (SR237) and a new “off-ramp” at Carlo Street. The project is located immediately east of the Abel Street and Calaveras intersection. The new off-ramp will provide direct access to the Midtown district from Calaveras Blvd. The plans and specifications have been completed and the project is ready for bids.

The Engineer’s Estimate for the work is \$950,000. A copy of the project plan title sheet is included in the Council’s agenda packet. Complete plans and specifications are available for review in the office of the City Engineer.

Fiscal Impact: None. Funds are available in the project budget.

Recommendation: Approve Plans and Specifications and authorize advertisement for bid proposals for the Carlo Street Off-ramp Conversion, Project No. 8195.

***RA12. Approve Amendment No. 5 to the Agreement with Consolidated Engineering Laboratories for the New Senior Center, Project No. 8176 (Staff Contact: Steve Erickson, 586-3301)**

Background: The City Council approved a consulting services agreement with Consolidated Engineering Laboratories (CEL) on April 18, 2006 for materials testing and inspection services for City Capital Improvement Projects for an amount not to exceed \$200,000, with the understanding that the scope of work and contract would be amended to include project-specific schedules and additional compensation as future anticipated projects came on line.

The agreement has been amended four times to include inspection and testing services for additional Capital Improvements Projects, such as the Midtown East Parking Garage, new Milpitas Library, and Streetscape projects.

Staff now recommends that CEL be utilized for special inspection and testing services for the new Senior Center that was awarded to the contractor on March 3, 2009. A new CEL proposal for the Senior Center project has been negotiated, and the City will benefit from reduced pricing for the services due to the economy of scale. Staff recommends amending the CEL contract for the required services for the Senior Center. The CEL proposal for testing and inspection services for the Senior Center is not to exceed \$90,000, which is considered reasonable for the effort involved.

Fiscal Impact: None. This special inspection expenditure was anticipated in the project Senior Center Cost Plan. There are sufficient funds in the project budget for the costs associated with this amendment.

Recommendation: Approve Amendment No. 5 to the Agreement with Consolidated Engineering Laboratories (CEL) for an amount not to exceed \$90,000 for special testing and inspection services for the Senior Center, Project No. 8176.

RA13. Agency Adjournment

XV. REPORTS OF COMMISSION AND COMMITTEE

Arts Commission/Public Art Committee

* 2. **Move to Remove One Member of the Arts Commission/Public Art Committee Due to Lack of Attendance (Staff Contact: Mary Lavelle, 586-3001)**

Background: Commissioner/Committee member Richard Tsuei has only attended two of 9 Arts Commission meetings in the current Fiscal Year, with no excused absences. He attended only three meetings of 10 held in FY 2007-08, with no excused absences. Upon being notified of his continued lack of attendance, the City Clerk sent him a letter of inquiry on February 20, to which he did not respond. The City Council appointed him as a voting member in February of 2008, and he was initially appointed as an alternate member in May of 2006.

Arts Commission and Public Art Committee By-laws state:

When any member or alternate has three or more unexcused absences in a 12-month period, the Commission shall forward this information to the City Council for review and possible removal of the member or alternate from the Commission. Any member or alternate of the Arts Commission may be removed from office by a majority vote of the City Council at a regularly scheduled Council meeting.

Fiscal Impact: None.

Recommendation: Due to his unexcused absences and per the Arts Commission and the Public Art Committee by-laws, vote to remove Mr. Richard Tsuei as a voting member on these two bodies, thus creating a vacancy with an expiration date of October 2010.

Public Art Committee

* 3. **Approve Relocation of Cartwheel Kids from City Hall to the New Milpitas Library and Create a City Hall Project Subcommittee of Identified Stakeholders (Staff Contact: Renee Lorentzen, 586-3231)**

Background: At the February 17, 2009 City Council meeting, Council approved the Public Art Committee's 2009 Master Plan which included projects to re-locate the Cartwheel Kids Art to the new Milpitas Library grass area in front of the historical building and work on a new art installation project for the front of City Hall.

The cost to move the Cartwheel Kids and reinstall them at the Library is estimated at \$15,000, which includes the relocation (removal and transportation), any cleaning or repair before replacement and restoration of the former location at City Hall.

Staff will coordinate with Cartwheel Kids artist Carla Moss, City Engineering staff, Milpitas Library personnel, and other necessary departments on all aspects of the move. Written consent and support from Carla Moss was obtained per the original Artist Agreement.

The following steps will be taken immediately after Council approval to begin work on the City Hall Art Installation project:

1) Meet with City Hall Art Project Subcommittee consisting of two Public Art Committee members and stakeholders, identified as:

- PAC Representative Bill Foulk
- PAC Representative Becky Strauss
- City Council Representative Debbie Giordano
- Community Advisory Commission Representative
- Parks, Recreation and Cultural Resources Commission Representative
- Youth Advisory Commission Representative

- Planning Commission Representative

2) Project Subcommittee will meet to develop concept and theme of art to be placed in front of City Hall.

Staff will return to the City Council with an update on both the Cartwheel Kids proposed move and City Hall Art installation project concept and budget in summer 2009.

Fiscal Impact: None. Funds are available in the Public Art Fund.

Recommendation: Approve the formation of Project Subcommittees for the relocation of Cartwheel Kids to the Milpitas Library and the new City Hall Art Installation.

- * 4. **Approve New Senior Center Art Installation Project Theme and Proposed Budget (Staff Contact: Renee Lorentzen, 586-3231)**

Background: At the February 5, 2009 Senior Center Art Project subcommittee meeting, members from the Public Art Committee, Senior Advisory Commission and City staff met to discuss the Senior Center art installation project and decide on the art piece(s) Milpitas seniors would like in front of their center. The desired medium, theme and appropriate budget were discussed. The subcommittee decided to pursue a Request For Proposals (RFP) to artists for four artist-designed benches that are visually pleasing, interesting, safe, comfortable and senior-friendly to be located at the entrance of the Milpitas Senior Center. One of the four benches will be considered the anchor piece, which will be substantially bronze, incorporating a sculpture(s) reflecting seniors and their families (multi-generational).

The Committee determined the cost for the project should not exceed \$100,000. This project budget is based on an estimated cost per bench to be \$15,000 - \$20,000 plus costs associated with a bronze sculpture.

If approved, RFPs will be posted on appropriate websites, sent to generated artist mailing lists and announced via Press Release to the media.

Fiscal Impact: None. Funds available in the Public Art Fund.

Recommendation: Approve the new Senior Center Art installation project concept and proposed budget not to exceed \$100,000.

XVI. NEW BUSINESS

- * 5. **Approve Fee Waiver and In-Kind Donation of Equipment and Staffing for the Milpitas Parks and Recreation Foundation's Second Annual Festival of Trees Gala Fundraiser at the City Hall Rotunda on December 3, 2009 (Staff Contact: Renee Lorentzen, 586-3231)**

Background: Last year, the Milpitas Parks and Recreation Foundation held its first Gala Fundraiser on December 4, 2008 in the City Hall Rotunda. Over 200 people from the Milpitas business community as well as City and County dignitaries attended in support of the Foundation and to help raise money to fund a scholarship program for all community members who wish to participate in recreation programs. The 2008 Festival of Trees raised approximately \$6,000.

The Milpitas Parks and Recreation Foundation was initially formed by members of the Milpitas Parks, Recreation and Cultural Resources Commission in response to the need of an organization that would be able to benefit the citizens of Milpitas through scholarships, fundraisers and grants. The 2009 Festival of Trees will again feature beautifully decorated holiday trees by local businesses and/or service groups, located in the City Hall Rotunda. These trees will be auctioned off and awarded to the highest bidder with proceeds benefiting the Foundation, and in turn City residents.

Fiscal Impact: The Milpitas Parks and Recreation Foundation is requesting that the City Council approve the waiver and donation of the facility for a total of \$500.00.

The associated cost are in accordance with the City of Milpitas' fee schedule for non-profit 501c(3) organizations. Fees to be waived are as follows:

- Use of City Hall Rotunda – December 3, 2009 \$500.00
\$150 deposit
\$150 rental fees (4 hours @ \$37.50)
\$200 staff attendant fee (4 hours @ \$50.00)
- Use of City Marquee (4 weeks) No Cost

Recommendation: Approve the Milpitas Parks and Recreation Foundation's request for a fee waiver and in-kind donation of equipment and staffing totaling \$500 for the second Annual Festival of Trees Gala Fundraiser event in the Milpitas City Hall Rotunda.

XVIII. ORDINANCES

- * 6. **Waive the Second Reading and Adopt Ordinance No. 196.10 Amending Chapter 213 of Title V of the Milpitas Municipal Code Relating to Noise Abatement (Staff Contact: Kathleen Phalen, 586-3345)**

Background: On March 17, 2009, the City Council introduced Ordinance No. 196.10 to amend Chapter 213 of Title V of the Milpitas Municipal Code relating to noise abatement by permitting solid waste, recyclables, and/or yard trimmings collection beginning at 6:00 a.m. by authorized collectors and haulers. Ordinance No. 196.10 is now ready for the second reading and adoption.

Fiscal Impact: None.

Recommendations:

1. Waive the second reading of Ordinance No. 196.10.
2. Adopt Ordinance No. 196.10 amending Chapter 213 of the Noise Ordinance.

- * 7. **Waive the Second Reading and Adopt Ordinance No. 38.785 for Amendments to the City's Parking Regulations (Staff Contact: Sheldon Ah Sing, 586-3278)**

Background: On March 17, 2009, the City Council introduced Ordinance No. 38.785 approving changes to the City's parking regulations. The amendment affects parking design standards and the number of parking required for land uses throughout the City. The Ordinance remains unchanged and is now ready for adoption.

Fiscal Impact: None.

Recommendations:

1. Waive the second reading of Ordinance No. 38.785.
2. Adopt Ordinance No. 38.785 for Zoning Amendment.

XX. RESOLUTIONS

- 8. **Adopt a Resolution Approving a Memorandum of Understanding with the International Association of Firefighters Local 1699 (Staff Contact: Carmen Valdez, 586-3086)**

Background: The most recent Memorandum of Understanding with the International Association of Firefighters Local 1699 (IAFF) expired on December 31, 2008. City representatives and representatives from IAFF met and conferred in good faith to negotiate a new contract. Agreement has been reached with a new successor Memorandum of Understanding

with the effective dates of January 1, 2009 through December 31, 2011, a copy which is included in the Council's agenda packet.

Fiscal Impact: Total cost for the three-year contract over current costs is approximately \$1,594,919.

Recommendation: Adopt a resolution approving the Memorandum of Understanding with the International Association of Firefighters Local 1699 covering the period of January 1, 2009 through December 31, 2011.

* **9. Adopt a Resolution Granting Initial Acceptance of the Water System Air Relief Valve Modifications – Phase II, Project No. 7086 (Staff Contact: Steve Erickson, 586-3301)**

Background: The City Council awarded the Water System Air Relief Valve Modifications, Project No. 7086 – Phase II, to West Valley Construction Company, Inc. on October 21, 2008. This project involves the replacement of fifty-nine belowground air relief valves that had reached the end of their service life, and raising the new valves above ground to a level exceeding the 100-year base flood elevation in accordance with State Code, Title 22, and Chapter 16. Protective metal enclosures were also installed.

The project was completed and staff recommends the City Council adopt a resolution to grant an initial acceptance of the project, and to authorize the reduction of the contractor's faithful performance bond to \$17,500. The project will begin the one-year warranty.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting initial acceptance of the Water System Air Relief Valve Modifications – Phase II, Project No. 7086, subject to the one year warranty period and reduction of the faithful performance bond to \$17,500.

* **10. Adopt a Resolution for the Purchase of Eighteen Taser International Stun Guns, Sixteen Audio Video Recording Units, and Two USB Camera Down Load Kits for the Not-to-Exceed Amount of \$22,986.07 from ProForce Law Enforcement (Staff Contact: Chris Schroeder, 586-3161)**

Background: On March 6, 2008, Council approved the standardization of Taser International as the brand of choice for tasers and associated products for the City of Milpitas, pursuant to Municipal Code Section I-2-3.13, "Standardization." Based on a good faith review of the available suppliers, the Purchasing Agent has determined that ProForce Law Enforcement is the sole distributor of Taser International products in California. The Police Department now wishes to purchase additional eighteen stun guns, sixteen Taser Cam audio video recording modules that attach to the stun guns, and two USB Camera download kits. ProForce Law Enforcement provided the quote (included in the agenda packet). Staff therefore requests that the purchase be made pursuant to Municipal Code section I-2-3.09 "Sole Source Procurement."

Fiscal Impact: None. This is a programmed purchase approved in the 2009 COPS Grant.

Recommendation: Adopt a resolution approving the purchase of eighteen Taser International stun guns, sixteen Taser Cam Audio Video Recording Units and two USB Camera Down Load Kits for the not-to-exceed amount of \$22,986.07 from ProForce Law Enforcement.

XXI. BIDS AND CONTRACTS

* **11. Approve a Consultant Services Agreement with Carollo Engineers for Well Upgrade Program, Phase III Curtis Well Pump Station, Project No. 7076 (Staff Contact: Kathleen Phalen, 586-3345)**

Background: The City is in the process of developing two municipal supply wells, which are intended to provide alternate potable water supply in the event of emergency or water shortage. The Well Upgrade Program, included in the Capital Improvement Program, includes improvements to complete these wells and make them serviceable in accordance with regulatory requirements. Curtis Well, located in East Curtis Park, was installed as Phase I of the project. Phase II added disinfection capability to Pinewood Well. Phase III will complete the necessary work to allow distribution of water from Curtis Well through construction of a new well pump building at Curtis Park, well pump and controls, tie-in to the City's water system, and provision of an emergency power generation system.

Carollo Engineers substantially completed the design work for Curtis Well under a previous consultant agreement with the City. Staff now recommends that the City execute a new agreement with Carollo to complete the design of the Curtis Well Phase III improvements described.

Staff submitted this project to the State for potential Federal Economic Stimulus funding. To be eligible, the project needs to be "shovel ready," meaning that the design must be 100% complete and ready to advertise for bids by this summer. Staff negotiated an agreement with Carollo based on time and materials for design services in an amount not to exceed \$49,270, which is considered reasonable for the work involved.

Fiscal Impact: None. There are sufficient funds in the project budget for the consultant agreement.

Recommendation: Approve a consultant services agreement with Carollo Engineers in the amount of \$49,270 for Phase III of the Well Upgrade Program, Project No. 7076.

- * 12. **Approve Agreement with Pacific Gas and Electric Company for the Provision of Electrical Service, Make Findings Approving the Specification of Particular Equipment Brands, and Authorize Advertising the Project for Bid Proposals with this Specified Equipment for the Gibraltar Reservoir and Pump Station, Project No. 7101 (Staff Contact: Kathleen Phalen 586-3345)**

Background: The Gibraltar reservoir and pump station, Project No. 7101, is included in the approved Capital Improvement Program. Plans and specifications for this project are complete and the project has been approved for advertisement for bids in April. Reconstruction work includes installing new turbine pumps, replacing the primary pump diesel engines with electric motors, updating the motor operational controls, constructing an electrical control room and chemical building, and seismically upgrading the buildings and reservoirs.

Conversion of the primary pumps from diesel to electric power requires upgrading the electric service to the pump station. Pacific Gas and Electric Company (PG&E) has prepared an agreement to conduct this work at a cost to the City of \$59,690.31. The scope of PG&E's work includes engineering design and construction to install a new electric power distribution line tie-in to the pump station. Staff reviewed the contract scope and proposed costs and found costs reasonable and comparable to other similar work at other City locations, and so recommends approval.

The pump station construction work scope includes replacement of pumps, variable frequency drives, generators and other major equipment replacement in common use at other City facilities.

Staff recommends that the City Council find that the specification of particular makes and models of certain equipment in the project design and invitation for bids is appropriate for the purpose of matching existing equipment and systems. Standardizing this equipment will benefit the City, because the City already owns and has had good experience with the use of certain brands at existing pump stations; maintenance staff are trained and familiar with the operation and maintenance of the brand-specified equipment; and the City will be able to carry a cost-effective,

smaller inventory of water treatment chemicals and maintenance supplies and repair parts. The Public Contract Code allows the City to specify a particular brand of equipment in its bid documents if the City Council finds that a sole source purchase is needed to match existing system components and by describing the specified equipment in the invitation for bids.

Specifically, staff recommends a specified brand finding from the City Council that “Flygt” pumps, “Allen Bradley” variable frequency pump motor drives and programmable logic controllers, “Hammond Technical Services” chlorination system, “Severn Trent Services” ammonia feed system, and a “Caterpillar” emergency generator should be specifically designated as equipment brands required in the project plans and specifications.

Fiscal Impact: None. Funding for the PG&E agreement is available in the project budget.

Recommendations: For the Gibraltar Reservoir and Pump Station, Project No. 7101:

1. Approve an agreement with PG&E for design and construction of upgraded electrical service in the amount of \$59,680.31.
2. Find that the listing of certain specific equipment brands in the project bid documents is appropriate to match existing system components and systems.
3. Authorize advertising the project for bid proposals, with the required specified equipment brands.

* **13. Approve Consultant Services Agreement with Swinerton Management & Consulting for Project Management Assistance for Various Capital Improvement Projects (Staff Contact: Greg Armendariz, 586-3317)**

Background: Swinerton Management & Consulting has provided the City with professional construction and project management assistance on a number of major construction projects including the Main Sewer Pump Station, Venus Pump Station, Berryessa Pump Station, and other related infrastructure projects. These infrastructure projects are critical to the health and well being of the Milpitas Community.

Staff recommends entering into a new agreement with Swinerton for project management assistance to complete economic stimulus applications with various State agencies, submitting additional grant required information such as environmental clearances, field reviews, and right-of-way clearance information. The work scope will also include pursuing other grant funding opportunities for water and sewer capital improvement projects.

In addition, the agreement provides for construction and project management support for the Tasman Extension – Great Mall to I-880 Median Landscaping, South Milpitas Boulevard Water Line Replacement, Gibraltar Reservoir and Pump Station, Water System Seismic Improvements, and Sewer Seismic Study. Project management tasks include assistance in design and construction management and coordination, plan and specification review, value engineering, cost estimating and monitoring project budgets, bidding assistance, project administration and related work. Services would be provided on a time and materials basis not to exceed \$265,000, which is considered reasonable for the effort involved.

Fiscal Impact: None. There are sufficient funds in the following designated capital improvement project budgets: Minor Water Projects, Project No. 7102; Minor Sewer Projects, Project No. 6107; Tasman Extension – Great Mall to I-880 Median Landscape, Project No. 4133; South Milpitas Boulevard Water Line Replacement, Project No. 7098; Gibraltar Reservoir and Pump Station, Project No. 7101; Water System Seismic Improvements, Project No. 7100, and Sewer Seismic Study, Project No. 6109.

Recommendation: Approve a consultant services agreement with Swinerton Management & Consulting for project management assistance for various Capital Improvement Projects in the amount of \$265,000.

- * 14. **Approve Agreement with HMM Engineers for Consulting Services for the Dixon Landing Road/I-880 Interchange, Project No. 4047 (Staff Contact: Steve Erickson, 586-3301)**

Background: City of Milpitas had previously contracted with HMM Engineers on August 8, 1996 for right-of-way engineering and mapping services for the Dixon Landing Road/I-880 Interchange project. The City of Milpitas, the City of Fremont and the California Department of Transportation (Caltrans) also entered into separate cooperative agreements with HMM to design, construct and acquire land within Milpitas and Fremont for the Interchange project.

The project was constructed and the necessary parcels were acquired. Remaining closeout work includes the transfer of the acquired parcels to the State. Staff has been working with the City of Fremont and Caltrans to clear the parcels from utilities and encumbrances, and to comply with Caltrans right-of-way transfer requirements. The agreement with HMM has expired and staff recommends that HMM Engineers continue the right-of-way and engineering services necessary to prepare the transfer documents for the State. Staff negotiated a scope and fee with HMM for these services for the not to exceed amount of \$129,500, considered reasonable for the work.

Fiscal Impact: None. There are sufficient funds in the project budget to cover this expense.

Recommendation: Approve agreement with HMM Engineers for Consulting Services for the Dixon Landing Road/I-880 Interchange, Project No. 4047 for an amount not to exceed \$129,500.

XX. ADJOURNMENT

**NEXT REGULAR MEETING
TUESDAY, APRIL 21, 2009**