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RESOLUTION NO. ___

A RESOLUTION OF THE REDEVELOPMENT AGENCY AND THE CITY COUNCIL OF THE CITY OF MILPITAS ADOPTING FINDINGS REQUIRED BY HEALTH AND SAFETY CODE SECTIONS 33445 AND 33445.1, AND AUTHORIZING THE EXECUTION OF A COOPERATIVE AGREEMENT AND AN AMENDMENT TO THE SECOND AMENDED AND RESTATED PUBLIC WORKS AGREEMENT

WHEREAS, the Redevelopment Agency of the City of Milpitas ("Agency") is a redevelopment agency formed, existing and exercising its powers pursuant to California Community Redevelopment Law, Health and Safety Code Section 33000 *et seq.*("CRL"); and

WHEREAS, the City Council and the City of Milpitas ("City") and Agency Board of Directors have adopted and amended, from time to time, the Redevelopment Plans (collectively, the "Redevelopment Plans") for the Great Mall Redevelopment Project and Milpitas Redevelopment Project Area No. 1 (collectively the "Project Areas"); and

WHEREAS, in keeping with the goals of the Agency to eliminate blight in the Project Areas in accordance with the Redevelopment Plans and Agency's current 2010-2014 Implementation Plan ("Implementation Plan"), the City and Agency have been working cooperatively regarding the development of certain public improvements in the Project Areas; and

WHEREAS, the City and Agency have determined that it would be mutually beneficial to enter into a Cooperative Agreement (the "Agreement"), a copy of which is on file with the City Clerk and Agency Secretary, pursuant to which the Agency would agree to pay for certain public improvements and other activities to be undertaken by the City in the furtherance of the redevelopment of the Project Areas; and

WHEREAS, pursuant to Sections 33445 and 33445.1 of the CRL, the Agency may, with the consent of the City, pay for all or a portion of the cost of the land for, and the cost of construction of, any building, facility, structure, or other improvements that are publicly owned and located within or contiguous to, or outside of the Project Areas if the City Council finds based upon substantial evidence that:

1. The acquisition of the land or the installation or construction of the buildings, facilities, structures, or other improvements outside of the Project Areas that are publicly owned are of primary benefit to the Project Areas.

2. The acquisition of the land or the installation or construction of the buildings, facilities, structures, or other improvements within the Project Areas that are publicly owned benefits the Project Areas by helping to eliminate blight within the Project Areas, or will directly assist in the provision of housing for low or moderate income persons.

3. No other reasonable means of financing the acquisition of the land or the installation or construction of the buildings, facilities, structures, or other improvements that are publicly owned, are available to the community.

4. The payment of funds for the acquisition of land or the cost of buildings, facilities, structures, or other improvements that are publicly owned is consistent with the most recent Five-year Implementation Plan adopted pursuant to CRL Section 33490.

5. The acquisition of land and the installation of each building, facility, structure, or improvement that is publicly owned is provided for in the Redevelopment Plans; and

WHEREAS, the Agreement requires completion of environmental review pursuant to the CEQA prior to commencement of any public improvement listed in the Agreement; and

WHEREAS, pursuant to State CEQA Guidelines Section 15378(6)(4), approval of the Agreement itself is not a project subject to the California Environmental Quality Act ("CEQA"), because the Agreement is related to a government funding mechanism or other government fiscal activities which do not involve a commitment to any specific project which may result in a potentially significant physical impact on the environment; and

WHEREAS, the report from City staff accompanying this Resolution, the Redevelopment Plans, and the Five-year Implementation Plan provide additional information upon which the findings and actions set forth in this Resolution are based; and

WHEREAS, the expenditure of tax increment funds for the project identified in the Agreement will be of benefit to the Project Areas by facilitating the elimination of blight and the development of affordable housing; and

WHEREAS, the improvements to be funded pursuant to the Agreement are provided for in the Redevelopment Plans, and the expenditure of tax increment funds for such improvements is consistent with the Implementation Plan adopted by the Agency pursuant to Health and Safety Code 33490, in that they will further the goals and objectives of the Redevelopment Plans, improve the appearance of the Project Areas, eliminate blight, improve access to Project Area businesses, support economic development, and support the development of affordable housing; and

WHEREAS, the activities and improvements proposed to be funded pursuant to the Agreement will not generate cash flow to the City or Agency, and therefore cannot support debt service; the City has not unrestricted general fund revenue available for such purposes without a reduction in vital community services; and the City does not have and cannot reasonably obtain revenue available for such purposes, and therefore no reasonable means of financing the project; and

WHEREAS, on June 3, 2003, the City and the Agency entered into a Second Amended and Restated Public Works Agreement ("Public Works Agreement") for the construction of public improvements; and

WHEREAS, under the Public Works Agreement, the City is required to cause the acquisition and construction of certain public improvements and the performance of certain programs and activities as identified in the redevelopment financing pages of the current and future Five Year Capital Improvement Programs to serve and benefit the Project Areas; and

WHEREAS, the Agency and the City have determined that such public improvements are of benefit to the Project Areas, and that no other reasonable means of financing such public improvements are available to the community.

NOW, THEREFORE, the Board of the Redevelopment Agency and the City Council of the City of Milpitas hereby find, determine, and resolve as follows:

1. The Redevelopment Agency Board and the City Council have considered the full record before them, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to them. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

2. Find based upon the foregoing recitals and the evidence set forth in the report from City staff accompanying this Resolution that: (i) the expenditure of tax increment funds for the projects and programs identified in the Agreement will be of primary benefit to the Project Areas by helping to eliminate blighting conditions, (ii) no other reasonable means of financing such projects and programs is reasonably available, and (iii) completion of such projects is provided for and consistent with the Redevelopment Plans and the Implementation Plan adopted in connection herewith.

3. Approve the Agency's expenditure of tax increment funds in the amounts and for the purposes specified in the Cooperative Agreement and the Amendment to the Second Amended and Restated Public Works Agreement.

4. Authorize the Mayor and the Chair to execute the Agreement, attached hereto as Exhibit 1, on behalf of the Agency substantially in the form on file with the Agency Secretary and authorize the City Manager and the Agency Executive Director to undertake such actions and to execute such additional instruments as may be necessary or desirable in order to carry out the intent of this Resolution, including without limitation, the listing of the Agency's obligations set forth in the Agreement on the Statement of Indebtedness to be filed with the County Auditor.

5. Authorize the Mayor and the Chair to execute the amendment to the Second Amended and Restated Public Works Agreement for the construction of public improvements, which amendment is attached hereto as Exhibit 2, and authorize the City Manager and the Agency Executive Director to undertake such actions and to execute such additional instruments as may be necessary or desirable in order to carry out the intent of this Resolution, including without limitation, the listing of the Agency's obligations set forth in the amendment on the Statement of Indebtedness to be filed with the County Auditor.

PASSED AND ADOPTED this _____ day of _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

_____
Mary Lavelle, City Clerk/Agency Secretary

APPROVED:

_____
Jose S. Esteves, Mayor/Chair

APPROVED AS TO FORM:

_____
Michael J. Ogaz, Agency Counsel/City Attorney

EXHIBIT 1

COOPERATIVE AGREEMENT BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY OF MILPITAS AND THE CITY OF MILPITAS FOR THE PAYMENT OF COSTS ASSOCIATED WITH REDEVELOPMENT AGENCY FUNDED PROJECTS AND GENERAL ADMINISTRATIVE AND OVERHEAD EXPENSES FOR CONTRACTED CITY SERVICES

This Cooperative Agreement Between the Redevelopment Agency of the City of Milpitas and the City of Milpitas ("Agreement") is entered into effective as of February 15, 2011 ("Effective Date ") by and between the Redevelopment Agency of the City of Milpitas, a public body corporate and politic ("Agency"), and the City of Milpitas, a municipal corporation ("City"). The Agency and the City are hereinafter collectively referred to as the "Parties."

RECITALS

A. Pursuant to authority granted under Community Redevelopment Law (California Health and Safety Code Section 33000 *et seq*.) ("CRL"), the Agency has responsibility to implement the redevelopment plans for two redevelopment projects within the City of Milpitas, the Milpitas Redevelopment Project Area No. 1 ("Original Project Area"), established by Ordinance No. 192, adopted on September 21, 1976, and the Great Mall Redevelopment Project, established by Ordinance No. 192.8, adopted on November 2, 1993, (as subsequently amended, hereafter referred to collectively as the "Milpitas Redevelopment Plans"), (collectively, the "Project Areas ").

B. Pursuant to Section 33220 of the CRL, any public body is authorized to enter into an agreement with the Agency for the purpose of aiding and cooperating in the planning, undertaking, construction, or operation of redevelopment projects located within the jurisdiction in which such public body is authorized to act, upon the terms and with or without consideration as such public body determines.

C. Pursuant to Section 33126(b) of the CRL, the Agency may enter into a contract with any other public agency pursuant to which such public agency furnishes necessary staff services associated with or required by redevelopment.

D. Pursuant to Sections 33445 and 33445.1 of the CRL, the Agency may, with the consent of the City, pay for all or a portion of the cost of the land for, and the cost of construction of, any building, facility, structure, or other improvements that are publicly owned and located within or contiguous to, or outside of the Project Areas if the City Council finds based upon substantial evidence that:

1. The acquisition of the land or the installation or construction of the buildings, facilities, structures, or other improvements that are publicly owned are of primary benefit to the Project Areas.

2. The acquisition of the land or the installation or construction of the buildings, facilities, structures, or other improvements that are publicly owned benefits the Project Areas by helping to eliminate blight within the Project Areas, or will directly assist in the provision of housing for low or moderate-income persons.

3. No other reasonable means of financing the acquisition of the land or the installation or construction of the buildings, facilities, structures, or other improvements that are publicly owned, are available to the community.

4. The payment of funds for the acquisition of land or the cost of buildings, facilities, structures, or other improvements that are publicly owned is consistent with the Five-year Implementation Plans adopted pursuant to CRL Section 33490.

5. The acquisition of land and the installation of each building, facility, structure, or improvement that is publicly owned are provided for in the Redevelopment Plan.

E. On the basis of the information and evidence presented to the City Council and the governing board of the Redevelopment Agency and provided in the staff report and other materials accompanying the resolutions approving this Agreement, the City Council and the Redevelopment Agency have adopted the findings described in Recital D with respect to the public improvements, facilities, and land acquisitions to be funded by the Agency pursuant to this Agreement.

F. The Parties desire to enter into this Agreement to set forth activities, services, and facilities that the City will undertake or make available to the Agency in furtherance of the redevelopment of the Project Areas, and to provide that the Agency will pay for or reimburse the City for actions undertaken and costs and expenses incurred for and on behalf of the Agency or otherwise in furtherance of the redevelopment of the Project Areas.

G. In regards to the incurrence of City costs and services, the Agency finds that the use of certain City staff, administrative support, and other services, furthers the goals and activities of the Milpitas Redevelopment Plans for the Project Areas.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the City and the Agency agree as follows:

AGREEMENT

1. **Term.** The term of this Agreement shall commence on the Effective Date, and shall continue in effect until the later of the expiration of the Milpitas Redevelopment Plans, each as in effect on the Effective Date of this Agreement, or May 4, 2054, whichever is later . Notwithstanding the foregoing, the Parties agree that if and to the extent any payment obligation incurred by the Agency pursuant to this Agreement may extend beyond the term during which the Agency is authorized to undertake activities pursuant to state law, such obligations shall be paid from resources available to the Agency or its successor in interest (subject to Section 3 below), including without limitation, tax increment revenue available to the Agency or its successor pursuant to Article XVI, Section 16 of the California Constitution and CRL Section 33670, the proceeds of bonds or other indebtedness heretofore or hereafter issued by the Agency (subject to applicable limitations imposed by federal law and the applicable bond, indenture and related documents), reserve funds (to the extent not otherwise legally obligated), lease revenues, interest, and proceeds from the sale of land or other assets.

2. **Contracted Projects, Services and Improvements.** The City shall perform and construct certain projects, services and improvements. The Agency shall pay to the City Agency funds encumbered and pledged herein solely for purposes consistent with the CRL and the Milpitas Redevelopment Plans in the amounts set forth in this Agreement.

A. Consistent with Sections 33445 and 33445.1 of the CRL, including but not limited to the payment for all or a portion of the cost of the land for, and the cost of construction of, any building, facility, structure, or other improvements that are publicly owned and located within or contiguous to, or outside of the Project Areas, and other provisions of the CRL, the City shall complete those public improvements, projects and land acquisitions listed in Exhibit A. Among other activities, the City may use Agency funds to pay the costs of land acquisition, relocation, demolition, site preparation and remediation, design, and construction of public improvement and, where directed by the Agency, affordable housing projects, and reasonable staff, consultant and other administrative costs in connection therewith. The City shall undertake the public improvement and affordable housing projects in accordance with all applicable laws and regulations, including without limitation, laws and regulations related to competitive bidding of public works projects, payment of prevailing wages, non-discrimination, and the use of tax-exempt bond proceeds, if and to the extent such tax-exempt bond proceeds constitute a portion of Agency payments. The City shall complete such improvements and projects by the deadlines set forth in the Milpitas Redevelopment Plans and the current and future Five-year Implementation Plans of the Agency. At the Agency's sole discretion, some or all of the projects or improvements listed in Exhibit A may be performed by more specific direction through other agreements, memoranda of understanding or other actions, such as the Second Amended and

Restated Public Works Agreement Between the City of Milpitas and the Milpitas Redevelopment Agency for the Construction of Public Improvements, dated June 3, 2003, as amended.

B. The Agency shall also pay to the City the amount budgeted for City staff service and overhead costs related to the provisions of services benefitting the Agency and furthering the purposes of the CRL. In this regard, the City Manager of the City serves as Executive Director of the Agency and the staff of the Economic Development, Planning, Finance, Public Works and other departments of the City provide substantial labor and time and incur significant costs to gather and utilize data relating to the Milpitas Project Areas, the construction of improvements, conferring with developers and potential developers of land within the project area, conferring with public officials and other governmental agencies regarding the redevelopment of the Project Areas, business recruitment and retention efforts, marketing, other general economic development activities, and undertaking planning and administrative activities in connection with the production, improvement and preservation of affordable housing and alleviating and eliminating blighted conditions. Only those administrative and overhead costs ("Administrative Costs") not accounted for in the project and improvement amounts listed in Exhibit A or funded by other redevelopment agreements shall be allocated to the Agency through this Agreement. The Agency is hereby obligated to pay for those Administrative Costs determined during the budget preparation and approval process of the City throughout the term of this Agreement. Services required of the City by the Agency shall be paid for according to the amounts calculated by the City Finance Department for City staff labor costs, overhead, equipment costs and other administrative related costs.

3. **Payment of Redevelopment Agency Funds (Indebtedness).** In consideration of the City's performance of the projects, services and obligations listed herein, the Agency hereby pledges, promises and encumbers all current and future funds necessary for such performance in the amounts and rates listed in this Agreement. The Agency shall include its obligations to the City under this Agreement as an indebtedness on the Agency's statement of indebtedness filed with the County Auditor pursuant to CRL Section 33675.

Funds pledged and obligated by the Agency to the City include, but are not limited to, the following funds:

(a) Funds currently held by the Agency and not previously or separately budgeted or appropriated for other activities, projects, programs, loans, or obligations, in the amounts encumbered by this Agreement; and

(b) All future tax increment revenue or other monies allocated to the Agency pursuant to the Milpitas Redevelopment Plans and the Redevelopment Law and/or any legislation related thereto and remaining after the Agency makes all necessary annual payments with respect to then existing debt obligations of the Agency, including, without limitation, bonded indebtedness, pass-through payments owed to affected taxing entities under any agreement or Sections 33607.5 or 33607.7 of the Redevelopment Law, written agreements with other persons or entities, deposits to the Agency's low and moderate income housing fund pursuant to the CRL, and any other statutorily required payment obligations of the Agency.

The obligations and pledges stated herein shall be considered mature and payable as of the Effective Date of this Agreement. Payment terms and installment payment schedules shall be as set forth by the City and the Agency and as reflected in various documents such as the budget documents of the City and the Agency, and their successors or assigns, if any.

4. **Subordination.** The obligations of the Agency to make payments to City pursuant to this Agreement shall be subordinate to any obligation of the Agency to pay debt service on bonds heretofore or hereafter issued by the Agency and to pay any other contractual indebtedness of the Agency incurred prior to the date of this Agreement.

5. **Environmental Review.** This Agreement is not intended to limit in any manner the discretion of City or the Agency, as applicable, in connection with the issuance of approvals and entitlements for the projects described in this Agreement, including without limitation, the undertaking and completion of any required

environmental review pursuant to the California Environmental Quality Act and the National Environmental Policy Act, as applicable, and the review and approval of plans and specifications.

6. **Severability.** If any term, provision, covenant, or condition set forth in this Agreement is held by the final judgment of a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions, covenants, and conditions shall continue in full force and effect to the extent that the basic intent of the Parties as expressed herein can be accomplished. In addition, the Parties shall cooperate in good faith in an effort to amend or modify this Agreement in a manner such that the purpose of any invalidated or voided provision, covenant, or condition can be accomplished to the maximum extent legally permissible.

7. **No Third Party Beneficiaries; Assignments**. Nothing in this Agreement is intended to create any third party beneficiaries to this Agreement, and no person or entity other than the Agency and the City, and the permitted successors and assigns of either of them, shall be authorized to enforce the provisions of this Agreement. In the event of the dissolution or disablement of the Agency, any successor entity or assign shall be subject to and liable for the obligations set forth in this Agreement.

8. **Further Assurances.** Each Party agrees to execute, acknowledge and deliver all additional documents and instruments, and to take such other actions as may be reasonably necessary to carry out the intent of the transactions contemplated by this Agreement.

9. **Governing Law; Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any action to enforce or interpret this Agreement shall be filed in the Superior Court of Santa Clara County, California.

10. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

11. **Amendments.** This Agreement may be modified or amended, in whole or in part, only by an instrument in writing, executed by the Parties.

12. **Recitals.** The Recitals set forth above are hereby incorporated into this Agreement as though fully set herein.

This Agreement was approved by the City Council and the Redevelopment Agency Board at their joint meeting of February 15, 2011.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

ATTEST:

_____
Mary Lavelle
City Clerk/Agency Secretary

CITY OF MILPITAS

_____
Jose S. Esteves
Mayor

MILPITAS REDEVELOPMENT AGENCY

_____
Jose S. Esteves
Chair

APPROVED AS TO FORM:

_____
Michael J. Ogaz
City Attorney/Agency Counsel

EXHIBIT A

The costs associated with the projects and improvements listed below are current estimates based on approximate costs in 2010 dollars.

PUBLIC INFRASTRUCTURE AND IMPROVEMENTS

TABLE 1 – CITY BUILDINGS

City Buildings	Work Scope	Cost Estimate
Fire 1	Roof rehabilitation, wall rehab & painting, interior & exterior	$350,000
Fire 1	Carpet replacement	$50,000
Fire 2	Men's restroom upgrades	$100,000
Fire 2	Painting, exterior & interior	$80,000
Fire 2	Roof replacement	$140,000
Fire 2	Repair of the exterior wall	$50,000
Fire 3	Painting, exterior & interior	$80,000
Fire 3	Replacement of water pipe system	$60,000
Fire 3	Roof replacement	$140,000
Fire 4	Painting, exterior & interior	$80,000
Fire 4	Replace shower stalls and improve ventilation	$100,000
Fire 1-4	Kitchen rehabilitation	$200,000
Fire 1-4	Replace existing stand-by generators	$220,000
Water P.S.	Ayer Pump Station VFD and pump replacement	$500,000
MSC	Sports Center, co/generator & pool equipment	$500,000
	Total Building Improvements =	**$2,650,000.00**

TABLE 2 – ROADWAY RECONSTRUCTION

Roadways	Cost Estimate
Reconstruct Sycamore Drive	$2,000,000
Tasman Drive (McCarthy Blvd to Alder Dr)	$700,000
McCarthy Boulevard (Cottonwood Dr to SOF Tasman Dr)	$2,000,000
Oregon Way	$200,000
Pacheco Drive	$450,000
Calle DelPrado	$150,000
Tassasara Drive	$350,000
Alcosta Drive	$350,000
Las Lomas Drive	$500,000
Main Street, Carlo St. to Curtis Ave.	$4,300,000
McCarthy Boulevard (SR237 to N. Ranch Drive)	$500,000
McCarthy Boulevard (Cottonwood to Barber Ln.)	$250,000
Abel Street (Main St to Capitol Ave.)	$1,050,000
Main Street (Curtis to Great Mall Drive)	$300,000
Main Street (Great Mall Parkway to Great Mall Drive)	$150,000
Total Roadway Improvements =	**$13,000,000.00**

TABLE 3 – GENERAL FACILITIES

Work Scope	Cost Estimate
Curtis well pump station construction	$1,000,000
Reconstruct Parking lot under SR237 & drainage improvements	$100,000
Reconstruct Fire 1 parking lot & add apparatus wash	$1,100,000
Reconstruct Fire 2 parking lot & add apparatus wash	$400,000
Reconstruct Fire 3 parking lot & add apparatus wash	$400,000
Reconstruct Fire 4 parking lot & add apparatus wash	$400,000
Reconstruct Ayer Pump Station parking lot & access road	$300,000
Rehab McCarthy & Cottonwood Storm Pump stations	$1,300,000
Total additional improvements =	**$5,000,000.00**

TABLE 4 – COMBINED FUNDING ECONOMIC DEVELOPMENT

The following table shows the redevelopment fund share of combined funding projects:

Project Name	Total Project Cost	Other Funding	TASP Contribution	RDA Contribution
TasmanDr/Great Mall Pkwy & 1-880 Ramps: Provide signal coordination with adjacent ramps.	$75,000	-	$7,500	$67,500
Great Mall Pkwy-Capitol Av & Montague Expressway Improvements	$35,000,000	-	$7,700,000	$27,300,000
Montague Widening	$38,500,000	$13,000,000	$6,885,000	$18,615,000
Calaveras Blvd. Widening	$40,000,000	-	$5,200,000	$34,800,000
				$80,782,500
Other TASP Improvements				
One pedestrian bridge over Montague				$9,000,000
Pedestrian walkway over BART trench @ Piper Dr.				$1,500,000
				$10,500,000
Total RDA Share of Combined Funding Projects =				**$91,282,500**

TABLE 5 – MISCELLANEOUS REDEVELOPMENT ACTIVITY

Improvement, Project or Activity	Cost Estimate
Infrastructure assessment and modeling for future commercial development and job growth. To include but not limited to necessary planning studies and CEQA clearances.	$3,000,000

EXHIBIT 2

AMENDMENT NO. 1 TO THE SECOND AMENDED AND RESTATED PUBLIC WORKS AGREEMENT BETWEEN THE CITY OF MILPITAS AND THE MILPITAS REDEVELOPMENT AGENCY FOR THE CONSTRUCTION OF PUBLIC IMPROVEMENTS

This Amendment to the Second Amended and Restated Public Works Agreement ("Public Works Agreement Amendment"), dated June 3, 2003, is entered into by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "City") and the Milpitas Redevelopment Agency (hereafter referred to as "Agency").

RECITALS

WHEREAS, the Redevelopment Agency of the City of Milpitas ("Agency") is a redevelopment agency formed, existing and exercising its powers pursuant to California Community Redevelopment Law, Health and Safety Code Section 33000 *et seq*.("CRL"); and

WHEREAS, the City Council and the Agency Board have adopted and amended, from time to time, the Redevelopment Plans (collectively, the "Redevelopment Plans") for the Great Mall Redevelopment Project and Milpitas Redevelopment Project Area No. 1 (collectively the "Project Areas"); and

WHEREAS, on June 4, 2002, the City and the Agency entered into an agreement for the construction of public improvement, and later amended and restated that agreement on January 21, 2003 and most recently on June 3, 2003. The June 23, 2003 amendment was entitled the Second Amended and Restated Public Works Agreement Between the City of Milpitas and the Milpitas Redevelopment Agency for the Construction of Public Improvements (the "Public Works Agreement"); and

WHEREAS, the parties now desire to amend the scope of work for the Public Works Agreement.

NOW THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties agree to amend the Agreement as follows:

1. The scope of required Public Improvements, as that term is defined and set forth in Section 5 of the Public Works Agreement, is amended with the additional projects attached hereto as Exhibit A. The projects listed in Exhibit A of this Public Works Agreement Amendment are intended to be in addition to those projects already in or incorporated by reference in the future into the scope of work of the Public Works Agreement and are not intended to supersede or replace such projects, but merely to supplement them.

2. All other provisions of the Agreement shall remain in full force and effect.

This Amendment was approved by the City Council and the Redevelopment Agency Board in their joint meeting of February 15, 2011.

This Amendment is executed and effective as of the date written below.

ATTEST:

_____
Mary Lavelle
City Clerk/Agency Secretary

CITY OF MILPITAS

_____
Jose S. Esteves
Mayor

MILPITAS REDEVELOPMENT AGENCY

_____
Jose S. Esteves
Chair

Dated: February 15, 2011

APPROVED AS TO FORM:

_____
Michael J. Ogaz
City Attorney/Agency Counsel

EXHIBIT A

The costs associated with the projects and improvements listed below are current estimates based on approximate costs in 2010 dollars.

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Alcosta Drive	$350,000
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Total additional improvements =	**$5,000,000.00**