



**MILPITAS CITY COUNCIL MEETING AGENDA  
TUESDAY, AUGUST 4, 2009**

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

**SUMMARY OF CONTENTS**

- I. CALL TO ORDER by the Mayor**
- II. ROLL CALL by the City Clerk (6:30 p.m.)**
- III. ADJOURN TO CLOSED SESSION OF CITY COUNCIL**  
**CONFERENCE WITH REAL PROPERTY NEGOTIATOR**  
Property: 130 Piedmont Road, Milpitas (APN 092-37-046)  
Person(s) negotiating: Greg Armendariz.  
Under negotiation: Price and terms of payment
- IV. CLOSED SESSION ANNOUNCEMENT:** Report on action taken in Closed Session, if required pursuant to CA Govt. Code §54957.1, including the vote on abstention of each member present
- V. PLEDGE OF ALLEGIANCE**
- VI. INVOCATION** (Vice Mayor McHugh)
- VII. APPROVAL OF COUNCIL MEETING MINUTES** – June 16, 2009
- VIII. SCHEDULE OF MEETINGS** – Council Calendar for August 2009
- IX. PRESENTATION**
  - Proclaim *National Night Out* in Milpitas on August 6, 2009
- X. PUBLIC FORUM**

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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.

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

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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.

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**XV. PUBLIC HEARINGS**

- 1. Adopt a Resolution Approving the Amendments to the Centria West Project (Staff Contact: Tiffany Brown, 586-3283)**
- 2. Adopt a Resolution Confirming Weed Abatement Assessments to be Entered on Tax Assessment Bills (Staff Contact: Albert Zamora, 586-3371)**

**XVI. UNFINISHED BUSINESS**

- 3. Report from City Manager on Budget Impacts (Staff Contact: Tom Williams, 586-3050)**

**XVII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

- RA1. Call to Order/Roll Call by the Mayor/Chair**
- RA2. Approval of Minutes – June 16, 2009**
- RA3. Approval of Agenda and Consent Calendar (Items with asterisk\*)**
- RA4. Receive Progress Report on the Senior Center, Project No. 8176 (Staff Contact: Steve Erickson, 586-3301)**
- RA5. Deny the Proposed Memorandum of Understanding with Apton Properties, LLC (Staff Contacts: Felix Reliford, 586-3071, and James Lindsay, 586-3273)**
- \*RA6. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended June 30, 2009 (Staff Contact: Emma Karlen, 586-3145)**
- \*RA7. Adopt Two Resolutions of the City of Milpitas and the Milpitas Redevelopment Agency Approving the Annual Investment Policy (Staff Contact: Emma Karlen, 586-3145)**
- \*RA8. Adopt Two Resolutions Authorizing the Director of Public Works Director/City Engineer to Execute Program Supplement Agreements and Other Documents Required for State Administered Federal Aid for the South Park Victoria Drive Resurfacing, Project No. 8194, and South Main Street Streetscape Project, Phase 1, Project No. 4243 (Staff Contact: Steve Erickson, 586-3301)**
- \*RA9. Adopt a Resolution Granting Final Acceptance of Police Evidence Freezer, Project No. 8159 (Staff Contact: Steve Erickson, 586-3301)**
- \*RA10. Adopt a Resolution and Approve the Redevelopment Agency Housing Funds for the Housing Trust of Santa Clara County (HTSCC) (Staff Contact: Felix Reliford, 586-3071)**
- \*RA11. Approve a Budget Appropriation and Authorize the Executive Director/City Manager to Execute Amendment No. 2 to the Contract with Energy Solutions for an Energy Efficiency and Conservation Strategy, Project No. 8190 (Staff Contact: Greg Armendariz, 586-3317)**
- \*RA12. Award Construction Contract to Joseph J. Albanese, Inc. for Sidewalk Widening at Calaveras Boulevard Bridges, Project No. 4202 (Staff Contact: Steve Erickson, 586-3301)**
- \*RA13. Authorize Executive Director/City Manager to Execute a Consulting Services Agreement with Consolidated Engineering Laboratories for Various Capital Improvement Program Projects (Staff Contact: Steve Erickson, 586-3301)**

- \*RA14. Authorize the Executive Director/City Manager to Execute an Agreement with Biggs Cardosa Inc. for Design Services for the Milpitas Parking Garage Security Screens, Project No. 8161 (Staff Contact: Steve Erickson, 586-3301)
- \*RA15. Authorize the Executive Director/City Manager to Execute Amendment No. 1 to the Contract with Cal-West Lighting & Signal Maintenance for On-Call Traffic Signal and Streetlight Support Services (Staff Contact: Greg Armendariz, 586-3317)
- RA16. Agency Adjournment

**XVIII. REPORTS OF OFFICER AND SUBCOMMITTEE**

City Council

- 4. Request from Mayor Livengood for Approval of the Formation of a Task Force on Revenue Expenditure Balance (Contact: Mayor Livengood, 586-3051)

Rules Subcommittee

- 5. Approve the Rules (former Facilities Naming) Subcommittee Recommendations to Change Name of Yellowstone Park to Bob Browne Park and to Approve a New Street Name in Honor of Gary Arlen Langhorst (Staff Contacts: Bonnie Greiner, 586-3227, and Fernando Bravo, 586-3328)

**XIX. NEW BUSINESS**

- 6. Adopt a Resolution Designating a Redevelopment Survey Area, Directing the Planning Commission to Formulate a Preliminary Plan, Providing Staff with Directives on Possible Redevelopment Project Area Formation (Staff Contact: Diana Barnhart, 586-3059)
- \* 7. Approve Re-opening Capital Improvement Project No. 4241 Street Light and Signal Pole Painting 2008, Project No. 4047 Dixon Landing Road/I-880 Interchange, Project No. 7107 Water Master Plan 2009, Project No. 6108 Sewer Master Plan 2009, and Project No. 6103 Main Sewage Pump Station (Staff Contact: Greg Armendariz, 586-3317)

**XX. ORDINANCES**

- 8. Waive the First Reading and Introduce Ordinance No. 65.139 Amending the Milpitas Municipal Code by Providing for Additional Building Permit and Plan Review Extension Periods (Staff Contact: Keyvan Irannejad, 586-3244)
- \* 9. Waive the Second Reading and Adopt Ordinance No. 278 Levying and Apportioning the Special Tax in Community Facilities District No. 2008-1 (Public Services) (Staff Contact: Bryan Otake, 586-3042)
- \* 10. Waive the Second Reading and Adopt Ordinance No. 38.792 Amending the Zoning Ordinance for the Purpose of Adding Certain Industrial Uses as Conditionally Permitted within the General Commercial Zoning District and Amending the City's Zoning Sectional Map, Changing the Zoning Designation of 9.34 Acres from Industrial Park to General Commercial (Staff Contact: Sheldon Ah Sing, 586-3278)

**XXI. RESOLUTIONS**

- \* 11. Adopt a Resolution Granting Final Acceptance for Barber/Bellew Traffic Signal Installation, Project No. 4212 (Staff Contact: Steve Erickson, 586-3301)
- \* 12. Adopt a Resolution Granting Final Acceptance of Main Sewage Pump Station Demolition and Site Improvements, Project No. 6079 (Staff Contact: Steve Erickson, 586-3301)

- \* 13. **Adopt a Resolution Granting Final Acceptance of Hillside Water System Improvements, Project No. 7083 (Staff Contact: Steve Erickson, 586-3301)**
- \* 14. **Adopt a Resolution Granting Final Acceptance of Parc Place Condominiums Project No. 3169, and Release Subdivision Improvement Bond for Tract No. 9569 (Staff Contact: Fernando Bravo, 586-3328)**
- \* 15. **Adopt a Resolution Granting Initial Acceptance and Authorizing Reduction in Penal Sum of Subdivision Improvement Bond Tract No. 9891 for Calaveras Country Estates, Project No. 3179 (Staff Contact: Fernando Bravo, 586-3328)**
- \* 16. **Adopt a Resolution Authorizing the City Manager to Execute a Grant Deed Transferring Certain Real Property to the State of California Department of Transportation, Abel/ Calaveras Right Turn Lane, Project No. 4186 (Staff Contact: Steve Erickson, 586-3301)**
- \* 17. **Adopt a Resolution Approving the Sole Source Purchase of a 2009 Pierce Arrow XT All-Wheel Steer Fire Pumper from Golden State Fire Apparatus, Inc. for the Not-to-Exceed Amount of \$556,545 (Staff Contact: Chris Schroeder, 586-3161)**
- \* 18. **Adopt a Resolution to Accept the American Recovery and Reinvestment Act (ARRA) Edward Byrne Justice Assistance Grant (JAG) Administered by the County of Santa Clara (Staff Contact: Henry Kwong, 586-2419)**

## **XXII. BIDS AND CONTRACTS**

- \* 19. **Approve Amendment No. 3 to the Contract with Empire Maintenance Services for Janitorial Services for the Not-to-Exceed Amount of \$23,720 (Staff Contact: Chris Schroeder, 586-3161)**
- \* 20. **Authorize the City Manager to Execute an Agreement with Nicolay Consulting Group for Actuarial Valuation Service on Retiree Medical Benefits for the Not-to-Exceed Amount of \$48,400 (Staff Contact: Chris Schroeder, 586-3161)**
- \* 21. **Approve Reinstatement Agreement with Hopkins & Carley for Legal Services (Staff Contact: Michael Ogaz, 586- 3040)**
- \* 22. **Approve Amendment No. 2 to the Agreement with Stevens Creek Disposal and Recycling for a Debris Box (Staff Contact: Kathleen Phalen, 586-3345)**
- \* 23. **Approve a Non-Exclusive Collection, Transportation and Recycling of Non-Putrescible Debris Agreement with Super Link Plastic, Inc. (Staff Contact: Kathleen Phalen, 586-3345)**
- \* 24. **Authorize the City Manager to Execute an Encroachment Permit Agreement with Christ Community Church (The Presbytery of San Jose) at 1000 S. Park Victoria Drive, Project No. 3181 (Staff Contact: Fernando Bravo, 586-3328)**
- \* 25. **Authorize the City Manager to Execute the Memorandum of Understanding (MOU) with the Santa Clara Valley Water District to Provide a Match for the Water Efficient Landscape Rebate for Residential Customers with a Not-to-Exceed Amount of \$5,000 for Fiscal Year 2009-10 (Staff Contact: Kathleen Phalen, 586-3345)**
- \* 26. **Approve Amendment No. 1 to the Contract with ACCO Engineered Systems for HVAC Maintenance and Repair for the Not-to-Exceed Amount of \$ 20,000 (Staff Contact: Chris Schroeder, 586-3161)**

- \* 27. **Authorize the City Manager to Execute a Consultant Agreement with HF&H Consultants, LLC for Solid Waste Management Services (Staff Contact: Kathleen Phalen, 586-3345)**
- \* 28. **Approve Amendment No. 3 to the Agreement with ThyssenKrupp Elevator Platinum Maintenance and Repair for the Annual Not-to-Exceed Amount of \$32,139.16 (Staff Contact: Chris Schroeder, 586-3161)**
- \* 29. **Approve Amendment No. 5 to the Agreement with Jensen Landscape Services, Inc. for McCarthy Ranch Landscape Maintenance Services for the Annual Not-to-Exceed Amount of \$27,000 (Staff Contact: Chris Schroeder, 586-3161)**
- \* 30. **Authorize the City Manager to Execute a Contract with TYH K-9 for Police Dog Training for the Annual Not-to-Exceed Amount of \$13,700 (Staff Contact: Chris Schroeder, 586-3161)**
- \* 31. **Award the Bid and Authorize the City Manager to Execute a Contract for Sound Wall Repair with Pleasanton Engineering for the Not-to-Exceed Amount of \$22,000 (Staff Contact: Chris Schroeder, 586-3161)**
- \* 32. **Approve Amendment No. 1 to the Agreement with Greenesport Association Sports Officiating for the Not-to-Exceed Amount of \$15,000 (Staff Contact: Chris Schroeder, 586-3161)**
- \* 33. **Approve Amendment No. 2 to the Contract with Randazzo Enterprises, Inc. for South Main Street Demolition Project for the Not-to-Exceed Amount of \$130,053.88 (Staff Contact: Chris Schroeder, 586-3161)**

**XXIII. CLAIMS AND DEMANDS**

- \* 34. **Receive Report for the \$77,580 Emergency Purchase of a Liebert Four Step High Efficiency HVAC System for the Information Services Main Computer Room (Staff Contact: Chris Schroeder, 586-3161)**
- \* 35. **Approve Payment Request to LN Curtis for Miscellaneous Fire Department Equipment and Supplies (Staff Contact: Chris Schroeder, 586-3161)**

**XXIV. ADJOURNMENT**

**NEXT REGULAR MEETING: TUESDAY, AUGUST 18, 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](mailto: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](http://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](http://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](mailto: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, AUGUST 4, 2009

### XV. PUBLIC HEARINGS

**1. Adopt a Resolution Approving the Amendments to the Centria West Project (Staff Contact: Tiffany Brown, 586-3283)**

**Background:** The Centria Project was approved for 464 new multi-family units to be located at the southwest corner of Great Mall Parkway and South Main Street. Phase I of the project, Centria East, was completed in 2008 and contains 137 condominium units. The remaining 327 units in Phase II, Centria West, have not been built. Project owner Lyon Milpitas LLC entered into an Owner Participation Agreement (OPA) with the Milpitas Redevelopment Agency on September 16, 2008 to continue the provision of the remaining 67 affordable units within Centria West. The OPA did not require the Agency to provide any financial assistance to Lyon.

Lyon has now submitted an application proposing modifications to the Centria West approvals, including a proposal to add 54 units, enhancements and the relocation of the common area amenities, and minor façade changes. Lyon is also proposing the termination of the existing OPA by mutual party consent in order to eliminate the affordable housing requirement. The proposed public benefit for such an OPA termination is the increased property tax and other revenue that the development would be expected to generate. The project would also provide upgraded residential amenities currently unavailable to Milpitas residents and would therefore increase consumer choice in the local housing market. The Planning Commission held a duly noticed public hearing on this item on July 8, 2009 and recommended approval of Tentative Map No. MT09-0001, Site Development Permit Amendment No. SA09-0007, and Conditional Use Permit No. UP09-0009 for the project.

**Fiscal Impact:** None.

**Attachments:**

- A. Draft Resolution
- B. July 2, 2009 Planning Commission Staff Report
- C. July 8, 2009 Planning Commission Minutes
- D. Owner Participation Agreement
- E. Letter from owner Lyon
- F. Plans

**Recommendations:**

- 1. Open the Public Hearing and move to close the public hearing, following any testimony.
- 2. Adopt a resolution approving the Centria West project and adopting the Negative Declaration.

**2. Adopt a Resolution Confirming Weed Abatement Assessments to be Entered on Tax Assessment Bills (Staff Contact: Albert Zamora, 586-3371)**

**Background:** On December 2, 2008, Milpitas City Council adopted Resolution No. 7804 declaring noxious or dangerous weeds growing upon certain described property to be a public nuisance that must be abated by the removal of the weeds. If the public nuisance was not removed from the properties by the owner, the City contracted with the County Department of Agriculture and Resource Management Office of the County Fire Marshal to remove the weeds and abate the nuisance. In accordance with Title V, Chapter 202, Weed Abatement, of the Milpitas Municipal Code, the County Department of Agriculture and Resource Management Office of the Fire Marshal filed with the City Clerk a report and assessment list on weeds abated within the City as

nuisances. The report and notice of the public hearing was posted at City Hall, pursuant to Milpitas Municipal Code section V-202-9.00.

The City's ordinance provides that the City Council "shall hear the report together with any objections of the property owner liable to be assessed and make such modifications on the proposed assessment as it deems necessary."

After adoption by the City Council, the resolution will be recorded and charges thereon become a lien on the land involved to be collected in the same manner as property taxes. A copy of the assessment list and the proposed resolution confirming the weed abatement report are included in the Council's agenda packet.

**Attachment:** Draft Resolution and Abatement List attached as Exhibit A

**Recommendations:**

1. Hold public hearing and move to close after hearing any testimony.
2. Adopt Resolution confirming assessments for weed abatement for 2009.

**XVI. UNFINISHED BUSINESS**

**3. Report from City Manager on Budget Impacts (Staff Contact: Tom Williams, 586-3050)**

**Background:** At the June 16, 2009, City Council meeting, the Vice Mayor with consent of the City Council directed the City Manager to pursue a good faith meeting with United Public Employees of California, Local 792 (UPEC) to discuss layoff mitigation. The City Council further directed staff to report on potential impacts resulting from the state budget.

***Meeting with UPEC:***

The City Manager and UPEC representatives met on June 17, 2009, to discuss layoff mitigation for those employees affected by staffing reductions. The City Manager and Executive Management Team previously analyzed layoff impacts and mitigation plans in an effort to minimize the impact on employees and the organization as a whole. This information was discussed in good faith with UPEC representatives at the June 17 meeting. Reductions in City staffing occurred due to the need to balance expenditures with declining revenues as a result of the severe economic recession. A total of 21 full time positions were eliminated with a net impact of nine employees no longer employed. The following table summarizes the efforts of the management team to pursue cost savings with the least impact to employees as communicated to UPEC:

Total Impacted Employees:	<u>21</u>
Retirement in lieu of layoff:	3
Reassignments:	5
Vacant at time of layoff:	2
Employees contracted back using Funds from funded vacancies:	2
<u>Employees no longer employed:</u>	<u>9</u>

***State Budget Impact:***

The State of California Legislature adopted the Fiscal Year 2009-10 budget and it was signed by the Governor on July 28, 2009. The state budget faced a \$24 billion shortfall. In an effort to balance the budget, the Governor proclaimed a fiscal emergency allowing the borrowing of property tax from local municipalities pursuant to proposition 1A adopted in 2004. Impacts to the

City of Milpitas include the state borrowing \$1.7 million of property tax and taking \$11.8 million from the Redevelopment Agency. Borrowing of property tax by the state must be repaid (with interest) in three years. The taking of the Redevelopment Agency revenue will not be paid back.

**Fiscal Impact:** An additional loss of \$1.7 million to the General Fund and \$11.8 million to the Redevelopment Agency in FY 2009-10. \$1.7 million is a property tax loan pursuant to Proposition 1A adopted in 2004 and must be repaid within three years.

**Recommendation:** Direct staff to agendize a budget amendment for City Council consideration that addresses the state revenue take/borrowing while maintaining a balanced budget for the City of Milpitas.

## **XVII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

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

**RA2. Approval of Minutes – June 16, 2009**

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

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

**Background:** The contractor has completed installation of the new foundation and grade beams for the central and south wings of the building and continues with new wood framing and rough electrical. Construction of the new building pad and foundation for the community room addition is underway and will be completed in August. Staff will provide additional project progress information at the Agency/Council meeting.

**Fiscal Impact:** None.

**Recommendation:** Receive progress report on the Senior Center Project No. 8176.

**RA5. Deny the Proposed Memorandum of Understanding with Apton Properties, LLC (Staff Contacts: Felix Reliford, 586-3071, and James Lindsay, 586-3273)**

**Background:** Apton Properties, LLC entered into an Owner Participation Agreement (OPA) with the Milpitas Redevelopment Agency in October 2004. The purpose of the OPA is to assist in the provision of affordable housing for nine very-low and ten moderate income households within the Apton Plaza mixed use project proposed for the northeast corner of North Main Street and Weller Lane. The initial terms of the OPA were approved via a Memorandum of Understanding (MOU) between the Agency and the applicant in May 2004. The OPA has been amended twice since the original approval; Amendment No. 1 (December 2004) changed the project description to acknowledge the units would be sold as for-sale condominiums and Amendment No. 2 (August 2005) reduced the number of residential units from 96 to 93. The Agency performed \$238,679 in improvements benefiting the property pursuant to the OPA, which has not yet been reimbursed by the owner.

On June 17, 2008, the Agency approved amended MOU terms allowing all 93 units to be affordable with state tax credits and no financial assistance from the Agency. Those terms were not incorporated into a revised MOU at the request of the property owner because the builder (Global Premier) was not successful in obtaining financing from the state. The property owner and a new builder, USA Properties Fund, are requesting a new MOU (and the OPA at a future meeting) that would modify the terms of the Agency's financial participation.

Original MOU Terms	USA Properties Proposed Modifications
<i>Project Description</i>	
93 for-sale condominium units - 9 very low income units - 10 moderate income units - 74 market rate units (no state tax credit financing)  \$22.4 million in assessed value resulting in over \$118,000 per year in tax-increment coming to the Redevelopment Agency. This represents a total of \$4.7 million (in 2009 dollars) over the next 40 years.	93 apartment units - 37 very low income units - 55 low income units - 1 manager unit (state tax credit financing proposed for the 92 affordable units)  The Agency will not receive any tax increment revenue from the project due to the non-profit status of the builder seeking state tax credits. USA Properties Fund has offered to pay a yearly \$45,000 fee to reimburse the City's general fund for lost revenue.
<i>Affordable Housing Assistance</i>	
\$852,560 grant for construction assistance and payment of impact fees.	No grants proposed
\$378,000 loan amortized at a fixed rate of 5.25% over 20 years.	\$4,400,000 loan with payments from half of the surplus of the project's residual receipts at a fixed rate of 3.5% over 40 years.

The applicant is only seeking approval of the modified MOU terms due to an upcoming application deadline for the state low-income housing tax credits.

**Analysis**

Staff does not support the applicant's request for a \$4.4 million loan because the Agency would not receive an estimated \$4.7 million in future tax increment from the property and the loan repayment would be dependent on the financial performance of the project. The \$4.4 million loan is needed in part to help cover significant land cost being requested by Apton Properties. Recent appraisals have shown the average market value of land in Milpitas to be approximately \$2.2 million per acre. The project budget submitted by USA Properties reflects a land price of \$7.4 million for 1.6 acres or \$4.6 million per acre.

USA Properties Fund has offered to pay an Affordable Housing Administration Payment of approximately \$45,000 a year to the City for lost revenue to the general fund. This would benefit the general fund but would not replace the lost tax increment to the RDA. Staff recommends the original MOU terms with Apton Properties remain unchanged, which would result in tax increment revenue coming to the Agency once the project is built, with a moderate amount of RDA financial assistance to support the 19 affordable units. Alternately, the Agency Board could affirm its June 2008 approval by supporting the 92 affordable units with state tax credits and provide no financial assistance.

**Fiscal Impact:** The Agency would lose approximately \$4.7 million (current dollars) in future tax increment revenue and the City's general fund would receive approximately \$45,000 per year if the project is built and financed as proposed.

**Recommendation:** Move to deny the proposed Memorandum of Understanding with Apton Properties, LLC.

**\*RA6. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended June 30, 2009 (Staff Contact: Emma Karlen, 586-3145)**

**Background:** In compliance with California Government Code and the City's Investment Policy, the City of Milpitas Investment Report for the quarter ended June 30, 2009 is submitted for the City Council review and acceptance.

The Portfolio Summary Report (included in the Council's packet) provides a summary of the City's investments by type. It lists the par value, market value, book value, percentage of portfolio, term, days to maturity and the equivalent yields for each type of investment. The Portfolio Details Report provides the same information for each individual investment in the City's portfolio as of June 30, 2009.

As of June 30, 2009, the principal cost and market value of the City's investment portfolio including cash held in banks was \$207,821,617 and \$210,938,610 respectively. When market interest rates increase after an investment is purchased, the market value of that investment decreases. Conversely, when market interest rates decline after an investment is purchased, the market value of that investment increases. If the investments are not sold prior to the maturity date, there is no market risk. Therefore, in accordance with the City's investment policy, all investments are held until maturity to ensure the return of all invested principal.

The City's effective rate of return for the period ended June 30, 2009 was 2.58%. The comparative benchmarks for the same period were 1.12% for LAIF (Local Agency Investment Fund) and 1.33% for the 12-month average yield of the two-year Treasury Note. Excluding the long-term GNMA securities and investment of the bond proceeds, the weighted average maturity of the portfolio was 341 days.

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

The market values of the securities were provided by Interactive Data, an independent service provider of market valuation. All the securities owned by the City are held in safekeeping by a third party bank trust department, acting as agent for the City under the terms of a custody agreement.

Three charts are included with the agenda packet that show investment by maturity levels, comparison of the City's portfolio yields to other benchmark yields as well as a trend of the type of securities in the City's portfolio, weighted average maturity and average yield.

**Fiscal Impact:** None.

**Recommendation:** Receive the investment report for the quarter ended June 30, 2009.

**\*RA7. Adopt Two Resolutions of the City of Milpitas and the Milpitas Redevelopment Agency Approving the Annual Investment Policy (Staff Contact: Emma Karlen, 586-3145)**

**Background:** The investment laws require all local agencies to develop an annual investment policy that must be considered by the legislative body of the local agency at a public meeting. The Annual Investment Policy ("the Policy") for the City of Milpitas is submitted for your review and approval. Finance staff continues to monitor the changes to the California Government Code in regards to investment parameters and allowable investments that may impact the City's investment policy.

Staff proposes one minor change to the Annual Investment Policy. The proposed change is to delete the requirement to send an investment pool questionnaire to the Local Agency Investment Fund ("LAIF") and the Money Market Mutual Fund to update the information on the investment pools. In reality, staff received monthly statements and annual financial statements from both

LAIF and the Money Market Mutual Fund. Staff monitors the type of securities invested by these funds regularly and the information is also readily available online. Consequently, staff recommends deleting from the Investment Policy the requirement to send a questionnaire.

The Policy as revised is in compliance with the provisions of the California Government Code, Sections 53600 through 53609, the authority governing investments for municipal governments.

**Fiscal Impact:** None.

**Recommendation:** Adopt two resolutions approving the Annual Investment Policy for the City of Milpitas and the Redevelopment Agency.

- \*RA8. Adopt Two Resolutions Authorizing the Director of Public Works Director/City Engineer to Execute Program Supplement Agreements and Other Documents Required for State Administered Federal Aid for the South Park Victoria Drive Resurfacing, Project No. 8194, and South Main Street Streetscape Project, Phase 1, Project No. 4243 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** Staff is working to secure American Recovery and Reinvestment Act of 2009 (ARRA) Funding and other federal monies for two separate projects: (a) the South Park Victoria Drive Resurfacing Project, Project No. 8194, which will provide street resurfacing improvements between Big Basin Drive and Yosemite Drive and (b) the South Abel Street and South Main Street Project, Project No. 4243, which will provide new streetscape improvements including landscaping, medians, lighting and sidewalks from Montague Expressway north to Great Mall Parkway.

Program requirements mandate that public agencies which seek state administered federal funds must adopt separate resolutions that clearly identify both the project for which the agency is applying for federal funding and the local agency official who is authorized to execute a program supplement agreement, a financial funding document, and other documents, on the agency's behalf.

Staff now seeks the project specific authorization resolutions. In conformity with federal grant requirements, staff requests that the City Council and the Agency Board authorize the Director of Public Works/City Engineer to sign the Program Supplement Agreement for both the South Park Victoria Drive Resurfacing Project and the South Abel Street & South Main Street Project.

In addition, the City and the Agency may be required to sign other disbursement or processing-related documents, such as fund exchange agreements or fund transfer agreements. Staff therefore also requests the delegation of signature authority to the Director of Public Works/City Engineer for such ministerial documents, as well.

**Fiscal Impact:** None.

**Recommendations:**

1. Adopt a Joint Resolution authorizing the Director of Public Works/City Engineer to execute ARRA funding-related documents for the South Park Victoria Drive Resurfacing Project No. 8194.
2. Adopt a Resolution of the City Council authorizing the Director of Public Works/City Engineer to execute state administered federal funding-related documents for the South Abel Street and South Main Street Streetscape Project Phase 1, Project No. 4243.

- \*RA9. Adopt a Resolution Granting Final Acceptance of Police Evidence Freezer, Project No. 8159 (Staff Contact: Steve Erickson, 586-3301)**

**Background:** This project consisted of installing a police evidence freezer and related improvements at the Police Department building. These improvements have been completed and initially accepted by Agency/Council. The one-year warranty period has expired and a satisfactory final inspection has been conducted. Therefore, the Agency/Council may grant final acceptance and the contractor's bond may be released.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution granting final acceptance for the Police Evidence Freezer, Project No. 8159 and release of the contractor's bond.

**\*RA10. Adopt a Resolution and Approve the Redevelopment Agency Housing Funds for the Housing Trust of Santa Clara County (HTSCC) (Staff Contact: Felix Reliford, 586-3071)**

**Background:** On July 10, 2009, the City received a letter from the Housing Trust of Santa Clara County (HTSCC) requesting a \$150,000 contribution for FY 2010. In the past, the Milpitas Redevelopment Agency allocated the following funding to the Trust:

<u>Year</u>	<u>Donation</u>	<u>Project</u>
2001	\$500,000	DeVries Place (Senior Housing)
2006	\$150,000	First-time Homebuyers Loans
2007	\$150,000	Valona St. Acq. & Rehab. (Senior Housing)
2008	<u>\$150,000</u>	First-time Homebuyers Loans
	\$950,000	

Since 2001, the Redevelopment Agency allocated \$950,000 to the HTSCC, for which they provided financial assistance and leveraging of funds for DeVries Place, Vasona Street home for the acquisition and rehabilitation for five Milpitas extremely low-income seniors and 49 home loans to Milpitas first-time homebuyers (\$349,920). To date, the Housing Trust of Santa Clara County raised and invested more than \$30 million in local, public and private contributions, allowing it to leverage \$1.3 billion to assist 3,895 homeless/special needs housing, 2,046 first-time homebuyers, and 1,584 multi-families with rental units. A grand total of \$949,280 has been invested into Milpitas since the 2001 conception of the HTSCC.

At its meeting on November 18, 2008, the Agency authorized funding \$750,000 for Senior Housing Solutions to purchase another single-family home in Milpitas for the acquisition and rehabilitation for five extremely low-income seniors. Senior Housing Solution needs an additional \$100,000 for their project in Milpitas. The Agency also directed staff to prepare a letter to the Trust in support of this project and allocation of \$100,000. As required by all funding allocated to HTSCC, the Redevelopment Agency has adopted resolutions requiring that all funding must be allocated towards and spent on affordable housing projects or first-time homebuyer loans which benefit Milpitas residents. Senior Housing Solutions will be seeking \$150,000 from this allocation to HTSCC. Of which \$100,000 may be referred back to Senior Housing Solutions.

Included in the Agency/Council's agenda packet are a resolution of findings for preference to Milpitas residents and workers for the allocation of funds and the most recent Progress Report from HTSCC.

**Fiscal Impact:** None. Sufficient funds are available in the 20% Housing Set Aside Funds.

**Recommendation:** Adopt a resolution demonstrating a compelling need to prefer Milpitas residents and workers for affordable housing units using Housing Reserve Funds contributed to the Housing Trust Fund of Santa Clara County.

**\*RA11. Approve a Budget Appropriation and Authorize the Executive Director/City Manager to Execute Amendment No. 2 to the Contract with Energy Solutions for an Energy Efficiency and Conservation Strategy, Project No. 8190 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** A federal stimulus program grant of \$662,400 formula-based has been earmarked for the City of Milpitas through the State Department of Energy's (DOE) Block Grant Program. On May 19, 2009, the City Manager executed a Consultant Agreement with Energy Solutions for \$12,000 for consulting services to assist staff in completing the federal grant application. As authorized by Council at its June 16 meeting, staff submitted the grant application for this funding on June 22.

The grant application focused on eligible municipal facilities and properties. Eight projects submitted include:

1. Energy efficient chiller replacement for air conditioning at the Police/Public Works building.
2. Replacement of diesel storm pump engine with energy efficient electric motor at California Circle.
3. Energy efficient motor replacement at Ayer Water Pump Station.
4. Co-generation equipment feasibility at City Hall.
5. Energy efficient street light replacement.
6. LED traffic signals (City-wide).
7. Solar panel installation at Senior Center.
8. Regional Photovoltaic Power Purchase contribution.

The City is now required to complete an Energy Efficiency and Conservation Strategy (EECS) for the nominated projects. The City's consultant, Energy Solutions, has prepared a scope and fee to complete the EECS for a fee of \$88,248. DOE is currently evaluating the proposed EECS fee of \$88,248. Once approved, the City has 120 days to complete the EECS. However, due to the expedited deadlines, the City Manager executed Amendment No. 1 with Energy Solutions on July 20, 2009 for an additional \$7,892 to initiate the first task of the EECS. Staff recommends Agency/Council approval of Amendment No. 2 to the consultant agreement, to allow Energy Solutions to complete the EECS. In addition, in conformity with Milpitas Joint Resolution No. RA331/7877 (June 2, 2009) and the 2009-14 Capital Improvement Program, Milpitas Redevelopment Agency facilities are included in the grant and therefore the addition of the Agency as a party to the consulting agreement is recommended.

The total not-to-exceed cost of the consultant agreement will be \$100,248 (\$12,000 plus \$88,248). The grant will reimburse the City and the Agency \$88,248 for completion of the EECS and an additional \$25,000 for the administrative costs of managing the grant. Staff is recommending approval of a budget appropriation at this time to fund Amendment No. 2 to the agreement with Energy Solutions. A future budget appropriation for the rest of the grant funding for actual improvement, will be submitted when the funds are available from DOE.

**Fiscal Impact:** A budget appropriation in the amount of \$113,248 (\$88,248 plus \$25,000) from grant funding is recommended and a copy of the appropriation form is included in the Council packet.

**Recommendation:** Approve the budget appropriation and authorize the Executive Director/City Manager to execute Amendment No. 2 to the agreement with Energy Solutions.

**\*RA12. Award Construction Contract to Joseph J. Albanese, Inc. for Sidewalk Widening at Calaveras Boulevard Bridges, Project No. 4202 (Staff Contact: Steve Erickson, 586-3301)**

**Background:** On June 16, 2009, the City Council approved the project plans and specifications and authorized the advertisement of the project for construction bids. The project provides for

the widening of the sidewalk on the State Route 237 Calaveras bridges by two feet for a total sidewalk width of seven feet. The Engineer's Estimate for the work was \$135,000. The project was advertised and sealed bid proposals were opened on July 15, 2009. Seven bid proposals were received and ranged from \$125,625.00 to \$215,640.38. Joseph J. Albanese, Inc. submitted the lowest responsible bid in the amount of \$125,625.00.

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

**Recommendations:** Award a construction contract to Joseph J. Albanese, Inc. for Sidewalk Widening at Calaveras Boulevard Bridges, Project No. 4202 in the amount of \$125,625.

**\*RA13. Authorize Executive Director/City Manager to Execute a Consulting Services Agreement with Consolidated Engineering Laboratories for Various Capital Improvement Program Projects (Staff Contact: Steve Erickson, 586-3301)**

**Background:** To implement Capital Improvement Program project construction, staff issued a Request for Proposals (RFP) for Construction Materials Testing Services. These services will allow for strength testing of construction materials such as concrete, steel, asphalt, base aggregate and soil compaction, to assure contractors are fulfilling the specification requirements. In accordance with the City's consultant selection policy for City services, consultant proposals were evaluated and consultants were interviewed for these services

Staff recommends Consolidated Engineering Laboratories (CEL) for the construction Materials Testing Services. CEL is a recognized specialist in materials testing with qualifications and experience required for this type of service. The testing of construction materials such as asphalt, concrete, and welding provides quality control and assurances that contractors are meeting the requirements and obligations of the City construction specifications. Special inspection and testing of construction materials is an important phase of construction, and the City spent approximately \$300,000 in Fiscal Year 2008-09 for testing and inspection on various capital improvements projects.

Materials testing services would be provided on a time and material basis for various projects as directed by staff, for a not to exceed total amount of \$750,000, which is considered reasonable for the project workload expected for the next three years. The current respective project budgets and cost plans are sufficient to fund the services to be provided. These material testing services are fully funded by the various project budgets.

**Fiscal Impact:** None. Sufficient funds are available in the projects' budgets for these consultant services.

**Recommendation:** Authorize the Executive Director/City Manager to execute an agreement with Consolidated Engineering Laboratories, in the amount of \$750,000.

**\*RA14. Authorize the Executive Director/City Manager to Execute an Agreement with Biggs Cardosa Inc. for Design Services for the Milpitas Parking Garage Security Screens, Project No. 8161 (Staff Contact: Steve Erickson, 586-3301)**

**Background:** Through the City's consultant selection process of structural engineering services, a Request for Proposals (RFP) was issued in March 2009. Biggs Cardosa is recommended as the most qualified firm to provide structural engineering and design for installation of security screening along the east perimeter of the Midtown East Parking Garage for the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> levels. The open metal screening is recommended to avoid the potential of vehicle damage from rocks (railroad ballast) that in the past have been thrown onto the floors of the parking garage. Staff negotiated a fee with Biggs Cardosa for the scope of work for an amount not to exceed \$66,000, which is considered reasonable.

**Fiscal Impact:** None. Funds are available in the Midtown Parking Garage project budget.

**Recommendation:** Authorize the Executive Director/City Manager to execute an agreement with Biggs Cardosa Inc. for design services for the Milpitas Parking Garage Security Screens, Project No. 8161, for an amount not to exceed \$66,000.

**\*RA15. Authorize the Executive Director/City Manager to Execute Amendment No. 1 to the Contract with Cal-West Lighting & Signal Maintenance for On-Call Traffic Signal and Streetlight Support Services (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** The City Council approved a contract with Cal-West Lighting & Signal Maintenance on March 17, 2009 to provide on-call traffic signal and streetlight support services. The contract included an option for extension of the agreement for up to two additional one-year terms and an additional \$100,000 per term.

Staff is recommending this Amendment No. 1 to extend the term of the existing Cal-West contract to July 30, 2010 and to increase the total compensation by an additional \$100,000. This contract extension will allow the City to continue to provide prompt quality response, particularly during non-working hours, to traffic signal and street light problems. Some examples of safety related responses from this contractor include street light knock downs by vehicles, traffic signal bulb burn-outs, and other malfunctions. The work scope also includes installing fiber optics cable from City Hall to the Public Works/Police Building, for voice, computer data and emergency radio communications traffic. This work is programmed under a project funded by the Redevelopment Agency (RDA) and it is therefore now desired to add the RDA as a third party to this Contract, with this amendment.

**Fiscal Impact:** There are sufficient funds in CIP No. 4249 – Traffic Signal Modifications 2009 (\$55,000), and CIP No. 8125 - Radio Replacement Plan (\$45,000).

**Recommendation:** Authorize the Executive Director/City Manager to execute Amendment No. 1 to the contract with Cal-West Lighting & Signal Maintenance for On-Call Traffic Signal and Streetlight Support Services.

**RA16. Agency Adjournment**

**XVIII. REPORTS OF OFFICER AND SUBCOMMITTEE**

**City Council**

**4. Request from Mayor Livengood for Approval of the Formation of a Task Force on Revenue Expenditure Balance (Contact: Mayor Livengood, 586-3051)**

**Background:** Mayor Livengood requests approval of the formation of a task force to make recommendations to the City Council on how to balance the City's revenues and expenditures by Fiscal Year 2012-13. The task force would consist of nine members including: one City Councilmember, the City Manager, the Finance Director and one representative from each employee union and association (six members). Mayor Livengood is nominating Councilmember Debbie Giordano to represent the City Council and the individual employee unions would be responsible for nominating their members. Included in the agenda packet is a memo dated July 20, 2009 from Mayor Livengood.

**Fiscal Impact:** None.

**Recommendation:** Hear report of Mayor Livengood and consider his request to approve a task force to prepare recommendations to the City Council on how to balance the City's revenues and expenditures by Fiscal Year 2012-13 and nominate Councilmember Debbie Giordano to represent the City Council on the task force.

## Rules Subcommittee

5. **Approve the Rules (former Facilities Naming) Subcommittee Recommendations to Change Name of Yellowstone Park to Bob Browne Park and to Approve a New Street Name in Honor of Gary Arlen Langhorst (Staff Contacts: Bonnie Greiner, 586-3227 and Fernando Bravo, 586-3328)**

### Background:

Park: Former Mayor and City employee Bob Browne made significant contributions to Milpitas in general, and in the Parktown area in particular. He was the first City Councilmember from the Parktown area of the City, and lived there for over 45 years prior to his passing earlier this year. The name Yellowstone has significant meaning for the Parktown area and will remain pertinent with Yellowstone Avenue continuing to serve as a main arterial for thousands of Parktown residents. Included in the agenda packet is a memo from Mayor Livengood with his recommendation to rename the park.

Street: Mr. Gary Arlen Langhorst was one of the original founders of Milpitas Kiwanis, past president of Santa Clara Kiwanis, and past commander UFW, past Director of USO at San Jose Airport. Mr. Langhorst was a WWII and Korea War veteran and retired as a US Army Master Sergeant, after 43 years service.

On July 24, 2009, staff presented to the Rules Committee the following recommendations:

1. To re-name Yellowstone Park to Bob Browne Park at the recommendation from Mayor Livengood; and,
2. To name a new street in a new subdivision as Langhorst (Street/Avenue/Way/Lane/Court, etc.).

The subcommittee recommended approval of both requests.

Fiscal Impact: None.

Recommendation: Approve the recommendations to change the name of Yellowstone Park to Bob Browne Park, and approve a new street name in honor of Gary Arlen Langhorst.

## **XIX. NEW BUSINESS**

6. **Adopt a Resolution Designating a Redevelopment Survey Area, Directing the Planning Commission to Formulate a Preliminary Plan, Providing Staff with Directives on Possible Redevelopment Project Area Formation (Staff Contact: Diana Barnhart, 586-3059)**

Summary: At the Agency/Council meeting on May 19, 2009, the Agency approved a contract with Keyser Marston Associates (KMA) to complete a feasibility analysis of potential redevelopment project areas: the Town Center Business Park, the Adams LIFT Zone and the commercial/residential areas in the Calaveras/South Park Victoria and Dempsey Road vicinity. Over the summer, KMA culled through data provided by the Police, Planning and Neighborhood Services, and Building departments. Staff also contracted with Sperry Van Ness, a commercial brokerage firm, to complete a detailed building obsolescence study to supplement the City's information of commercial properties in the Town Center Business Park. Together with this information, KMA has submitted a report which makes the following findings:

- The Adams LIFT Zone has blight to warrant redevelopment project area formation.
- The commercial areas and two specific apartment neighborhoods in the Calaveras/South Park Victoria/Dempsey Road area have blight that warrant redevelopment project area formation. This includes the commercial area fronting Interstate 680 along Dempsey

Road, but does not include the two newer apartment and condominium complexes along Dempsey Road, south of Edsel Drive.

- The Town Center Business Park has substantial blight that warrants redevelopment project area formation.

This report also makes recommendations to formally initiate the redevelopment project area formation process for these new areas and to initiate the process to extend the Plan Effectiveness and the period for tax increment collection and debt repayment period for the Original Project Area No. 1 and the first two amendment areas.

### **Background:**

#### History of Redevelopment in Project Area No. 1 and Proposed Amendments

The Milpitas Redevelopment Project Area No. 1 (“Project Area”) contains approximately 2,230 acres. The original Redevelopment Plan for Project No. 1 (“Redevelopment Plan” or “Plan”) was adopted by the City Council by Ordinance No. 192 on September 21, 1976, and consisted of approximately 577 acres (“Original Project Area”). Territory has been added to the Project Area three times. In 1979, 483 acres were added (“Amendment Area No. 1”), in 1982, 472 acres were added (“Amendment Area No. 2”) and in 2003, 691 acres were added (“Midtown Added Area”). In total, the Redevelopment Plan has been amended twelve times.

The Milpitas Redevelopment Agency (“Agency”) is now proposing to: 1) extend by ten years the Redevelopment Plan effectiveness time limit and time period to repay debt/collect tax increment for the Original Project Area and Amendment Areas No. 1 and 2 (“Amendment Areas”); and 2) add territory from within the boundaries of Survey Area. Collectively, the time extensions and addition of territory are referred to as the “13<sup>th</sup> Amendment” or “Amendments.”

The proposed 10-year extension of Plan effectiveness and time period for collection of tax increment/repayment of debt would provide the Agency with additional tax increment revenue from the Project Area, which is needed to fund the completion of the Agency’s redevelopment program for blight elimination and production of affordable housing. Given the severe downturn in the economy, the additional ten years of Plan effectiveness is also needed to provide time to complete the Agency’s projects and programs, which will largely be based upon private sector initiation of the rehabilitation and redevelopment of remaining blighted sites within Project Area No.1. The additional ten years will also provide needed time for the Agency to implement an extensive infrastructure improvement program.

The Survey Area includes two multiple family residential areas referred to as the Adams and Selwyn/Shirley subareas. These areas are being considered for inclusion in a redevelopment project to continue the City’s efforts to alleviate blighting conditions in these areas. The City, exclusive of the Agency, has been working with property owners and managers over several years to alleviate code violations and deter crime, particularly gang activity. Although these efforts produced short term improvements, these residential areas continue to be impacted by blighting conditions. Redevelopment is proposed as another tool to improve these areas. As a result of a high industrial vacancy rate, and aging and obsolete buildings, the Agency is also proposing to include a portion of the Town Center in the redevelopment project. The Agency is proposing to assist in rehabilitating and redeveloping property to meet contemporary user needs, thereby reducing vacancies and increasing property values.

#### Adoption of a Survey Area Resolution

The first step in the Redevelopment Plan amendment process to add territory is for the City Council to designate the Survey Area. The purpose of the Survey Area is to identify the area that the Agency will study for possible inclusion in a redevelopment project. The area that is ultimately included in a redevelopment project (if any) may be smaller than the Survey Area but not larger. The Survey Area reflects that maximum area that the Agency may study for inclusion in the Project Area.

Section 33312 of California Redevelopment Law (CRL) requires a resolution designating a survey area or areas to contain the following:

- a) A finding that the area requires study to determine if a redevelopment project or projects within the area are feasible; and
- b) A description of the boundaries of the area designated.

To determine if the Survey Area is feasible, or meets the requirement that the area is “blighted” as defined by the CRL, will require a detailed blight analysis. The action approving the resolution will formally initiate the blight analysis. The boundaries of the Survey Area are shown in the map attached to the resolution and include a somewhat larger area than what is anticipated to be the final boundaries. The larger Survey Area boundaries are to provide for potential boundary adjustments during the preparation of the legal description, which is discussed below under “Next Steps.”

#### Next Steps

The next step in the process will be the preparation of the Preliminary Plan. The Planning Commission will be requested to adopt the Preliminary Plan, and the Agency will receive the document and authorize its transmittal to the County Auditor, Assessor, affected taxing agencies and the State Board of Equalization.

The Preliminary Plan formally defines the boundaries and states the general goals and objectives for the area that will be proposed to be added to the redevelopment project (Added Area). The Preliminary Plan includes a legal description of the Added Area and statement that the Redevelopment Plan is being amended. The Agency must also designate the “base year” for the Added Area, which is proposed to be 2009-10, from which increases in taxes will be accrued to the Agency for purposes of financing redevelopment activities.

**Fiscal Impact:** None. There is no fiscal impact associated with this action.

#### **Attachments:**

- (1) Feasibility Report (on file in City Clerk’s office)
- (2) Proposed Resolution with Survey Area Map

**Recommendation:** Adopt a Resolution designating a redevelopment Survey Area, directing the Planning Commission to formulate a Preliminary Plan and providing staff with directives on possible redevelopment project area formation.

- \* 7. **Approve Re-opening Capital Improvement Project No. 4241 Street Light and Signal Pole Painting 2008, Project No. 4047 Dixon Landing Road/I-880 Interchange, Project No. 7107 Water Master Plan 2009, Project No. 6108 Sewer Master Plan 2009, and Project No. 6103 Main Sewage Pump Station (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** During the Capital Improvement Program budgeting process, staff reviews all active capital improvement projects, for completion prior to the end of the fiscal year. Last spring, a total of 43 projects were planned to be completed by the end of the fiscal year and programmed to be closed in the budget and Capital Improvement Program by the end of June 2009.

However, due to additional work remaining on the following five projects, staff recommends that these projects remain open during this new current fiscal year:

- Project No. 4241 Street Light & Signal Pole Painting 2008,
- Project No. 4047 Dixon Landing Road/I-880 Interchange,
- Project No. 7107 Water Master Plan 2009,

- Project No. 6108 Sewer Master Plan 2009 and
- Project No. 6103 Main Sewage Pump Station (this project can be closed by October 30, 2009).

**Fiscal Impact:** None. There are sufficient funds in the respective project budgets.

**Recommendation:** Approve re-opening Capital Improvement Project No. 4241 Street Light & Signal Pole Painting 2008, Project No. 4047 Dixon Landing Road/I-880 Interchange, Project No. 7107 Water Master Plan 2009, Project No. 6108 Sewer Master Plan 2009 and Project No. 6103 Main Sewage Pump Station.

## XX. ORDINANCES

- \* **8. Waive the First Reading and Introduce Ordinance No. 65.139 Amending the Milpitas Municipal Code by Providing for Additional Building Permit and Plan Review Extension Periods (Staff Contact: Keyvan Irannejad, 586-3244)**

**Background:** The Building Administration Code is an important part of the technical building codes. On December 11, 2007, the City of Milpitas adopted the 2007 California Building Code with some local amendments. Current ordinance provisions require builders to complete building plan review applications within 180 days, subject to a single 180-day extension upon approval of the Chief Building Official. Likewise, once a building permit is issued to an applicant, a building permit is valid only for 180 days, subject to a single 180-day extension upon approval of the Chief Building Official.

Due to the state of the current economy and the difficulties in the private credit markets, a number of property owners and developers have not been able to complete their building plan review applications and/or to begin construction within the time periods allotted by current Code provisions. City staff proposes the amendment of current provisions to allow the Chief Building Official to issue up to three 180-day extensions for building plan review applications and up to three 180-day extensions for active building permits. The Chief Building Official would only be authorized to issue extensions upon a written request showing that circumstances beyond the control of the applicant or the permittee have prevented the project from moving forward. Long-extended applications in the plan review stage would be required to comply with any building code updates.

The draft ordinance for first reading shows the proposed additions and deletions to the code in strikethrough and underlined text.

**Fiscal Impact:** None.

**Recommendations:**

1. Waive the first reading beyond the title of Ordinance No. 65.139.
2. Introduce Ordinance No. 65.139 amending the Milpitas Building Administration Code by providing for additional building permit and plan review extension periods.

- \* **9. Waive the Second Reading and Adopt Ordinance No. 278 Levying and Apportioning the Special Tax in Community Facilities District No. 2008-1 (Public Services) (Staff Contact: Bryan Otake, 586-3042)**

**Background:** In January 2009, the City Council reintroduced Ordinance No. 278 to levy and authorize the collection of special taxes within Community Facilities District No. 2008-1 and performed a second reading of that Ordinance. On advice of outside taxation counsel, an additional second reading of Ordinance No. 278 is being presented to remove any possible question of procedural ambiguity.

**Fiscal Impact:** None.

**Recommendations:**

1. Waive the second reading of Ordinance No. 278.
2. Adopt Ordinance No. 278, Levying and Apportioning the Special Tax in Community Facilities District No. 2008-1.

- \* **10. Waive the Second Reading and Adopt Ordinance No. 38.792 Amending the Zoning Ordinance for the Purpose of Adding Certain Industrial Uses as Conditionally Permitted within the General Commercial Zoning District and Amending the City's Zoning Sectional Map, Changing the Zoning Designation of 9.34 Acres from Industrial Park to General Commercial (Staff Contact: Sheldon Ah Sing, 586-3278)**

**Background:** On June 16, 2009, the City Council introduced Ordinance No. 38.792 approving changes to the City's Zoning Ordinance and Zoning Map. The amendments allow certain Industrial use to be conditionally permitted in General Commercial districts and allow a change in zoning from Industrial Park to General Commercial for 9.34 acres in the McCarthy Ranch. The Ordinance remains unchanged and is now ready for adoption.

**Fiscal Impact:** None.

**Recommendations:**

1. Waive the second reading of Ordinance No. 38.792.
2. Adopt Ordinance No. 38.792 for Zoning Amendment.

**XXI. RESOLUTIONS**

- \* **11. Adopt a Resolution Granting Final Acceptance for Barber/Bellew Traffic Signal Installation, Project No. 4212 (Staff Contact: Steve Erickson, 586-3301)**

**Background:** This project consists of new traffic signal installation at the intersection of Barber Lane and Bellew Drive. These improvements have been completed and initially accepted by Council. The one-year warranty period has expired and a satisfactory final inspection has been conducted. Therefore, Council may grant final acceptance and the contractor's bond may be released.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution granting final acceptance for Barber/Bellew Signal Installation, Project No. 4212 and release of the contractor's bond.

- \* **12. Adopt a Resolution Granting Final Acceptance of Main Sewage Pump Station Demolition and Site Improvements, Project No. 6079 (Staff Contact: Steve Erickson, 586-3301)**

**Background:** This project consisted of demolition of various outdated sewage treatment facilities and structures at the Main Sewage Pump Station. The project has been completed and initially accepted by Council. The one-year warranty period has expired and a satisfactory final inspection has been completed. Therefore, Council may grant final acceptance and the Contractor's bond may be released.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution granting final acceptance for Main Sewage Pump Station Demolition and Site Improvements, Project No. 6079, and release of the contractor's bond.

- \* 13. **Adopt a Resolution Granting Final Acceptance of Hillside Water System Improvements, Project No. 7083 (Staff Contact: Steve Erickson, 586-3301)**

**Background:** This project consisted of various water system upgrades and improvements at Country Club lift station, Tularcitos reservoir and pump station and Minnis tank reservoir. These improvements have been completed and initially accepted by Council. The one-year warranty period has expired and a satisfactory final inspection has been conducted. Therefore, Council may grant final acceptance and the contractor's bond may be released.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution granting final acceptance for Hillside Water System Improvements, Project 7083 and release of the contractor's bond.

- \* 14. **Adopt a Resolution Granting Final Acceptance of Parc Place Condominiums Project No. 3169, and Release Subdivision Improvement Bond for Tract No. 9569 (Staff Contact: Fernando Bravo, 586-3328)**

**Background:** On February 5, 2008, the City Council adopted Resolution No. 7738 approving the initial acceptance of Parc Place Condominiums. The one year warranty period has expired and based on the final inspection, Western Pacific Housing has completed all the work to repair defects, damages, or imperfections, and therefore now the project is ready for the final acceptance.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution granting final acceptance of Parc Place Condominiums Project No. 3169 and release the subdivision improvement bond for Tract No. 9569.

- \* 15. **Adopt a Resolution Granting Initial Acceptance and Authorizing Reduction in Penal Sum of Subdivision Improvement Bond Tract No. 9891 for Calaveras Country Estates, Project No. 3179 (Staff Contact: Fernando Bravo, 586-3328)**

**Background:** On September 4, 2007, the City entered into a Subdivision Improvement Agreement with Calaveras Country Estates, LLC, subdivider, for the construction of certain public improvements to serve the residential development on Calaveras Road at Piedmont Road. The public improvements for Calaveras Country Estates have been completed by the developer, per the approved improvement plans, which are available in the City Engineer's office. This work is, therefore, now ready for initial acceptance in accordance with the improvement agreement. The developer's faithful performance bond may be reduced to \$30,000, which is 10% of the bond amount.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution granting initial acceptance and authorizing a reduction in penal sum of subdivision improvement bond for Tract No. 9891, Calaveras Country Estates, subject to a one year warranty period and reduction of the faithful performance bond to \$30,000.

- \* 16. **Adopt a Resolution Authorizing the City Manager to Execute a Grant Deed Transferring Certain Real Property to the State of California Department of Transportation, Abel/ Calaveras Right Turn Lane, Project No. 4186 (Staff Contact: Steve Erickson, 586-3301)**

**Background:** In 2004, the City Council approved a capital improvement project for the addition of a right turn lane from northbound Abel Street to eastbound Calaveras Boulevard. As part of this project, the City acquired fee simple title to the land underlying and surrounding the right turn lane improvements from Pacific Bell. A 1,098 square foot portion of the improvement area adjacent to Calaveras Boulevard is within state jurisdiction, and under Caltrans and state law

requirements must be transferred to the state for public highway purposes. Staff reviewed the proposed transfer documents provided by Caltrans and recommends the adoption of a resolution transferring the City-owned real property to the State of California.

**Fiscal Impact:** None.

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a grant deed transferring certain real property to the State of California Department of Transportation for Abel /Calaveras Right Turn Lane, Project No. 4186.

- \* 17. **Adopt a Resolution Approving the Sole Source Purchase of a 2009 Pierce Arrow XT All-Wheel Steer Fire Pumper from Golden State Fire Apparatus, Inc for the Not-to-Exceed Amount of \$556,545 (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** Milpitas Fire Department's Engine 2 had a rated life of 15 years for "first line" service, although the Fire Department used the engine on the line for 17 years. Increasing and ongoing repairs relegated the engine to a reserve status. The engine has reached the end of its useful life for active service. To find a replacement, the Fire Department conducted a 12 month investigation, reviewing the top ten major manufacturers. After a good faith review conducted by the Fire Department, the Purchasing Agent determined, pursuant to Municipal Code section I-2-3.09 "Sole Source Procurement," that Pierce Manufacturing, Inc. was the only source for an engine that met the Fire Department's specifications due to the Oshkosh All-Wheel Steering System patented technology. Golden State Fire Apparatus, Inc. is the sole source distributor.

**Fiscal Impact:** None. Funds for this purchase are available from the Equipment Replacement Fund.

**Recommendation:** Adopt a resolution approving the sole source purchase of a Fire Pumper from Golden State Fire Apparatus, Inc for the not-to-exceed amount of \$556,545.00.

- \* 18. **Adopt a Resolution to Accept the American Recovery and Reinvestment Act (ARRA) Edward Byrne Justice Assistance Grant (JAG) Administered by the County of Santa Clara (Staff Contact: Henry Kwong, 586-2419)**

**Background:** On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act (ARRA) of 2009. The Act includes almost \$2 billion in critical resources for state and local law enforcement activities through the Justice Assistance Grant (JAG) program.

On April 21, 2009, the County of Santa Clara agreed to coordinate a joint application among several law enforcement agencies in the County, including the Milpitas Police Department, and the joint application was submitted to the United States Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, on May 18, 2009.

On June 9, 2009, the joint application was approved and the grant awarded (Project No. 2009-SB-B9-0976). The portion of the grant allocated to Milpitas Police Department is \$73,137 which is intended to enhance the front-line delivery of services through existing programs by obtaining the necessary equipment, such as a License Plate Reader (LPR) system, Tasers, AR-15 rifles, a complete set for one bicycle officer, and other high-technology equipment.

**Fiscal Impact:** None.

**Recommendation:** Adopt a Resolution to accept the American Recovery and Reinvestment Act (ARRA) Edward Byrne Justice Assistance Grant (JAG) in the amount of \$73,137, administered by the County of Santa Clara.

## XXII. BIDS AND CONTRACTS

- \* 19. **Approve Amendment No. 3 to the Contract with Empire Maintenance Services for Janitorial Services for the Not-to-Exceed Amount of \$23,720 (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** On July 5, 2005 the City entered into a five year contract with Empire Maintenance Services for cleaning services at City Hall, Sports Center, Fire Administration, and the Great Mall Police Dept. substation. Although the contract allows for annual increases based on past performance and contractor's industry price changes for the past year, Empire has not requested any increase for the annual cost. However, the City would like to add additional work to the contract in the amount of \$23,720 to include cleaning services at the Library Parking Garage and a contingency of \$15,000 for incidental on-call services. This amendment will increase the total yearly compensation from \$201,561.60 to \$225,261.80.

**Fiscal Impact:** None. Funds for this work are available from the Public Works operational budget.

**Recommendation:** Approve Amendment No. 3 to the contract with Empire Maintenance Services for the not-to-exceed amount of \$23,720, subject to approval as to form by the City Attorney.

- \* 20. **Authorize the City Manager to Execute an Agreement with Nicolay Consulting Group for Actuarial Valuation Service on Retiree Medical Benefits for the Not-to-Exceed Amount of \$48,400 (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** On December 7, 2004, the City Council authorized a Request for Proposals to provide actuarial valuation services to the City. Nicolay Consulting Group was selected as the winner out of the eight proposals that were received. The consulting contract provides for actuarial valuation services on retiree medical benefits on a bi-annual basis. The company has performed two actuarial valuations for the City in 2005 and 2007. City staff has been satisfied with the timeliness and responsiveness of Nicolay's service.

Staff recommends extending the consulting contract for three additional, but not sequential, one year periods pursuant to Milpitas Municipal Code Section I-2-3.12 "Contracting for Consultants." Pricing for the new contract was negotiated on a bi-annual basis as follows: \$15,800 for 2009, \$15,800 for 2011, and \$16,800 for 2013, for a total of \$48,400.

**Fiscal Impact:** None. This is a planned expense in the Non-Departmental operating budget.

**Recommendation:** Authorize the City Manager to execute an agreement with Nicolay Consulting Group for actuarial valuation services on retiree medical benefits, for the not-to-exceed amount of \$48,400.

- \* 21. **Approve Reinstatement Agreement with Hopkins & Carley for Legal Services (Staff Contact: Michael Ogaz, 586-3040)**

**Background:** The City has an employee personnel matter begun in FY 2008-09, which was expected to be complete in that fiscal year, but will carry over into early FY 2009-10. The law firm of Hopkins & Carley has represented the City in this matter which is close to conclusion. The City Attorney asks that the contract for services with that firm be reinstated to allow for completion of its work.

Accordingly, the Reinstatement Agreement has been prepared to reinstate the original Professional Services Agreement (copy included in the Council agenda packet) and to redefine the terms of the Agreement to allow for completion of the work within FY 2009-10.

**Fiscal Impact:** None. Funding from the Fiscal Year 2008-09 budget is available for this purpose.

**Recommendation:** Authorize the City Manager to execute the Reinstatement Agreement with Hopkins & Carley for legal services.

\* 22. **Approve Amendment No. 2 to the Agreement with Stevens Creek Disposal and Recycling for a Debris Box (Staff Contact: Kathleen Phalen, 586-3345)**

**Background:** In accordance with Title V, Chapter 200 of the Milpitas Municipal Code, debris box haulers are required to enter into standard three-year agreements with the City in order to gain the right to collect and dispose of non-organic solid waste and/or construction and demolition debris. The City entered into such an agreement with Stevens Creek Disposal and Recycling on August 15, 2006 that will expire on August 14, 2009. Amendment No. 1 to the agreement corrected a minor error in the term of the agreement. The proposed Amendment No. 2 currently before the City Council, will extend the agreement for another three years to August 14, 2012 and shall also delegate authority to exercise the second and final service extension period to City staff, contingent upon Stevens Creek's compliance with the Municipal Code and franchise requirements. Stevens Creek Disposal and Recycling is currently performing in accordance with its disposal and recycling agreement.

**Fiscal Impact:** None.

**Recommendation:** Approve Amendment No. 2 to the Agreement with Stevens Creek Disposal and Recycling for a debris box.

\* 23. **Approve a Non-Exclusive Collection, Transportation and Recycling of Non-Putrescible Debris Agreement with Super Link Plastic, Inc. (Staff Contact: Kathleen Phalen, 586-3345)**

**Background:** In accordance with Title V, Chapter 200 of the Milpitas Municipal Code and the City's solid waste franchise agreement with Allied Waste Services, solid waste collectors may enter into non-exclusive agreements with the City to collect and dispose of certain non-organic solid waste and/or construction and demolition debris from Milpitas businesses that are not covered by the Allied Waste Services Commercial Recycling Program. Super Link Plastic, Inc. wishes to collect used polypropylene/polyester coveralls and nitrile gloves generated by clean room operations from Milpitas businesses. These materials are not accepted by the Allied Waste Services Commercial Recycling Program and do not fall within the exclusive purview of Allied under the City's solid waste franchise agreement with Allied. However, Super Link Plastic is willing and able to collect and appropriately recycle these materials into raw materials for new uses.

To ensure compliance with the solid waste franchise agreement between the City and Allied, the following conditions are included in the proposed Super Link Plastic Agreement:

- The clean room operator cannot pay or provide other consideration to Super Link Plastic, Inc. for the collection and processing of the recyclable materials.
- The clean room operator must separate all recyclables by source and store the materials on site in a segregated fashion for collection. Recyclable materials shall consist of cardboard, mixed paper, scrap metal, polystyrene, nitrile gloves, clean wood, wood pallets, and circuit boards. No mixed loads shall be permitted. No loads may contain residual materials such as garbage or other recyclable materials.
- The clean room operator must subscribe to Allied for the balance of its solid waste services.

Staff reviewed the application from Super Link Plastic and found it in accordance with the City's requirements. In accordance with the Milpitas Municipal Code, staff is also asking for the authority to administratively review collections under the agreement and grant a maximum of two three-year extensions upon a finding of compliance with its terms.

**Fiscal Impact:** None.

**Recommendation:** Approve a Non-Exclusive Collection, Transportation and Recycling of Non-Putrescible Debris Agreement with Super Link Plastic, Inc.

- \* 24. **Authorize the City Manager to Execute an Encroachment Permit Agreement with Christ Community Church (The Presbytery of San Jose) at 1000 S. Park Victoria Drive, Project No. 3181 (Staff Contact: Fernando Bravo, 586-3328)**

**Background:** On August 24, 2005, the Milpitas Planning Commission approved a request for the construction of two new buildings with site modifications and landscaping improvements along the project frontage. The street landscape includes upscale improvements to match the onsite landscaping. This encroachment permit agreement is for the maintenance of street landscaped area within the public right-of-way, to be maintained and repaired by the permittee, for improvements consisting of palm trees, irrigation and appurtenant facilities, and other improvements such as up-lighting (in perpetuity, or at which time the City directs permittee to remove or modify the improvements at owners expense) at the property's frontage of 1000 S. Park Victoria Drive.

**Fiscal Impact:** None.

**Recommendation:** Authorize the City Manager to execute an encroachment permit agreement with Christ Community Church (The Presbytery of San Jose) at 1000 S. Park Victoria Drive for Project No. 3181.

- \* 25. **Authorize the City Manager to Execute the Memorandum of Understanding (MOU) with the Santa Clara Valley Water District to Provide a Match for the Water Efficient Landscape Rebate for Residential Customers with a Not-to-Exceed Amount of \$5,000 for Fiscal Year 2009-10 (Staff Contact: Kathleen Phalen, 586-3345)**

**Background:** On September 16, 2008, the City Council authorized the City Manager to execute a Memorandum of Understanding with the Santa Clara Valley Water District (SCVWD) to provide a City match to its water efficient landscape rebate program for residential customers. The agreement was approved on a trial basis for the remainder of Fiscal Year 2008-09, with a not to exceed amount of \$5,000. This full rebate amount was successfully distributed to six Milpitas residents.

SCVWD offers Santa Clara County residents and businesses a rebate of \$75 per 100 square feet up to a maximum of \$1,000 to replace high water-demand plants, such as turf grass, with low water-demand vegetation or features. The City's match of \$75 per 100 square feet doubled the value of the rebate to \$150 per square foot up to a maximum of \$2,000 per residence. On July 1, 2009, SCVWD doubled its maximum rebate cap at \$2,000 for residents and \$20,000 for businesses by doubling the amount of eligible square footage. Staff recommends holding the City's maximum rebate match to \$1,000. This will provide up to \$3,000 for eligible Milpitas residential projects during FY 2009-10.

Staff finds it feasible for the City to continue matching the SCVWD landscape rebate program and recommends doing so to provide incentives for water conservation. The City maximum individual rebate would continue to be capped at \$1,000 per eligible project and the program cap would continue to be \$5,000 for the fiscal year, which would fund a minimum of five rebates.

**Fiscal Impact:** There is no fiscal impact to the budget for continuing the City match rebate program. Funding in an amount not exceeding \$5,000 will be drawn from the Utility Engineering Water Community Promotions budget which has sufficient funds for this purpose.

**Recommendation:** Authorize the City Manager to execute the Memorandum of Understanding with Santa Clara Valley Water District to provide a match for the Water Efficient Landscape Rebate for Residential Customers with a not to exceed amount of \$5,000 for FY 2009-10.

- \* 26. **Approve Amendment No. 1 to the Contract with ACCO Engineered Systems for HVAC Maintenance and Repair for the Not-to-Exceed Amount of \$ 20,000 (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** ACCO Engineered Systems won the bid for the original installation of the HVAC system when City Hall was built, and on August 2, 2005, Council approved ACCO Engineered Systems maintenance and repair services as a sole source purchase pursuant to Municipal Code section I-2-3.09 "Sole Source Procurement." This amendment will increase the scope of the contract to include incidental repairs not otherwise covered in the maintenance agreement. The amendment will increase the overall contract by \$20,000 annually.

**Fiscal Impact:** None. This is a programmed expense approved in the FY 2009-10 budget for Facilities Maintenance.

**Recommendation:** Approve Amendment No. 1 to the contract with ACCO Engineered Systems for HVAC maintenance and repair for the not-to-exceed amount of \$20,000.

- \* 27. **Authorize City Manager to Execute a Consultant Agreement with HF&H Consultants, LLC for Solid Waste Management Services (Staff Contact: Kathleen Phalen, 586-3345)**

**Background:** The City's collection and disposal contracts with Allied Waste will terminate in 2017 and the expected capacity of Newby Island landfill will be reached a few years later, so the City will need to obtain replacement solid waste services for its residents and businesses.

On June 19, 2009, staff sent a Request for Qualifications (RFQ) to four consulting firms specializing in municipal solid waste management services for letters of interest and statements of qualifications to provide the City various services supporting the financial, regulatory and technical aspects of managing current solid waste services and to assist in planning for future solid waste services.

The City received responses from CalRecovery, Inc., Environmental Planning Consultants, and HF&H Consultants, LLC. Based on a review of the qualifications and on responses to follow up questions, staff finds all three firms to be well qualified to support various aspects of the City's long-term solid waste management and long-term planning needs. In accordance with the City's consultant selection process, staff recommends entering into a consultant agreement with HF&H Consultants for the first defined task which is the financial review of the Allied Waste Services' pro forma application for the upcoming January 1, 2010 rate adjustment. HF&H has the most experience and familiarity with the franchise agreement formula for determining biennial rate adjustments, as they have completed this work for the City in previous years. The amount for this work shall not exceed \$40,500, which is considered reasonable for the work involved.

**Fiscal Impact:** None. Sufficient funds are available in the Solid Waste Fund.

**Recommendation:** Authorize the City Manager to execute a consultant agreement with HF&H Consultants, LLC in an amount not to exceed \$40,500 for solid waste management services.

- \* 28. **Approve Amendment No. 3 to the Agreement with ThyssenKrupp Elevator Platinum Maintenance and Repair for the Annual Not-to-Exceed Amount of \$ 32,139.16 (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** Milpitas City Hall elevators are ThyssenKrupp brand elevators and those in the Police and Public Works building are Dover brand, which was bought out by ThyssenKrupp. Technology to maintain the elevators is proprietary, solely owned by ThyssenKrupp. In August 2005, the City entered into an annual automatically renewing Platinum Maintenance Agreement with ThyssenKrupp pursuant to MCC Section I-2-3.09 "Sole Source Procurement." This amendment increases the annual rate from \$18,626.92 to \$19,136.16 and incorporates Attachment A – Billing Rate Breakdown (effective 2-01-09) as part of the contract. In addition, the amendment expands the scope of that maintenance agreement to include incidental repairs and services, such as cosmetic damage and repairs to power switches, alignment of guide rail, etc. not otherwise covered in the contract. The additional contract amount is estimated to be \$13,000 per year, based on previous years' experiences. The amendment will increase the annual contract amount from \$18,626.92 to \$32,139.16.

**Fiscal Impact:** None. This is a programmed expense approved in the FY 2009-10 budget for Facilities Maintenance.

**Recommendation:** Approve Amendment No. 3 to the agreement with ThyssenKrupp Elevator Platinum Maintenance and Repair for the annual not-to-exceed amount of \$32,139.16.

- \* 29. **Approve Amendment No. 5 to the Agreement with Jensen Landscape Services, Inc. for McCarthy Ranch Landscape Maintenance Services for the Annual Not-to-Exceed Amount of \$27,000 (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** On August 29, 2007, after winning the competitive bid, Jensen Landscape Service Inc. entered into a three year contract with the City. This amendment expands the scope of the contract to cover a variety of irrigation repairs that were not contemplated in the original agreement. The additional annual expenditure is estimated at \$15,000, based on past years experience. Also included is a one time lump sum amount of \$12,000 to cover similar irrigation repairs for FY 2008-09. With this amendment, the contract amount for FY 2009-10 will be \$100,824, of which \$12,000 is a one time payment.

**Fiscal Impact:** None: This is a programmed expense approved in the FY 2009-10 budget for the McCarthy Ranch Landscape Maintenance District LMD No. 95-1.

**Recommendation:** Approve Amendment No. 5 to the agreement with Jensen Landscape Services, Inc. to increase the McCarthy Ranch landscape maintenance services contract amount by \$27,000 in FY 2009-10.

- \* 30. **Authorize the City Manager to Execute a Contract with TYH K-9 for Police Dog Training for the annual Not-To-Exceed Amount of \$13,700 (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** TYH K-9 has been providing explosives detection training for the City of Milpitas canines since the inception of the program in 2002. The training includes initial basic handler training for the officer and basic bomb detection training for the dog and progresses to weekly maintenance proficiency training program that conforms with federal guidelines for explosive detection dogs. In the past, the service was provided on year-to- year basis, however, due to the department's satisfaction with the quality and effectiveness of the program developed by TYH K-9, staff now requests that the contract be established for one year, with two one- year option to renew at the annual rate of \$13,700 per year, pursuant to MCC Section I-2-3.12 "Contracting for Consultants."

**Fiscal Impact:** None. This is a programmed expense from the Police Department operating budget.

**Recommendation:** Authorize the City Manager to execute a contract with TYH K-9 for Police Dog Training for the annual not-to-exceed amount of \$13,700.00.

- \* 31. **Award the Bid and Authorize the City Manager to Execute a Contract for Sound Wall Repair with Pleasanton Engineering for the Not-to-Exceed Amount of \$22,000 (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** On December 9, 2008, a private vehicle went through the soundwall at Abel and Main streets destroying approximately 20 lineal feet of a six-foot high concrete block wall. The City will pay for the repairs up front and seek reimbursement from the driver's insurance company. The repair bid was advertised on the City website, on Public Purchase, and in the local newspaper. The Purchasing Division received three responses, which are: Bjork Construction - \$23,150; Pleasanton Engineering - \$22,000; and, Bianchi Construction - \$24,665.

**Fiscal Impact:** \$22,000. Funds for this repair will be funded by the Public Works Department operating budget. The City will seek reimbursement from the driver's insurance company.

**Recommendation:** Award the bid and authorize the City Manager to execute a contract for sound wall repair with Pleasanton Engineering for the not-to-exceed amount of \$22,000.

- \* 32. **Approve Amendment No. 1 to the Agreement with Greenesport Association Sports Officiating for the Not-to-Exceed Amount of \$15,000 (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** The City of Milpitas went out to bid for sports officiating in June of 2008 and Greenesport was deemed to be the most qualified bidder. Bid documents called for a one-year contract with two one-year options to renew. However, the options to renew were not clearly expressed in the Recreation Services Agreement. This amendment changes the term of the contract to add the two one-year options to renew at \$15,000 per year.

**Fiscal Impact:** None. This is a programmed expense approved in the FY 09-10 budget for Recreation Services.

**Recommendation:** Approve Amendment No. 1 to the agreement with Greenesport Association Sports Officiating for the annual not-to-exceed amount of \$15,000 with two one-year options to renew.

- \* 33. **Approve Amendment No. 2 to the Contract with Randazzo Enterprises, Inc. for South Main Street Demolition Project for the Not-to-Exceed Amount of \$139,758.22 (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** On June 19, 2009 the City entered into a contract with Randazzo Enterprises, Inc. for the demolition of an abandoned motel built in the early 1960's located at 1556 South Main Street, and an adjacent closed mobile home park at 1504 South Main Street. The City now desires to amend the scope of work to include removal of all of the concrete, asphalt and all other debris and obstructions on the two aforementioned properties and on the adjacent 1620 South Main Street property, formerly an abandoned auto repair shop, as per items #2 and #3 of the Change Order Request (copy in agenda packet) from Randazzo Enterprises, Inc. dated July 14, 2009. This amendment is for \$118,230.80 and a 20% contingency, which brings the total to \$139,758.22 and increases the total compensation from \$118,861.20 to \$258,619.42.

**Fiscal Impact:** None. Funds for this work will be reimbursed by the property owner.

**Recommendation:** Approve Amendment No. 2 to the contract with Randazzo Enterprises Inc. for the South Main Street Demolition project for the not-to-exceed amount of \$139,758.22.

**XXIII. CLAIMS AND DEMANDS**

- \* 34. **Receive Report for the \$77,580 Emergency Purchase of a Liebert Four Step High Efficiency HVAC System for the Information Services Main Computer Room (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** On May 4, 2009, the Information Services main computer room stand-alone HVAC unit control board and one of the two compressors failed. The system is more than 19 years old and replacement parts are no longer available. In order to keep the facility operational, two portable five-ton cooling units were rented from Atlas Sales & Rentals, and an order was placed with Pacific Air Solutions for a Liebert four-step high efficiency system for a total not to exceed price of \$77,580. Because of the critical nature of the main computer room for the operation of the City's computer service including Fire and Police Dispatch, this purchase was made pursuant to Section I-2-3.10 "Emergency Authority of Purchasing Agent."

**Fiscal Impact:** \$77,580.00. Funds for this purchase will require budget appropriation from the Redevelopment Agency Fund to the Capital Improvement Project No. 8135, Miscellaneous City Building Improvements.

**Recommendation:** Receive report for the emergency purchase of a Liebert four step high efficiency HVAC system and approve budget appropriation.

- \* 35. **Approve Payment Request to LN Curtis for Miscellaneous Fire Department Equipment and Supplies (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** In accordance with Ordinance No. 23.10, Purchasing submits one request over \$20,000 for approval, a payment to L.N. Curtis \$38,645.91 for miscellaneous Fire Department equipment and supplies.

**Fiscal Impact:** None. Funds are available from the Fire Department operating budget for this purchase.

**Recommendation:** Approve the payment request to LN Curtis for miscellaneous Fire Department equipment and supplies in the amount of \$38,645.91.

**XXIV. ADJOURNMENT**

**NEXT REGULAR MEETING: TUESDAY, AUGUST 18, 2009**