



**MILPITAS CITY COUNCIL MEETING AGENDA
TUESDAY, JUNE 16, 2009**

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

SUMMARY OF CONTENTS

- I. CALL TO ORDER by the Vice Mayor**
- II. ROLL CALL by the City Clerk**
- III. PLEDGE OF ALLEGIANCE**
- IV. INVOCATION (Councilmember Gomez)**
- V. APPROVAL OF COUNCIL MEETING MINUTES – June 2, 2009**
- VI. SCHEDULE OF MEETINGS – Council Calendars for June and July 2009**
- VII. PRESENTATIONS**

Proclamations

- Hand and Upper Extremity Therapy Month – June 2009
- Parks and Recreation Month – July 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 HEARINGS

- 1. Consider Approval of the General Plan Housing Element and Direct Staff to Submit the Housing Element to the State Department of Housing and Community Development for Certification (Staff Contact: Felix Reliford, 586-3071)**

2. **Consider Approval of the Community Development Block Grant (CDBG-R) Funding From the American Recovery and Reinvestment Act of 2009 and Amendment to the 2008-09 Action Plan (Staff Contact: Felix Reliford, 586-3071, and Gloria Anaya, 586-3075)**
3. **Introduce Ordinance No. 38.792 and Adopt Resolutions Related to Rezoning 9.34 Acres of the McCarthy Ranch Properties from Industrial Park to General Commercial (Staff Contact: Sheldon Ah Sing, 586-3278)**
4. **Adopt a Resolution Approving Annual Engineer's Report and the Levying of Assessment for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch (Staff Contact: Fernando Bravo, 586-3328)**
5. **Adopt a Resolution Approving Annual Engineer's Report and the Levying of Assessment for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon (Staff Contact: Fernando Bravo, 586-3328)**
6. **Adopt a Resolution Establishing a "Calaveras Boulevard Widening Project – Traffic Impact Fee" for Traffic Generated by New Private Development (Staff Contact: Jaime Rodriguez, 586-3335)**
7. **Adopt a Resolution Approving the Milpitas Bikeway Master Plan Update 2009 and Environmental Impact Assessment No. EA09-0008, Project No. 4244 (Staff Contact: Jaime Rodriguez, 586-3335)**

XIV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

- RA1. Call to Order/Roll Call by the Vice Mayor/Vice Chair**
- RA2. Approval of Minutes – June 2, 2009**
- RA3. Approval of Agenda and Consent Calendar (Items with asterisk*)**
- *RA4. Adopt a Resolution Authorizing the Purchase of Five Affordable Housing Units and Reducing the Resale Prices from Moderate Income Levels to Low Income Levels (Staff Contact: Felix Reliford, 586-3071)**
- *RA5. Authorize the Executive Director/City Manager to Execute a Maintenance Agreement with California Department of Transportation (Caltrans) for Highway 237/I-880 Interchange Landscaping, Project No. 4170 (Staff Contact: Greg Armendariz, 586-3317)**
- *RA6. Adopt a Resolution Granting Initial Acceptance for Highway 237/I-880 Interchange Monument Sign, Project No. 4170 (Staff Contact: Steve Erickson, 586-3301)**
- *RA7. Adopt a Resolution Granting Initial Acceptance for Midtown North Main Street Streetscape Improvement Project, Phase 2, Projects No. 8165 and No. 8153, Federal Aid Project No. RPSTPLE 5314 (004) (Staff Contact: Steve Erickson, 586-3301)**
- *RA8. Award Construction Contract to American Asphalt Repair and Resurfacing Company for the Street Slurry Seal 2009 Project, Projects No. 8194 and No. 4250 (Staff Contact: Jaime Rodriguez, 586-3335)**
- *RA9. Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals for the Street Resurfacing 2010 Program, Project No. 4250 (Staff Contact: Jaime Rodriguez, 586-3335)**

***RA10. Adopt a Resolution Authorizing the Executive Director/City Manager to Award and Execute a Construction Contract with the Lowest Responsible Bidder for the South Park Victoria Drive Resurfacing Project and Approve Budget Appropriation, Project No. 8194 (Staff Contact: Jaime Rodriguez, 586-3335)**

***RA11. Approve Plans and Specifications, Authorize the Advertisement for Bid Proposals, and Authorize the Executive Director/City Manager to Execute Amendment No. 3 to the Agreement with Kimley Horn and Associates for Sidewalk Widening at Calaveras Boulevard Bridges, Project No. 4202 (Staff Contact: Steve Erickson, 586-3301)**

RA12. Agency Adjournment

XV. REPORTS OF OFFICER AND COMMISSION

8. Receive Update on the “Raising a Reader Program” (Contact: Vice Mayor McHugh, 586-3023)

*** 9. Approve Youth Advisory Commission Supplemental Questionnaire (Staff Contact: Samu Tiumalu, 586-3222)**

XVI. NEW BUSINESS

10. Receive Presentation by Director Richard Santos on the Santa Clara Valley Water District (SCVWD) Call for Water Conservation (Staff Contact: Kathleen Phalen, 586-3345)

11. Presentation from the Santa Clara Valley Health and Hospital Services (Contact: Vice Mayor McHugh, 586-3023)

12. Receive the Monthly Economic Development Report (Staff Contact: Diana Barnhart, 586-3059)

*** 13. Receive Project Update on the I-680 Widening/High Occupancy Vehicle Lane Project (Staff Contact: Jaime Rodriguez, 586-3335)**

*** 14. Authorize Budget Appropriation and Payment to the City of San Jose for San Jose/Santa Clara Water Pollution Control Plant for Operations, Capital Improvement, and Debt Service (Staff Contact: Kathleen Phalen, 586-3345)**

*** 15. Approve One Youth Sports Assistance Fund Grant Request (Staff Contact: Aaron Bueno, 586-3226)**

XVII. ORDINANCES

*** 16. Waive the Second Reading and Adopt Ordinance No 197.11 Approving the Reorganization of Building and Safety by Amending Section 1.00 of Chapter 3, Title VI of the Milpitas Municipal Code (Staff Contact: Bryan Otake, 586-3042)**

*** 17. Waive the Second Reading and Adopt Ordinance No. 65.138, Adding a New Chapter 20 to Title II of the Milpitas Municipal Code Relating to Green Building Regulations (Staff Contacts: James Lindsay, 586-3273, and Keyvan Irannejad, 586-3244)**

XVIII. RESOLUTIONS

*** 18. Adopt a Resolution Authorizing the City Manager to Execute a Contract for Hazardous Material Remediation and Demolition of the Property Located at 1504 and 1556 South Main Street with Randazzo Enterprises, Inc. (Staff Contact: Chris Schroeder, 586-3161)**

- * 19. **Adopt a Resolution for the Approval of Public Improvement Plans and Authorize City Manager to Execute Permittee Dedication and Improvement Agreement for Linear Technology, Project No. 3209 (Staff Contact: Fernando Bravo, 586-3328)**
- * 20. **Adopt a Resolution Authorizing the City Manager to Execute a Three-Year Agreement with City of San Jose for Animal Control Services in the Amount of \$686,801 (Staff Contact: Felix Reliford, 586-3071)**
- * 21. **Adopt a Resolution Authorizing City Manager to Submit and Execute Grant Documents Approving Submittal of Department of Energy Economic Stimulus Grant Application and Authorizing City Manager to Implement the Program (Staff Contact: Greg Armendariz, 586-3317)**
- * 22. **Adopt a Resolution Repealing Outdated Green Building Policies and Procedures Set Forth in Resolution No. 7735 (Staff Contact: Bryan Otake, 586-3042)**

XIX. BIDS AND CONTRACTS

- * 23. **Authorize the City Manager to Award and Execute a Construction Contract for Light Rail Median Landscaping – Phase I, Project No. 2001 (Staff Contact: Kathleen Phalen, 586-3345)**
- * 24. **Award the Bid and Authorize the City Manager to Execute a Contract for Installation of the Police Garage Rollup Door (Staff Contact: Chris Schroeder, 586-3161)**
- * 25. **Authorize the City Manager to Execute a Design Services Agreement with Gates & Associates for Cardoza Park Playground Renovation and Electrical Cabinet Upgrade, Projects No. 5088 and No. 5085 (Staff Contact: Steve Erickson, 586-3301)**
- * 26. **Award Construction Contract to California Trenchless, Inc. for Sewer Deficiency and Structural Correction Program- Phase 5, and Sewer System Replacement, Projects No. 6073 and No. 6111 (Staff Contact: Steve Erickson, 586-3301)**
- * 27. **Award Construction Contract to Stoloski & Gonzalez, Inc. for the Water System Air Relief Valve Modifications – Phase III, Project No. 7086 (Staff Contact: Steve Erickson, 586-3301)**
- * 28. **Approve a Budget Appropriation and Award Construction Contract to Gantry Constructors, Inc. for the Gibraltar Reservoir and Pump Station Improvements, Project No. 7101 (Staff Contact: Kathleen Phalen, 586-3345)**
- * 29. **Approve Plans and Specifications and Authorize the Advertisement for Bids for Calle Oriente Park, Project No. 5087 (Staff Contact: Steve Erickson 586-3301)**
- * 30. **Approve Contract Renewal with National Safety Casualty for Excess Workers' Compensation Insurance (Staff Contact: Carmen Valdez, 586-3086)**
- * 31. **Authorize the City Manager to Execute a Funding Agreement Between the City of Milpitas and the Santa Clara Valley Transportation Authority for the Tasman East Landscaping, Project No. 2001 (Staff Contact: Greg Armendariz, 586-3317)**
- * 32. **Approve Amendment No. 2 to the Contract with MuniServices LLC for Financial Consultant Services (Staff Contact: Emma Karlen, 586-3145)**

- * 33. Authorize the City Manager to Execute Fourth Amendment to the Agreement with the County of Santa Clara, and Fifth Amendments to the Contracts with Bateman and New Orient Restaurant (Staff Contact: Jennifer Tagalog, 586-2786)

XX. ADJOURNMENT

NO CITY COUNCIL MEETINGS IN JULY

NEXT REGULAR MEETING: TUESDAY, AUGUST 4, 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, during normal business hours.

APPLY TO BECOME A CITY COMMISSIONER!

Current vacancies exist for the:

*Arts Commission and Public Art Committee
Community Advisory Commission (alternate)
Economic Development Commission (Retail Rep.)
Emergency Preparedness Commission
Mobile Home Park Rental Review Board
Youth Advisory Commission (alternate)*

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

TUESDAY, JUNE 16, 2009

XIV. PUBLIC HEARINGS

1. Consider Approval of the General Plan Housing Element and Direct Staff to Submit the Housing Element to the State Department of Housing and Community Development for Certification (Staff Contact: Felix Reliford, 586-3071)

Background: The Housing Element is one of the seven mandatory elements of a General Plan that are required by the California Government Code. The Housing Element is unique from the other elements in that it must comply with specific provisions within the Government Code. The following are the major provisions that need to be addressed in the Housing Element:

- Review of prior Housing Element (2002) including analysis of housing production in comparison to the City’s regional housing needs allocation (RHNA) determined by the Association of Bay Area Governments (ABAG);
- An analysis of the City’s current and future housing needs;
- An inventory and analysis of housing resources;
- An analysis of governmental and non-governmental constraints to housing production; and
- A housing plan setting forth goals, policies, programs and qualified objectives to address the City’s housing needs.

The City’s last Housing Element was certified by the California Department of Housing and Community Development (HCD) in 2002. The planning period for this Housing Element is 2009-2014.

Regional Housing Needs Allocation (RHNA): One of the major requirements of the Housing Element is to measure the achievement of the 1999-2006 RHNA allocations (issued by the Association of Bay Area Governments (ABAG)) and a plan for achieving the allocations for 2009-2014.

Milpitas’ Regional Housing Needs Allocation (2009-2014)

	RHNA Targets	Percent of Total
Above Moderate-Income > 120% AMI	936	38%
Moderate-Income 120% AMI	441	18%
Low-Income 80% AMI	421	17%
Very Low-Income 50% AMI	689	28%
Total Units	2,487	

Current area median income (AMI) is \$105,500.

Consideration for Above-Moderate Income Housing: During the review of the Housing Marketing Study, the Council directed staff to look at the potential for executive-luxury style homes within the City. A review of the City’s land use database provided by the County of Santa Clara Assessor’s Office and City data indicates that there are 29 vacant residentially designated sites where new luxury housing could be built. These sites are in scattered locations, with most of the sites located in the hillside area. At the current General Plan and zoning densities, these sites could yield approximately 119 above moderate-income units. Based on the lot size and the existing homes in the vicinity, most of these sites would be appropriate for luxury single-family homes. It should also be noted additional luxury units will be provided in future high rise developments within the City.

Public Review Process: On November 6 and 13, 2008, staff conducted two community meetings to obtain public input and comments. The Draft Housing Element has been advertised weekly for the public review and comments period from May 5 through 26 in the local newspaper and copies of the documents were made available at the Milpitas Public Library and City Hall for public review. Notices and copies of the documents were mailed to 51 different organizations, agencies, groups and other interested parties.

Next Steps: Upon approval by the City Council, the Housing Element will be sent to HCD for review and certification. Once certified, the Housing Element, with any required modifications, will be brought back to the Planning Commission and City Council for formal adoption.

Fiscal Impact: None

Attachments:

- A. Letter from Richard Ruth
- B. California Environmental Quality Act checklist
- C. Housing Element Update Public Review Draft

Recommendations:

1. Open the Public Hearing and hear any public testimony.
 2. Close the Public Hearing.
 3. Approve the General Plan Housing Element Update and direct staff to forward the document to the Department of Housing and Community Development for review and certification.
2. **Consider Approval of the Community Development Block Grant (CDBG-R) Funding From the American Recovery and Reinvestment Act of 2009 and Amendment to the 2008-09 Action Plan (Staff Contact: Felix Reliford, 586-3071, and Gloria Anaya, 586-3075)**

Background: The Department of Housing and Urban Development (HUD) has appropriated \$157,293 to the City of Milpitas for CDBG-R program activities, which are part of the American Recovery and Reinvestment Act of 2009. CDBG-R program activities must be allocated to maximize job creation and economic benefit in relationship to the following criteria:

- Preserving and creating jobs and promoting economic recovery;
- Assisting those most impacted by the recession;
- Providing investment needed to increase economic efficiency;
- Investing in transportation, environmental protection or other infrastructure that will provide long-term economic benefits;
- Minimizing or avoiding reductions in essential services; or
- Fostering energy independence.

These requirements were not available from HUD during the City's annual FY09-10 CDBG allocation hearings. HUD has waived the normal CDBG notification requirements in order for the funds to be allocated quickly for those impacted the hardest by the recession and to assist in stimulating the economy. HUD did require a notice be posted at least seven days on the City's website. Staff exceeded that requirement by having a notice of the public hearing published in the local newspaper, posted on the City's website, and contacting past CDBG service providers that would be eligible for the funding.

The CDBG-R funding allocation still requires no more than 15% of the funding be allocated to Public Services (\$23,593) and the balance for Non-Public Services (\$133,700).

The Community Advisory Commission recommends the City Council allocate the \$157,293 in CDBG-R funds as follows:

- **Calle Oriente Park**-Provides for the design and construction of a complete renovation of the park. Improvements include new playground equipment, basketball court, lighting, drinking fountain, shade structure, benches, barbeques, landscaping and park sign (\$100,000)
- **Rebuilding Together**-Provides safety, accessibility and mobility repairs and improvements to very low-income senior homeowners (\$18,700)
- **Senior Housing Solutions**-Provide funds for acquisition, rehabilitation of single-family residence for five extremely low-income seniors (\$15,000)
- **Milpitas Food Pantry**-Provide monthly supplemental supplies of food to very low and low-income families (\$18,593)
- **Support Network for Battered Women**-Provides domestic violence services which include emergency shelter for victims, 24-hour crisis line, counseling services for victims and their children. Also, community outreach and teen dating violence prevention presentations (\$5,000).

Upon final approval by the City Council, the FY 2008-09 Action Plan will need to be amended and forwarded to HUD for approval.

Fiscal Impact: None.

Attachments:

- A. Community Advisory Commission June 3, 2009 minutes
- B. Community Development Block Grant-R funding chart

Recommendations:

- 1) Open the Public Hearing and hear any public testimony.
- 2) Move to close the Public Hearing.
- 3) Approve the Community Development Block Grant (CDBG-R) funding as recommended by the CAC, direct staff to amend the One-Year Action Plan (2008-09) and forward to Department of Housing and Urban Development.

3. Introduce Ordinance No. 38.792 and Adopt Resolutions Related to Rezoning 9.34 Acres of the McCarthy Ranch Properties from Industrial Park to General Commercial (Staff Contact: Sheldon Ah Sing, 586-3278)

Background: This project is a request to accommodate future development on 58.5 acres located along North McCarthy Boulevard. The applications for the project include an Environmental Impact Report (EA08-0008), a General Plan Amendment (GP08-0005) and a Zoning Amendment (ZA08-0012). One component of the project provides environmental clearance to be consistent with the General Plan to accommodate development up to 0.50 Floor Area Ratio for 49.2 acres. Another component proposes a change of the general plan and zoning designation of 9.34 acres from Industrial Park to General Commercial. The project also includes a zoning text amendment to include certain “industrial uses” as conditionally permitted with the General Commercial zoning districts.

A detailed description of the project can be found in the Planning Commission staff report included in the Council’s agenda packet. The Planning Commission recommended approval of the project at its May 27, 2009 meeting.

Fiscal Impact: None.

Attachments:

- A. May 27, 2009 Planning Commission report and minutes
- B. Resolution certifying Environmental Impact Report (EIR)
- C. Resolution Amending General Plan

- D. Draft Ordinance No. 38.792
- E. Final EIR – separate bound material
- F. Draft EIR – separate bound material

Recommendations:

- 1. Move to close the public hearing after hearing public testimony.
- 2. Waive the first reading beyond the title of Ordinance No. 38.792 for the zoning amendments.
- 3. Introduce Ordinance No. 38.792
- 4. Adopt a Resolution certifying the Environmental Impact Report.
- 5. Adopt a Resolution approving the General Plan Land Use Designation change.

4. Adopt a Resolution Approving Annual Engineer’s Report and the Levying of Assessment for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch (Staff Contact: Fernando Bravo, 586-3328)

Background: On June 2, 2009, the City Council adopted Resolution No. 7885 to levy annual assessments for the Landscaping and Lighting Maintenance Assessment District No. 95-1. The District provides for the servicing and maintaining the public landscaping and additional lighting along North McCarthy Boulevard and the Gateway feature on Ranch Drive. An annual public hearing is necessary to adopt the Annual Engineer’s Report to provide funds for the district.

The total assessment for the district in the Annual Engineer’s Report is \$276,676.44 for the FY 2009-10. The assessment for FY 2009-10 is within the previously approved range of assessments.

Fiscal Impact: None.

Attachments:

- A. Resolution
- B. Annual Engineer’s Report

Recommendations:

- 1. Open the public hearing and hear any public testimony.
- 2. Move to close the public hearing.
- 3. Adopt a Resolution approving Annual Engineer’s Report, confirm diagram and assessment and ordering levy of assessments for FY 2009-10, for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch.

5. Adopt a Resolution Approving Annual Engineer’s Report and the Levying of Assessment for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon (Staff Contact: Fernando Bravo, 586-3328)

Background: On June 2, 2009, the City Council adopted Resolution No. 7886 to levy annual assessments for the Landscaping and Lighting Maintenance Assessment District No. 98-1. The District provides for servicing and maintaining the public landscaping along Sinclair Frontage Road, Los Coches Creek and Berryessa Creek abutting the Sinclair Horizon residential subdivision. An annual public hearing is necessary to adopt the Annual Engineer’s Report to provide funds for the district.

The total assessment for the district in the Annual Engineer’s Report is \$35,846.74 for the FY 2009-10. The assessment for FY 2009-10 is within the previously approved range of assessments and includes the application of the approved annual Consumer Price Index (CPI) escalation.

Fiscal Impact: None.

Attachments:

- A. Resolution

B. Annual Engineer's Report

Recommendations:

1. Open the public hearing and hear testimony.
2. Move to close the public hearing.
3. Adopt a Resolution approving Annual Engineer's Report, confirm diagram and assessment and ordering levy of assessments for FY 2009-10, for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon.

6. Adopt a Resolution Establishing a "Calaveras Boulevard Widening Project – Traffic Impact Fee" for Traffic Generated by New Private Development (Staff Contact: Jaime Rodriguez, 586-3335)

Background: Calaveras Boulevard between I-880 and I-680 is a State of California – Department of Transportation (Caltrans) maintained facility. Calaveras Boulevard also serves as the City's largest east-west connector carrying over 60,000 vehicles per day including resident, local businesses and commute traffic. The number of vehicle lanes on the street varies by segment but the portion between Abel Street and Milpitas Boulevard is the narrowest portion with only four lanes, two lanes in each direction. This deficient segment also consists of four bridge structures including two over N .Main Street and two over the Union Pacific Railroad/ future BART alignment.

As new development occurs within the City, development projects typically are required to complete a Traffic Impact Analysis (TIA) report as part of each project to analyze and document new vehicle trips within the City and to identify mitigation measures where appropriate to minimize traffic impacts to the community. Because of the deficient roadway, it does not take a large number of vehicle trips added onto the roadway network to result in a Significant Impact to either the Calaveras Boulevard & Abel Street or Calaveras Boulevard & Milpitas Boulevard intersections. The typical mitigation measure to reduce traffic impacts to these intersections is widening of Calaveras Boulevard, which is not a reasonable mitigation measure for any one development project, regardless of size, to implement.

The City recognizes that the widening of Calaveras Boulevard between Abel Street and Milpitas Boulevard is necessary to ensure the long-term sustainability of the City's economy. That is why the City has sponsored this project in the current and previous versions of the Valley Transportation Authority – Valley Transportation Plan. When sponsoring a project in the VTP, the sponsoring agency also takes on the responsibility of providing the necessary 20% Local Match of the project cost so that additional regional funding can be pursued through the State Transportation Improvement Plan (STIP). The current project cost estimate to widen Calaveras Boulevard to six lanes from Abel Street to Town Center Drive is approximately \$55 million. The widening limit goes further east than Milpitas Boulevard to provide for sufficient transition to new bridge structures. VTP is available for review at [www.vta.org/ projects/vtp2030/ VTP2030web_full.pdf](http://www.vta.org/projects/vtp2030/VTP2030web_full.pdf)

The City has taken three major steps forwards towards the advancing the Calaveras Boulevard Widening project and collection of the necessary 20% Project Local Match for the project:

- 1) Funding in partnership with Caltrans and the VTA. The Project Study Report for the project discusses alignment alternatives that can be pursued in final design. This project is currently under development and pending final approval from Caltrans.
- 2) Funding of the Carlo Street Ramp Conversion Project which serves as a first-phase of the widening project, approximately \$1.5 million.
- 3) Allocation of funding from the Transit Area Specific Plan (TASP) towards the Calaveras Boulevard Widening Project, approximately \$5.2 million.

The establishment of the proposed Calaveras Boulevard Widening Project Traffic Impact Fee (TIF) will collect the remaining \$4.3 million of the \$11 million Project Local Match for the project. The proposed TIF and TASP TIF will allow the City to begin the collection of funding for phases of the project to be implemented more quickly via partnerships with Caltrans and the Valley Transportation Authority. For example, the Environmental Certification and Final Design stages of the project can be advanced as soon as enough fees are collected to complete them.

The proposed Calaveras Boulevard Widening TIF would be implemented as follows, based on development type and size:

Traffic Impact Fee Structure:

Residential Development:	\$235 per dwelling unit
Retail Development:	\$708 per thousands square-feet
Office Development:	\$604 per thousand square-feet

Development Thresholds:

Residential Development:	5+ units
Retail Development:	1000+ square-feet
Office Development:	1000+ square feet

A development community stakeholder meeting was held on May 28, 2009 to solicit input regarding the Traffic Impact Fee. The meeting was attended by four community stakeholders, including members from the Terrace Gardens community and business owners. Input included requests for noise evaluations and input regarding improvements on Calaveras Blvd. west of Abel Street. Noise studies will be performed as part of the development of an Environmental Impact Report (EIR) study. No improvements west of Abel Street are recommended with the project.

Attachment:

Resolution with final Calaveras Boulevard Widening Project Transportation Impact Fee Study as Exhibit A of the Resolution.

Recommendations:

1. Open the public hearing and hear any public testimony.
 2. Move to close the public hearing.
 3. Adopt a Resolution establishing a “Calaveras Boulevard Widening Project – Traffic Impact Fee” for traffic generated by new private development.
- 7. Adopt a Resolution Approving the Milpitas Bikeway Master Plan Update 2009 and Environmental Impact Assessment No. EA09-0008, Project No. 4244 (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: The Milpitas Bikeway Master Plan Update is an update to the City’s 2002 Bike Plan. The Update includes goals for bicycle facility deployment, program objectives and serves as a benchmark for existing bicycle usage and infrastructure conditions. The Update also ensures consistency with the Transit Area Specific Plan, Midtown Specific Plan, and provides for connections with regional bike plans including those prepared by the Valley Transportation Authority, City of San Jose, and City of Fremont.

A few of the recommended improvements in the plan include:

- New Bike Lane and Bike Route facilities with enhanced signage and roadway marking treatments
- Expansion of the City’s Bike/Pedestrian Path network to better connect neighborhoods and existing trail facilities
- Bicycle detection at traffic signal locations

Development of the Update was completed in coordination with the Milpitas Bicycle Pedestrian Advisory Commission (BPAC). A community meeting was held on October 2, 2008 to review the plan and accept comments. An additional public meeting was held on May 2, 2009 at the Sunnyhills Neighborhood Association. A draft Plan Update is included in the Council packet for review.

As required by CEQA, a notice of intent to adopt a negative declaration for the Milpitas Bikeway Master Plan was noticed for public review between April 7 through May 7, 2009. Three comments were received during the public comment period from PG&E, County Roads and Airports and the VTA regarding project coordination.

Fiscal Impact: None.

Attachments:

- A. Resolution
- B. Draft Bikeway Master Plan Update (**available online**)
- C. Comment letters regarding Notice of Intent to Adopt Negative Declaration from PG&E, County roads and airports, Valley Transportation Authority

Recommendations:

- 1. Open the public hearing and hear any public testimony.
- 2. Move to close the public hearing.
- 3. Adopt a Resolution approving the Milpitas Bikeway Master Plan Update 2009 and Environmental Impact Assessment No. EA09-0008, Project No. 4244.

XIV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

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

RA2. Approval of Minutes – June 2, 2009

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

***RA4. Adopt a Resolution Authorizing the Purchase of Five Affordable Housing Units and Reducing the Resale Prices from Moderate Income Levels to Low Income Levels (Staff Contact: Felix Reliford, 586-3071)**

Background: The City received notices from five owners who need to sell their affordable housing units in Parc Metropolitan, Parc North, and Terra Serena. Several of the owners have stated they have lost their jobs and are unable to continue to pay their mortgage payments. The owners, in cooperation with Redevelopment Agency (Agency) staff, have been unsuccessful in finding qualified buyers for these units.

Authorization to Purchase: Pursuant to the Resale Restriction Agreements on such properties, the Agency must either purchase and close escrow on those properties within 90 days or allow them to be sold at market rates without any affordability restrictions. An Agency purchase, then, would preserve the properties for use by affordable income households. The resale agreements fix the price of the affordable units in an Agency purchase to one set by appraisal, unless the Agency, in exercising its judgment, waives the appraisal requirement and instead opts to calculate the purchase price at the original owner's purchase price (base price), plus a percentage increase drawn from the San Francisco-Oakland-San Jose, California Consumer Price Index. For the five units at Parc Metropolitan, Parc North, and Terra Serena, use of the base price method yields purchases prices that are substantially lower than those anticipated under an appraisal method. (See Exhibit A in the agenda packet.) Therefore, staff recommends waiving the appraisal right under the Resale Restriction Agreements and seeks authorization to purchase these five units under the base price method at a total cost of \$1,614,500.

Authorization to Amend Resale Restriction Agreements: At its meeting on February 17, 2009, the Agency authorized staff to purchase three other affordable housing units with the understanding that if qualified buyers could not be found that staff would return for authorization to reduce the purchase price from moderate income to low-income. The market value of comparable units is still attractive to moderate income homebuyers and these units remain unsold. Staff is confident that qualified low income buyers can be found to purchase all eight units (i.e, the three authorized in February 2009 and the five discussed above) based on recent experience with other projects. Therefore, staff is also requesting authorization from the Agency to amend the Resale Restriction Agreements and other related documents, if necessary, to reduce the purchase price from moderate income levels to low income levels and resell all eight units to low income households. The amendments would also provide an allowance for a \$25,000 down payment assistance loan for each unit if needed by the homebuyer. Homeowners association dues will be paid during the time period the Agency owns the units and that amount would not exceed \$15,000.

Fiscal Impact: The net fiscal impact to the Agency's Housing Fund would be \$625,000 after accounting for the lower resale prices, down payment assistance, and homeowners dues. The \$1,614,500 needed to purchase the five units will require an appropriation from the Housing Fund's unreserved balance.

Recommendations:

1. Adopt a resolution authorizing the purchase of five affordable housing units and resale of the units and three other affordable housings units at a low income rate.
2. Approve an appropriation of \$1,614,500 from the Housing Fund's unreserved balance.

***RA5. Authorize the Executive Director/City Manager to Execute a Maintenance Agreement with California Department of Transportation (Caltrans) for Highway 237/I-880 Interchange Landscaping, Project No. 4170 (Staff Contact: Greg Armendariz, 586-3317)**

Background: On May 5, 2009, Agency/City Council approved a Contribution Agreement with Caltrans to provide the design and construction of landscaping improvements for the Highway 237/I-880 Interchange, and in return, the Agency/City agrees to maintain the landscaping for the next 20 years. A maintenance agreement has been developed to identify the Agency/City's maintenance responsibilities. Maintenance work includes weeding, litter pick up, irrigation repair and tree trimming within the landscaped areas. The areas of maintenance are the 237/I-880 Interchange, including the gateway monument area at the south east side of the interchange, the highway stretch along west of I-880 to McCarthy Boulevard overpass and areas at Tasman/I-880 Interchange.

Fiscal Impact: None. Caltrans cost share funding (\$2,000,000) will be deposited to the Agency/City under the terms previously approved in the contribution agreement with Caltrans. In addition, the Community Facilities District (CFD) funds will also be available to pay for maintenance.

Recommendation: Authorize the Executive Director/City Manager to execute a maintenance agreement with California Department of Transportation (Caltrans) for landscape maintenance of the Highway 237/I-880 Interchange Landscaping, Project No. 4170.

***RA6. Adopt a Resolution Granting Initial Acceptance for Highway 237/I-880 Interchange Monument Sign, Project No. 4170 (Staff Contact: Steve Erickson, 586-3301)**

Background: City Council/Agency awarded the installation of the Milpitas Gateway Monument Sign to George Bianchi Construction, Inc. on December 16, 2008. The sign is located at the northbound off ramp of Interchange 880 and Highway 237 (Calaveras Blvd.). Work included landscaping, irrigation and up-lighting. The project has been successfully completed, and staff recommends that the City Council/Agency adopt a resolution granting initial acceptance and authorize the reduction of the contractor's faithful performance bond to \$18,000.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting initial acceptance for Highway 237/I-880 Monument Sign, Project No. 4170, subject to the one-year warranty period and reduction of the performance bond.

- *RA7. Adopt a Resolution Granting Initial Acceptance for Midtown North Main Street Streetscape Improvement Project, Phase 2, Projects No. 8165 and No. 8153, Federal Aid Project No. RPSTPLE 5314 (004) (Staff Contact: Steve Erickson, 586-3301)**

Background: This project provided for the remainder of the new pedestrian-friendly streetscape along North Main Street to support the Valley Medical Center and County Parking Garage, Public Library, and other Midtown improvements. Phase II of the project provided new pavement, wide sidewalks, street medians, lighting, traffic signal infrastructure, and landscape improvements on North Main Street from Weller Lane to Carlo Street. The project was awarded to Joseph J. Albanese, Inc. on August 5, 2008, and the work has been successfully completed. Staff recommends the City Council/Agency grant an initial acceptance and authorize reduction of the contractor's faithful performance bond to 10% of the contract amount or \$220,215.33.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting initial acceptance of the Midtown North Main Street Streetscape Improvement Projects No. 8165 and No. 8153, subject to the one-year warranty period and reduction of the faithful performance bond.

- *RA8. Award Construction Contract to American Asphalt Repair and Resurfacing Company for the Street Slurry Seal 2009 Project, Projects No. 8194 and No. 4250 (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: On May 19, 2009, the Redevelopment Agency approved the project plans and specifications for the Street Slurry Seal 2009 project and authorized the advertisement of the project. This year's slurry seal project includes roadway surface treatments and roadway markings installations on 34 streets; a project map is included in the agenda packet.

The Engineer's Estimate was \$1,000,000. The project was advertised and sealed bid proposals were opened on June 5, 2009. Three bid proposals were received with base bids ranging from \$796,197.49 to \$856,115.89. The bid amount for the two add alternates were found to be reasonable and within the budget. Staff recommends award of the project to the lowest responsible bidder, American Asphalt Repair and Resurfacing Company, in the amount of \$812,197.49, including add alternates A and B.

Fiscal Impact: None. Sufficient funds are available in the project budget.

Recommendations: Award Construction Contract for the Street Slurry Seal 2009 Project to American Asphalt Repair and Resurfacing Company in the amount of \$812,197.49, including add alternates A and B, for Projects No. 8194 and No. 4250.

- *RA9. Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals for the Street Resurfacing 2010 Program, Project No. 4250 (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: Plans and Specifications for the Street Resurfacing 2009 project have been completed in accordance with the approved five-year Capital Improvement Program (CIP). This year's program includes the resurfacing of N. Milpitas Boulevard between Tramway Drive and

Beresford Court. The project includes the repair of base failures on the street, the installation of a 2-inch rubberized asphalt overlay and roadway marking improvements.

N. Milpitas Boulevard was partially prepared for resurfacing treatments last fall through a pavement crack seal process, involving the cleaning and sealing cracks in the roadway of bituminous material to protect the street from additional failures over the winter.

The Engineer's Estimate is \$600,000. 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. Sufficient funds are available in the project budget.

Recommendation: Approve Plans and Specifications and authorize the advertisement for bids proposals for the Street Resurfacing 2010 Program, Project No 4250.

***RA10. Adopt a Resolution Authorizing the Executive Director/City Manager to Award and Execute a Construction Contract with the Lowest Responsible Bidder for the South Park Victoria Drive Resurfacing Project and Approve Budget Appropriation, Project No. 8194 (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: On April 7, 2009, the Redevelopment Agency approved the project plans and specifications for the South Park Victoria Drive Resurfacing Project – Yosemite Drive to Clear Lake Avenue and authorized the advertisement of the project for construction bid proposals. This project is funded in part by the American Recovery and Reinvestment Act 2009 Program (Economic Stimulus program.) The project includes roadway repairs and the installation of new rubberized asphalt pavement, ADA-compliant handicap ramps, roadway markings and signage improvements. The Engineer's Estimate for the project is \$1,300,000.

Prior to advertisement of the project is subject to California Department of Transportation (Caltrans) a permit is required to meet funding requirements of the Economic Stimulus Program. Caltrans approval permit and obligation of grant funds was received on June 5, and bid opening will be scheduled July. Due to the "shovel ready" emphasis of the Economic Stimulus Program, it is important to award this project as soon as possible. Therefore, staff recommends that the Redevelopment Agency/Council authorize the Executive Director/City Manager to award and execute a contract to the lowest responsible bidder for the project during the month of July when the Redevelopment Agency/Council is in recess.

Fiscal Impact: This construction project will be 100% reimbursed by the Economic Stimulus Program up to \$1,136,000. A budget appropriation in the grant amount of \$1,136,000 into the project No. 8194 budget is required. Sufficient funds are available in the project budget for any additional costs above the grant amount.

Recommendations:

1. Adopt Resolution authorizing the Executive Director/City Manager to award a contract to the lowest responsible bidder for the S. Park Victoria Drive Resurfacing Project No. 8194.
2. Approve a budget appropriation in the amount \$1,136,000.

***RA11. Approve Plans and Specifications, Authorize the Advertisement for Bid Proposals, and Authorize the Executive Director/City Manager to Execute Amendment No. 3 to the Agreement with Kimley Horn and Associates for Sidewalk Widening at Calaveras Boulevard Bridges, Project No. 4202 (Staff Contact: Steve Erickson, 586-3301)**

Background: Plans and specifications for the subject project have been completed in accordance with the approved five-year Capital Improvement Program. The project provides for the interim widening the existing sidewalks along the Highway 237 overpass bridges between

Abel Street and Milpitas Boulevard. The width of the existing sidewalk along the north side of the bridges will be increased by two feet, for a total sidewalk width of seven feet.

The Engineer's Estimate for the work is \$200,000. A copy of the project plan title sheet is included in the Council's agenda packets. Complete plans and specifications are available for review in the office of the City Engineer.

On May 10, 2006, the City Council/Agency approved a consultant agreement with Kimley Horn and Associates in the amount of \$100,000 for on-call traffic engineering services. On June 5, 2007, the Council/Agency approved Amendment No. 1 for additional services on the Milpitas Communications project for a not to exceed amount of \$125,000. On March 18, 2008, the Council/Agency approved Amendment No. 2 with Kimley Horn and Associates for design services for the subject project in the amount of \$73,834.

Staff now recommends that Kimley Horn and Associates provide bidding and construction support services for the Calaveras sidewalk widening project. A scope of work and fee were negotiated for the not-to-exceed amount of \$20,000, which is considered reasonable for these services. Approval of Amendment No. 3 brings the total contract amount of \$318,834.

Fiscal Impact: None. Sufficient funds are available in the project budget.

Recommendations:

1. Approve plans and specifications for sidewalk widening at Calaveras Boulevard bridges, Project No. 4202, and authorize the advertisement for bid proposals.
2. Authorize the Executive Director/City Manager to execute Amendment No. 3 to the Agreement with Kimley Horn and Associates for an amount not to exceed \$20,000.

RA12. Agency Adjournment

XVI. REPORTS OF OFFICER AND COMMISSION

8. Receive Update on the "Raising a Reader Program" (Contact: Vice Mayor McHugh, 586-3023)

Background: At the request of the Vice Mayor, at the joint meeting of the City/Milpitas Unified School District on May 21, 2009, this item has been placed on the agenda to receive an update from the Milpitas Unified School District regarding the "Raising a Reader" (RAR) program. This program was established as a joint venture between the City and the Milpitas Unified School District to promote reading, as well as to educate parents and guardians about the importance of reading for school success. The Reader program provides participants with the tools and materials they need to make daily reading practical in their homes and prepare them for school readiness.

School staff Kathy Lincoln will present an overview of the current program and continuing efforts to keep the community informed.

Fiscal Impact: None.

Recommendation: Receive report from Milpitas Unified School District staff on the "Raising A Reader" program.

*** 9. Approve Youth Advisory Commission Supplemental Questionnaire (Staff Contact: Samu Tiumalu, 586-3222)**

Background: The Youth Advisory Commission (YAC) has created a Supplemental Questionnaire that commissioners recommended be a part of the YAC application process. The

purpose of the supplemental questionnaire is to ensure future Commissioners are able to commit to the YAC meetings and events. Included for Council's review and approval is the Supplemental Questionnaire.

Fiscal Impact: None. There is no fiscal impact.

Recommendation: Approve the Youth Advisory Commission Supplemental Questionnaire to be submitted with the applications to serve on the Commission.

XVI. NEW BUSINESS

10. Receive Presentation by Director Richard Santos on the Santa Clara Valley Water District (SCVWD) Call for Water Conservation (Staff Contact: Kathleen Phalen, 586-3345)

Background: Board Director Richard Santos represents the residents of District 3 of the Santa Clara Valley Water District (SCVWD or District), including Milpitas, Sunnyvale, and the Berryessa, Alum Rock, and Alviso areas of San Jose. Director Santos will present an overview of the current water supply outlook for Santa Clara County and the District's call for 15% mandatory conservation. This presentation will also provide information on services and programs that the District offers to residents and businesses to help them conserve water and save money, and help consumers through the drought.

On March 24, 2009, SCVWD Board of Directors reviewed information showing that its water supplies were impacted by low storage at statewide water reservoirs due to three relatively dry winters and court rulings restricting pumping from the Sacramento-San Joaquin Delta. The Board resolved to call upon cities and water retailers to implement water conservation to reduce use by 15%. The Board also asked cities to consider adopting a version of a model ordinance to regulate water-wasting behaviors by the public. Staff is reviewing the draft model ordinance to determine if it has provisions that may be desirable to add to the City's existing water conservation ordinance.

At the SCVWD Water Commissioners meeting of April 22, District staff explained that the call for mandatory conservation would not focus on industrial users or agriculture because the District does not want to negatively impact the economy. Instead, the District is developing a "Save 20 Gallons" public outreach campaign to give residents positive encouragement to easily save 20 gallons of water per day (equivalent to about 15% of the typical residential usage). This outreach message will be included in Milpitas utility bills this summer. Although most of the City's residential customers are served Hetch Hetchy water supplied by the San Francisco Public Utilities Commission (SFPUC), SFPUC's continuing call for 10% voluntary conservation is not substantially different than the District's call and therefore the outreach material is compatible.

Fiscal Impact: None.

Recommendation: Receive the presentation from District Director Santos on the Santa Clara Valley Water District Call for Water Conservation.

11. Presentation from the Santa Clara Valley Health and Hospital Services (Contact: Vice Mayor McHugh, 586-3023)

Background: Vice Mayor McHugh requested a presentation for the City Council from County health staff to update Milpitas officials on the progress of the Valley Medical Center, Milpitas, currently under construction on N. Main Street.

Recommendation: Hear report and presentation from the Santa Clara County staff.

12. Receive the Monthly Economic Development Report (Staff Contact: Diana Barnhart, 586-3059)

Background:

Corporate Outreach: Staff has contacted nine businesses to set up outreach meetings to discuss current conditions and any expansion/contraction plans. In addition, staff will be working with each company on Use Tax Agreements to see if there is opportunity to allocate additional funds to the City.

Conference Center Update: Integra Realty Resources has initiated the feasibility analysis associated with the creation of conference facility space in Milpitas. That company will be talking with other facility managers and area-wide hoteliers to develop use projects for meeting room space.

Redevelopment Update: Keyser Marston Associates has met with staff and is analyzing data on the three study areas for the potential of creating new redevelopment project areas. This will be reported back to the City Council in August. Implementation Plan: Staff will also be presenting a new Five Year Redevelopment Implementation Plan for review by the Agency/Council in August.

Chamber Business Expo: Two Economic Development Commissioners joined staff at the May 28 Chamber of Commerce Business Expo. Staff distributed the new Yellow Pages City Guide and contributed water bottles for give-a-ways in conjunction with KLIV Radio. SVUnwired joined the City at its table and attracted many interested users for the new service.

SVUnwired Milpitas: The service will be made available to the general public on June 16 although some residents are currently using the service. SVUnwired is working with the local papers and other advertising media to inform residents and businesses of the service. Staff is also working with some local business owners to identify ways that the service may be more cost effective for them to use either in lieu of current subscriptions or in addition to existing services.

Industrial Activity: Spear Street Capital recently purchased the five-building Murphy Ranch Technology Park in Milpitas from Prudential Real Estate Investors. Spear Street is a real estate investment company that purchases portfolios greater than \$25 million, although the price for the 20-acre site, located on Murphy Ranch Road and McCarthy Boulevard and close to Interstates 880 and 680, was not disclosed. The site's 363,000 square feet are fully leased to Avaya Inc., Intersil Corp. and Phoenix Technologies and serves as each company's corporate headquarters.

Great Mall: Coach, a clothing and accessories store, has obtained a building permit to open its doors in Great Mall. Three other new stores have recently opened: Casa Elegante, a clothing store, Reebok, a shoe store and Intouch Wireless of Columbus Circle, a cell phone sale company.

Online Commercial Building Permits: In a continuous effort to enhance and improve more efficient levels of customer service, consistent with the goals of the Roadmap for Service Improvements, the Building and Safety Department is pleased to introduce new on-line commercial building permits program starting June 16, 2009. This is one of the first, if not the first, on-line commercial permit program in the Bay Area.

Fiscal Impact: There is no fiscal impact associated with this action.

Recommendation: Receive the monthly economic development report.

- * 13. **Receive Project Update on the I-680 Widening/High Occupancy Vehicle Lane Project (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: The California Department of Transportation (Caltrans) has begun construction on a new project to widen I-680 between Mission Blvd. in Fremont to Calaveras Blvd. in Milpitas as part of a High Occupancy Vehicle (HOV) lane installation project to increase freeway capacity.

Upon completion of the widening, the HOV lanes will also serve as part of a future HOV lane for a toll from Pleasanton to Milpitas. The current project will install the HOV/HOT lane in the south bound direction of I-680 only. The estimated completion date for construction in Milpitas is approximately December 2009.

Through Milpitas, the project includes the widening of the bridge structures on I-680 over Jacklin Rd. and Calaveras Blvd. (SR237). The “widening” project includes construction of a third bridge deck in between the existing two bridges at each location. Milpitas staff is working closely with Caltrans and its contractor, Top Grade Construction, to minimize traffic impacts and protect pedestrian/bicycle access through the construction areas.

Fiscal Impact: None.

Recommendation: Receive project update on the I-680 Widening/High Occupancy Vehicle Lane Project.

* **14. Authorize Budget Appropriation and Payment to the City of San Jose for San Jose/Santa Clara Water Pollution Control Plant for Operations, Capital Improvement, and Debt Service Expenses (Staff Contact: Kathleen Phalen, 586-3345)**

Background: Wastewater from the City of Milpitas is treated and disposed by the San Jose/Santa Clara Water Pollution Control Plant (WPCP) and the process for allocating costs and invoicing for payments for WPCP services are governed by a Master Wastewater Agreement. By this agreement, annual expenses are reconciled in the fall of the following year and adjustments are made to the third quarter invoice. This request is to authorize a budget appropriation of \$2,045,672 and payment to the City of San Jose, WPCP Administrator, for additional expenses occurring in FY 2007-08. The additional expenses are made up of three components: Operations, Capital Program, and Debt Service. An explanation of the expenses is included below. All numerical data shown represent the Milpitas share of the total WPCP revenues and expenses.

WPCP Operations: An appropriation of \$431,602 is needed to pay for the Milpitas share of the WPCP operating costs. In providing information for the City’s FY 2007-08 budget, Milpitas staff underestimated the amount that would be payable to City of San Jose for WPCP operations costs by about \$690,000. This is because staff based the budget estimate on the previous year’s operations expenses, since the City did not receive current year budget information from San Jose until after the City’s preliminary budget was due. When staff did receive San Jose’s final recommended budget information, staff noted that it was about 15% higher than Milpitas’ budgeted amount, but decided to wait to see if San Jose would actually expend all these funds before requesting an appropriation. In the previous year, San Jose under-spent its operations budget by about 12%, as illustrated in the table below. However, in FY 2007-08, San Jose operations expenses actually slightly exceeded its budget estimate, as shown in the table below. Increased costs are due to stepped up management oversight including initiating asset management, document inventory and laboratory analysis. A credit applied from the prior year reduces the amount the City needs to appropriate for operations expenses to \$431,602.

Fiscal year	05-06	06-07	07-08	08-09
WPCP budget*	\$3.95	\$4.22	\$4.36	\$4.65
WPCP actual*	\$3.51	\$3.77	\$4.48	TBD
Milpitas budget*	\$4.29	\$4.46	\$3.79	\$3.90

*Figures are in millions of dollars

WPCP Capital: An appropriation of \$1,555,816 is needed to pay the Milpitas share of the WPCP capital program. The Milpitas share of the WPCP Capital Program is also included in the Milpitas operating budget. Milpitas uses preliminary WPCP capital program information as the basis of its budget. A historical comparison of the WPCP budget, WPCP actual costs, and the

Milpitas budget are shown in the table below. As seen in the table, the actual capital costs were substantially lower than budgeted for 2005-06 and 2006-07. However, the 2007-08 actual capital program costs exceeded the budget. In addition, the transfer of treatment plant capacity to Milpitas from Cupertino Sanitary District (Cupertino) has slightly increased the Milpitas share of the 2008-09 WPCP capital budget.

Fiscal Year	05-06	06-07	07-08	08-09
WPCP budget*	\$0.72	\$1.08	\$2.46	\$2.47
WPCP actual*	\$0.11	\$0.83	\$2.94	TBD
Milpitas budget*	\$0.61	\$0.98	\$2.70	\$1.99

*Figures are in millions of dollars

Every year, WPCP accountants apply several factors to the year-end rectification. Milpitas received a substantial credit from the 2005-06 and 2006-07 years, which reduced the 2006-07 and 2007-08 payments due by \$2 million. (The 2008-09 Milpitas budget is insufficient to accommodate the combined circumstances of the WPCP capital program exceeding the budget, an increase in Milpitas treatment capacity, and the reduced 2007-08 payments.)

2008-09 Debt Service: The City needs to appropriate \$58,254 to pay unanticipated debt service and establish reserve on debt acquired with the purchase of treatment capacity from Cupertino Sanitary District. On January 1, 2009, the City acquired 750,000 gallons of treatment capacity from the Cupertino Sanitary District to serve the growth expected in the Transit Area Specific Plan. The value of this capacity on January 1 was \$5,184,000 and the designated funding source is the Transit Area Impact fee. In planning the WPCP operating budget, staff had expected that the City would pay Cupertino Sanitary cash for the full value of the capacity, but the Cupertino Board opted instead to have Milpitas take over a proportionate share of Cupertino’s debt service and discounted the capacity purchase an equivalent amount of \$634,700, thereby reducing the purchase price to \$4,549,161.

This debt consists of a 20-year State Revolving Fund Loan with term to 2019, 2005 Series A Bonds with term to 2016, and 2005 Series B Bonds that were refinanced in February with 2009 Series A Bonds continuing to 2021. The city’s half year debt payments total to \$16,926. In addition, San Jose established reserve funds for the bonds this year which add a one-time charge of \$41,328 as moneys to be held to ensure San Jose’s ability to pay debt service.

The City may choose to continue to carry this small debt service or may evaluate if it wishes to pay it off early. San Jose staff has stated the San Jose could absorb the relatively very small amount of debt within its own debt portfolio if Milpitas should choose to pay cash to close out the City’s share.

Staff has performed extensive review of the invoice backup documentation and believes that these moneys are due and payable to San Jose. Staff from Milpitas and other tributary agencies have also been working closely with San Jose to better understand San Jose’s budget projection assumptions and its process for determining and applying year-end budget adjustments. Letters included in the Council packet provide explanation for some of these issues. All parties recognize that the cities and districts will be best served when the WPCP actual annual expenditures more closely match the planned budgets.

Fiscal Impact: A budget appropriation of \$2,045,672 from the Sewer Fund into the FY 2008-09 Sewer Operating Budget is required. This appropriation will cover the WPCP Operations, Capital, and Debt Service payments of \$431,602; \$1,555,816; and \$58,254 described above. There are sufficient funds in the Sewer Fund to cover this requested budget appropriation. The need for this year-end appropriation was assumed in the FY 2009-10 utilities rate analysis provided to Council this spring.

Recommendation: Approve the budget appropriation and payment to City of San Jose for \$2,045,672 from the Sewer Fund for the Milpitas share of Water Pollution Control Plant Operations, Capital Program, and Debt Services costs.

- * 15. **Approve One Youth Sports Assistance Fund Grant Request (Staff Contact: Aaron Bueno, 586-3226)**

Background: On June 17, 2008, the Milpitas City Council approved and appropriated \$8,000 for the Youth Sports Assistance Fund for the 2008-09 budget year. Included in the City Council packet for review and consideration is one Individual Youth Sports Assistance Fund application was received from Nastassia Hamor in the amount of \$500 for entry fees, airfare, hotel and other travel costs for the Outdoor Inline Speed Skating National Championships on June 26 to July 5, 2009 in Colorado Springs, Colorado.

Fiscal Impact: There is currently a balance of \$3,000 in the FY 2008-09 Youth Sports Assistance Fund. Approval of this one Grant for \$500 will leave a balance of \$2,500 for the remainder of the fiscal year.

Recommendation: The Parks, Recreation and Cultural Resources Commission (PRCRC) was scheduled to review the application on June 13, 2009. The Commission is expected to recommend that the City Council approve one Individual Youth Sports Assistance Fund grant in the amount of \$500 be awarded to Nastassia Hamor.

XIX. ORDINANCES

- * 16. **Waive the Second Reading and Adopt Ordinance No 197.11 Approving the Reorganization of Building and Safety by Amending Section 1.00 of Chapter 3, Title VI of the Milpitas Municipal Code (Staff Contact: Bryan Otake, 586-3042)**

Background: On June 2, 2009, the City Council introduced Ordinance No 197.11 to amend the City's Municipal Code to reflect the reorganization of Building and Safety Division into a Department. The Ordinance remains unchanged and is now ready for adoption.

Fiscal Impact: None.

Recommendations:

1. Waive the second reading of Ordinance 197.11.
2. Adopt Ordinance No. 197.11, Amending Section 1.00 of Chapter 3, Title VI of the Milpitas Municipal Code.

- * 17. **Waive the Second Reading and Adopt Ordinance No. 65.138, Adding a New Chapter 20 to Title II of the Milpitas Municipal Code Relating to Green Building Regulations (Staff Contacts: James Lindsay, 586-3273, and Keyvan Irannejad, 586-3244)**

Background: On June 2, 2009, the City Council introduced Ordinance No. 65.138 to add new green building regulations to the Milpitas Municipal Code. The Ordinance remains unchanged and is now ready for adoption.

Fiscal Impact: None.

Recommendations:

1. Waive the second reading of Ordinance No. 65.138.
2. Adopt Ordinance No. 65.138, adding a new Chapter 20 to Title II of the Milpitas Municipal Code Relating to Green Building Regulations.

XX. RESOLUTIONS

- * **18. Adopt a Resolution Authorizing the City Manager to Execute a Contract for Hazardous Material Remediation and Demolition of the Property Located at 1504 and 1556 South Main Street with Randazzo Enterprises, Inc. (Staff Contact: Chris Schroeder, 586-3161)**

Background: The property located at 1556 South Main Street is an abandoned motel built in the early 1960's. The adjacent property at 1504 South Main Street is a closed mobile home park. Both properties have severely deteriorated and constitute a public nuisance. The owner has agreed to permit the City to demolish the existing structures on the property and abate the nuisance. On May 18, 2009, staff advertised a request for proposal (RFP) for the remediation of any hazardous materials and the demolition of all structures on the aforementioned properties. The RFP was advertised on the City website, on Public Purchase, and in the local newspaper. The proposals were evaluated by a City team consisting of the Fire Marshal, the Senior Housing & Neighborhood Preservation Specialist, and an Assistant Civil Engineer. After consideration of all criteria the team found Randazzo Enterprises, Inc. to have the most advantageous proposal.

Fiscal Impact: None. The cost of the project will be reimbursed by the property owner pursuant to Milpitas Municipal Code Section V-500-4.

Recommendation: Adopt a resolution authorizing the City Manager to execute a contract with Randazzo Enterprises, Inc. for hazardous material remediation and demolition of the property located at 1504 and 1556 South Main Street, in the amount of \$108,904.

- * **19. Adopt a Resolution for the Approval of Public Improvement Plans and Authorize City Manager to Execute Permittee Dedication and Improvement Agreement for Linear Technology, Project No. 3209 (Staff Contact: Fernando Bravo, 586-3328)**

Background: On September 13, 2006, the Milpitas Planning Commission approved a request for renovation of the site and sidewalk improvements along the project frontage on Buckeye Drive and Sycamore Drive. The permittee agreement and the public improvement plans are for the construction of new sidewalk and ramp, and granting easement for public service utility and sidewalk easement. Public improvement plans are approved and available in the City Engineer's Office.

Fiscal Impact: None.

Recommendations:

1. Adopt a resolution for the approval of Public Improvement Plans.
2. Authorize the City Manager to execute the Permittee Dedication and Improvement Agreement for Linear Technology, Project No. 3209.

- * **20. Adopt a Resolution Authorizing the City Manager to Execute a Three-Year Agreement with City of San Jose for Animal Control Services in the Amount of \$686,801 (Staff Contact: Felix Reliford, 586-3071)**

Background: The City of San Jose has provided the City of Milpitas with Animal Control Services since 2001. These services include:

- Field Services - Picking up deceased and injured animals, confining stray animals, response to emergency calls, investigating complaints, respond to police assistance; (Milpitas Public Works staff picks up deceased animals during weekday hours of 7:00 a.m. to 5:00 p.m.)
- Shelter Services - Sheltering abandoned, impounded, lost or stray animals, quarantine of biting animals, rabies testing of suspect animals, provisions for surrender and claim animals abandoned, lost or stray, euthanasia and disposal of abandoned, lost or stray animals;

- Medical Services - Providing veterinarian services 24 hours per day to treat and provide veterinarian care to stray, injured or sick animals;

The agreement has a three year term from July 2009 to June 2012 for a total cost of \$686,801 (1st year - \$222,201, 2nd year - \$228,897; and 3rd year - \$235,733). The total cost of the previous three year agreement was \$624,551.

After conducting a good faith review of the available sources, the City's Purchasing Agent has determined that the City of San Jose is the only source for field, shelter and medical services. Although other providers offer some services, San Jose is the only entity that contracts for all of the services needed by the City. Therefore staff is requesting that the purchase be authorized as a sole source procurement pursuant to Municipal Code section I-2-3.09, Sole Source Procurement.

Fiscal Impact: None. Adequate funding for this agreement has been allocated in the Neighborhood Services operating budget.

Recommendation: Adopt a resolution authorizing the City Manager to execute the agreement with the City of San Jose for Animal Control Services in the amount of \$686,801.

- * 21. **Adopt a Resolution Authorizing City Manager to Submit and Execute Grant Documents Approving Submittal of Department of Energy Economic Stimulus Grant Application and Authorizing City Manager to Implement the Program (Staff Contact: Greg Armendariz, 586-3317)**

Background: The Department of Energy is allocating up to \$662,400 of economic stimulus grant funding to Milpitas through its Energy Efficiency and Conservation Block Program. This grant has many goals, including promotion of energy efficiency and conservation, renewable energy use, and job growth. The City of Milpitas must submit an application to receive this funding. The application requires development of an Energy Efficiency and Conservation Strategy, which will analyze and prioritize possible projects in accordance with Program guidelines. The strategy must also be submitted when applying for other Department of Energy grants.

Consultant Energy Solutions is under contract to prepare the strategy. The consultant's scope calls for evaluation of a wide range of projects designated by City staff, including city building HVAC upgrade, storm pump station engine replacement, conversion of pump station diesel engines to electric motors, city building chiller replacement, co-generation system feasibility study, street light replacement, traffic light replacement, solar panels on city buildings, and other energy related projects.

Fiscal Impact: None.

Recommendation: Adopt a Resolution authorizing the City Manager to submit and execute grant documents approving submittal of Department of Energy economic stimulus grant application and authorizing the City Manager to implement the program.

- * 22. **Adopt a Resolution Repealing Outdated Green Building Policies and Procedures Set Forth in Resolution No. 7735 (Staff Contact: Bryan Otake, 586-3042)**

Background: On February 5, 2008, the City Council adopted a limited set of Green Building policies and procedures through its adoption of Resolution No. 7735 (Green Building Policies). The new proposed Green Building Ordinance, scheduled for second reading and adoption this date, is designed to create a more comprehensive set of Green Building standards and procedures and supersede the provisions of Resolution No. 7735. To avoid any possibility of confusion, formal City Council action to repeal the outdated provisions of Resolution No. 7735 is recommended.

Fiscal Impact: None.

Recommendation: Adopt a Resolution repealing outdated green building policies and procedures set forth in Resolution No. 7735.

XX. BIDS AND CONTRACTS

- * 23. **Authorize the City Manager to Award and Execute a Construction Contract for Light Rail Median Landscaping – Phase I, Project No. 2001 (Staff Contact: Kathleen Phalen, 586-3345)**

Background: On May 19, 2009, the City Council approved the project plans and specifications and authorized the advertisement of the project for construction bids for the first phase. The project provides for the installation of approximately 4,900 lineal feet of a new recycled water main along Great Mall Parkway and Thompson Street to complete a recycled water main loop from McCandless Drive to Thompson Street. This new recycled water main will serve both new median landscaping irrigation and the upcoming development projects in the Transit Area Specific Plan. The second phase of the project will include the median planting and irrigation system, which is not included in this work, and staff will return to Council to request for approval of plans and authorization to advertise at a later date.

The Engineer's Estimate is \$2,200,000. The project is being advertised and City will receive sealed bid proposals on or soon after June 19, 2009, at which time the proposals will be reviewed. Staff is recommending City Council to authorize the City Manager to award and execute a construction contract to avoid delays that would result if award were scheduled for an August City Council meeting. Staff will follow the public contract code requirements in review of the bid proposals. The contract shall be awarded to the lowest responsible bidder if the amount is within the project construction budget.

Fiscal Impact: None. There are sufficient funds in the project budget per approval of the 2009-14 Capital Improvement Program.

Recommendation: Authorize the City Manager to award a construction contract to the lowest responsible bidder for the Light Rail Median Landscaping, Project No. 2001.

- * 24. **Award the Bid and Authorize the City Manager to Execute a Contract for Installation of the Police Garage Rollup Door (Staff Contact: Chris Schroeder, 586-3161)**

Background: The rollup door on the west side of the Police Department garage at 1275 N. Milpitas Blvd. was originally installed in 1993. Due to wear and tear, the door and the motor can no longer be effectively repaired. On May 19, 2009, staff advertised the bid for the removal of the old door and installation of a new one. The bid was advertised on the City website, on Public Purchase, and in the local newspaper. Bid results were due on June 12. Staff will provide the name of the lowest responsible bidder and the amount of the bid at the Council meeting.

Fiscal Impact: None. There is sufficient funding in the Police Department operating budget and the City Building Improvement CIP Project No. 8182 to pay for the cost.

Recommendation: Award the bid and authorize the City Manager to execute a contract for installation of the Police garage rollup door with the lowest responsible bidder, subject to review by the City Attorney.

- * 25. **Authorize the City Manager to Execute a Design Services Agreement with Gates & Associates for Cardoza Park Playground Renovation and Electrical Cabinet Upgrade, Projects No. 5088 and No. 5085 (Staff Contact: Steve Erickson, 586-3301)**

Background: The Cardoza Park Playground Renovation and Electrical Cabinet Upgrade Projects No. 5088 and No. 5085 are included in the approved Capital Improvement Program. The work provides for the renovation of two playgrounds at Cardoza Park and installs new American Disabilities Act (ADA) compliant hardscape playground improvements, landscaping, playground equipment, lighting, and expanded picnic areas. The work will replace electrical lighting cabinets at Cardoza, Hall, and Creighton Parks that have reached the end of their service life.

Through the City's consultant selection process, Gates & Associates was selected to provide the design services for this project. Staff negotiated a scope and fee for the required design services not to exceed \$110,000, which is considered reasonable for the work.

Fiscal Impact: None. Sufficient funds are available in the project budget(s) for these consultant services.

Recommendation: Authorize the City Manager to execute a design services agreement with Gates & Associates in the amount of \$110,000 for Cardoza Park Playground Renovation and Electrical Cabinet Upgrade Project, Projects No. 5088 and No. 5085.

- * 26. **Award Construction Contract to California Trenchless, Inc. for Sewer Deficiency and Structural Correction Program- Phase 5, and Sewer System Replacement, Projects No. 6073 and No. 6111 (Staff Contact: Steve Erickson, 586-3301)**

Background: On May 5, 2009, the City Council approved the plans and specifications and authorized the advertisement for construction bids for Projects No. 6073 and No. 6111. The project provides for the replacement of damaged sanitary sewer mains that have structural deficiencies and settlement problems creating continued blockages and other maintenance problems.

The Engineer's Estimate for the work was \$700,000. The project was advertised and sealed bid proposals were opened on May 27, 2009. Five bid proposals were received ranging from \$357,655 to \$592,330. The lowest responsible bid was submitted by California Trenchless, Inc. in the amount of \$357,655.

Fiscal Impact: None. Sufficient funds are available in the project budget.

Recommendation: Award a construction contract to California Trenchless, Inc. for Sewer Deficiency and Structural Correction Program- Phase 5, and Sewer System Replacement, Projects No. 6073 and No. 6111, in the amount of \$357,655.

- * 27. **Award Construction Contract to Stoloski & Gonzalez, Inc. for the Water System Air Relief Valve Modifications – Phase III, Project No. 7086 (Staff Contact: Steve Erickson, 586-3301)**

Background: On May 5, 2009, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals. The project provides for retrofitting of approximately thirty-one existing air relief valves from below ground level to above ground level, including installation of new valve enclosures. This work is required to comply with California Department of Public Health requirements and State Code, Title 22, Division 4 of the California Code of Regulations. The Engineer's Estimate for the work was \$79,000.

The project was advertised and sealed bid proposals were opened on May 28, 2009. Five bid proposals were received ranging from \$72,624 to \$157,200. The lowest responsible bid was submitted by Stoloski & Gonzalez, Inc., in the amount of \$72,624.

Fiscal Impact: None. Sufficient funds are available in the project budget to award this project.

Recommendation: Award Construction Contract to Stoloski & Gonzalez, Inc., for the Water System Air Relief Valve Modifications, Project No.7086-Phase III, in the amount of \$72,624.

- * 28. **Approve a Budget Appropriation and Award Construction Contract to Gantry Constructors, Inc. for the Gibraltar Reservoir and Pump Station Improvements, Project No. 7101 (Staff Contact: Kathleen Phalen, 586-3345)**

Background: The Gibraltar Reservoir and Pump Station is a critical facility in the City's water distribution system that has many components reaching the end of their design life. This project provides improvements to restore the station's functionality, including replacing the existing diesel pump engines with electric motors, replacing the pumps and valves, installing a new standby emergency generator and fuel tank, installing 24-inch booster pump suction pipeline, constructing a new control building and chemical feed building, and upgrading the electrical system and instrumentation. The Engineer's Estimate for the work is \$6,000,000.

On October 7, 2008, the City Council authorized staff to issue a bidder pre-qualification package for the project. Interested bidders submitted their qualifications to the City for review and approval. On March 3, 2009, the City Council approved the project plans and specifications and authorized advertisement for construction bid proposals from the pre-qualified bidders. The project was advertised and sealed bid proposals were opened as scheduled on May 29, 2009. Two bid proposals were received and the lowest responsible bidder is Gantry Constructors, Inc. The base bid results, which are the basis for award, ranged from \$5,697,200 to \$6,640,000. Gantry also provided a bid of \$31,500 for requested add alternate items of site pavement restoration and the pump station exterior painting, bringing their total bid inclusive of add alternates to \$5,728,700. Staff recommends awarding the add-alternative items to Gantry's award. Included in the Council's packet is a bid summary listing the bid results.

Staff recommends that Council approve a project specific change order policy, similar to that approved for the library and Senior Center projects. This authorization allows staff to swiftly execute change orders in order to minimize construction time delays and limit potential claims or additional delay related costs to the City. Due to the complexity of this project and multiple trade workers (subcontractors) on the project, construction delays can have a "domino effect" on the follow-on subcontractors that compounds the impact of construction delays. Staff will provide the Council with a summary report on all change orders which were executed at the end of the construction of the project. The construction contingency established for this project is \$900,000 and the administrative change order authority shall not exceed this amount.

Fiscal Impact: A budget appropriation in the amount of \$3,000,000 is required to award the project. The need for an appropriation of \$3,000,000 to \$4,000,000 into this project was identified in the 2008-2013 Capital Improvement Program budget over a year ago and sufficient funds were earmarked in the Water Fund for this purpose.

Recommendations:

1. Approve a budget appropriation for \$3,000,000 from Water Fund into Project No. 7101.
2. Award a construction contract to Gantry Constructors, Inc. in the amount of \$5,728,700 for the Gibraltar Reservoir and Pump Station Improvements, Project No. 7101.
3. Authorize staff to execute change orders for the Gibraltar Reservoir and Pump Station Improvements, provided that change orders do not exceed the established construction contingency of \$900,000 for the project.

- * 29. **Approve Plans and Specifications and Authorize the Advertisement for Bids for Calle Oriente Park, Project No. 5087 (Staff Contact: Steve Erickson 586-3301)**

Background: Plans and specifications for the Calle Oriente Park, Project No. 5087, have been completed in accordance with the approved five-year Capital Improvement Program (CIP). The project provides a complete renovation of the park, including new play structures, ADA-compliant walks, basketball court, drinking fountain, lighting, picnic area, shade structure, and landscaping.

The Engineer's Estimate is approximately \$440,000. A copy of the project plan title sheet is included in the Council's agenda packets. Complete plans and specifications are available for review in the office of the City Engineer.

This project is eligible for a Community Development Block Grant (CDBG) in the amount of \$100,000.

Fiscal Impact: A budget appropriation for the CDBG grant of \$100,000 will be required when Council awards the contract.

Recommendation: Approve plans and specifications and authorize the advertisement of bids for Calle Oriente Park, Project No. 5087.

*** 30. Approve Contract Renewal with National Safety Casualty for Excess Workers' Compensation Insurance (Staff Contact: Carmen Valdez, 586-3086)**

Background: The City carries excess workers' compensation insurance in accordance with state law. Insurance broker Brown & Brown of California was able to obtain coverage through National Safety Casualty Corporation for FY 2009-10. Last year, FY 2008-09, the cost of the excess workers' compensation was \$128,887. This year, staff was quoted an overall rate decrease of 8.5%. The City's self-insured retention is \$1,000,000 for Safety employees and \$750,000 for Miscellaneous employees. The renewal premium is for FY 2009-10 is \$118,089, based on the City's payroll.

Fiscal Impact: There are sufficient funds allocated in the Human Resources Departmental FY 2009-10 budget.

Recommendation: Approve acceptance of National Safety Casualty Corporation for the City's excess workers' compensation insurance for FY 2009-10, authorizing the City Manager to pay Brown & Brown of California the premium rate of \$118,089.

*** 31. Authorize the City Manager to Execute a Funding Agreement Between the City of Milpitas and the Santa Clara Valley Transportation Authority for the Tasman East Landscaping, Project No. 2001 (Staff Contact: Greg Armendariz, 586-3317)**

Background: In 2001, the Santa Clara Valley Transportation Authority (VTA) and the City of Milpitas entered into agreements regarding funding, operation, and maintenance for median landscaping along the light rail and Tasman Drive, now known as Great Mall Parkway. Prior to installation of the median landscape work, an interruption in funding caused the work to be placed on hold. Recently, VTA notified the City that up to \$1.8 million in funding is now available for the median plantings and irrigation system. On September 2, 2008 and April 21, 2009, the City Council approved amendments to the Sugimura Finney Architects Consultant Agreement to complete design of the plantings and irrigation system and to add design of a recycled water main.

Bidding of the first phase, consisting of construction of the recycled water main, is currently underway. Design of the second phase, which includes installation of the plantings and irrigation system, is nearly complete. A Funding Agreement between the City and VTA is included in the Council packet.

Fiscal Impact: None.

Recommendation: Authorize the City Manager to execute the Funding Agreement with the Santa Clara Valley Transportation Authority for the Tasman East Landscaping project.

* 32. **Approve Amendment No. 2 to the Contract with MuniServices LLC for Financial Consultant Services (Staff Contact: Emma Karlen, 586-3145)**

Background: The City entered into an agreement with MuniServices LLC (formerly MBIA MuniServices Company) was awarded the contract for financial consultant services in June 1996. The current contract was renewed in June 2006 and is due to expire on June 30, 2009. MuniServices LLC proposes to continue providing the same services, which include quarterly sales tax analysis and reporting, sales tax audits, and property tax audits by extending the contract. All the other contract terms will remain unchanged.

The fee structure is that the City will pay for the quarterly sales tax analysis and reporting at \$1,267 per quarter. The payments will be adjusted annually, at the rate of 4% increase or the Consumer Price Index, whichever is higher. All other audit services are compensated from a percentage of the revenues recovered. The proposed amendment is for three years, unless otherwise extended. MuniServices LLC has provided valuable services and information to the City in sales tax analysis and reporting. Its sales tax audits have assisted the City to recover more than \$11.2 million to date. Staff recommends approval of the contract amendment.

Fiscal Impact: N/A. The service fees will be funded by the revenues recovered through audit.

Recommendation: Approve Amendment No. 2 to the contract with MuniServices LLC, subject to approval as to form by the City Attorney.

* 33. **Authorize the City Manager to Execute Fourth Amendment to the Agreement with the County of Santa Clara, and Fifth Amendments to the Contracts with Bateman and New Orient Restaurant (Staff Contact: Jennifer Tagalog, 586-2786)**

Background: The City of Milpitas has contracted with the County of Santa Clara in implementing the Senior Nutrition Program since March 1978. This program serves seniors, sixty years and older 249 days per year, an average of 97 meals per day, for a total of 24,153 meals per year. The total budget for the FY 2009-10 Nutrition Program is \$175,099. The City of Milpitas and County of Santa Clara share the cost of the program, which is \$87,550 (50% each), as outlined in the County's contract. The City pays the entire budget of \$175,099 and the county reimburses the City its share of the program cost.

The City contracts provision of the meals, but provides transportation and program administration services for this program. Compass Group USA, Inc. doing business as Bateman, has been catering the Senior Center Nutrition Program since July 1, 1998. Bateman provides hot meals in addition to salads and sandwiches five days a week at the Senior Center. Bateman will provide 17,573 meals for \$4.20 each per year, which will not exceed the approved budget amount of \$73,842.00 for FY 2009-10. The City of Milpitas has contracted with New Orient Restaurant since July 1, 2004 in offering Asian style meals twice a week for seniors. New Orient will provide 6,580 meals a year at \$4.33 per meal, and will not exceed the approved budget amount of \$28,491.40.

Enclosed in the Council's packet are the following documents:

- 1) Fourth Amendment to the contract between the County of Santa Clara and the City of Milpitas and budget summary;
- 2) Fifth Amendment to the contract between Bateman and the City of Milpitas;
- 3) Fifth Amendment to the contract between New Orient and the City of Milpitas;

Fiscal Impact: None. Sufficient funds have been budgeted in the Parks and Recreation Services Department FY 2009-10 operating budget and were approved by the Council on June 2, 2009.

Recommendations:

1. Authorize City Manager to execute agreement with the County of Santa Clara for FY 2009-10 in the amount of \$175,099.
2. Authorize the City Manager to execute agreement with Bateman Compass Group USA, for FY 2009-10 in the amount of \$73,842.00.
3. Authorize the City Manager to execute agreement with New Orient Restaurant for FY 2009-10 in the amount of \$28,491.40.

XX. ADJOURNMENT

NO CITY COUNCIL MEETINGS IN JULY

NEXT REGULAR MEETING: TUESDAY, AUGUST 4, 2009