



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

TUESDAY, NOVEMBER 3, 2009

7:00 PM

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**
- III. PLEDGE OF ALLEGIANCE**
- IV. INVOCATION (Councilmember Gomez)**
- V. APPROVAL OF COUNCIL MEETING MINUTES – October 20, 2009**
- VI. SCHEDULE OF MEETINGS – Council Calendar for November 2009**
- VII. PRESENTATION - 2009 Neighborhood Beautification Awards**
- VIII. PUBLIC FORUM**

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

- IX. ANNOUNCEMENTS**
- X. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XI. APPROVAL OF AGENDA**
- XII. CONSENT CALENDAR (Items with asterisk*)**

Consent calendar items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a member of the City Council, member of the audience, or staff requests the Council to remove an item from or be added to the consent calendar. Any person desiring to speak on any item on the consent calendar should ask to have that item removed from the consent calendar. If removed, this item will be discussed in the order in which it appears on the agenda.

XIII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

- RA1. Call to Order/Roll Call by the Mayor/Chair**
- RA2. Approval of Meeting Minutes – October 20, 2009**
- RA3. Approval of Agenda and Consent Calendar (Items with asterisk*)**

- RA4. Receive Progress Report for the Senior Center, Project No. 8176 (Staff Contact: Steve Erickson, 586-3301)**
- RA5. Accept the City's Comprehensive Annual Financial Report, Component Unit Financial Statements, and Other Related Annual Audited Reports for the Fiscal Year Ended June 30, 2009 (Staff Contact: Emma Karlen, 586-3145)**
- RA6. Receive Financial Status Report for the Three Months Ended September 30, 2009 (Staff Contact: Emma Karlen, 586-3145)**
- * RA7. Accept the Milpitas Redevelopment Agency Fiscal Year 2008-09 Annual Report (Staff Contact: Emma Karlen, 586-3145)**
- * RA8. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended September 30, 2009 (Staff Contact: Emma Karlen, 586-3145)**
- * RA9. Authorize the City Engineer to Execute a Contract Change Order with Joseph J. Albanese, Inc. for the Carlo Street Ramp Conversion, Project No. 8195 (Staff Contact: Steve Erickson, 586-3301)**
- * RA10. Adopt a Resolution Approving an Amendment to the Resale Restriction Agreement Converting one Residence from a Moderate to a Low-Income Unit and Authorizing Financial Assistance to Sell the Unit to a Low-Income Buyer (Staff Contact: Felix Reliford, 586-3071)**

RA11. Agency Adjournment

XIV. REPORTS OF COUNCIL

- 1. Discussion of, and Receive Report from City Clerk on, Lobbyist Registrations on File (Staff Contact: Mayor Livengood, 586-3051)**
- * 2. Approve Mayor's Recommendation for Council Liaison to the Milpitas Recycling and Source Reduction Advisory Commission (Staff Contact: Mayor Livengood, 586-3051)**
- 3. Consider Request of Councilmember Gomez with Regard to Paid Time Off for Employees who serve as Spring Valley Firefighters (Staff Contact: Councilmember Gomez, 586-3031)**

XV. NEW BUSINESS

- * 4. Requesting Approval for Out-of-State Training for Emergency Services Coordinator to Attend Harvard Kennedy School's National Preparedness Leadership Initiative Program (Staff Contact: Sean Simonson, 586-2810)**

XVI. ORDINANCE

- * 5. Waive the Second Reading and Adopt Ordinance No. 172.5, Adding Section III-6-5(g) Regarding Exemptions to Massage Establishments and Practitioners Permits to the Milpitas Municipal Code (Staff Contact: Tom Borck, 586-2434)**

XVII. RESOLUTIONS

- 6. Adopt a Resolution Approving the Form of and Authorizing the Execution and Delivery of a Purchase and Sale Agreement and Related Documents with Respect to the Sale of the Seller's Proposition 1A Receivable from the State; and Directing and Authorizing Certain Other Actions in Connection Therewith (Staff Contact: Emma Karlen, 586-3145)**

- * 7. **Adopt a Resolution Superseding Resolutions No. 6512 and No. 6202 and to Approve an Updated Schedule of Parking Penalties and Requirements for Parking Examiners (Staff Contact: Henry Kwong, 586-2419)**
- * 8. **Adopt a Resolution Approving the Purchase of Document Imaging Services by Piggybacking the City of Sunnyvale's Contract with Peelle Technologies for the Not-to-Exceed Amount of \$85,000 (Staff Contact: Chris Schroeder, 586-3161)**
- * 9. **Adopt a Resolution Approving the Purchase of City-wide Office Supplies by Piggybacking the City of San Jose's Contract with Office Max for the Not-to-Exceed Amount of \$125,000 (Staff Contact: Chris Schroeder, 586-3161)**
- * 10. **Adopt a Resolution Approving Minor Building and Site Modifications at 2018 Wellington Drive (Staff Contact: Cindy Hom, 586-3284)**

XVIII. BIDS AND CONTRACTS

- * 11. **Approve a Contract Between the County of Santa Clara and the City of Milpitas for Reverse 9-1-1 Services (Staff Contact: Sean Simonson, 586-2810)**
- * 12. **Authorize the City Manager to Execute Amendment No. 1 to the Agreement with Swinerton Management & Consulting for Project Management Assistance for Various Capital Improvements Program Projects (Staff Contact: Kathleen Phalen, 586-3345)**
- * 13. **Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals for the Cardoza Park Playground Renovation & Electrical Cabinet Upgrade, Projects No. 5088 and No. 5085 (Staff Contact: Steve Erickson, 586-3301)**

XIX. ADJOURNMENT

NEXT REGULAR MEETING: TUESDAY, NOVEMBER 17, 2009

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review.

For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035
e-mail: mogaz@ci.milpitas.ca.gov / Fax: 408-586-3056 / Phone: 408-586-3040

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

Materials related to an item on this agenda submitted to the City Council/Redevelopment Agency after initial distribution of the agenda packet are available for public inspection at the City Clerk's office/Information Desk at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, during normal business hours.

APPLY TO BECOME A CITY COMMISSIONER!

Current vacancies exist for the:

Public Art Committee
Bicycle Pedestrian Advisory Commission
Community Advisory Commission (alternate)
Emergency Preparedness Commission (Chamber rep.)
Mobile Home Park Rental Review Board
Senior Advisory Commission
Telecommunications Commission (MUSD Rep.)

Applications are available online at www.ci.milpitas.ca.gov or at the City Hall Information Desk.
Contact the City Clerk's office (586-3003) for more information.

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, call the City Clerk at 586-3001 or send an email to mlavelle@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the Council Chambers for all meetings. TDD phone number (408) 586-3013.

AGENDA REPORTS

XIII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

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

Background: Contractor Swenson & Associates continues with site work, exterior finishes, installation of interior partition walls, and continues with electrical, plumbing, and mechanical improvements. The project is on schedule and within budget. Project staff is also reviewing additional site improvements around the new Senior Center, such as parking pavement and adjacent sidewalks, which should be repaired or replaced, in conjunction with the Senior Center. At the Council meeting, staff will provide additional project progress information including proposed additional site work.

Fiscal Impact: None.

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

RA5. Accept the City's Comprehensive Annual Financial Report, Component Unit Financial Statements, and Other Related Annual Audited Reports for the Fiscal Year Ended June 30, 2009 (Staff Contact: Emma Karlen, 586-3145)

Background: Transmitted are the Comprehensive Annual Financial Report (CAFR) of the City of Milpitas, Milpitas Redevelopment Agency Component Unit Financial Statements, Single Audit Report, Bicycle/Pedestrian Projects Financial Statements, Agreed Upon Procedures Report on Compliance with the Appropriations Limit Increment and the Memorandum on Internal Control Structure for the fiscal year ended June 30, 2009.

Comprehensive Annual Financial Report (CAFR) of the City of Milpitas

The CAFR presents the operations and financial activity of all of the City's various funds, including the General Fund. It includes an unqualified audit opinion from Maze & Associates, the City's external auditors that the financial statements present fairly the results of operations for the year ended June 30, 2009, in conformance with Generally Accepted Accounting Principles (GAAP).

Milpitas Redevelopment Agency Component Unit Financial Statements

The Milpitas Redevelopment Agency is a component unit of the City of Milpitas. The accompanying component unit financial statements present the operations and financial activity of the Milpitas Redevelopment Agency including the Agency's redevelopment project fund and housing reserve fund. The Agency's Component Unit Financial Statements include an unqualified audit opinion from Maze & Associates, the Agency's external auditors that the financial statements present fairly the results of operations for the year ended June 30, 2009, in conformance with GAAP. The report from Maze & Associates also includes a Compliance Report indicating that the Agency complied, in all material respects, with provisions of laws and regulations contained in the Guidelines for Compliance Audits of California Redevelopment Agencies issued by the State Controller's Office.

Single Audit Report

The Single Audit Report for the fiscal year ended June 30, 2009. The Single Audit is required by the Office of Management and Budget Circular A-133 for state and local governments and non-profit organizations that receive Federal Awards. These reports did not disclose any reportable conditions, or material weaknesses.

Bicycle/Pedestrian Projects Financial Statements

The Bicycle/Pedestrian Projects Financial Statements includes Bicycle/Pedestrian Projects that were developed using Transportation Development Act (TDA) grants. The auditor issued an unqualified opinion on these statements.

Agreed Upon Procedures Report on Compliance with the Appropriations Limit Increment

This report shows the auditor applied specific procedures to validate the City's Appropriations Limit calculations.

Memorandum on Internal Control Structure

Under generally accepted auditing standards, our auditors are encouraged to report certain matters regarding the City's internal control structure. The City's auditors have provided such a report in their Memorandum on Internal Control Structure ("Management Letter") for the Year Ended June 30, 2009. This report includes management response to the auditor's letter. It should be noted that the auditors do not view any of their comments as material weaknesses or significant deficiencies on the City's internal control structure.

Fiscal Impact: None. There is no fiscal impact for the recommended action.

Recommendation: Accept the City's Comprehensive Annual Financial Report, the Redevelopment Agency Component Unit Financial Statements, and other related Annual Audited Reports for the fiscal year ended June 30, 2009.

RA6. Receive Financial Status Report for the Three Months Ended September 30, 2009 (Staff Contact: Emma Karlen, 586-3145)

Background: As of September 30, 2009, the General Fund received approximately \$5.04 million in total revenue. This amount is \$1.76 million (25.6%) lower than the revenues received for the same period in FY 2008-09. Sales tax revenue decreased by about \$282,000 compared to the first quarter in FY 2009. Sales generated from all economic segments including apparel stores, restaurants, automobiles, and service stations were lower than one year ago. The only increase came from office equipment (business-to-business sales) primarily due to use tax revenues accrued to the City from high-tech companies.

Transient Occupancy Tax revenues ("TOT") were down about \$300,000 or 32% compared to the same period last year. This is discouraging news because TOT revenues were already down 23% in FY 2008-09. Building permits and inspection fees decreased by about \$822,000, partly due to developers no longer paying for dedicated inspectors this year. As a result, the Building Department's operating costs also decreased by about \$180,000. The reduction in costs was anticipated and incorporated in the FY 2009-10 operating budget. A majority of the decrease in building permits and inspection fees was due to the lack of improvement in the general economy and lack of major construction activities. Customer service charges also decreased by about \$242,000 primarily due to fewer private job development activities that directly impact engineering and planning revenues.

Based on the current economic situation and revenues received to date, staff revised the total General Fund revenue projection for the entire year to be about \$1.6 million lower than budget. The detail of each major revenue projection will be presented to the City Council at the meeting.

City departments' expenditures were on track with their budgets. Overall expenditures were at about 24% of the operating budget which is very similar to last year. It should be noted the expenditures for several departments exceeded 25% for the first three months. However, these spending patterns are typical due to various invoices that need to be paid at the beginning of the fiscal year instead of being able to spread out throughout the year. Examples of such expenditures include worker compensation insurance premium, which was paid from the Human Resources budget, software license maintenance fees which were paid from the Information Services Department budget and contribution to the Chamber of Commerce which was paid from

the City Council budget. Parks and Recreation Department also exceeded 25% of its budget primarily due to seasonal workers needed in the summer months.

Fiscal Impact: None.

Recommendation: Receive the financial status report for the three months ended September 30, 2009.

* **RA7. Accept the Milpitas Redevelopment Agency Fiscal Year 2008-09 Annual Report (Staff Contact: Emma Karlen, 586-3145)**

Background: Pursuant to the reporting requirements of the Community Redevelopment Law and the Agency's bylaws, the Agency must prepare a report annually to its legislative body within six months of its fiscal year end. Staff prepared the Fiscal Year 2008-09 Annual Report to provide the board members of the Agency with an overview of the redevelopment activities and accomplishments for the two project areas. An independent financial audit report will be presented for the Agency Board's acceptance on a separate agenda on November 3, 2009.

Fiscal Impact: There is no fiscal impact for the recommended action.

Recommendation: Accept the Milpitas Redevelopment Agency Fiscal Year 2008-09 Annual Report.

* **RA8. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended September 30, 2009 (Staff Contact: Emma Karlen, 586-3145)**

Background: In compliance with the State of California Government Code and the City's Investment policy, the City of Milpitas Investment Report for the quarter ended September 30, 2009 is submitted for 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 September 30, 2009.

As of September 30, 2009, the principal cost and market value of the City's investment portfolio was \$171,691,152.89 and \$174,689,747.37 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 September 30, 2009 was 2.21%. The comparative benchmarks for the same period were 0.5% for LAIF (Local Agency Investment Fund) and 1.01% for the 12-month average yield of the 2-year Treasury Note. Excluding the long-term GNMA securities and investment of the bond proceeds, the weighted average maturity of the portfolio was 375 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 September 30, 2009.

- * **RA9. Authorize the City Engineer to Execute a Contract Change Order with Joseph J. Albanese, Inc. for the Carlo Street Ramp Conversion, Project No. 8195 (Staff Contact: Steve Erickson, 586-3301)**

Background: The City Council awarded this project to Joseph J. Albanese, Inc. on June 2, 2009 and construction is underway. The completed project will provide for the conversion of the existing Carlo Street/State Route 237 on-ramp to an eastbound Calaveras Boulevard (SR237) off-ramp. The new off-ramp will provide direct access to the Midtown area from Calaveras Boulevard, and the anticipated completion date is by the end of December 2009.

Staff recommends removal of the existing distressed landscape and red lava rock and to replace it with new landscaping that will provide a seamless tie to the streetscape improvements currently installed along North Main Street. The work will accent the new entry point and provide appropriate landscaping, a new irrigation system, and provisions for a future monument sign. Staff negotiated a fee not to exceed \$130,000 with the contractor for this additional work, which is considered reasonable for the work involved.

Fiscal Impact: None. Due to very competitive and low bid results, sufficient funds are available in the project budget for this change order.

Recommendations: Authorize the City Engineer to execute the contract change order with Joseph J. Albanese, Inc. for the Carlo Street Ramp Conversion, Project No. 8195 in the amount of \$130,000.

- * **RA10. Adopt a Resolution Approving an Amendment to the Resale Restriction Agreement Converting one Residence from a Moderate to a Low-Income Unit and Authorizing Financial Assistance to Sell the Unit to a Low-Income Buyer (Staff Contact: Felix Reliford, 586-3071)**

Background: The owner of a moderate income affordable unit located at 700 S. Abel Street #327 has notified the Redevelopment Agency of his intent to sell his home. The resale price for this unit would be \$345,000 based on a recent appraisal, which is comparable to market prices for comparable unrestricted units. Therefore, buyers at this income level are able to afford similarly priced homes that do not have affordability restrictions. Pursuant to the resale agreement, the Agency has the option to purchase the unit since there are no interested buyers, or removing the affordable housing restriction so the unit can be sold at market value. The Agency provided this owner \$50,000 in down payment assistance in the form of a silent second mortgage that will be repaid when the unit is sold.

Staff has a list of potentially eligible low-income applicants, which could be used for this unit if the price was reduced to between \$250,000 and \$275,000. Staff is requesting authorization to amend the resale restriction agreement and authorization to provide \$65,000 in additional financial assistance to make this unit affordable to a low-income household. This amount would be combined with the original \$50,000 loan to reduce the price of the unit and provide a new \$25,000 down payment assistance loan to the new buyer. If staff is unable to locate a qualified buyer, the Agency would purchase the unit at the contracted moderate income price of \$345,000

and re-sell it to a low-income household at the reduced price with the down payment assistance loan.

Fiscal Impact: None. There are sufficient funds in the Redevelopment Agency's Housing Fund to provide \$65,000 in additional financial assistance for this unit.

Recommendation: Adopt a Redevelopment Agency Resolution approving an amendment to the resale restriction agreement converting the housing unit at 700 S. Abel St. #327 from a moderate to a low-income unit and authorizing financial assistance to sell the home to a low-income buyer.

RA11. Agency Adjournment

XIV. REPORTS OF COUNCIL

1. Discussion of, and Receive Report from City Clerk on, Lobbyist Registrations on File (Staff Contact: Mayor Livengood, 586-3051)

Background: Mayor Livengood requested a report on those who have registered as a lobbyist with the Milpitas City Clerk, with regard to the potential ban on plastic bags issue. Two relevant lobbyist registration forms are on file: 1) American Chemistry Council – Ryan Kenny (1/20/2009) and 2) Manny Diaz and Associates (10/19/2009).

At the October 23 Rules Committee meeting, members requested this item for discussion at the City Council meeting.

Recommendation: Receive report from the City Clerk regarding lobbyist registration forms on file.

* 2. Approve Mayor's Recommendation for Council Liaison to the Milpitas Recycling and Source Reduction Advisory Commission (Staff Contact: Mayor Livengood, 586-3051)

Background: Mayor Livengood requests the City Council vote to appoint him as the Council liaison member to the City's Recycling and Source Reduction Advisory Commission.

Recommendation: Move to appoint Mayor Livengood as the City Council's liaison to the Recycling and Source Reduction Advisory Commission.

3. Consider Request of Councilmember Gomez with Regard to Paid Time Off for Employees who serve as Spring Valley Firefighters (Staff Contact: Councilmember Gomez, 586-3031)

Background: At the Rules Subcommittee meeting on October 9, Councilmember Gomez requested this matter be placed on the agenda for discussion by City Council. Mr. Gomez proposes that City of Milpitas employees who serve as trained volunteer firefighters for the Spring Valley Fire Department be paid by the City when called out to service on Spring Valley Fire emergency incidents occurring during their regular City work hours.

Fiscal Impact: None. This agenda report is for discussion only.

Recommendation: Hear request of Councilmember Gomez regarding time off for volunteer firefighters who are City of Milpitas employees. Direct staff accordingly.

XV. NEW BUSINESS

* 4. Requesting Approval for Out-of-State Training for Emergency Services Coordinator to Attend Harvard Kennedy School's National Preparedness Leadership Initiative Program (Staff Contact: Sean Simonson, 586-2810)

Background: The Fire Department's Emergency Services Coordinator received an invitation to the Harvard Kennedy School Executive Education's National Preparedness Leadership Initiative Program located in Cambridge, Massachusetts.

This program is designed to prepare government officials responsible for preparedness, response or recovery from terrorist events and natural disasters. The Emergency Services Coordinator has also received an Education Fellowship from the Harvard Kennedy School in the amount of \$4,850 to augment the cost of the program. The week-long intensive educational program includes case studies, faculty presentations and interactive exercises where students are immersed in a challenging and stimulating learning experience that covers all aspects of disaster preparedness. Students leave the program with new ideas, skills and tools to prepare their jurisdictions for a disaster.

The selection pool was extremely competitive and the Emergency Services Coordinator worked very hard to prepare for such a distinguished program.

Fiscal Impact: None. The Fire Department has sufficient funds budgeted to cover the remaining costs for this training in the amount of \$4,850.00 and associated travel expenses.

Recommendation: Approve out-of-state travel request for the Emergency Services Coordinator to attend the Harvard Kennedy School Executive Education's National Preparedness Leadership Initiative Program to be held in December 2009 and again in 2010.

XVI. ORDINANCE

- * 5. **Waive the Second Reading and Adopt Ordinance No. 172.5, Adding Section III-6-5(g) Regarding Exemptions to Massage Establishments and Practitioners Permits to the Milpitas Municipal Code (Staff Contact: Tom Borck, 586-2434)**

Background: On October 20, 2009, the City Council introduced Ordinance No. 172.5, amending the Milpitas Municipal Code to be in conformance with state law in exempting massage establishments and practitioners that have been certified by the state-approved non-profit organization, the California Massage Therapy Council, from obtaining City massage permits.

Fiscal Impact: Possible reduction in fees collected from massage practitioner permits.

Recommendations:

1. Move to waive the second reading of Ordinance No. 172.5.
2. Adopt Ordinance No. 172.5 to add Section III-6-5(g), Exemptions to the Municipal Code.

XVII. RESOLUTIONS

- 6. **Adopt a Resolution Approving the Form of and Authorizing the Execution and Delivery of a Purchase and Sale Agreement and Related Documents with Respect to the Sale of the Seller's Proposition 1A Receivable from the State; and Directing and Authorizing Certain Other Actions in Connection Therewith (Staff Contact: Emma Karlen, 586-3145)**

Background: The State of California Legislature adopted the Fiscal Year 2009-10 Budget on July 28, 2009. The budget provides for the emergency suspension of Proposition 1A to enable the State to borrow 8% of the amount of property tax revenue apportioned to local agencies. The fiscal impact to the City's General Fund from the State's borrowing is approximately \$1.7 million in FY 2009-10. The State is obligated to repay the property tax revenue by June 30, 2013 with 2% annual interest. The State's obligation to repay constitutes an account receivable to the local agencies know as "Proposition 1A Receivable."

Recently, the State of California Legislature passed SB67, a clean-up bill to the FY 2009-10 Budget that enables local agencies to sell the Proposition 1A Receivable to California Statewide

Communities Development Authority (“California Communities”). California Communities is a joint powers authority sponsored by the California State Association of Counties and the League of California Cities. California Communities will in turn issue bonds to provide each local agency with the cash proceeds in two equal installments, on January 15, 2010 and May 3, 2010 (to coincide with the dates the State will be shifting property tax from local agencies).

In August 2009, the City Council approved borrowing \$1.7 million from the 2% Transient Occupancy Tax (“TOT”) fund balance to address the property tax shortfall due to the State’s borrowing. In lieu of borrowing from the 2% TOT Fund, staff now recommends participating in the Proposition 1A Receivable Financing Program for the following reasons:

- 1) Immediate cash relief - the sale of the City’s Proposition 1A Receivable will provide the City with 100% of its receivable in two installments, on January 15, 2010 and May 3, 2010. The payment dates will coincide with the dates that the State will be shifting 8% of the property tax from local agencies.
- 2) All costs of financing are borne by the State of California – the City will not have to pay any interest cost or costs of issuance in connection with its participation in the Financing Program.
- 3) No obligation on the bonds – the City will not have any obligation with respect to the payment of the bonds, nor any reporting, disclosure or other compliance obligations associated with the bonds.

By participating in the Financing Program, the City will forgo the 2% annual interest when the State repays its borrowing in June 2013. However, the City is assured that that it will receive 100% of the property tax revenue withheld this fiscal year. To participate, the City must adopt a resolution to approve the form and authorize the execution of a Purchase and Sale Agreement and all the related documents as listed below and return the signed documents no later than November 6, 2009 to the transaction counsel, Orrick, Herrington & Sutcliffe LLP.

Resolution of the City Council of the City of Milpitas:

- 1) Authorizes the sale of the City's Proposition 1A Receivable to California Communities for 100% of its receivable;
- 2) Approves the form, and directs the execution and delivery of, the Purchase and Sale Agreement with California Communities and related documents;
- 3) Authorizes and directs any Authorized Officer to send, or to cause to be sent, an irrevocable written instruction required by statute to the State Controller notifying the State of the sale of the Proposition 1A Receivable and instructing the disbursement of the Proposition 1A Receivable to the Proposition 1A Bond Trustee;
- 4) Appoints certain City’s officers and officials as Authorized Officers for purposes of signing documents; and
- 5) Authorizes miscellaneous related actions and makes certain ratifications, findings and determinations required by law.

Purchase and Sale Agreement:

- 1) Provides for the sale of the Proposition 1A Receivable to California Communities;
- 2) Contains representations and warranties of the City to assure California Communities that the Proposition 1A Receivable has not been previously sold, is not encumbered, that no litigation or other actions is pending or threatened to disrupt the transaction and that the transaction is an arm's length "true sale" of the Proposition 1A Receivable;
- 3) Provides mechanics for payment of the Purchase Price; and
- 4) Contains other miscellaneous provisions.

Certificate of the Seller Re: Components of Proposition 1A Receivables:

The Certificate certifies that the City is selling the Proposition 1A Receivable, including all components such as special districts. The City does not have other components.

Fiscal Impact: By participating in the Proposition 1A Receivable Financing Program, the City will receive 100% of the property tax withheld by the state this fiscal year. The amount of the state's borrowing is approximately \$1.7 million.

Recommendation: Adopt a resolution approving the form of and authorizing the execution and delivery of a Purchase and Sale Agreement and related documents with respect to the sale of the seller's Proposition 1A Receivable from the State; and directing and authorizing certain other actions in connection therewith.

- * 7. **Adopt a Resolution Superseding Resolutions No. 6512 and No. 6202 and to Approve an Updated Schedule of Parking Penalties and Requirements for Parking Examiners (Staff Contact: Henry Kwong, 586-2419)**

Background: State law, in California Vehicle Code (CVC) section 40203.5, provides the schedule of parking penalties for parking violations and late payment penalties shall be established by the governing body of the jurisdiction where the notice of violation is issued. On June 1, 1993, Resolution No. 6202 was adopted to establish the schedule of parking penalties. On February 20, 1996, Resolution No. 6512 was adopted to establish the schedule of parking penalties and the requirements for parking examiners. The parking penalties have not been reassessed since February 20, 1996.

State law requires the City of Milpitas to include penalties and assessments imposed by the County of Santa Clara, including assessments for jail and courthouse construction, in accordance with Government Code sections 76000 and 76101. On January 1, 2009, SB 1407 increased the assessments the County of Santa Clara collects for every parking offense where a parking penalty, fine, or forfeiture is imposed to fund construction of State court facilities, from \$5.00 to \$9.50, resulting in a higher percentage of the parking penalty remitted to the County of Santa Clara and in less funds remitted to the City of Milpitas.

The base parking penalty in the City of Milpitas currently is \$35.00. An increase of the base parking penalty to \$50.00 would also be more consistent with the other law enforcement agencies in Santa Clara County. For example, the established parking penalties for parking in front of a fire hydrant (CVC 22514) in other jurisdictions are as follows:

Sunnyvale:	\$56.00
San Jose:	\$50.00
County of Santa Clara:	\$50.00
Mountain View:	\$33.00

Fiscal Impact: An increase of the base parking penalty to \$50.00 to better match surrounding jurisdictions would help defray the impact of the increased assessments paid to the County of Santa Clara and would increase the amount remitted to the City of Milpitas.

Recommendation: Adopt a Resolution to supersede Resolution No. 6512 and Resolution No. 6202, approving an updated schedule of parking penalties and appointment and training requirements for the Parking Examiner.

- * 8. **Adopt a Resolution Approving the Purchase of Document Imaging Services by Piggybacking the City of Sunnyvale's Contract with Peelle Technologies for the Not-to-Exceed Amount of \$85,000 (Staff Contact: Chris Schroeder, 586-3161)**

Background: In 2004, City staff evaluated document imaging software and hardware from a variety of different companies. Peelle Technologies was determined to have the best price and service. Since then the City has also purchased Peelle's Kofax Ascent Capture software and ten Fujitsu scanners to support the internal document imaging work performed by staff. On August 4, 2009 the City formally switched to Peelle's lowest rate by adopting the State of California Master Service Agreement rates. Unfortunately, later that year the contract expired and Peelle was not

able to renew it. However, by piggybacking on City of Sunnyvale's contract with Peelle, which was competitively bid on April 8, 2009, the City would be able to keep the same rates.

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 on the City of Sunnyvale's contract with Peelle Technologies is in full compliance with those requirements. The new contract with Peelle is for one year with two one year renewal options.

Fiscal Impact: None. Funding for this purchase is available from the Building Inspection operating budget.

Recommendation: Adopt a resolution approving the purchase of document imaging services by piggybacking the City of Sunnyvale's contract with Peelle Technologies, which authorizes the City Manager to execute a separate contract with Peelle incorporating by reference the original solicitation, terms, conditions, and pricing for the annual not-to-exceed amount of \$85,000.

- * **9. Adopt a Resolution Approving the Purchase of City-wide Office Supplies by Piggybacking the City of San Jose's Contract with Office Max for the Not-to-Exceed Amount of \$125,000 (Staff Contact: Chris Schroeder, 586-3161)**

Background: On July 22, 2009 staff sent out a Request for Information (RFI) for office supplies. Pricing and service proposals were received from Staples, Office Depot, Office Max, Action Computer Toner Supply, and Sierra Office Supply. After evaluation by the Purchasing Division, it was determined that the best pricing and service was available from Office Max. Upon further investigation, Purchasing staff learned that Office Max was also the winner of a national bid for office supplies conducted in May 2007 (and renewed in May 2009) by Oakland County, Michigan under the Public Sourcing Solutions/Office Max - America Saves Program ("America Saves Program"). The solicitation was based on a purchase volume of \$30 million. The City of San Jose also negotiated additional discounts of up to 70% on a list of 3,000 core products from the America Saves program. By piggybacking on the San Jose contract with Office Max, Milpitas will receive the benefits of a nationally bid contract with volume pricing based on a \$30 million contract which far exceeds anything we could command as an individual city.

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 on the City of San Jose's contract with Office Max is in full compliance with those requirements. The new contract with Office Max is for one year with two one year renewal options.

Fiscal Impact: None. Funding for this purchase is available from each department's operating budget.

Recommendation: Adopt a resolution approving the purchase of city-wide office supplies by piggybacking the City of San Jose's contract with Office Max, which authorizes the City Manager to execute a separate contract for the annual not-to-exceed amount of \$125,000, incorporating by reference the original solicitation, terms, conditions, and pricing of the City of San Jose's contract.

- * **10. Adopt a Resolution Approving Minor Building and Site Modifications at 2018 Wellington Drive (Staff Contact: Cindy Hom, 586-3284)**

Background: On October 14, 2009, the Planning Commission reviewed and recommended the City Council to approve a Site Development Permit Amendment to allow for the construction of a 314 square foot room addition and two attached patio covers at the rear of an existing hillside home located at 2018 Wellington Drive. A more detailed description of the project is provided in

the Planning Commission staff report provided in the Council's agenda packet. The project is consistent with the General Plan and is in conformance with the Zoning Ordinance.

Fiscal Impact: None.

Recommendation: Adopt a resolution approving minor building and site modifications at 2018 Wellington Drive.

XVIII. BIDS AND CONTRACTS

* 11. **Approve a Contract Between the County of Santa Clara and the City of Milpitas for Reverse 9-1-1 Services (Staff Contact: Sean Simonson, 586-2810)**

Background: The City currently purchases an alert notification system from Rapid Notify. Recently, Santa Clara County Office of Emergency Services has sponsored a countywide 'Regional Public and Internal Notification System' which is used to provide timely emergency notification information to employees and the public. The new system communicates with land line telephones, cell phones and e-mail of participants that sign up. Sign-up is at no cost to the resident. The County is able to provide this service through its contract with Blackboard Connect, Inc.

The County contracts with cities to provide services for use free of charge. The County and the City jointly control use and access to the system. Most cities in Santa Clara County have entered into a contract for the services. The Santa Clara County Office of Emergency Services has offered to contract with Milpitas for these services free of charge.

The City would benefit from using Alert SCC by no longer needing to maintain the City's currently used Rapid Notify alert notification system both physically and financially.

Fiscal Impact: Entering into the contract will save the City of Milpitas over \$7,500 annually, as the current 'Rapid Notify' system will no longer need to be maintained.

Recommendation: Approve a contract between the City of Milpitas and the County of Santa Clara Office of Emergency Services for reverse 9-1-1 services.

* 12. **Authorize the City Manager to Execute Amendment No. 1 to the Agreement with Swinerton Management & Consulting for Project Management Assistance for Various Capital Improvements Program Projects (Staff Contact: Kathleen Phalen, 586-3345)**

Background: On April 7, 2009, the City Council approved a consultant services agreement with Swinerton Management & Consulting for an amount not to exceed \$265,000. The agreement is for professional construction and project management assistance on eight major construction projects, including the water system seismic upgrades and the Gibraltar Pump Station rehabilitation. Staff recommends amending this agreement to allow Swinerton to support other active and funded Capital Improvement Program projects, such as the Green Facility Study, as directed by staff, within the same budget previously approved by Council. Services will continue to be provided on a time and materials basis, and the not to exceed value of the agreement will remain at \$265,000.

Fiscal Impact: None.

Recommendation: Authorize the City Manager to Execute Amendment No. 1 to the agreement with Swinerton Management & Consulting for Project Management Assistance for various Capital Improvements Program projects.

- * 13. **Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals for the Cardoza Park Playground Renovation & Electrical Cabinet Upgrade, Projects No. 5088 and No. 5085 (Staff Contact: Steve Erickson, 586-3301)**

Background: Plans and specifications for the first phase of the projects have been completed in accordance with the approved five-year Capital Improvement Program (CIP). The project provides for the removal of old and deficient park features. This first project phase also provides for new playground surfaces, new play equipment, landscaping, walkways, picnic tables, benches, and picnic grills. The work also includes the replacement of electrical cabinets that are outdated and have reached their service life. Cabinet replacement work would occur at Cardoza, Creighton, and Hall Memorial Parks.

The Engineer's Estimate for the work is approximately \$960,000. A copy of the project plan title sheet is included in the Council's agenda packets. Complete plans and specifications are available for review in the office of the City Engineer.

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

Recommendation: Approve plans and specifications and authorize the advertisement for bid proposals for the Cardoza Park Playground Renovation & Electrical Cabinet Upgrade, Projects No. 5088 and No. 5085.

XIX. ADJOURNMENT

NEXT REGULAR MEETING: TUESDAY, NOVEMBER 17, 2009