



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

**TUESDAY, SEPTEMBER 15, 2009**

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

**SUMMARY OF CONTENTS**

- I. CALL TO ORDER OF THE CITY COUNCIL by the Mayor**
- II. ROLL CALL by the City Clerk**
- III. PLEDGE OF ALLEGIANCE**
- IV. INVOCATION (Councilmember Polanski)**
- V. APPROVAL OF COUNCIL MEETING MINUTES – September 1, 2009**
- VI. SCHEDULE OF MEETINGS – Council Calendars for September and October 2009**
- VII. PRESENTATION**  
  
Recognition of Milpitas Public Library “Read to Succeed” Tutoring Program Volunteers

**VIII. 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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- IX. ANNOUNCEMENTS**
- X. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XI. APPROVAL OF AGENDA**
- XII. 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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**XIII. SPECIAL COMMISSION ACTION**

**Sister Cities Commission**

- 1. Approve Memorandum of Understanding Continuing the Sister City Relationship with City of Dagupan, the Philippines (Staff Contact: Holly Cuciz, 586-2602)**

**XIV. PUBLIC HEARINGS**

2. **Adopt the Community Development Block Grant Consolidated Annual Performance Evaluation Report for FY 2008-09 (Staff Contacts: Felix Reliford, 586-3071 and Gloria Anaya, 586-3075)**
3. **Consider Request for an Entertainment Event Permit for St. James Orthodox Church to Hold a Food Festival on Church Grounds, October 23-25, 2009 (Staff Contact: Mary Lavelle, 586-3001)**

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

- RA1. Call to Order/Roll Call by the Mayor/Chair**
- RA2. Approval of Minutes – September 1, 2009**
- RA3. Approval of Agenda and Consent Calendar (Items with asterisk\*)**
- \*RA4. Approve a New Capital Improvement Program Project, a Budget Appropriation, the Plans and Specifications, and Authorize the Advertisement for Bid Proposals - Pending State Department of Transportation Project Approval - for the Abbott Avenue Street Resurfacing, Project No. 4251 (Staff Contact: Steve Erickson, 586-3301)**
- \*RA5. Adopt a Resolution Granting Final Acceptance of the North Main Street Streetscape Phase I, Project No. 8165 (Staff Contact: Steve Erickson, 586- 3301)**
- \*RA6. Award a Construction Contract to Joseph J. Albanese, Inc. for South Main Street Streetscape Phase I, Project No. 4243 (Staff Contact: Steve Erickson, 586-3301)**
- \*RA7. Approve Specifications and Authorize the Advertisement for Bid Proposals for the Storm Pump Station Improvements, Project No. 8188 (Staff Contact: Steve Erickson, 586-3301)**
- \*RA8. Authorize the City Manager/Agency Executive Director to Execute Agreement Amendment No. 4 with Sugimura Finney Architects for Light Rail Median Landscaping, Project No. 2001 (Staff Contact: Kathleen Phalen, 586-3345)**
- \*RA9. Award Construction Contract to Top Grade Construction, Inc., and Approve a Budget Appropriation for Street Resurfacing FY 2009-10, Project No. 4250 (Staff Contact: Steve Erickson, 586-3301)**
- \*RA10. Approve Payment of Building Permit Fees for Terrace Gardens' Kitchen Improvements from the Housing Fund (Staff Contact: Felix Reliford, 586-3071)**
- \*RA11. Approve Contract with Hexagon Transportation Consultants for Transportation Services on Citywide Traffic Deficiency Plan, Project No. 8192 (Staff Contact: Fernando Bravo, 586-3328)**
- RA12. Agency Adjournment**

**XVI. REPORTS OF THE MAYOR AND COMMISSIONS**

**Mayor**

4. **Consider Mayor's Recommendations for Appointments to Milpitas Commissions (Contact: Mayor Livengood, 586-3051)**

**Arts Commission**

- \* 5. Approve Milpitas Art and Culture Grants for FY 2009-10 (Staff Contact: Renee Lorentzen, 586-2786)

Public Art Committee

- \* 6. Approve in Concept the Transit Shelter Public Art Project on Main Street (Staff Contact: Renee Lorentzen, 586-2786)

**XVII. NEW BUSINESS**

- 7. Consider Use of Lien Process for Debt Recovery (Staff Contact: Michael Ogaz, 586-3040)
- 8. Receive the Monthly Economic Development Report (Staff Contact: Diana Barnhart, 586-3059)
- \* 9. Accept the Actuarial Valuation Report of the City's Post-retirement Medical and Dental Benefits Plans (Staff Contact: Emma Karlen, 586-3145)
- \* 10. Vote to Remove One Member of the Bicycle Pedestrian Advisory Commission Due to Lack of Attendance (Staff Contact: Mary Lavelle, 586-3001)

**XVIII. RESOLUTIONS**

- \* 11. Adopt a Resolution Approving a Balcony Enclosure at 461 Vista Ridge Drive (Staff Contact: Tiffany Brown, 586-3283)
- \* 12. Adopt a Resolution Amending the By-Laws of the Sister Cities Commission to Include a Milpitas Unified School District Student as a Non-Voting Commission Member (Staff Contact: Holly Cuciz, 586-2602)

**XIX. BIDS AND CONTRACTS**

- \* 13. Award the Bid for Four 2010 Ford Crown Victoria Police Interceptors to Salinas Valley Ford for Not-to-Exceed Amount of \$131,384.08 (Staff Contact: Chris Schroeder, 586-3161)
- \* 14. Authorize the City Manager to Award Bids to Fisher Scientific, Allstar Fire Equipment and Emergency Equipment for Fire Department Personal Protective Equipment for the Combined Total Not-to-Exceed \$120,000 (Staff Contact: Chris Schroeder, 586-3161)
- \* 15. Authorize the City Manager to Execute Amendment No. 5 to the Agreement with Dodson Psomas for the Gibraltar Reservoir and Pump Station, Project No. 7101 (Staff Contact: Kathleen Phalen, 586-3345)
- \* 16. Approve Contract Amendment No. 1 for Utility Engineering Services (Staff Contact: Kathleen Phalen, 586-3345)

**XX. ADJOURNMENT**

**NEXT REGULAR MEETING: TUESDAY, OCTOBER 6, 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 15, 2009

### XIII. SPECIAL COMMISSION ACTION

#### Sister Cities Commission

1. **Approve Memorandum of Understanding Continuing the Sister City Relationship with City of Dagupan, the Philippines (Staff Contact: Holly Cuciz, 586-2602)**

**Background:** The initial Memorandum of Understanding (MOU) establishing a Sister City relationship between the City of Milpitas and Dagupan City was executed in April 2003. Since that time, the City Council has twice approved two-year extensions with the existing MOU expiring in June 2009. The Sister Cities Commission is recommending that the existing MOU be extended for five years to September 15, 2014.

A government delegation is currently visiting Milpitas with the intention of exchanging municipal information and signing an updated MOU. A visit from Dagupan also took place in November 2008 when members of the Lady Local Legislators' League of the Philippines visited Milpitas. Also, a student delegation visited Milpitas in 2006, as well as the Mayor of Dagupan.

**Fiscal Impact:** None.

#### Recommendations:

1. Approve the Memorandum of Understanding continuing the Sister City Relationship between the City of Milpitas and Dagupan City, the Philippines.
2. Participate in signing ceremony at the City Council meeting.

### XIV. PUBLIC HEARINGS

2. **Adopt the Community Development Block Grant Consolidated Annual Performance Evaluation Report for FY 2008-09 (Staff Contacts: Felix Reliford, 586-3071, and Gloria Anaya, 586-3075)**

**Background:** The Consolidated Annual Performance Evaluation Report (CAPER) describes the City's one-year Community Development Block Grant (CDBG) programs and activities undertaken during the past CDBG program year 2008-09. The CAPER also evaluates the City's overall progress in carrying out those priority projects that were identified in the approved Five-Year Consolidated Plan and One-Year Action Plan.

The CAPER (copy included in the Council's agenda packet) identifies the following major accomplishments:

- Implementation of the Five-Year Consolidated Plan (2007-2012),
- Adoption of the Draft Housing Element (2009-2014),
- Implementation of the Transit Area Specific Plan, including approval of 900 new units this past year,
- Financial assistance for Terrace Garden Senior Housing project, Calle Oriente Park ADA accessibility improvements, Rebuilding Together to perform safety repairs/ accessibility/ mobility home improvements for seniors and the Milpitas Housing Rehabilitation Program,
- Funding to assist 18 different public service agencies and housing providers, and
- Provided \$579,009 in CDBG funds to assist more than 5,125 Milpitas residents.

The CAPER was advertised for public review and comments for 15 days (August 27 - September 10). Copies of the report were sent to all service and housing providers that received CDBG funds from the City, and sent to other interested parties. Copies were also made available at City Hall and at the Milpitas Library. No comments had been received at the time of this report.

**Fiscal Impact:** None.

**Attachment:** FY 2008-09 CAPER

**Recommendations:**

1. Open the public hearing to take testimony, then move to close the public hearing.
  2. Adopt the Consolidated Annual Performance Evaluation Report (CAPER) for FY 2008-09.
- 3. Consider Request for Entertainment Event Permit for St. James Orthodox Church to Hold a Food Festival on Church Grounds, October 23-25, 2009 (Staff Contact: Mary Lavelle, 586-3001)**

**Background:** St. James Orthodox Church located at 195 N. Main St. (across the street from Milpitas Library) submitted an application for an Entertainment Event Permit to hold a Church Food Festival and celebration on its church property over the weekend of October 23-25, 2009. Proposed hours of operation for the festival, including musical presentations, are scheduled for 5:00–10:00 PM on Friday, 12:00–10:00 PM on Saturday, and 12:00-8:00 PM on Sunday.

The application was reviewed by all necessary City departments. The public hearing was advertised in the local newspaper on September 3. Appropriate conditions were stated by the several city departments, as noted in the agenda packet attachments. The City Clerk has received the certificate of insurance, naming the City as an additional insured.

**Fiscal Impact:** \$15 application fee was received. Appropriate Building and Fire Dept. inspection fees will be paid.

**Attachments:**

1. Entertainment Event Permit application
2. Department approvals and memos

**Recommendations:** 1) After hearing any public comments, move to close the public hearing.  
2) Move to approve the Entertainment Event Permit for St. James Orthodox Church to hold a Food Festival for the dates of October 23-25 2009.

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

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

**RA2. Approval of Minutes – September 1, 2009**

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

**\*RA4. Approve a New Capital Improvement Program Project, a Budget Appropriation, the Plans and Specifications, and Authorize the Advertisement for Bid Proposals - Pending State Department of Transportation Project Approval - for the Abbott Avenue Street Resurfacing, Project No. 4251 (Staff Contact: Steve Erickson, 586-3301)**

**Background:** The Park Victoria Drive project was funded through the Federal American Recovery and Reinvestment Act 2009 Program (ARRA 2009). Bids came in well below the Engineer's Estimate and staff anticipates a savings of approximately \$364,000. The City was notified that it can submit another candidate project and utilize these savings, otherwise the

unused funds would return to the federal stimulus program. Staff recommends approval of a new CIP project, for the street resurfacing of Abbott Avenue from Valley Way north to San Andreas Street, replacing pavement surfaces that have exceeded their life expectancy.

Abbott Avenue is the next street resurfacing priority, and with City matching funds, would allow the City to take advantage of the remaining ARRA funds allocated to the City. The federal stimulus funding requires “shovel ready projects” and the project plans are finalized. Staff is also seeking Council approval of the plans and specifications for resurfacing of Abbott Avenue at this time, and the advertisement for bid proposals would occur immediately after Caltrans project approval. A copy of the project plan title sheet is included in the Council's agenda packet and a complete set of plans and specifications are available for review in City Engineer's office.

**Fiscal Impact:** A budget appropriation is required to fund this new project. The Engineer's Estimate for the work is \$664,000. Funding will be provided by defunding the project savings of \$364,000 of federal American Recovery and Reinvestment Act Program (ARRA 2009) from the 2009 Street Resurfacing Project No. 8194, and appropriating those funds to the new CIP Project – Abbott Avenue Street Resurfacing, Project No. 4251. The remaining City matching funds of \$300,000 are available from the Street Fund.

**Recommendations:**

1. Approve a new Capital Improvement Project - Abbott Avenue Street Resurfacing, Project No. 4251.
2. Approve a budget appropriation of \$300,000 from the Street Fund into the new project for the resurfacing of Abbott Avenue.
3. Defund \$364,000 in federal American Recovery and Reinvestment Act Program (ARRA 2009) funds from Project No. 8194, and approve a budget appropriation of \$364,000 into this new project for the resurfacing of Abbott Avenue.
4. Approve project plans and specifications and authorize the advertisement for bid proposals, pending Caltrans project approval, for Abbott Avenue Street Resurfacing.

**\*RA5. Adopt a Resolution Granting Final Acceptance of the North Main Street Streetscape Phase I, Project No. 8165 (Staff Contact: Steve Erickson, 586- 3301)**

**Background:** This project, which was initially accepted, has now passed the one-year warranty period. A satisfactory final inspection has been made of the public improvements that included a new pedestrian-friendly streetscape along North Main Street to support the DeVries Senior Housing, new library, and other Midtown improvements. Therefore, the City Council/Agency may grant final acceptance and the contractor's bond may be released.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution granting final acceptance of the North Main Street Streetscape Phase I, Project No. 8165, and release of the contractor's bond.

**\*RA6. Award Construction Contract to Joseph J. Albanese, Inc. for South Main Street Streetscape Phase I, Project No. No. 4243 (Staff Contact: Steve Erickson, 586-3301)**

**Background:** On May 19, 2009, the City Council approved the project plans and specifications and authorized the advertisement of the project for construction bids. The project provides for new curb, gutter, sidewalk, shade trees, irrigation system, and street lighting along the west side of South Main Street between Great Mall Parkway and Cedar Way. There were two bid alternates in the project. Bid alternate #1 included a 600-foot long street median along South Main Street just south of Great Mall Parkway. Bid alternate #2 extended the base bid sidewalk improvements along the west side of South Main Street an additional 300 feet to Cedar Way.

The Engineer's Estimate for the base bid is \$996,275.60. The project was advertised and sealed bid proposals were opened on August 7, 2009. Nine bid proposals were received and the base

bids ranged from \$595,679.50 to \$717,326.50. Joseph J. Albanese, Inc. submitted the lowest responsible base bid in the amount of \$595,679.50 and bid alternates 1 and 2 in the amounts \$292,714 and \$104,363 respectively. Staff is recommending award of this contract to the lowest responsible bidder, Joseph J. Albanese, Inc., including bid alternate 1.

In addition to favorable bids, the City received a Community Design for Transportation (CDT) grant for this project, with a 20% local match requirement for construction costs. However, staff learned that this grant opportunity may provide up to 100% of construction costs with a maximum of \$850,000 for this year only. City staff is working with Caltrans local assistance staff to revise the funding agreement to achieve a higher grant funding amount for this project.

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

**Recommendation:** award construction contract to Joseph J. Albanese, Inc., for the South Main Street Streetscape Phase I, Project No. 4243, for the base bid and bid alternate 1, in the amount of \$888,393.50, subject to approval as to form by the City Attorney.

**\*RA7. Approve Specifications and Authorize the Advertisement for Bid Proposals for the Storm Pump Station Improvements, Project No. 8188 (Staff Contact: Steve Erickson, 586-3301)**

**Background:** Specifications for Project No. 8188 were completed in accordance with the approved five-year Capital Improvement Program. The project provides for the cleaning and removal of soil and debris from the below-grade storm pump station wet wells. Pump station wet wells to be cleaned in this project include Jurgens, McCarthy Ranch, Bellew, Murphy Ranch, and Oak Creek pump stations. The Engineer's Estimate for the work is approximately \$35,000. A copy of the project location map is included in the Council's agenda packet and complete project specifications are available for review in the office of the City Engineer.

**Fiscal Impact:** None. There are sufficient funds for the anticipated construction costs and related support costs.

**Recommendation:** Approve specifications and authorize the advertisement for bid proposals for the Storm Pump Station Improvements, Project No. 8188.

**\*RA8. Authorize the City Manager/Agency Executive Director to Execute Agreement Amendment No. 4 with Sugimura Finney Architects for Light Rail Median Landscaping, Project No. 2001 (Staff Contact: Kathleen Phalen, 586-3345)**

**Background:** On February 19, 2002, the City Council awarded a consultant agreement to Sugimura & Associates, now known as Sugimura Finney Architects (Sugimura), in the amount of \$71,900 for design services for the Tasman Extension – Great Mall Parkway to I-880 project, also now called the Light Rail Median Landscaping Project (CIP 2001). This project consists of two phases. Phase I will construct a 4,800 linear foot recycled water main loop to serve both the new median landscaping and future Transit Area Specific Plan developments. Phase II will install median landscaping and irrigation along Great Mall Parkway from I-880 to the southern City limits. The agreement was previously amended to add design of additional areas of median landscaping south of Montague Expressway, add design of a recycled water main, conduct field surveys, prepare encroachment permit applications for Union Pacific Rail Road and Caltrans' properties, draft the construction traffic control plan, and provide bid support for Phase I.

Staff recommends amending the contract a fourth time for additional services from Sugimura. These support services for Phase I include construction support, review of submittals and field design change requests from the contractor, and tracking of "as-built" information. Additional design services for Phase II include grading and drainage design to accommodate additional tree pit modifications, addition of water level monitoring wells, and support during the bid process. The anticipated poor drainage of the highly compacted clay soils beneath the elevated light rail structure necessitates design of complex drainage structures to protect the health of the

landscaping. Staff negotiated a scope of work and fee not-to-exceed \$47,422, which is considered reasonable for this additional effort. The total contract amount including this amendment is \$600,560.

**Fiscal Impact:** None. Sufficient funds are available in the CIP No. 2001 project account.

**Recommendation:** Authorize the City Manager/Agency Executive Director to execute Amendment No. 4 to the agreement with Sugimura Finney Architects for the Light Rail Median Landscaping, Project No. 2001, in the amount not-to-exceed \$47,422.

**\*RA9. Award Construction Contract to Top Grade Construction, Inc., and Approve Budget Appropriation for Street Resurfacing FY 2009-10, Project No. 4250 (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. This year's program includes the street resurfacing of North Milpitas Boulevard between Tramway Drive and Beresford Court. The project includes the repair of base failures on the street, the installation of a two-inch thick rubberized asphalt overlay and roadway marking improvements. The Engineer's Estimate was \$850,000.

The project was advertised and sealed bid proposals were opened on August 28, 2009. Seven bid proposals were received, ranging from \$582,365 to \$706,432, and the lowest responsible bidder is Top Grade Construction, Inc.

**Fiscal Impact:** A budget appropriation in the amount of \$300,000 from Redevelopment Agency Tax Increment Fund to Project No. 4250 is required to award this project. A budget change form is included in the agenda packet.

**Recommendations:**

1. Approve a budget appropriation for \$300,000 from Redevelopment Agency Tax Increment into Project No. 4250.
2. Award a construction contract to Top Grade Construction, Inc. for the Street Resurfacing FY 2009-10 Project No. 4250, in the amount of \$582,345, subject to approval as to form by the City Attorney.

**\*RA10. Approve Payment of Building Permit Fees for Terrace Gardens' Kitchen Improvements from the Housing Fund (Staff Contact: Felix Reliford, 586-3071)**

**Background:** The approved Community Development Block Grant allocations for Fiscal Year 2009-10 included \$93,333 for Terrace Gardens to replace 24 kitchen cabinets, counter tops and fixtures in individual units. Terrace Gardens is now requesting that the City Council waive \$2,796 (\$116.50 per unit) in fees for building permits for these kitchen improvements. The improvements directly benefit the low income seniors occupying these units and the permit fees could be paid from the Redevelopment Agency's Housing Fund given the direct benefit to these low income households. Therefore, staff is supporting Terrace Gardens' request and recommending the building permit fees be paid from the Housing Fund.

**Fiscal Impact:** None. There are sufficient funds in the Housing Fund budget to pay these fees on behalf of Terrace Gardens.

**Recommendation:** Approve the payment of building permit fees for Terrace Gardens' kitchen improvements from the Housing Fund.

**\*RA11. Approve Contract with Hexagon Transportation Consultants for Transportation Services on Citywide Traffic Deficiency Plan, Project No. 8192 (Staff Contact: Fernando Bravo, 586-3328)**

**Background:** The Congestion Management Program (CMP) legislation requires Member Agencies, such as the City of Milpitas to prepare deficiency plans for CMP intersections located within their jurisdictions that exceed, or are expected to exceed in the future, the CMP traffic level-of-service (LOS) standard. Santa Clara County's CMP LOS standard is LOS E.

The intersection of South Abel Street and West Calaveras Boulevard is forecasted to possibly exceed LOS E. Hexagon Transportation Consultants was awarded a contract in August 2008 to assist staff in the collection of traffic and trip generation information pursuant to the CMP law. Additional information collection and analysis is required to comply with Congestion Management Plan requirements. Staff has negotiated a scope and fee with Hexagon for the technical studies update, for an amount not to exceed \$22,800, which is considered reasonable for the work involved.

**Fiscal Impact:** None. Sufficient funds are available in the project budget, Project No. 8192.

**Recommendation:** Approve a contract with Hexagon Transportation Consultants for transportation services needed to prepare the Citywide Traffic Deficiency Plan Project No. 8192.

#### **RA12. Agency Adjournment**

### **XVI. REPORTS OF THE MAYOR AND COMMISSIONS**

#### **Mayor**

#### **4. Consider Mayor's Recommendations for Appointments to Milpitas Commissions (Contact: Mayor Livengood, 586-3051)**

**Background:** Mayor Livengood will make recommendations for appointments to the Bicycle Pedestrian Advisory Commission, the Economic Development Commission, and the Youth Advisory Commission.

**Recommendation:** Move to approve appointments to Milpitas Commissions.

#### **Arts Commission**

#### **\* 5. Approve Milpitas Art and Culture Grants for FY 2009-10 (Staff Contact: Renee Lorentzen, 586-2786)**

**Background:** The Milpitas Arts and Culture Grant Program is a competitive grant program offering monetary and in-kind support to individuals and organizations hosting cultural or artistic events in the City of Milpitas. The total grant budget for this program is \$7,500.

Ten applicants submitted Milpitas Arts and Culture Grant Program (MACG) applications for the FY 2009-10 funding cycle. This fiscal year, returning grant applicants were required to submit an entirely new event proposal or take a year off from the grant program after two consecutive funding cycles. One applicant, Filipino-American Association of Milpitas, Inc., did not meet this requirement and was determined to be ineligible for funding.

The Arts Commission recommends that the Council fund four proposals totaling \$7,500.

The following groups are recommended for funding:

1. Milpitas Alliance for the Arts - \$3,000
2. Calaveras Repertory Theatre - \$2,000
3. Van Pham Mai (San Khau Viet CALI) - \$1,500
4. Fancy Dancers, Inc. - \$1,000

The following groups are recommended for funding denial:

1. Abhinaya Dance Company

2. Bay Area Showcase Chorus
3. Golden Gate Boys Choir and Bellringers
4. INDUZ
5. Radhika Sharma

The Fil-Am Association of Milpitas, Inc. was determined as ineligible for funding.

**Fiscal Impact:** None. The FY 2009-10 budget includes funding necessary for this program.

**Recommendation:** Approve four Milpitas Arts and Culture Grants, in the total amount of \$7,500.

#### **Public Art Committee**

- \* **6. Approve in Concept the Transit Shelter Public Art Project on Main Street (Staff Contact: Renee Lorentzen, 586-2786)**

**Background:** On February 17, 2009, the City Council approved the Public Art Committee Master Plan which listed several projects and project categories that the Public Art Committee was interested in pursuing in Fiscal Year 2009-10.

One of the Master Plan categories is “Street Art” which would include art visible from Milpitas’ major roads and streets. The Committee identified a possible Street Art project, which would artistically enhance an existing transit shelter on Main Street. This shelter is the first of six City-owned transit shelters on Main St. located at the southern end of Main St. and Montague Expressway. The shelter is adjacent to the Great Mall of Milpitas and directly in front of the new condominium development known as “Centria.”

The Public Art Committee has researched similarly commissioned projects in other cities and found them to be a great success and a wonderful addition to a City’s Public Art portfolio.

Enhancements to the transit shelter may include glass etching features, murals, benches, etc. The project is estimated to cost no more than \$7,000 and is hoped to be one in a series of transit shelters planned along Main Street.

Per the Public Art Ordinance Section V-20-310: Definition of Public Art

(4) Public artwork may include murals, photography and original works of graphic art, water features, neon, glass, mosaics, or any combination of forms of media, furnishings or fixtures permanently affixed to a building or its grounds, or a combination thereof, and may include architectural features of buildings.

**Fiscal Impact:** A budget appropriation in the amount of \$7,000 from the Public Art Fund is needed and sufficient funds are available in the Public Art Fund.

**Recommendation:** Approve in concept the Main Street Transit Shelter Public Art project.

## **XVII. NEW BUSINESS**

- 7. Consider Use of Lien Process for Debt Recovery (Staff Contact: Michael Ogaz, 586-3040)**

**Background:** During the discussion regarding accounts receivable write-offs at the Council meeting on September 1, several Councilmembers asked about availability of the lien process for purposes of collecting on delinquent accounts. Included with this item is a memorandum outlining various options available to the Council to lien the properties or take other collection action. At the Council meeting, a verbal presentation will be made explaining the options and Council direction will be sought regarding implementation of new code or policy changes.

**Fiscal Impact:** Depending on Council action, may result in enhanced collections.

**Recommendation:** Consider various options for imposition of liens or other actions to enhance collection of debts owed to the City and give staff direction accordingly.

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

**Background:**

**Roadmap to Service Improvements:** At the direction of the City Council, the Roadmap to Service Improvements was initiated to better facilitate business development and permit review processes for business development. The Building and Safety Department has taken the lead in instituting changes and, with the help of the Information Services Department, has developed Online Permitting and Applications. In the next month, signage will appear so show that the 1<sup>st</sup> Floor Permit Center is actually a One Stop Shop for business development.

Changes continue in the Planning Department to ease application processes. Significant changes to the Zoning Code provide for clearer interpretations and less conflicting information for applicants. Other streamlining efforts include the ability to review and approve some site development applications at the staff level that were previously approved by the Planning Commission. Both of these changes save time and money for applicants. Staff and the Planning Commission, in a second streamlining effort, are evaluating additional permits that can be approved at a staff level. This has recently been discussed with the Planning Commission and action on more streamlining is expected in October.

**Business License Application:** Changes to simplify the City's Business License application and to make it user friendly are underway. Finance, Planning and Fire Department staff worked with Economic Development Commissioner Michelle Yu in developing the changes. In addition, changes are being evaluated to reduce the cost to new tenants in Executive Office building for Building and Fire Inspections.

**Lease Rates:** The August 28 *Business Journal* reported that lease rates in Milpitas for Office and R&D are the lowest in Silicon Valley at \$1.83/sq.ft and \$0.82/sq.ft. The City Warehouse lease rates are among the highest at \$0.48/sq.ft, just above San Jose and Fremont. Milpitas Industrial lease rates are nearly the lowest at \$0.65/sq.ft. As the market slowly improves, local lease rates will serve as an incentive to business expansion and relocation.

**SVUnwired Outreach:** September is an active month for the promotion of the FREE Milpitas WiFi (wireless) service. In addition to presentations to most City Commissions, two community meetings will be held on September 16 and 29 to increase the knowledge and use of the system.

**Kovio Application:** Kovio has developed the job description for new manufacturing jobs and staff is working with them to secure state training funds for these positions. NOVA will be in charge of the hiring process which will be geared to Milpitas residents.

**Redevelopment Planning:** The process to add area to Project Area No. 1 is well underway with the Planning Commission considering the Preliminary Plan at the September 9 meeting. Letters have been sent to the five education districts for their comments on potential impacts, although it is no different than what was identified in the Transit Area Specific Plan. The Initial Study is complete and is out for public comment and an Environmental Impact Report will need to be completed. The next time the City Council/Redevelopment Agency will see the proposed plan amendment will be in December 2009.

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

**Recommendation:** Receive the monthly economic development report from the Economic Development Manager.

\* **9. Accept the Actuarial Valuation Report of the City's Post-retirement Medical and Dental Benefits Plans (Staff Contact: Emma Karlen, 586-3145)**

**Background:** In FY 2007-08, the City implemented Governmental Accounting Standards Board Statement No. 45 (GASB 45) which requires governmental agencies to accrue retiree medical benefit expenses and display any shortfall of funding on its financial statements. In the same fiscal year, the City Council approved participating in a Trust Plan called California Employers' Retiree Benefit Trust ("CERBT"), sponsored by the California Public Employees Retirement System ("CalPERS"), to begin funding the retiree medical benefits in order to reduce the unfunded liability.

GASB 45 requires that an actuarial study be updated every two years to reflect changes in investment and demographic conditions. The City entered into a contract with Nicolay Consulting Group to perform the actuarial study. A copy of the actuarial report for the valuation date as of July 1, 2009 is included in the City Council's agenda packet.

In calculating the actuarial accrued liability, the actuary used the same demographic assumptions as those used in the most recent CalPERS pension valuations. At the time of this study, the City had 178 retirees and 399 active employees. As of July 1, 2009, the actuarial accrued liability was \$41,161,985. The City had assets valued at \$9,931,187 invested in the CERBT, consequently the unfunded liability was \$31,230,798. The actuarial accrued liability represents liability for retiree medical benefits attributed to past services rendered by employees and retirees. When GASB 45 was first implemented in FY 2007-08, the City decided to amortize the unfunded liability over 30 years, which is the longest possible period to amortize this liability.

In order to fully amortize the unfunded liability, the report indicates that the City must fund approximately 4.7% of the payroll annually. In addition, the City also pre-funds the retiree medical benefit costs attributed to current services rendered by employees each year, which is another 3.2% to 3.5% of the payroll annually. For FY 2009-10, the combined required contribution is \$3,356,836 or 7.9% of payroll.

**Fiscal Impact:** None. The contribution amount was included in the FY 2009-10 Operating Budget.

**Recommendation:** Accept the Actuarial Valuation Report of the City's post-retirement medical and dental benefits plans.

\* **10. Vote to Remove One Member of the Bicycle Pedestrian Advisory Commission Due to Lack of Attendance (Staff Contact: Mary Lavelle, 586-3001)**

**Background:** Commissioner Wei P. Sun has only attended one of six Bicycle Pedestrian Advisory Commission meetings in the past Fiscal Year and did not attend the last meeting held on August 10, 2009. Three absences were unexcused. Upon being notified of his continued lack of attendance, the City Clerk sent him a letter of inquiry on July 10, to which he did not respond. The City Council appointed him as a voting member in October of 2008, and he was initially appointed as an alternate member in June of 2007.

BPAC By-laws Section 3 state:

Term of Office and Removal

The term of office for Commission members is three years, or until reappointed or a successor is appointed. The term of office for alternates is two years, or until reappointed or a successor is appointed. Members and alternates are expected to attend all meetings. When any member or alternate has three or more unexcused absences in a 12-month period, the Commission shall forward this information to the City Council for review and possible removal of the member or alternate from the Commission. Any member or alternate of BPAC may be removed from office by a majority vote of the City Council at a regularly scheduled Council meeting.

**Fiscal Impact:** None.

**Recommendation:** Due to his unexcused absences and per the by-laws, vote to remove Mr. Wei P. Sun as a voting member of the Bicycle Pedestrian Advisory Commission, thus creating a vacancy with an expiration date of August 2011.

**XVIII. RESOLUTIONS**

- \* 11. **Adopt a Resolution Approving a Balcony Enclosure at 461 Vista Ridge Drive (Staff Contact: Tiffany Brown, 586-3283)**

**Background:** Property owner Javier Mercado is requesting approval to enclose a 108 square foot balcony on the second story of his home located 461 Vista Ridge Drive (Site Development Permit Amendment No. SA09-0010). Pursuant to Section 45.09-2 of Hillside Combining District, any Site Development Permit or amendment requires the review of the Planning Commission and the approval of City Council. The proposed building materials and colors will match the existing building and is in compliance with the Hillside Combining District standards. At its August 26, 2009 meeting, the Planning Commission recommended approval of the project.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution approving a balcony enclosure at 461 Vista Ridge Drive.

- \* 12. **Adopt a Resolution Changing the By-Laws of the Sister City Commission to Include a Milpitas Unified School District Student as a Non-Voting Commission Member (Staff Contact: Holly Cuciz, 586-2602)**

**Background:** The by-laws of the Sister Cities Commission currently only allow adults who reside in Milpitas or within the boundaries of the Milpitas School District to serve as Commissioner. In order to generate greater student interest and participation in Sister Cities activities, the Sister Cities Commission is recommending the membership requirements in the by-laws be amended to add a non-voting student member on the Commission. A Youth Advisory Commissioner attended the Sister Cities Commission meeting on August 27, 2009 and expressed interest in participating on the Commission.

This change can be implemented by adopting a resolution directing the by-laws be changed to reflect the intended makeup of the Commission. The change would be effective immediately and applicable to any future Commission appointment.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution amending the Sister City Commission By-laws to include a student from the Milpitas Unified School District as a non-voting Commission member.

**XIX. BIDS AND CONTRACTS**

- \* 13. **Award the Bid for four 2010 Ford Crown Victoria Police Interceptors to Salinas Valley Ford for an Amount Not-to-Exceed \$131,384.08 (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** The current fiscal year's budget includes funds to purchase four 2010 Ford Crown Victoria Police Interceptors. Purchasing worked with Fleet Maintenance and Police to develop the specification. On August 11, 2009, the City advertised the bid on the City website, on Public Purchase, and in the local newspaper. Seven bids were received and are summarized below:

<u>Bidder</u>	<u>Total Bid</u>
Salinas Valley Ford	<u>\$131,384.08</u>
San Francisco Ford	\$131,454.00

Razzari Ford	\$131,672.50
Hansel Ford	\$131,694.35
Holder Ford	\$137,226.00
San Leandro Ford	\$138,089.11
Theodore Robbins Ford	\$146,697.18

Pricing includes sales tax, tire tax, and 100,000 mile warranty.

**Fiscal Impact:** None. Sufficient funds are available in the Equipment Replacement Fund for the purchase of these vehicles.

**Recommendation:** Award the bid for four 2010 Ford Crown Victoria Police Interceptor cars to Salinas Valley Ford for the not-to-exceed amount of \$131,384.08.

**\* 14. Authorize the City Manager to Award Bids to Fisher Scientific, Allstar Fire Equipment and Emergency Equipment for Fire Department Personal Protective Equipment for a Combined Total Not-to-Exceed \$120,000 (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** On July 16, 2009, the City of Milpitas went out to bid for Fire Department personal protective equipment (PPE) such as jackets, pants, helmets, boots and gloves. Bids were advertised on the City website, on Public Purchase, in the local newspaper and on Blue Book. In order to get the best value for each category of PPE, staff worked with the Fire Department to design a “line item” bid so that the award could be made to one or more vendors depending on the scoring for each item. A committee of six firefighters rated the various pieces of PPE against 28 different criteria including cost, fit, and finish. Winners for each category are as follows: Fisher Scientific for jackets, pants, boots and leather helmets, Allstar Fire Equipment for composite helmets, and Emergency Equipment for gloves.

**Fiscal Impact:** None. Funding for the purchase comes from two sources. The Fire Department received an Assistance to Firefighters matching grant from the Department of Homeland Security that will provide 80% match for the first \$100,000 of the purchase, while the remaining \$40,000 will be funded from the Fire Department’s FY 2009-10 operating budget.

**Recommendation:** Authorize the City Manager to award the bids to Fisher Scientific, Allstar Fire Equipment and Emergency Equipment for Fire Department personal equipment for the combined total not-to-exceed \$120,000.

**\* 15. Authorize the City Manager to Execute Amendment No. 5 to the Agreement with Dodson Psomas for the Gibraltar Reservoir and Pump Station, Project No. 7101 (Staff Contact: Kathleen Phalen, 586-3345)**

**Background:** On April 3, 2007, the City Council approved a consultant agreement with Dodson Psomas to provide professional engineering and design services for the Gibraltar Reservoir and Pump Station Rehabilitation Project. The original agreement and subsequent four agreement amendments provide for scope to design of future piping from the Curtis Well to the station, seismic and structural analysis of the existing Gibraltar Pump Station structures and reservoirs, design of a new control room, solar feasibility studies, design for incorporation of a Supervisory Control And Data Acquisition (SCADA) computer monitoring and operation system, and design for incorporation of a chemical feed system and analysis instrumentation.

Staff now recommends that Dodson Psomas perform additional services to include the design of selected instrumentation upgrades, analysis and design upgrades to comply with higher critical facility category building and fire code standards, and additional construction support. Staff has negotiated a scope and not-to-exceed fee of \$236,139 which is considered a reasonable amount for the scope of work. Approval of this agreement amendment brings the total not-to-exceed contract amount to \$1,287,943.

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

**Recommendation:** Authorize the City Manager to execute amendment No. 5 to the agreement with Dodson Psomas, in the amount of \$236,139 for the Gibraltar Reservoir and Pump Station Project No. 7101.

- \* 16. **Approve Amendment No. 1 to Agreement for Consulting Services for an Amount Not to Exceed \$52,200 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** On July 17, 2009, staff entered into an agreement with a not to exceed value of \$19,600 for consulting services to assist on the Gibraltar Pump Station Project No. 7101, the Water System Seismic Project No. 7100, and other projects within the water, sewer, recycled water, and solid waste compliance programs. Services include assistance with project management, document preparation, records management, and research assistance. Consolidation, staff reductions and adjustment of assignments within the various sections of the engineering division has allowed more productive use of senior engineering staff to cover the range of activities assigned to the division and these consultant services provide efficient support to staff. Approval of an amendment, in the amount of \$53,200, will provide continuing consulting services through the end of fiscal year 2009-10.

**Fiscal Impact:** None. Sufficient funds are available in the engineering and capital project budgets.

**Recommendation:** Approve amendment No. 1 the agreement for consulting services for an amount not to exceed \$53,200.

## **XX. ADJOURNMENT**

**NEXT REGULAR MEETING: TUESDAY, OCTOBER 6, 2009**