



**MILPITAS CITY COUNCIL MEETING AGENDA  
MILPITAS REDEVELOPMENT AGENCY MEETING AGENDA**

**TUESDAY, SEPTEMBER 1, 2009**

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

**SUMMARY OF CONTENTS**

**I. CALL TO ORDER OF THE CITY COUNCIL by the Mayor**

**II. ROLL CALL by the City Clerk (6:30 p.m.)**

**III. ADJOURN TO CLOSED SESSION OF CITY COUNCIL**

**CONFERENCE WITH LEGAL COUNSEL**

Anticipated Litigation: City of Milpitas as potential Plaintiff (per Government Code §54956.9(c))

**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** (Councilmember Polanski)

**VII. APPROVAL OF COUNCIL MEETING MINUTES** – (1) August 14, 2009 and (2) August 18, 2009

**VIII. SCHEDULE OF MEETINGS** – Council Calendar for September 2009

**IX. PRESENTATIONS**

- Proclaim National Disaster Preparedness Month – September 2009
- Achievement of Excellence in Procurement Award

**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 HEARING**

1. **Consideration of Entertainment Event Permit for St. John the Baptist Catholic Church to Hold its Annual “Autumn Festival” on September 25-27, 2009 (Staff Contact: Mary Lavelle, 586-3001)**

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

- RA1. Call to Order/Roll Call by the Mayor/Chair**
- RA2. Approval of Minutes – August 18, 2009**
- RA3. Approval of Agenda and Consent Calendar (Items with asterisk\*)**
- RA4. Receive Progress Report on the New Senior Center, Project No. 8176 (Staff Contact: Steve Erickson, 586-3301)**
- RA5. Receive City of Milpitas Unaudited Financial Status Report for the Fiscal Year Ended June 30, 2009 (Staff Contact: Emma Karlen, 586-3145)**
- \*RA6. Receive the FY 2009-10 Final Budget and the 2009-2014 Final Capital Improvement Program (Staff Contact: Emma Karlen, 586-3145)**
- \*RA7. Approve the FY 2008-09 Year End Budget Adjustments (Staff Contact: Emma Karlen, 586-3145)**
- RA8. Agency Adjournment**

**XVII. REPORT OF COMMISSION**

**Bicycle Pedestrian Advisory Commission**

- \* 2. Appoint Commissioner Aaron Faupell as the Milpitas Representative to the VTA BPAC – Santa Clara Valley Transportation Authority Bicycle and Pedestrian Advisory Committee (Staff Contact: Fernando Bravo, 586-3328)**

**XVIII. NEW BUSINESS**

3. **Receive Presentation by Director Richard Santos on the Santa Clara Valley Water District Call for Water Conservation (Staff Contact: Kathleen Phalen, 586-3345)**
4. **Approve the Total Accounts Receivable Write-off Amounts for FY 2008-09 (Staff Contact: Emma Karlen, 586-3145)**
- \* 5. Accept and Direct Staff to File the Milpitas Community Based Transportation Plan (Staff Contact: Fernando Bravo, 586-3328)**

**XIX. RESOLUTIONS**

- \* 6. Adopt a Resolution Granting Initial Acceptance for Tract 9699 of the KB Home Terra Serena Development, Project No. 3160 (Staff Contact: Fernando Bravo, 586-3327)**
- \* 7. Adopt a Resolution Authorizing the City Manager to Execute a Contract for Maintenance Scheduling and Tracking Software by Piggybacking onto the City of Santa Monica Contract with Maintenance Connection for the Not-to-Exceed amount of \$42,805.66 (Staff Contact: Chris Schroeder, 586-3161)**

**XX. BIDS AND CONTRACTS**

- \* **8. Approve the First Amendment to the Cooperative Agreement Between the City of Milpitas and the Santa Clara Valley Transportation Authority (VTA) for the Route 237/I-880 Interchange and McCarthy Blvd. Medians, Project No. 4170 (Staff Contact: Greg Armendariz, 586-3317)**
- \* **9. Approve the Contingency Agreement for Transient Occupancy Tax Recovery (Staff Contact: Michael Ogaz, 586-3041)**
- \* **10. Approve a Budget Appropriation and Award a Construction Contract to GSL Construction, Inc. for Calle Oriente Park, Project No. 5087 (Staff Contact: Steve Erickson, 586-3301)**
- \* **11. Approve Amendments to Two Contracts for Fire Inspection and Plan Review Services for Total Amount-Not-to-Exceed \$118,000 (Staff Contact: Patricia Joki, 586-3370)**
- \* **12. Approve Amendment No. 1 to the Agreement with Parisi and Associates for the Suggested Routes to School Program, Project No. 4247 (Staff Contact: Fernando Bravo, 586-3328)**
- \* **13. Award the Bid and Authorize the City Manager to Execute a Contract with Chrisp Company for On-Call Roadway Marking Support for the Annual Not-to-Exceed Amount of \$19,500 (Staff Contact: Chris Schroeder, 586-3161)**

**XXI. ADJOURNMENT**

**NEXT REGULAR MEETING: TUESDAY, SEPTEMBER 15, 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*  
*Bicycle Pedestrian Advisory Commission*  
*Community Advisory Commission (alternate)*  
*Economic Development Commission (Retail rep.)*  
*Emergency Preparedness Commission (Chamber rep.)*  
*Mobile Home Park Rental Review Board*  
*Youth Advisory Commission*

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, SEPTEMBER 1, 2009

### XV. PUBLIC HEARING

1. **Consideration of Entertainment Event Permit for St. John the Baptist Catholic Church to Hold its Annual “Autumn Festival” on September 25-27, 2009 (Staff Contact: Mary Lavelle, 586-3001)**

**Background:** St. John the Baptist Catholic Church submitted an application for an Entertainment Event Permit to hold its annual Autumn Festival on church grounds at 279 So. Main Street (between Abel and Main Streets) over the weekend, Friday – Sunday, September 25-27, 2009. Additionally, St. John’s requested a waiver of the Fire Inspection fee (approximately \$624) and electrical permit fees (approximately \$145).

The application was reviewed and approved by appropriate City departments and the public hearing advertised as required by municipal code. Appropriate conditions were stated by several departments (Planning, Building, Engineering, Finance and Police), as noted in the agenda materials. Also, a current insurance certificate is required to be submitted to the City Clerk prior to the start of the festival.

**Fiscal Impact:** Receipt of \$15.00 application fee (into the general fund).

**Recommendations:**

1. After holding a public hearing for testimony, move to close the public hearing.
2. Move to approve the Entertainment Event Permit, including fee waivers, for St. John the Baptist Catholic Church’s “Autumn Festival” on September 25-27, 2009.

### XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

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

**RA2. Approval of Minutes – August 18, 2009**

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

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

**Background:** Contractor Swenson & Associates has completed rough site grading, new concrete floor addition for the community room, and continues with the building electrical, plumbing, and mechanical work. Installation of new exterior wall framing is also underway. Project staff will provide additional project progress information at the Council meeting.

**Fiscal Impact:** None.

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

**RA5. Receive City of Milpitas Unaudited Financial Status Report for the Fiscal Year Ended June 30, 2009 (Staff Contact: Emma Karlen, 586-3145)**

**Background:** The unaudited financial report indicates that total General Fund revenue was below budget by approximately \$2.6 million. The biggest shortfall came from transient occupancy tax revenue which was below budget by \$1.3 million. Building permit and plan check fees were below budget by about \$1 million. Investment income was also below budget by

\$202,000 due to lower reinvestment yield when securities mature. Sales tax revenue was below budget by almost \$322,000 or 2%. Sales tax revenue would have been much worse, but because of the City's business outreach efforts, close to \$600,000 of use tax revenue was brought in.

The only revenue sources that were above budget were property tax revenue and franchise fees. Property tax revenue was above budget by \$693,000 or 4% primarily due to increased pass-through payment from the Redevelopment Agency. The Redevelopment tax increment revenue exceeded budget by about 14% due to redevelopment activities in the Midtown as well as other amendment areas within the Project Area. The Redevelopment Agency is required by redevelopment law to pay a portion of the tax increment revenue to the taxing entities within the Project Area when the assessed valuation of the properties exceeds certain base year values. In FY 2008-09, the City's share of the pass-through payment was about \$520,000. Franchise fee revenue exceeded budget by \$94,000 or 3%, primarily due to increased franchise fees from the garbage contractor Allied Waste.

On the expenditure side, the report shows that City departments achieved savings in the General Fund operating expenditures of 7.4% (approximately \$5.4 million), resulting in a net savings of \$2.8 million (\$2.6 million revenue shortfall offset by \$5.4 million in expenditure savings). However, even with the net savings of \$2.8 million, the General Fund still needs to rely on the RDA loan payment to close the FY 2008-09 budget. The FY 2008-09 budget anticipated the draw down of an RDA loan payment not to exceed \$6 million. Staff now recommends draw down of \$2.7 million due to achieved net savings.

The undesignated General Fund reserve was approximately \$14.7 million on June 30, 2009, which is equivalent to approximately 21.8% of the FY 2009-10 budgeted expenditures. The budget policy requires the General Fund to maintain at least 15% of the budgeted expenditures as reserve.

The Redevelopment Agency's tax increment revenue was above budget by \$4.4 million or 14%. The Water utility revenue was below budget by \$595,000 or 4.2%, and the Sewer utility revenue was also below budget by \$209,000 or 2.1%. The shortfall of utility fund revenues was due to lower sales of water in the industrial and commercial sectors and water conservation in the residential sector.

**Fiscal Impact:** None.

**Recommendation:** Receive the unaudited financial status report for the Fiscal Year ended June 30, 2009.

**\*RA6. Receive the FY 2009-10 Final Budget and the 2009-2014 Final Capital Improvement Program (Staff Contact: Emma Karlen, 586-3145)**

**Background:** Transmitted are the FY 2009-10 Final Budget and the 2009-2014 Final Capital Improvement Program incorporating the changes approved the City Council/Agency during the May 12, 2009 budget hearing. The budget appropriations total \$145,073,350, which includes \$19,664,549 for Capital Projects in the first year of the Five-Year Plan, was adopted by the City Council on June 2, 2009. Submitted with the document is the out-of-state travel schedule showing the travel destination and purpose.

**Fiscal Impact:** None. Budget appropriations were approved on June 2, 2009.

**Recommendation:** Receive the Final City of Milpitas Budget for FY 2009-10 and the 2009-2014 Capital Improvement Program.

**\*RA7. Approve the FY 2008-09 Year End Budget Adjustments (Staff Contact: Emma Karlen, 586-3145)**

**Background:** Finance staff is in the process of closing the City and Redevelopment Agency revenue and expenditures accounts for the Fiscal Year 2008-09. To maintain conformity with the City's budgeting policies and to prepare for the annual external audit, year-end budget adjustments are necessary to address items that were not known at the time the FY 2008-09 budget was developed.

All funds, departments and project budgets have been reviewed to determine necessary adjustments. The detail for each budget adjustment item is described below.

- 1) Increase the budget appropriations for Public Works Department by \$55,000. The Public Works Department omitted the budget for the streetscape maintenance services provided in the Midtown area in FY 2008-09. The source of funding for the maintenance is from the special tax collected from the Community Facilities District 2005-1. There is sufficient balance in that fund to pay for these services.
- 2) Increase the budget appropriations for Building Inspection Services, Finance Accounting Services, and Planning and Neighborhood Services by \$12,000, \$6,000, and \$1,000 respectively, due to increased administration of the Community Development Block Grants (CDBG). The administration expenditures will be fully reimbursed by CDBG.
- 3) Increase the budget appropriation for Planning and Neighborhood Services by \$370,000 due to increased Housing Rehab loans provided to the community in FY 2008-09. The Housing Rehab loans will be fully reimbursed by CDBG.

**Fiscal Impact:** The overall fiscal impact of the budget adjustments is a \$55,000 reduction to the fund balance of the Community Facilities District 2005-1 Fund. Other budget adjustments will be reimbursed from CDBG administered by the U.S. Department of Housing and Urban Development.

**Recommendation:** Approve the Fiscal Year 2008-09 year-end budget appropriations as itemized in the budget change form, which is included in the Agency/Council agenda packet.

**RA8. Agency Adjournment**

**XVII. REPORT OF COMMISSION**

**Bicycle Pedestrian Advisory Commission**

- \* 2. **Appoint Commissioner Aaron Faupell as the Milpitas Representative to the VTA BPAC – Santa Clara Valley Transportation Authority Bicycle and Pedestrian Advisory Committee (Staff Contact: Fernando Bravo, 586-3328)**

**Background:** The Santa Clara Valley Transportation Authority Bicycle and Pedestrian Advisory Committee (VTA BPAC) consists of 16 members representing each of the 15 cities and the county. The BPAC advises the Board of Supervisors on funding and planning issues for bicycle and pedestrian projects. It also serves as the countywide bicycle advisory committee for Santa Clara County. Cheryl Bunnell, former Milpitas BPAC Chair, recently resigned from the City's Commission and as the Milpitas representative on the VTA BPAC. On August 10, 2009, the Milpitas BPAC recommended Commissioner Aaron Faupell to serve as the Milpitas representative to the VTA BPAC. Mr. Faupell will attend the VTA BPAC meetings and update the Milpitas BPAC on regional bicycle and pedestrian projects.

**Fiscal Impact:** None. There is no fiscal impact.

**Recommendation:** Appoint Commissioner Aaron Faupell as the Milpitas representative to the VTA BPAC – Santa Clara Valley Transportation Authority Bicycle and Pedestrian Advisory Committee.

**XVIII. NEW BUSINESS**

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

**Background:** Board Director Richard Santos represents the residents of District 3 of the Santa Clara Valley Water District (SCVWD or District), including Milpitas, Sunnyvale, and the Berryessa, Alum Rock, and Alviso areas of San Jose. Director Santos will present an overview of the water supply outlook for Santa Clara County and the District’s call for 15% mandatory conservation.

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

The District developed a “Save 20 Gallons” public outreach campaign to give residents positive encouragement to save 20 gallons of water per day (equivalent to about 15% of the typical residential usage). This outreach message has been included in Milpitas utility bills this summer. Although most of the City’s residential customers are served by Hetch Hetchy water supplied by the San Francisco Public Utilities Commission (SFPUC), SFPUC’s continuing call for 10% voluntary conservation is not substantially different than the District’s request and therefore the outreach message is suitable.

**Fiscal Impact:** None.

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

**4. Approve the Total Accounts Receivable Write-off Amounts for FY 2008-09 (Staff Contact: Emma Karlen, 586-3145)**

**Background:** A list of accounts receivable that have been outstanding for more than 12 months and remained unpaid is provided in the agenda packet. Staff requests that the City Council approve the write-offs. When the invoices were first sent to the customers, normal accounting procedures require staff to record accounts receivable and revenues initially as the expectation is that the City would be able to collect within a short period of time. However, when the accounts receivable have been outstanding for more than one year and after the Finance Department has exhausted all the currently available collection methods, it is necessary to write off these accounts so as not to overstate the City’s assets. It should be noted that staff will continue with the collection efforts even after the accounts have been written off.

The list identifies each account by category, by payee name and amount. It should be noted that the City’s overall collection rate is high. The City was able to collect 99.66% of its billing amounts. The proposed write-offs amount of \$105,903.84 is approximately 0.34% of all the amounts invoiced during the same period. The following table shows the collection rate by invoice category.

	Invoiced amounts	Proposed write-off amounts	% of invoiced
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			amount
Utility accounts & related svcs	\$ 25,861,256	\$ 65,264	0.26%
Animal Violations	9,323	525	5.64%
NBO Violations	19,119	6,500	34.00%
Police False Alarms	67,700	3,300	4.88%
Fire Annual Permits	293,124	12,424	4.24%
Fire Alarm	35,400	600	1.70%
Private development jobs	1,553,594	14,156	0.92%
Misc. other	3,342,797	2,383	0.08%
Bounced checks		752	
Total	\$ 31,182,313	\$ 105,904	0.34%

**Fiscal Impact:** The total write-off amount of \$105,903.84 from outstanding accounts receivable will impact the General Fund and utility fund balances by \$40,640.17 and \$65,263.67 respectively.

**Recommendation:** Approve the total accounts receivable write-off amounts for FY 2008-09.

\* **5. Accept and Direct Staff to File the Milpitas Community Based Transportation Plan (Staff Contact: Fernando Bravo, 586-3328)**

**Background:** The Metropolitan Transportation Commission (MTC) conducted an environmental justice report in 2001 and identified Milpitas as one of 25 communities to receive a Community Based Transportation Plan (CBTP). The CBTP process allowed community members to participate in the process of identifying transportation needs and creating possible transportation solutions for low-income residents. The whole process is unique as it is community driven, garners community input in the transportation decision-making process, and provides collaboration opportunity and enables local advocacy. Elements of the CBTP include description of Milpitas, strategies for public involvement, assessment of needs, and proposal generation.

With the Santa Clara Valley Transportation Authority (VTA) as the lead agency, Milpitas staff, MTC, County of Santa Clara, and OUTREACH, Inc. participated in a project working committee that was involved in every stage of the process. Public outreach included eight community meetings and receipt of 602 comment cards that were posted at City of Milpitas public facilities, the library, Milpitas High School and other gathering places.

Issues raised from public comment were transportation needs, public transit service frequency and hours, amenities at bus stop waiting areas, affordability of transit, safety, and more information for public transit passengers. Transportation proposals developed include changes in transit service, incorporating Milpitas Community Bus Services, bus stop improvements, pedestrian and bicycle improvements, auto-based programs and projects, and demand-responsive services such as senior health transportation, and guaranteed ride home.

An important and immediate outcome of this effort is the funding and implementation of a new "Community Bus Service" in Milpitas. This bus service may combine two existing routes, while delivering a more tailored bus service to Milpitas, at a reduced fare. This new Community Bus Service is planned for Spring 2010. The bus service will connect neighborhoods in Park Victoria Blvd. and Milpitas Blvd. to the Midtown, High School, McCarthy Ranch and Great Mall shopping centers, as well as other attraction centers. Other connections from local hotels to the Great Mall are on the plan's wish list.

The plan also identifies a list of recommended projects and programs, preliminary analysis, potential partnerships and potential funding sources. Funding sources were identified as potential sources for some of the transportation proposals. The Plan's purpose is also to be "shelf-ready" for future funding opportunities.

Staff recommends that the City Council accept the report and direct staff to work with VTA, in order to file this report with MTC.

**Fiscal Impact:** None.

**Recommendation:** Accept and direct staff to file the Milpitas Community Based Transportation Plan.

## XIX. RESOLUTIONS

- \* 6. **Adopt a Resolution Granting Initial Acceptance for Tract 9699 of the KB Home Terra Serena Development, Project No. 3160 (Staff Contact: Fernando Bravo, 586-3327)**

**Background:** On February 7, 2006, the City entered into a Subdivision Improvement Agreement with KB Home South Bay Inc. for the construction of certain public improvements to serve its residential development on South Abel Street. Public improvements consisting of fire hydrants, sewer mains, water mains, and service laterals, have been completed by the developer. These improvements, therefore, are ready for initial acceptance, subject to the usual one-year warranty period in accordance with the Subdivision Improvement Agreement. No further reduction of the developer's faithful performance bond is necessary. The bond, which was reduced to \$55,780.00 (10% of the original amount) by the City Council on October 21, 2008, will continue in effect for the duration of the warranty period.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution granting initial acceptance of subdivision improvements for Tract 9699 of the KB Home Terra Serena development, Project No. 3160.

- \* 7. **Adopt a Resolution Authorizing the City Manager to Execute a Contract for Maintenance Scheduling and Tracking Software by Piggybacking onto the City of Santa Monica Contract with Maintenance Connection for the Not-to-Exceed amount of \$42,805.66 (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** Currently, the City uses a variety of stand alone manual systems for scheduling and tracking maintenance work orders and inventory for Streets, Facilities, Parks, Fleet and Utility Engineering. The process is cumbersome and difficult to administer. At the request of Public Works/Engineering, Information Services sought out, tested and evaluated various computerized maintenance management systems. Three systems were tested: Innovative Maintenance Systems, SMGlobal, Inc., and Maintenance Connection. Based on the evaluation, it was unanimously agreed that Maintenance Connection was the only product that met all of the required criteria.

By piggybacking onto the City of Santa Monica contract with Maintenance Connection, the City of Milpitas is able to obtain a 5% discount on the purchase and installation of the software. The Santa Monica contract is for one year, with five additional one-year options and is currently in its first option year.

The practice of, and requirements for, utilizing a contract bid by another agency are defined and sanctioned under Municipal Code Section I-2-3.07 "Piggyback Procurement." Staff's recommendation to piggyback onto the City of Santa Monica contract with Maintenance Connection is in full compliance with those requirements.

The total cost of the software package including licensing fees, configuration and training for Utilities/Utility Engineering and Facilities, and technical support services for the first year is \$42,805.66. The quote from Maintenance Connection is included in the agenda packet.

**Fiscal Impact:** None. Funding for this purchase is available from the following three Capital Improvement Projects: CIP No. 8135 Building Improvement, CIP No. 7103 Minor Water Projects, and CIP No. 6107 Minor Sewer Projects.

**Recommendation:** Adopt a resolution authorizing the City Manager to execute a separate contract with vendor Maintenance Connection for maintenance scheduling and tracking software.

## XX. BIDS AND CONTRACTS

- \* 8. **Approve the First Amendment to the Cooperative Agreement Between the City of Milpitas and the Santa Clara Valley Transportation Authority (VTA) for the Route 237/I-880 Interchange and McCarthy Blvd. Medians, Project No. 4170 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** This item was continued from the City Council meeting of August 18, 2009.

On October 18, 2005, the City Council approved a funding concept to leverage two partially funded highway and light rail landscape projects. Currently, there are two major transportation projects in need of landscaping work. The first is the landscape work under the light rail viaduct (LRT) in the median of Great Mall Parkway, from Abel Street to San Jose City limits (the cost is being shared between the City of Milpitas and VTA). The second is the Route 237/I-880 Interchange project. Both projects are important because one is in the MidTown Specific Plan area and the other is a major gateway into the City of Milpitas.

On January 16, 2007, the City Council approved the Cooperative Agreement for the Route 237/ I-880 Interchange Planting Project between Valley Transportation Authority and the City of Milpitas, defining the terms and funding obligations. A copy of this Agreement is on file in the City Engineer's office for review.

More recently, VTA is working on the 2006 voter approved Proposition 1B funded I-880 HOV Lane Widening Project (US 101 to State Route 237). The I-880 HOV Widening project will overlap and significantly impact the current 237/I-880 Interchange and McCarthy Boulevard Median Planting Project. Those impacts will be removed from the current Interchange Planting Project and added (or included) in VTA's I-880 HOV Lane Widening Project. City staff is working with VTA and Caltrans on the coordination of these projects.

Therefore, the Cooperative Agreement between the City and VTA for the Planting Project, executed on 3/30/07, shall be amended to reflect scope changes (landscape areas deleted and added) to the current 237/I-880 IC Planting Project and will require amending the January 16, 2007 Cooperative Agreement. VTA has to re-scope the current planting project because of the impacts of the future I-880 HOV Lane Widening Project. The "First Amendment to the Cooperative Agreement" is included in the agenda packet and outlines the modifications of the Agreement. The First Amendment includes revisions to Exhibits A and B. Exhibit A provides a status of the project and an updated project schedule. In the schedule, the project start of construction has changed from November 2007 to February 2010. Exhibit B has been modified and shows Modules 12 and 13 costs for the various project phases. As shown in Exhibit B, the total project cost has been reduced from \$3,750,000 to \$3,285,000. The cost reduction for this change is \$465,000 which can be used for other project related requirements including Caltrans right-of-way land transfer, City staff support, and other needs.

Any project cost savings as the result of the contract bid award and project closeout can be used towards the future Planting Project for the remaining 237/I-880 Interchange, and is being developed by VTA's I-880 HOV Widening Project.

The City's obligation to pay VTA the \$3,285,000 is contingent upon the City receiving the \$2,000,000 payment to maintain the landscape in the interchanges respectively.

**Fiscal Impact:** None.

**Recommendation:** Approve the First Amendment to the Cooperative Agreement between the City of Milpitas and the Santa Clara Valley Transportation Authority (VTA) for the Route 237/ I-880 Interchange and McCarthy Blvd. median at I-880, Project No. 4170.

- \* 9. **Approve the Contingency Agreement for Transient Occupancy Tax Recovery (Staff Contact: Michael Ogaz, 586-3041)**

**Background:** Staff analysis of Transient Occupancy Tax (TOT) paid by “online” travel providers indicates that amounts paid to the City by these companies on Milpitas hotel bookings is something less than the amount of TOT owed under the City’s Ordinance. This contingency contract is to provide legal services to pursue, through collection, the deficiency owed by online travel companies.

**Fiscal Impact:** May result in significant financial recovery for the City.

**Recommendation:** Approve the legal services agreement with McKool Smith, LLC, and authorize the City Attorney to execute the contract.

- \* 10. **Approve a Budget Appropriation and Award a Construction Contract to GSL Construction, Inc. for Calle Oriente Park, Project No. 5087 (Staff Contact: Steve Erickson, 586-3301)**

**Background:** On June 16, 2009, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals for Calle Oriente Park. The project provides a complete renovation of the park and includes the installation of new play structures, walks, basketball court, drinking fountain, lighting, picnic area, shade structure, and landscaping and irrigation improvements. The Engineer’s Estimate for the project is \$440,000.

The project was advertised and nine sealed bid proposals were received on August 14, 2009. Bid proposals ranged from \$387,123.29 to \$634,325.00, and the lowest responsible bid was submitted by GSL Construction, Inc. in the amount of \$387,123.29.

In addition to the very good bid results, the City was successful in obtaining Federal Stimulus funding in the amount of \$100,000 for this project, through the Community Development Block Grant (CDBG) program.

**Fiscal Impact:** None. A budget appropriation for the recently obtained Community Development Block Grant (CDBG) in the amount of \$100,000 is required in order to award this project. The remainder of the funds is available in the project budget. Grant funds will be reimbursed after completion of the project construction.

**Recommendations:**

1. Approve a budget appropriation for the Community Development Block Grant (CDBG) in the amount of \$100,000, into Calle Oriente Park Project No. 5087.
2. Award a construction contract to GSL Construction, Inc., in the amount of \$387,123.29, for the Calle Oriente Park Project No. 5087.

- \* 11. **Approve Amendments to Two Contracts for Fire Inspection and Plan Review Services for Total Amount-Not-to-Exceed \$118,000 (Staff Contact: Patricia Joki, 586-3370)**

**Background:** With adoption of the current budget, the Fire Department reduced funding for one Hazardous Materials Inspector position. The position had been assigned to conduct fire prevention inspections. In addition, one fire engineer on special assignment to the Fire Prevention Bureau retired, leaving the department without any fire prevention inspectors. To address this situation and to maintain a high level of service to the public, the Fire Department

has reprioritized and shifted some inspections to managers, some to line fire personnel, and has entered into limited contracts to complete plan review and inspections to fully meet the City's fire and life safety responsibilities. This work includes life-safety plan reviews for new development, tenant improvement projects and associated inspections, along with annual compliance inspections for fire code regulated activities conducted by businesses. Currently, two limited contracts are in place to complete these activities.

**Fiscal Impact:** None. This request is to increase contract amounts and to modify contract Scope of Services where necessary. Sufficient funding exists within the Fire Department budget.

**Recommendation:** Approve amendments to two contracts for fire inspection and plan review services for a total amount-not-to-exceed \$118,000.

\* 12. **Approve Amendment No. 1 to the Agreement with Parisi and Associates for the Suggested Routes to School Program, Project No. 4247 (Staff Contact: Fernando Bravo, 586-3328)**

**Background:** On May 19, 2009, the City Council approved the consultant agreement with Parisi and Associates to implement the Suggested Routes to School Program which included needs assessments for each school site, plans for each of the nine elementary and two middle schools, and updated walking and biking to school maps. The scope requires additional revisions to include an education element, in order to meet the needs of the City of Milpitas' federal Safe Routes to School grant. Parisi and Associates agreed to the additional services which would include promoting walking and biking and safety through education and workshops, bicycle rodeos, and events such as Walk and Bike to School Day.

Staff negotiated a scope and fee for additional services in the amount of \$61,000, which is considered reasonable for the work involved. The total contract, including this amendment, is a not-to-exceed amount of \$176,000 for completion of the project by June 30, 2011.

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

**Recommendation:** Approve Amendment No. 1 to the agreement with Parisi and Associates for the Suggested Routes to School Program, Project No. 4257.

\* 13. **Award the Bid and Authorize the City Manager to Execute a Contract with Chrisp Company for On-Call Roadway Marking Support for the Annual Not-to-Exceed Amount of \$19,500 (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** Annually, the City performs a variety of surface changes to roads and intersections throughout the City. Some of the work involves removal of painted roadway markings and reinstallation or installation of fresh markings on new road surfaces. On July 7, 2009, the City of Milpitas went out to bid for these services on an as needed or on-call basis. The bid was based on the lowest average cost of seven standard traffic markings, such as white and yellow striping, turn arrows and numerals, to determine the lowest overall cost. The contract is for one year with a one year option to renew for the annual not-to-exceed amount of \$19,500.00. The bid was advertised in the local newspaper, on the City Website, and on Public Purchase.

Two bidders responded with a composite rate based on the average cost of seven standard traffic markings. Bid responses were from Chrisp Company for \$295.00 and Riley's Stripping, Inc. for \$299.00.

**Fiscal Impact:** None. Funds for this service are available from Capital Improvement Project No. 4245 "Minor Traffic Improvements 2009."

**Recommendation:** Award the bid and authorize the City Manager to execute a contract with Chrisp Company for on-call roadway marking support for the annual not-to-exceed amount of \$19,500.

**XXI. ADJOURNMENT**

**NEXT REGULAR MEETING: TUESDAY, SEPTEMBER 15, 2009**