



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

TUESDAY, AUGUST 3, 2010

6:45 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)

SUMMARY OF CONTENTS

- I. CALL TO ORDER by the Mayor**
- II. ROLL CALL by the City Clerk (6:45 p.m.)**
- III. ADJOURN TO CLOSED SESSION OF CITY COUNCIL**
CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Pursuant to CA Government Code §54956.9. Wells vs. City of Milpitas, WCAB No. ADJ6903510
- IV. CLOSED SESSION ANNOUNCEMENT:** Report on action taken in Closed Session if required, pursuant to CA Govt. Code §54957.1, including the vote on abstention of each member present
- V. PLEDGE OF ALLEGIANCE**
- VI. INVOCATION** (Councilmember Polanski)
- VII. APPROVAL OF COUNCIL MEETING MINUTES** – June 15, 2010
- VIII. SCHEDULE OF MEETINGS** – Council Calendar for August 2010
- IX. 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.

- X. ANNOUNCEMENTS**
- XI. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XII. APPROVAL OF AGENDA**
- XIII. 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.

- XIV. PUBLIC HEARINGS**
 - 1. Hold a Public Hearing and Adopt a Resolution to Accept the 2010 Edward Byrne Justice Assistance Grant (JAG) Spending Plan (Staff Contact: Steve Pangelinan, 586-2426)**

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

XV. OTHER BUSINESS

3. **Receive Presentation by Richard Santos, Chair of the Santa Clara Valley Water District Board of Directors (Staff Contact: Kathleen Phalen, 586-3345)**

XVI. UNFINISHED BUSINESS

- * 4. **Approve the Senior Center Entrance Vestibule Art Nominations List (Staff Contact: Bonnie Greiner, 586-3227)**

XVII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

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

RA2. Approval of Minutes – June 15, 2010

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

RA4. Receive Progress Report on the New Senior Center (Staff Contact: Steve Erickson, 586-3301)

RA5. Adopt a Joint Resolution of the Redevelopment Agency and City Council Approving an Owner Participation Agreement with Integral Communities, and Adopt the Negative Declaration for the McCandless Mixed Use Project (Staff Contact: James Lindsay, 586-3273)

RA6. Review the Building Program for the Milpitas Silicon Valley Conference Center and Provide Direction (Staff Contact: Diana Barnhart, 586-3059)

***RA7. Authorize the Agency Director to Negotiate Power Purchase Agreements and Approve a \$75,000 Application Fee to the California Public Utility Commission for the California Solar Initiative Program (Staff Contact: Greg Armendariz, 586-3317)**

***RA8. Receive the FY 2010-11 Final Budget and the 2010-2015 Final Capital Improvement Program (Staff Contact: Emma Karlen, 586-3145)**

***RA9. Adopt Two Resolutions of the City of Milpitas and the Milpitas Redevelopment Agency Approving the Annual Investment Policy (Staff Contact: Emma Karlen, 586-3145)**

***RA10. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended June 30, 2010 (Staff Contact: Emma Karlen, 586-3145)**

***RA11. Adopt a Resolution Approving an Affordable Housing Grant to the Housing Trust of Santa Clara County (Staff Contact: Felix Reliford, 586-3071)**

***RA12. Authorize the Agency Director to Execute Amendment No. 5 to the Agreement with Sugimura Finney Architects, Light Rail Median Landscape, Project No. 2001 (Staff Contact: Kathleen Phalen, 586-3345)**

***RA13. Approve an Interfund Loan in the Amount of \$2,550,000 from the Redevelopment Project Fund to the Transit Area Impact Fee Fund, and the Recordation of Interfund Loans for the Payments Advanced by Sewer Fund and Redevelopment Project Fund for Previously-Approved Infrastructure and Planning Costs (Staff Contact: Kathleen Phalen, 586-3345)**

- *RA14. Authorize the Agency Director to Execute Contract Change Order No. 2 with California Trenchless, Inc., for the Light Rail Median Landscaping – Phase I, Project No. 2001 (Staff Contact: Kathleen Phalen, 586-3345)**
- *RA15. Approve Plans and Specifications and Authorize Advertisement for Bid Proposals for Midtown East Parking Garage Screens, Project No. 8161 (Staff Contact: Steve Erickson, 586-3301)**
- *RA16. Approve and Authorize the Agency Director/City Manager to Execute an Agreement with SCS Engineers for Various Capital Improvement Program Projects (Staff Contact: Steve Erickson, 586-3301)**
- *RA17. Adopt a Resolution Authorizing the Purchase of One Moderate Income Housing Unit and Releasing the Resale Restriction Agreement for One Affordable Housing Unit (Staff Contact: Felix Reliford, 586-3071)**
- RA18 Agency Adjournment**

XVIII. REPORTS OF MAYOR AND COUNCIL

- 5. Request from Mayor Livengood regarding Funding for Milpitas Kiwanis for the Kohl’s Cares for Kids Event (Contact: Mayor Livengood, 586-3051)**
- 6. Consider Mayor’s Recommended Appointment for the Alternate Member of the Planning Commission (Contact: Mayor Livengood, 586-3051)**
- * 7. Consider Mayor’s Recommended Appointment to the New Citizens Budget Task Force (Contact: Mayor Livengood, 586-3051)**
- * 8. Consider Mayor’s Recommendations for Appointments/Re-appointments to Three Milpitas Commissions (Contact: Mayor Livengood, 586-3051)**
- 9. Report of Councilmember Giordano on Clarification Regarding “Council Conduct” in City Council Handbook (Contact: Councilmember Giordano, 586-3032)**

XIX. NEW BUSINESS

- 10. Receive Staff Report on the Federal Emergency Management Agency (FEMA) Flood Insurance Program, Flood Zones, and Flood Improvements in Milpitas (Staff Contact: Greg Armendariz, 586-3317)**
- * 11. Approve a Letter of Support for Assembly Bill 1998 to Phase Out Single-Use Carryout Bags (Staff Contact: Kathleen Phalen, 586-3345)**

XX. ORDINANCE

- * 12. Waive the Second Reading and Adopt Ordinance No. 238.3 to Repeal and Replace Title VIII, Chapter 5, of the Milpitas Municipal Code to Amend the City’s Water Efficient Landscape Ordinance (Staff Contact: Kathleen Phalen, 586-3345)**

XXI. RESOLUTIONS

- * 13. Adopt a Resolution Granting Initial Acceptance and Reducing Performance Bond for Cardoza Park Playground Renovation and Electrical Cabinet Upgrade, Projects No. 5085 and No. 5088 (Staff Contact: Steve Erickson, 586-3301)**

- * 14. **Adopt a Resolution Granting Final Acceptance and Release Subdivision Improvement Bond for Town Center Residential, Project No. 3208, Tract No. 9886 (Staff Contact: Fernando Bravo, 586-3328)**
- * 15. **Adopt a Resolution Approving the Sole Source Purchase of a Toro Groundmaster 5910 Diesel Riding Mower from Turf Star Inc. for the Not-to-Exceed Amount of \$ 92,513.37 (Staff Contact: Chris Schroeder, 586-3161)**

XXII. BIDS AND CONTRACTS

- * 16. **Approve Amendment No. 2 to the Agreement with Bellinger, Foster, Steinmetz Landscape Architecture for Alviso Adobe Renovation, Project No. 5055 (Staff Contact: Steve Erickson, 586-3301)**
- * 17. **Award the Bid for City Hall Annual Fire Alarm Testing & Maintenance to Carter Brothers Fire and Life Safety for the Annual Not-To-Exceed amount of \$53,022 (Staff Contact: Chris Schroeder, 586-3161)**
- * 18. **Authorize the City Manager to Execute a Cost-Sharing Agreement with the Santa Clara Valley Water District to Provide a Match for the Water Efficient Landscape Rebate for Residential Customers in an Amount Not-to-Exceed \$5,000 for Fiscal Year 2010-11 (Staff Contact: Kathleen Phalen, 586-3345)**
- * 19. **Authorize the City Manager to Execute Amendment No. 2 with Premier Recycle Company, and Authorize Staff to Grant a Three-Year Extension (Staff Contact: Kathleen Phalen, 586-3345)**
- * 20. **Approve a Grant of Easement at Jose Higuera Adobe Park to Santa Clara Valley Water District, and Authorize the City Manager to Execute the Easement Deed, Project No. 3701 (Staff Contact: Fernando Bravo, 586-3328)**
- * 21. **Award the Bid for Four 2011 and One 2010 Ford Crown Victoria Police Interceptors to Salinas Valley Ford for the Not-To-Exceed Amount of \$162,576.89 (Staff Contact: Chris Schroeder, 586-3161)**
- * 22. **Accept a California Department of Resources Recycling and Recovery Grant in the Amount of \$8,615, and Appropriate \$8,615 from the Fund Balance of the Solid Waste Reduction Fund for a Temporary Student Intern Position for Beverage Recycling and Litter Reduction Activities (Staff Contact: Kathleen Phalen, 586-3345)**
- * 23. **Authorize the City Manager to Execute a Consultant Agreement for the Storm Drain Master Plan with Schaaf & Wheeler, Project No. 3701 (Staff Contact: Fernando Bravo, 586-3328)**
- * 24. **Authorize the City Manager to Execute a Master Agreement with the Santa Clara Valley Transportation Authority (VTA) Relating to the Silicon Valley Rapid Transit Program Berryessa Extension Project (Staff Contact: Greg Armendariz, 586-3317)**

XXIII. CLAIM OR DEMAND

- * 25. **Approve a Payment Request to Peelle Technologies for Software Support (Staff Contact: Chris Schroeder, 586-3162)**

XXIV. ADJOURNMENT

**NEXT REGULAR MEETING:
TUESDAY, AUGUST 17, 2010**

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, and at the Milpitas Library during normal business hours.

APPLY TO BECOME A CITY COMMISSIONER!

Current vacancies exist for the:

Bicycle Pedestrian Advisory Commission (alternate)

Community Advisory Commission (alternate)

Emergency Preparedness Commission

Mobile Home Park Rental Review Board

Parks, Recreation & Cultural Resources Commission

Recycling & Source Reduction Advisory Commission (alternate)

Senior Advisory Commission (alternate)

Youth Advisory Commission

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

XIV. PUBLIC HEARINGS

1. **Hold a Public Hearing and Adopt a Resolution to Accept the 2010 Edward Byrne Justice Assistance Grant (JAG) Spending Plan (Staff Contact: Steve Pangelinan, 586-2426)**

Background: The United States Department of Justice, Office of Justice Programs, Bureau of Justice Assistance coordinates the annual Edward Byrne Justice Assistance Grant (JAG) authorized by 42 US Code 3751(a). JAG supports law enforcement activities to prevent and control crime.

JAG funding is a formula based on population and crime statistics, in combination with a minimum allocation to ensure that each state and territory receives an appropriate share. Government Code section 30061 requires a public hearing regarding the expenditure of the grant. Government Code section 30062 specifies that these funds must be used exclusively for front line law enforcement services, including technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice. The grant funds must supplement and not supplant existing funding for front line law enforcement services. These funds shall be appropriated pursuant to a written request from the Chief of Police of the law enforcement agency that provides police services for that city. The request shall indicate the front line law enforcement needs of the requesting entity including the personnel and equipment that are necessary to meet those needs.

The 2010 allocation for the City of Milpitas is \$18,517, with no city matching funds required. Police staff request the designated allotment be used to fund a License Plate Reader (LPR) purchase.

Fiscal Impact: None. The \$18,517 JAG grant will fully cover the costs of the License Plate Reader.

Attachments:

- A. Staff Report
- B. Resolution
- C. Budget Change Form

Recommendations:

- 1. Open public hearing, and after public comment, move to close the hearing.
- 2. Adopt a resolution accepting the 2010 Justice Assistance Grant in the amount of \$18,517.
- 3. Approve appropriation in the amount of \$18,517 into the Police Department's operating budget.

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

Background: On December 1, 2009, Milpitas City Council adopted Resolution No.7944 declaring noxious or dangerous weeds growing upon certain described property to be a public nuisance that must be abated by the removal of the weeds. If the public nuisance was not removed from the properties by the owner, the City contracted with the County Department of Agriculture and Environmental Management to remove the weeds and abate the nuisance. In accordance with Title V, Chapter 202, Weed Abatement, of the Milpitas Municipal Code, the County Department of Agriculture and Environmental Management filed with the City Clerk a report and assessment list on weeds abated within the City as nuisances. The report and notice of the public hearing was posted at City Hall pursuant to Milpitas Municipal Code section V-202-9.00.

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

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

Attachment: Resolution with Exhibit A, Weed Abatement Assessment Report

Recommendations:

1. Open the public hearing.
2. Move to close the public hearing, after hearing any testimony.
3. Adopt a City of Milpitas Resolution confirming assessments for weed abatement for 2010.

XV. OTHER BUSINESS

3. Receive Presentation by Richard Santos, Chair of the Santa Clara Valley Water District Board of Directors (Staff Contact: Kathleen Phalen, 586-3345)

Background: Richard Santos, Chair of the Santa Clara Valley Water District Board of Directors, will present a summary of the recent activities of this agency. Director Santos represents the residents of District 3, including the cities of Milpitas and Sunnyvale, and the Berryessa, Alum Rock, Alviso and Evergreen areas of San Jose. He also represents the Board at the Association of California Water Agencies WateReuse Committee, Coyote Flood Zone and Watershed Advisory Committee, Landscape Advisory Committee, and the Santa Clara Valley Water Commission.

Fiscal Impact: None.

Recommendation: Receive the presentation from Richard Santos, Chair of the Santa Clara Valley Water District Board of Directors.

XVI. UNFINISHED BUSINESS

*** 4. Approve the Senior Center Entrance Vestibule Art Nominations List (Staff Contact: Bonnie Greiner, 586-3227)**

Background: At its June 15, 2010 meeting, City Council approved to individually nominate four influential persons and submit their list for final compilation, with no duplicates, to City staff.

The following categories were provided to assist Councilmembers, if needed, when making their nominations:

1. Lifelong Community Leaders
2. Influential Citizens in the formation of Milpitas
3. Founders of Community Organizations
4. Outstanding Elected Officials
5. Groundbreaking "Firsts" of Milpitas

Staff is returning to Council with the final list of persons who will be represented in the Senior Center Entrance Vestibule Art Piece. Following City Council approval, staff will gather information and an appropriate picture of each nominee. If a photo is unavailable, staff would return to City Council for an alternate person.

Names submitted by the City Council include: Jim Murray, Ben Gross, Barbara Lee, Mabel Mattos, Sal Cracolice, Leo Murphy, Oliver Jones, Haskell Goodman, Al Augustine, Josephine

Guerrero, Mort Levine, Elaine Levine, Tom Evatt, Ernestina Garcia, Bob Browne, Jimmy Rogers, Dr. Al Currin, Dick DeLong, Bob Cracolice, and Joe House.

Fiscal Impact: None.

Recommendation: Approve the Senior Center entrance vestibule art nomination list.

XVII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

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

RA2. Approval of Minutes – June 15, 2010

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

RA4. Receive Progress Report on the New Senior Center (Staff Contact: Steve Erickson, 586-3301)

Background: The contractor Swenson & Associates and City staff continue with contract punch list work and move-in activities in preparation for the August 14 Grand Opening. The project is on schedule and within budget. Project staff will provide additional project progress information at the Council meeting.

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

RA5. Adopt a Joint Resolution of the Redevelopment Agency and City Council Approving an Owner Participation Agreement with Integral Communities, and Adopt the Negative Declaration for the McCandless Mixed Use Project (Staff Contact: James Lindsay, 586-3273)

Background: This item only encompasses the consideration of the draft Owner Participation Agreement (OPA). City Council review of the tentative subdivision map and Site Development Permit application is anticipated to occur in September. The OPA establishes development milestones and financial reimbursements for certain costs to re-develop 23 acres along McCandless Drive with 92,000 square feet of retail space, 1,328 new residential units, and approximately three acres of new public open space. A grocery store space will be created as part of the retail space and built within the first phase of project. The space set aside for the grocery store will be between 30,000 and 45,000 square feet with the grocery store operator to be deemed acceptable by both the Agency and Integral. The space may be reduced to 15,000 square feet at the sole discretion of the Agency. The parcel containing the grocery store space will be encumbered with a permanent covenant that will ensure a grocery store will remain at that location.

The project is expected to generate approximately \$122 million in additional property tax increment revenue to the Agency over the life of the Redevelopment Project Area and pay approximately \$31 million in various impact fees. A detailed discussion of the estimated fees is included in the Planning Commission staff report provided in the Council's agenda packet. The OPA provides for assistance and reimbursement of certain costs incurred in developing the project. These have been divided up into the following categories within the OPA:

Grocery Store Covenant Payment – An annual payment by the Agency for Integral's permanent grocery store use covenant prorated to the actual amount of time a grocery store is open to the public in the preceding fiscal year. The payment would not exceed \$630,000 annually and would continue for up to 10 years for an amount not to exceed \$6.30 million.

Base Public Improvement Reimbursement – Reimbursement of costs to construct off-site infrastructure (that is not subject to any fee credits) and payment of certain fees dedicated to the construction of public facilities and infrastructure. These reimbursements are necessary to accelerate development given current market conditions and limited financing options. The amount of reimbursement for public improvements would not exceed \$29.15 million.

Restricted Unit Assistance – Assistance to fund the costs of restricting 15% of the units to moderate income households that would not exceed \$5.85 million or \$29,378 per restricted unit.

The assistance/reimbursement commitment in the OPA totals \$41.30 million for the project. A key provision in the OPA limits the amount of annual assistance to the additional tax increment revenue generated from the project and received by the Agency each year. Integral will not receive any annual assistance/reimbursement beyond 24 years. After 24 years, all assistance/reimbursements will stop and the Agency will retain full share of the tax increment revenue from the project until the Project Area expires. The Phasing Timeline in Exhibit E of the OPA requires the completion of all the retail space within six years and 902 residential units within 10 years.

The Council's Transportation & Land Use Subcommittee reviewed an earlier version of the project in March 2009 and provided direction that the level of financial participation be comparable to other projects with equal public benefits. The level of participation recommended for the McCandless Mixed Use Project equates to approximately \$31,000 per unit, which is comparable to the Agency's public infrastructure investment to facilitate development of the lands around Elmwood. The Planning Commission reviewed the draft OPA at its July 14th meeting and recommended the Agency approve the agreement.

Fiscal Impact: There is no direct impact to current Agency fund balances. The financial participation provided in the OPA is based on future tax increment revenue generated from the project. The Agency would receive approximately \$81 million in tax increment revenue from the project after the OPA commitments are fulfilled.

Attachments:

1. Resolution including Exhibit A, Addendum to Negative Declaration and Negative Declaration (Initial Study November 2008) and Exhibit B, Owner Participation Agreement
2. Planning Commission Staff Report of 7/14/2010
3. Planning Commission Draft Meeting Minutes of 7/14/2010
4. Planning Commission Chair Correspondence
5. Transportation & Land Use Subcommittee Approved Meeting Minutes of 3/02/2009

Recommendation: Adopt a joint Resolution of the Agency and City Council approving an Owner Participation Agreement with Integral Communities and adopt the Negative Declaration for the McCandless Mixed Use Project.

RA6. Review the Building Program for the Milpitas Silicon Valley Conference Center and Provide Direction (Staff Contact: Diana Barnhart, 586-3059)

Background: On June 15, 2010, the Agency accepted the Market Demand Study for the proposed Milpitas Silicon Valley Conference Center at 540 and 570 Alder Drive. The Market Demand findings:

- Confirmed the potential for larger events exists,
- Found serious consideration from corporate surveys for a Milpitas option,
- Confirmed that access to transportation is important and an asset for the proposed site,
- Identified that hotel inventory will impact ultimate demand,
- Identified that it will be critical to offer facility elements that are unique in order to create competitive advantages, and
- Found the need to continue exploration of conference and non-conference uses.

Based on these findings, it was recommended that the initial concepts for the Building Program include:

- Sub-divisible flat floor display space between 15,000 to 20,000 square feet capable of hosting multiple event types
- Floor coverings, wall treatments & lighting options to reflect the variety of potential uses
- Availability of breakout meeting space
- Portable and/or telescopic tiered seating
- Ability to create a stage setting is important
- Natural light options
- State-of-the-art technological capabilities & service
- Unique features
- Outdoor space

The City Council Economic Development Subcommittee was scheduled to consider the Building Program recommendations at its rescheduled meeting on Monday, August 2. The Subcommittee's recommendations will be made available to the City Council at the meeting.

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

Recommendation: Review the Building Program findings for the Milpitas Silicon Valley Conference Center and provide direction to staff.

***RA7. Authorize the Agency Director to Negotiate Power Purchase Agreements and Approve a \$75,000 Application Fee to the California Public Utility Commission for the California Solar Initiative Program (Staff Contact: Greg Armendariz, 586-3317)**

Background: The City of Milpitas introduced the concept of municipal coordinated power purchase as part of the Climate Action Program of Joint Venture Silicon Valley. Since then, more than 21 cities and Santa Clara County have agreed to participate in a Power Purchase Agreement (PPA) program. A Power Purchase Agreement is a viable mechanism for the cities and County, to have solar panel installations designed, installed and maintained by a third party, who then sells the electric power generated, to the cities and County at fixed attractive rates. Milpitas has identified up to 14 potential facilities for possible solar power installation.

The County took the lead in organizing the PPA in the Energy Efficiency Power Purchase Program and issued a Request for Proposals in April 2010. A total of 20 potential power providers attended the pre-bid meeting and as a result of questions posed and additional information needed the due date for the RFP was extended until July 15, 2010. The next steps are to evaluate the proposals and select the most qualified power suppliers. Staff will then negotiate a cost effective Power Purchase Agreement with one or more qualified power provider. The staff recommended contracts will then be presented to the City Council for review and final approval.

A critical part of the Power Purchase Agreements will be to secure the lowest rate power rate possible by capitalizing on the California Solar Initiative (CSI) grant program. This is a tiered incentive program, whereby the early solar energy participants obtain the highest rebates. As the success of the solar energy programs statewide increases, the grant program is moving quickly into the less generous rebate tiers. It is recommended that the City lock into the current tier as quickly as possible, as this will benefit staff's ability to introduce this state rebate, during energy rate negotiations with the solar energy provider(s). Staff contracted with Optony Inc. to prepare the necessary paperwork to complete the filing for Milpitas to secure a position within the current CSI rebate program tier. As part of the lock-in application process, the City is required to submit an application fee of \$75,000, which is a flat fee based on the kilowatts estimated to be generated by the Milpitas sites. If the City Council approves the request for the CSI grant lock-in reservation, it will be rebated as part of the Power Purchase Agreement. If the City chooses not to proceed with the Power Purchase Agreement, then the City will not be rebated the fee.

Fiscal Impact: Funds for the CSI grant program reservation application are available in non-departmental expenditure account budgeted for electric utility.

Recommendation: Authorize the Agency Executive Director to negotiate Power Purchase Agreements and approve a \$75,000 application fee to the California Public Utility Commission for the California Solar Initiative Program.

***RA8. Receive the FY 2010-11 Final Budget and the 2010-2015 Final Capital Improvement Program (Staff Contact: Emma Karlen, 586-3145)**

Background: Transmitted are the FY 2010-11 Final Budget and the 2010-2015 Final Capital Improvement Program. Budget appropriations total \$130,167,985 including \$5,675,545 for Capital Projects in the first year of the Five-Year Plan. The final budget was adopted by the City Council/Redevelopment Agency on June 1, 2010. A list of the out-of-state travel for FY 2010-11 is including for the Council's information.

Fiscal Impact: None. Budget appropriations were approved on June 1, 2010.

Recommendation: Receive the Final City of Milpitas Budget for FY 2010-11 and the 2010-2015 Capital Improvement Program.

***RA9. Adopt Two Resolutions of the City of Milpitas and the Milpitas Redevelopment Agency Approving the Annual Investment Policy (Staff Contact: Emma Karlen, 586-3145)**

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

Staff proposes a minor change to the investment policy to reflect the current sections of the California Code which govern investment. These changes can be found on pages 1 and 6 of the red-lined version of the investment policy.

The Policy is in compliance with the provisions of California Government Code Sections 16429.1-16429.4 and 53600-53610, the authority governing investments for municipal governments.

Fiscal Impact: None.

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

***RA10. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended June 30, 2010 (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 June 30, 2010 is submitted for Council/Agency review and acceptance.

The Portfolio Summary Report included in the Council's packet provides a summary of the City's investments by type. It lists the par value, market value, book value, percentage of portfolio, term, days to maturity and the equivalent yields for each type of investment. The Portfolio Details Report provides the same information for each individual investment in the City's portfolio as of June 30, 2010.

As of June 30, 2010, the principal cost and market value of the City's investment portfolio was \$173,612,945 and \$176,012,200 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 March 31, 2010 was 1.84%. The comparative benchmarks for the same period were 0.27% for LAIF (Local Agency Investment Fund) and 0.89% 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 355 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 Union Bank, the safekeeping bank of the City's securities. All the securities owned by the City are held in the trust department of Union Bank under the terms of a custody agreement. Three charts - included in the agenda packet - show investment by maturity levels, comparison of the City's portfolio yields to other benchmark yields as well as a trend of the type of securities in the City's portfolio, weighted average maturity and average yield.

Fiscal Impact: None.

Recommendation: Receive the investment report for the quarter ended June 30, 2010.

***RA11. Adopt a Resolution Approving an Affordable Housing Grant to the Housing Trust of Santa Clara County (Staff Contact: Felix Reliford, 586-3071)**

Background: The Housing Trust of Santa Clara County (HTSCC) is requesting a \$150,000 Affordable Housing Grant from the Redevelopment Agency. Over the past four years, the Agency has granted HTSCC annual grants for this amount from the Housing Fund. HTSCC has raised and invested more than \$33 million in public and private contributions, which has allowed the Trust to leverage \$1.7 billion to assist 4,110 homeless/special needs housing, 2,089 first-time homebuyers, and 1,643 families in rental units throughout the County. \$1.14 million has been invested in Milpitas since the conception of HTSCC in 2001, funding several housing projects and providing over 50 home loans for Milpitas first-time homebuyers. The resolution provided in the Council's agenda packet affirms the Agency's preference for Milpitas residents and workers to have first priority in receiving HTSCC funding from this grant.

Fiscal Impact: None. Sufficient funds are available in the Agency's Housing Fund to fund this request.

Recommendation: Adopt a Resolution approving an affordable housing grant to the Housing Trust of Santa Clara County in amount of \$150,000, and affirming the Agency's preference for Milpitas residents and workers to have first priority in receiving HTSCC funding.

***RA12. Authorize the Agency Director to Execute Amendment No. 5 to the Agreement with Sugimura Finney Architects, Light Rail Median Landscape, Project No. 2001 (Staff Contact: Kathleen Phalen, 586-3345)**

Background: On February 19, 2002, 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 constructs the nearly 4,900 linear foot recycled water main loop to serve both the new median landscaping and future Transit Area Specific Plan developments. Phase II installs the median landscaping and irrigation along Great Mall Parkway from I-880 to the southern City limits. The agreement was previously amended to add construction support services for Phase I and additional design services for Phase II, incorporating the grading and drainage design of additional tree pit modifications and tree monitoring wells.

Staff recommends amending the contract a fifth time for additional services from Sugimura. These support services include additional construction support on Phase 1 to address unforeseen field conditions of several utilities either not known to exist or found in different locations and resolution of other field issues. Staff has negotiated a scope and a not-to-exceed fee of \$30,132, which is considered reasonable for the work. Approval of this agreement amendment brings the total contract amount to \$630,692.

Fiscal Impact: None. There are sufficient funds in the project balance.

Recommendation: Authorize the Agency Director to execute Amendment No. 5 with Sugimura Finney Architects in the amount of \$30,132.

***RA13. Approve an Interfund Loan in the Amount of \$2,550,000 from the Redevelopment Project Fund to the Transit Area Impact Fee Fund, and the Recordation of Interfund Loans for the Payments Advanced by Sewer Fund and Redevelopment Project Fund for Previously-Approved Infrastructure and Planning Costs (Staff Contact: Kathleen Phalen, 586-3345)**

Background: The City's fiscal policy authorized the use of interfund loans rather than outside debt to meet short-term cash flow needs. In April, 2009, the City Council and the Redevelopment Agency jointly adopted Resolution No. RA327/7852 to formalize the interfund loan policy. A copy of the resolution is included in the Council's agenda packet.

Staff recommends that the Agency Board approve an interfund loan in the amount of \$2,550,000 from the Redevelopment Project Fund to the Transit Area Impact Fee Fund for the Transit Area Specific Plan's (TASP's) share of the Light Rail Median Landscaping Project funding (Capital Improvement Project No. 2001). The Light Rail Median Landscaping project landscapes the Great Mall Parkway median islands and installs a new recycled water main along Great Mall Parkway and Thompson Street to serve the median irrigation and other upcoming development projects in the TASP. The first phase to install 4,900 feet of water main is expected to be completed in August 2010. The design for the second phase to install the median landscaping and irrigation systems should be ready for bidding in fall 2010. This \$6,000,000 project was programmed in the FY 2009-10 Capital Improvement Program budget with a proportionate benefit share of \$2,550,000 to be funded from the Transit Area Impact Fees. Funding for this obligation was included in the Transit Area Development impact fee program, but the Transit Area Impact Fee Fund does not have funding available since sufficient fees have not yet been collected.

Staff further requests that previous advances in the amount of \$4,356,000 from the Sewer Fund and \$1,330,000 from the Redevelopment Project Fund to the Transit Area Impact Fee Fund be recorded as interfund loans. The Sewer Fund issued bonds to replace the Main Sewage Pump Station Improvements (Capital Improvement Project 6103). A portion of the project costs was to upsize the existing station to provide pumping capacity for existing and future sewer customers. The City Council previously approved collection of TASP impact fees to pay \$4,356,000 of these costs pursuant to the impact fee study supporting the collection of TASP impact fee. In addition, the Redevelopment Project Fund advanced \$1,330,000 to pay for the preparation of the Transit Area Specific Plan. The Council previously directed the reimbursement of specific plan costs

from TASP impact fees. The Transit Area Impact Fee Fund currently does not have funding available to pay these obligations since sufficient fees have not yet been collected. These advances from the Sewer Fund and Agency's Project Fund need to be recorded as interfund loans to ensure that the obligations will be repaid from future TASP Impact fees.

Fiscal Impact: None. There are sufficient funds in the Redevelopment Project Fund to advance the \$2,550,000 temporary loan.

Recommendations:

1. Authorize an interfund loan in the amount of \$2,550,000 from the Redevelopment Project Fund to the Transit Area Impact Fee Fund totaling \$5,686,000.
2. Authorize the recordation of interfund loans for the payments advanced by Sewer Fund and Redevelopment Project Fund for previously-approved Infrastructure and planning costs.

***RA14. Authorize the Agency Director to Execute Contract Change Order No. 2 with California Trenchless, Inc., for the Light Rail Median Landscaping – Phase I, Project No. 2001 (Staff Contact: Kathleen Phalen, 586-3345)**

Background: On June 16, 2009, Agency authorized the Agency Director to receive bids and to award and execute a construction contract to the lowest responsible bidder found to be within the Engineer's estimate of \$2,200,000. This project is constructing approximately 4,900 lineal feet of a new recycled water main along Great Mall Parkway and Thompson Street to complete a recycled water main loop from McCandless Drive to Thompson Street. The water main will serve both new median landscaping irrigation and upcoming development projects in the Transit Area Specific Plan. The Engineer's Estimate included both the base bid estimates and additive pay item costs.

Bids were received by the Agency Director on June 23, 2009, and the apparent lowest responsible bidder was California Trenchless, Inc. (CTI). The contract was awarded to CTI based on the base bid amount of \$876,258.00. Contract Change Order 1 granted a no-cost time extension to allow the contractor to mobilize in January 2010 to avoid impacting Great Mall traffic during the holiday season. Since then, the project construction excavation activities have generated soil which requires special disposal. The contract's intent was to include the soil disposal as an additive pay item which, if necessary, would be included as a contract change order at a later date.

Staff has now determined an estimated cost for this work based on the contractor's recent volume of soil to be disposed. In accordance with the additive bid item, the final cost of the disposal will further be determined by either the Unit Bid Amount or the Actual Cost received from the Contractor, plus 20%, whichever is the lesser amount. Staff will prepare a contract change order for this item of work once the final costs have been determined. The estimated cost of this change order is a not to exceed the amount of \$120,000, which is considered reasonable for the work and materials involved.

Fiscal Impact: None. There are sufficient funds in the project budget.

Recommendation: Authorize the Agency Director to execute Contract Change Order No. 2 once the final cost of this work has been determined in an amount not to exceed \$120,000, for the Light Rail Median Landscaping – Phase I, Project No. 2001.

***RA15. Approve Plans and Specifications and Authorize Advertisement for Bid Proposals for Midtown East Parking Garage Screens, Project No. 8161 (Staff Contact: Steve Erickson, 586-3301)**

Background: Staff completed plans and specifications for the installation of metal screens for the Midtown East Parking Garage, Project No. 8161. The ground floor of the garage already has

the metal screening. This project will install additional screens along the east face of the 2nd, 3rd, and 4th floors to protect vehicles from thrown rocks and debris from the railroad right of way.

A copy of the plan title sheet is included in the Agency's agenda packet, and the complete set of plans and specifications are available for review in the office of the City Engineer. The Engineer's Estimate for the project is \$350,000.

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

Recommendations:

1. Approve Plans and Specifications for Project No. 8161.
2. Authorize for bid proposals for the Midtown East Parking Garage Screens, Project No. 8161.

***RA16. Approve and Authorize the Agency Director/City Manager to Execute an Agreement with SCS Engineers for Various Capital Improvement Program Projects (Staff Contact: Steve Erickson, 586-3301)**

Background: Staff issued a Request for Proposals (RFP) for environmental engineering and testing services for the City's Capital Improvement Program. Several consultants responded and were interviewed in accordance with the City's policy on consultant selection. Based upon a review of the RFP's and the interview process, staff recommends contracting with SCS Engineers for on-call environmental engineering and testing services required for the completion of various Capital Improvement and Redevelopment Agency Projects. These services would be provided on a time and materials basis, for a not to exceed amount of \$200,000, which is considered reasonable for the project workload expected in the next two years. The current respective project budgets and cost plans are sufficient to fund the services to be provided.

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

Recommendation: Approve and authorize the Agency Director/City Manager to execute an agreement with SCS Engineers, in the amount of \$200,000, subject to approval as to form by the Agency Counsel/City Attorney.

***RA17. Adopt a Resolution Authorizing the Purchase of One Moderate Income Housing Unit and Releasing the Resale Restriction Agreement for One Affordable Housing Unit (Staff Contact: Felix Reliford, 586-3071)**

Background: The City/Agency received notification from two property owners requesting to sell their deed restricted moderate-income housing units. Staff recommends releasing the restrictions for one of the units and purchasing the other unit which is located within the Terra Serena project. The Terra Serena unit can be easily re-sold given the size of the unit. The number of affordable units within Terra Serena is governed by the affordable housing agreements between the Agency, the County, and the developer. The market value of the unit being recommended for release does not exceed the owner's purchase price.

Fiscal Impact: None.

Recommendation: Adopt a Resolution authorizing the purchase of one moderate-income unit and releasing the Resale Restriction Agreement for the other affordable unit identified in the resolution.

RA18. Agency Adjournment

XVIII. REPORTS OF MAYOR AND COUNCIL

5. Request from Mayor Livengood regarding Funding for Milpitas Kiwanis for the Kohl's Cares for Kids Event (Contact: Mayor Livengood, 586-3051)

Background: Mayor Livengood received a request by e-mail from Dennis Grilli of the Milpitas Kiwanis requesting community contributions to the Kohl's Cares for Kids Event in August. In the past, this event had been held at Mervyn's and was known previously as Mervyn's Child Spree. The City has historically contributed \$1,500 to this event.

Fiscal Impact: Funds for donations may be allocated from the City Council's Community Promotions Unallocated budget. Prior to this recommendation, no funding was yet allocated from the \$10,000 budgeted for this expense. If this item is approved, the balance would be \$8,500.

Recommendation: Hear report from Mayor Livengood and consider his request to authorize a donation in the amount of \$1,500 to the Milpitas Kiwanis for the Kohl's Cares for Kids Event.

6. Consider Mayor's Recommended Appointment for the Alternate Member of the Planning Commission (Contact: Mayor Livengood, 586-3051)

Background: Mayor Livengood would like to request approval by the City Council of his recommendation for the alternate member of the Planning Commission.

Recommendation: Hear Mayor Livengood's recommendation and approve the alternate member to serve on the Planning Commission to a term that expires in December 2012.

* 7. Consider Mayor's Recommended Appointment to the New Citizens Budget Task Force (Contact: Mayor Livengood, 586-3051)

Background: Mayor Livengood would like to request approval by the City Council of his recommendation for Ami Shah to serve on the Citizens Budget Task Force.

Recommendation: Approve Mayor Livengood's recommendation for Ami Shah to serve as a member on the Citizens Budget Task Force.

* 8. Consider Mayor's Recommendations for Appointments/Re-appointments to Three Milpitas Commissions (Contact: Mayor Livengood, 586-3051)

Background: Mayor Livengood recommends the following citizens be appointed to Milpitas commissions as follows:

Bicycle Pedestrian Advisory Commission

Re-appoint Jose Leon to a term that expires in August 2013.

Re-appoint Aaron Faupell to a term that expires in August 2013.

Emergency Preparedness Commission

Appoint Stephen Strauss (current Alternate No. 1) as a regular member to a term that expires in June 2013.

Appoint Michael Caulkins (current Alternate No. 2) as Alternate No. 1 to a term that expires in June 2011.

Newly appoint Don Clendenin as Alternate No. 2 to a term that expires in June 2011.

Assign current member Tim Howard as the small industry representative.

Sister Cities Commission

Re-appoint Dana Arbaugh to a term that expires in September 2013.

Re-appoint Roselda Mateo to a term that expires in September 2013.

Recommendation: Consider the recommendations from Mayor Livengood, and move to approve his recommended appointments/re-appointments to three Milpitas Commissions.

9. Report of Councilmember Giordano on Clarification Regarding “Council Conduct” in City Council Handbook (Contact: Councilmember Giordano, 586-3032)

Background: Councilmember Giordano has requested to make a report to her colleagues on clarification regarding council conduct in the City Council Handbook.

Recommendation: Hear report of Councilmember Giordano, and direct staff accordingly.

XIX. NEW BUSINESS

10. Receive Staff Report on the Federal Emergency Management Agency (FEMA) Flood Insurance Program, Flood Zones, and Flood Improvements in Milpitas (Staff Contact: Greg Armendariz, 586-3317)

Background: This presentation will provide background information of the FEMA flood insurance program and sources of potential flooding in Milpitas. It will also cover the status of a number of efforts underway to provide documentation to support a City request to FEMA for revision of its flood plain map boundaries. These include regional flood protection construction projects led by the Santa Clara Valley Water District and the U.S. Army Corps of Engineers for Berryessa Creek.

Fiscal Impact: None.

Recommendation: Receive staff report on the Federal Emergency Management Agency (FEMA) Flood Insurance Program, Flood Zones and Flood Improvements in Milpitas.

*** 11. Approve a Letter of Support for Assembly Bill 1998 to Phase Out Single-Use Carryout Bags (Staff Contact: Kathleen Phalen, 586-3345)**

Background: Californians receive more than 19 billion single-use carryout bags from merchants every year. Although many recipients do reuse or appropriately return single-use plastic bags to the stores for recycling, a large number of these bags end up as litter on city streets and waterways or as nuisance waste at the landfill. Over 1,000 plastic bags were collected from Coyote Creek during last September’s Coastal Cleanup volunteer event.

On June 28, 2010, the Senate Environmental Quality Committee passed Assembly Bill 1998, authored by Assemblymember Julia Brownley, which if approved by the Senate and signed by Governor Schwarzenegger, will phase out distribution of single-use plastic carry out bags from supermarkets, pharmacies, convenience stores, and liquor stores throughout the state. AB 1998 would also regulate distribution of single-use paper bags to encourage customers to switch to reusable bags.

AB 1998 would repeal existing law requiring at-store plastic bag recycling programs by January 1, 2011. By January 1, 2012, stores would be prohibited from providing single-use carry-out bags at checkout. By July 1, 2013, stores may either provide reusable bags or make recycled paper bags available for a minimum 5 cent fee.

AB 1998 would also preempt any local regulations restricting the use and sale of reusable and single-use carryout bags. For this reason, it is supported by the California Grocers Association who finds that it would create a “uniform, statewide standard to help level the playing field among food retailers.” The legislation is also supported by a number of environmental organizations seeking to reduce landfill waste and litter and plastic waste in creeks, San Francisco

Bay, and the ocean. Restricting plastic bags would also satisfy certain compliance provisions of the City's Stormwater Urban Runoff Permit.

The Recycling and Source Reduction Advisory Commission (RSRAC) has been reviewing the subject of plastic bag restriction since January 2009. At its July 27, 2010 meeting, RSRAC recommended that the Council approve sending a letter of support for AB 1998 to the City's State Assembly and Senate representatives, and to Governor Schwarzenegger. A copy of the draft letter is included in the Council packet.

Fiscal Impact: None. There is no fiscal impact from this recommended action.

Recommendation: Approve a letter of support for Assembly Bill 1998 to phase out single-use carryout bags.

XX. ORDINANCE

- * 12. **Waive the Second Reading and Adopt Ordinance No. 238.3 to Repeal and Replace Title VIII, Chapter 5, of the Milpitas Municipal Code to Amend the City's Water Efficient Landscape Ordinance (Staff Contact: Kathleen Phalen, 586-3345)**

Background: On June 15, 2010, the City Council introduced Ordinance No. 238.3 to repeal and replace Title VIII, Chapter 5, of the Milpitas Municipal Code in response to State Model Landscape Ordinance, Assembly Bill 1881. Compared to the City's current water efficient landscape code requirements, Ordinance 238.3 requires slightly more restrictive water allowances, prohibits overspray and runoff, and includes new and rehabilitated residential landscapes 2,500 square feet and greater. No changes have been made to the Ordinance since the first reading and the Ordinance is ready for adoption. If adopted, staff will notify the State of the revised Ordinance pursuant to state law.

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

Recommendations:

1. Waive the second reading of Ordinance No. 238.3.
2. Adopt Ordinance No. 238.3 to repeal and replace Title VIII, Chapter 5 of the Milpitas Municipal Code to amend the City's Water Efficient Landscape ordinance.

XXI. RESOLUTIONS

- * 13. **Adopt a Resolution Granting Initial Acceptance and Reducing Performance Bond for Cardoza Park Playground Renovation and Electrical Cabinet Upgrade, Projects No. 5085 and No. 5088 (Staff Contact: Steve Erickson, 586-3301)**

Background: The Council awarded the Cardoza Park Playground Renovation and Electrical Cabinet Upgrade project to Guerra Construction Group on December 15, 2009. This first phase of the project provided for the installation of new child play structures, new picnic tables and barbeques, lighting, concrete walks, and new turf and landscaping. The project also replaced electrical service cabinets at Cardoza, Hall, and Creighton Parks.

The project has been successfully completed, and staff recommends the Council adopt a resolution granting initial acceptance of the project and authorize the reduction of the contractor's faithful performance bond to \$77,231, which is 10% of the final contract value.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting initial acceptance of the Cardoza Park Playground Renovation and Electrical Cabinet Upgrade, Projects No. 5085 and No. 5088, subject to a one-year warranty period and reduction of the faithful performance bond to \$77,231.

- * 14. **Adopt a Resolution Granting Final Acceptance and Release Subdivision Improvement Bond for Town Center Residential, Project No. 3208, Tract No. 9886 (Staff Contact: Fernando Bravo, 586-3328)**

Background: On June 2, 2009, the City Council adopted a Resolution No. 7887 approving the initial acceptance of Town Center Residential, Tract No. 9886. The public improvements to serve the tract include: fire hydrants, water mains, and water service laterals. Shapell Industries has completed any corrective work needed during the one-year warranty period. A final inspection of the public improvements has been made, and they were found to be satisfactory. Staff recommends that the City Council accept this project.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting final acceptance and release subdivision improvement bond for Town Center Residential, Project No. 3208, Tract No. 9886.

- * 15. **Adopt a Resolution Approving the Sole Source Purchase of a Toro Groundmaster 5910 Diesel Riding Mower from Turf Star Inc., for the Not-to-Exceed Amount of \$92,513.37 (Staff Contact: Chris Schroeder, 586-3161)**

Background: This current year's budget includes funds to purchase a Toro Groundmaster 5910 Diesel 99 HP riding mower for the Parks and Recreation Services Department. This mower replaces a mower that has been in service for over ten years. The existing mower has become difficult to maintain, with an unacceptable amount of down time and is beyond its useful life. Turf Star Inc. is the Toro Company service provider for all counties in California and is offering competitive pricing of this unit through the National Intergovernmental Purchasing Alliance Company (National IPA). The Purchasing Agent has determined that pursuant to Municipal Code section 1-2-3.09 "Sole Source Procurement" that Turf Star Inc. is the only source available for this purchase.

Fiscal Impact: None. Sufficient funding is available from the Equipment Fund for this purchase.

Recommendation: Adopt a resolution approving the sole source purchase of the Toro Groundmaster 5910 Diesel 99 HP Mower from Turf Star Inc. for the not to exceed amount of \$92,513.37.

XXII. BIDS AND CONTRACTS

- * 16. **Approve Amendment No. 2 to the Agreement with Bellinger, Foster, Steinmetz Landscape Architecture for Alviso Adobe Renovation, Project No. 5055 (Staff Contact: Steve Erickson, 586-3301)**

Background: On December 1, 2009, the City entered into a consultant agreement with Bellinger, Foster, Steinmetz Landscape Architecture in the amount of \$354,000 to provide a design to improve the Alviso Adobe grounds to create a public park with historic elements.

Staff now recommends that Bellinger, Foster, Steinmetz Landscape Architecture perform additional hazardous materials evaluations to include surveys for lead paint, asbestos, and pesticides, and the development of a remediation plan for incorporation into the project plans and specifications. Amendment No. 2 with Bellinger, Foster, Steinmetz Landscape Architecture is proposed for these additional services. Staff has negotiated a fee for these services not to exceed \$20,000, which is considered reasonable for the work. Approval of this agreement amendment brings the total agreement amount to \$393,500.

Fiscal Impact: None. There are sufficient funds in the project budget for these consultant services.

Recommendation: Approve amendment No. 2 to the agreement with Bellinger, Foster, Steinmetz Landscape Architecture, in the amount of \$20,000, Project No. 5055.

- * 17. **Award the Bid for City Hall Annual Fire Alarm Testing & Maintenance to Carter Brothers Fire and Life Safety for the Annual Not-To-Exceed amount of \$53,022 (Staff Contact: Chris Schroeder, 586-3161)**

Background: Purchasing staff worked with Facilities Maintenance to develop the specification and bid the contract for annual testing and maintenance of the City Hall fire alarm system. The City has an Edwards EST-3 proprietary system that only Edwards certified companies can work on. Therefore, on June 10, 2010 the bid was released on the City website and on Public Purchase directly to the only five Edwards Certified alarm companies in the Bay Area. No notice was posted in the newspaper. This is a five year contract.

Three bidders responded and are summarized below.

<u>Bidder</u>	<u>Base Bid</u>
Carter Brothers Fire & Life Safety	\$38,022.00
Sabah International	\$46,291.00
UTC Fire & Security	\$57,540.00

Facilities Maintenance recommends that a contingency of \$15,000.00 be added to cover the cost of unscheduled service calls and repair parts. This would bring the contract value to an annual not-to-exceed amount of \$53,022.00.

Fiscal Impact: None. Sufficient funding is available from the Facilities Maintenance operating budget for this service.

Recommendation: Award the bid for City Hall annual fire alarm testing and maintenance to Carter Brothers Fire and Life Safety for the annual not-to-exceed amount of \$53,022.00.

- * 18. **Authorize the City Manager to Execute a Cost-Sharing Agreement with the Santa Clara Valley Water District to Provide a Match for the Water Efficient Landscape Rebate for Residential Customers in an Amount Not-to-Exceed \$5,000 for Fiscal Year 2010-11 (Staff Contact: Kathleen Phalen, 586-3345)**

Background: On August 4, 2009, the City Council authorized the City Manager to execute a cost-sharing agreement with the Santa Clara Valley Water District (SCVWD) to provide a City match to their water efficient landscape rebate program for residential customers. The agreement was approved for Fiscal Year 2009-10 with a not to exceed total program amount of \$5,000.

SCVWD offers Santa Clara County residents and businesses a rebate of \$0.75 per square foot (up to a maximum of \$2,000 per residence) to replace high water-demand plants such as turf grass with low water-demand plants. The City would match this rebate with \$0.75 per square foot (up to a maximum of \$1,000 per residence), increasing the total maximum rebate to \$3,000 per Milpitas residence.

Staff finds it feasible for the City to continue matching the SCVWD landscape rebate program and recommends doing so to provide incentive for landscape water conservation. The City's program cap would be \$5,000 for the fiscal year, which will fund a minimum of five rebates.

Fiscal Impact: None. Funding is available in the budget for this purpose.

Recommendation: Authorize the City Manager to execute a cost-sharing agreement with Santa Clara Valley Water District to provide a match for the Water Efficient Landscape Rebate for City of Milpitas residential customers for Fiscal Year 2010-11 in an amount not to exceed \$5,000.

- * 19. **Authorize the City Manager to Execute Amendment No. 2 with Premier Recycle Company, and Authorize Staff to Grant a Three-Year Extension (Staff Contact: Kathleen Phalen, 586-3345)**

Background: In accordance with Title V, Chapter 200 of the Milpitas Municipal Code and the City's solid waste franchise agreement with Allied Waste Services, solid waste collectors may enter into non-exclusive agreements with the City to collect and dispose of certain non-organic solid waste and/or construction and demolition debris from Milpitas businesses that are not covered by the Allied Waste Services Commercial Recycling Program. The City entered into separate a separate agreement with Premier Recycle Company on August 7, 2007. The first amendment to this agreement included minor contract language updates. This second amendment extends the agreement term for another three years. All other contract provisions remain unchanged.

In accordance with the Milpitas Municipal Code, staff is also asking for the authority to administratively review collections under the agreement and grant a three-year agreement extension upon a finding of compliance with the agreement terms.

Fiscal Impact: None.

Recommendation: Authorize the City Manager to execute Amendment No. 2 with Premier Recycle Company and authorize staff to grant a three-year agreement extension upon finding compliance with the agreement terms.

- * 20. **Approve a Grant of Easement at Jose Higuera Adobe Park to Santa Clara Valley Water District, and Authorize the City Manager to Execute the Easement Deed, Project No. 3701 (Staff Contact: Fernando Bravo, 586-3328)**

Background: Staff has coordinated with staff of the Santa Clara Valley Water District (SCVWD) for flood protection improvements at Calera Creek adjacent to the Jose Higuera Adobe Park. The proposed flood improvement actions are as follows:

1. SCVWD requires granting of right of way in the form of an easement for the improvements along Calera Creek.
2. SCVWD will proceed with short-term improvements such as clearing of trees and other obstructions in the creek along the park, upon acquisition of an easement from the City.
3. SCVWD will proceed with long-term improvements based on its funding availability.

Staff recommends granting a storm drain easement to the District for the purpose of providing creek improvements.

Fiscal Impact: None.

Recommendation: Approve a grant of easement at Jose Higuera Adobe Park to Santa Clara Valley Water District and authorize the City Manager to execute the easement deed.

- * 21. **Award the Bid for Four 2011 and One 2010 Ford Crown Victoria Police Interceptors to Salinas Valley Ford for the Not-To-Exceed Amount of \$162,576.89 (Staff Contact: Chris Schroeder, 586-3161)**

Background: The current fiscal year's budget includes funds to purchase five 2011 Ford Crown Victoria Police Interceptors. Purchasing worked with Fleet Maintenance and Police staff to develop the specifications. The bid was advertised in the local newspaper on June 18, 2010, placed on Public Purchase and listed on the City's website. Salinas Valley Ford, the low bidder, included in its bid a new and unused 2010 model, at a discounted price, meeting the City's specifications and ready for immediate use.

Six bids were received and are summarized below:

<u>Bidder</u>	<u>Total Bid</u>
Salinas Valley Ford	\$162,576.89
San Francisco Ford	\$164,367.50
Hansel Ford	\$164,563.33
Serramonte Ford	\$165,025.91
San Leandro Ford	\$173,440.16
Theodore Robbins Ford	\$182,906.65

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

Fiscal Impact: None. Sufficient funding is available from the Equipment Fund for the purchase of these vehicles.

Recommendation: Award the bid for four 2011 and one 2010 Ford Crown Victoria Police Interceptors to Salinas Valley Ford for the not-to-exceed amount of \$162,576.89.

- * 22. **Accept a California Department of Resources Recycling and Recovery Grant in the Amount of \$8,615, and Appropriate \$8,615 from the Fund Balance of the Solid Waste Reduction Fund for a Temporary Student Intern Position for Beverage Recycling and Litter Reduction Activities (Staff Contact: Kathleen Phalen, 586-3345)**

Background: The City of Milpitas has received \$8,615 from the California Department of Resources Recycling and Recovery (CalRecycle) Beverage Container Recycling Grant Program. Staff recommends that Council accept these funds and authorize a temporary student intern position in the Department of Public Works, Solid Waste section for the equivalent amount of \$8,615. The student intern will support recycling public outreach activities in accordance with the grant award guidelines.

Fiscal Impact: The proposed expenditure of \$8,615 for a student intern will be funded by the fund balance of the Solid Waste Reduction Fund.

Recommendations:

1. Accept a California Department of Resources Recycling and Recovery Grant in the amount of \$8,615.
2. Approve a budget appropriation in amount of \$8,615 from the California Department of Resources Recycling and Recovery Grant to the Solid Waste Reduction Fund.
3. Approve a temporary student intern position for Beverage Recycling and Litter Reduction Activities in the Solid Waste Section.

- * 23. **Authorize the City Manager to Execute a Consultant Agreement for the Storm Drain Master Plan with Schaaf & Wheeler, Project No. 3701 (Staff Contact: Fernando Bravo, 586-3328)**

Background: Schaaf & Wheeler recently drafted an update to the City's Storm Drain Master Plan to define current drainage deficiencies throughout the city and to support prioritization of capital improvement projects to correct flooding and other drainage problems. The City now needs to complete an environmental study of the identified master plan projects in accordance with the California Environmental Quality Act (CEQA) requirements prior to adopting this master plan. Staff has prepared a consultant agreement with Schaaf & Wheeler to complete this environmental work and incorporate it into the final master plan update. Staff has negotiated a scope and fee with Schaaf & Wheeler for this agreement of \$35,387.50, which is considered reasonable for this work.

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

Recommendation: Authorize the City Manager to execute a consultant agreement for the Storm Drain Master Plan with Schaaf & Wheeler.

* 24. **Authorize the City Manager to Execute a Master Agreement with the Santa Clara Valley Transportation Authority (VTA) Relating to the Silicon Valley Rapid Transit Program Berryessa Extension Project (Staff Contact: Greg Armendariz, 586-3317)**

Background: The extension of the Bay Area Rapid Transit (BART) system into Santa Clara County is being implemented by VTA's Silicon Valley Rapid Transit Program. This extension is being implemented in stages, the first stage being a two-station (Milpitas and Berryessa) extension of approximately ten miles from BART's planned Warm Springs station in Alameda County to VTA's planned Berryessa Station in the City of San Jose. This initial segment has been identified as the Silicon Valley Berryessa Extension (SVBX) Project. VTA is seeking \$900 million in federal funds for the Berryessa Extension Project to be provided by the Federal Transit Administration's (FTA) New Starts program, with the balance of capital funding provided by state and local sources, including 2000 Measure A revenues.

VTA was granted permission to enter the Preliminary Engineering phase of the federal New Starts program in December 2009. VTA is seeking permission to enter the Final Design phase of the New Starts Program and anticipates that FTA will grant that permission in late 2010. In considering whether VTA is ready to advance the Berryessa Extension Project into New Starts Final Design, FTA evaluates the status of third-party agreements required for project implementation. FTA prefers to see project sponsors establish and execute "master agreements" with local jurisdictions before entering into Final Design. These agreements guide the working relationship between the project sponsor (VTA) and its local partner (Milpitas) and are intended to minimize risk to the project by defining the framework for key interactions between stakeholder agencies.

After several months of negotiations, the final agreement focuses on several key areas, including the establishment of lines of communication and review and approval of design plans for City facilities and processes for dispute resolution. The master agreement defines the relationship between the City of Milpitas and VTA with respect to the project, and provides for the subsequent creation of sub-agreements or amendments to address specific project issues, including but not limited to utility relocation agreement(s), additional reimbursement for City staff review and engineering analysis of design of proposed City facilities to be constructed or modified by the BART project, cost sharing for project elements that involve city funding participation, and multi-agency agreements.

The following are additional key project elements addressed in the master agreement because they are of particular concern to the City:

- Dixon Landing Road - BART Crossing
- S. Milpitas Boulevard Extension
- Transit Area Specific Plan (TASP)
- Milpitas BART Station - selection of West Transit Center Alternative
- City Utility Crossings of the BART Corridor
- Montague Expressway Widening to provide a frontage road for access to BART station
- Piper Drive Improvements
- At-Grade pedestrian crossing connecting Piper Drive to Great Mall
- BART Corridor Improvements including sound walls, landscaping, storm pump stations and other necessary street and utility infrastructure
- VTA reimbursement for City resources

In the past, VTA has typically not reimbursed the cost of internal review of VTA plans by local agencies. This proposed Master Agreement departs from this policy because of the large magnitude of the project, the need for expedited City engineering reviews, and because a potential design-build project delivery approach would necessitate increased cooperation between

VTA and the City of Milpitas. The proposed reimbursement would cover City engineering review and analysis work necessary prior to issuance of encroachment permits for work within City rights-of-way and for relocation and modification of City-owned facilities. It also provides for reimbursement of ongoing City staff support services during bidding and construction of the project.

Fiscal Impact: The Master Agreement provides for VTA to establish a deposit account with the City of Milpitas to fund the city's work in reviewing and coordinating project plans. VTA will make an initial deposit amount of \$700,000, which is expected to be sufficient to cover the city's review and coordination costs through February 2011. The agreement provides for additional deposits as needed to complete the City's project efforts.

Recommendation: Authorize the City Manager to execute a Master Agreement with the Santa Clara Valley Transportation Authority (VTA) relating to the Silicon Valley Rapid Transit Program Berryessa Extension Project.

XV. CLAIM OR DEMAND

- * **25. Approve a Payment Request to Peelle Technologies for Software Support (Staff Contact: Chris Schroeder, 586-3162)**

Background: In accordance with Ordinance No. 23.10, a payment request for \$20,000 or more is submitted to the City Council for approval. The payment is to Peelle Technologies in the amount of \$23,960 for annual renewal of maintenance/support services for document imaging equipment and software.

Fiscal Impact: None. Funds are available from the Information Services FY 2010-11 operating budget for this payment.

Recommendation: Approve a payment of \$23,960.00 to Peelle Technologies for annual renewal of maintenance and support services for document imaging equipment and software.

XXIV. ADJOURNMENT

**NEXT REGULAR MEETING:
TUESDAY, AUGUST 17, 2010**