

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL AND REDEVELOPMENT AGENCY OF THE CITY OF MILPITAS APPROVING THE FINAL BUDGET FOR THE CITY OF MILPITAS FOR THE FISCAL YEAR 2011-2012

WHEREAS, the City Manager/Executive Director submitted a 2011-2012 Proposed Budget and Financial Plan; and

WHEREAS, public hearings were held on the Proposed Plan where all interested persons were heard; and

WHEREAS, the City Council and the Redevelopment Agency reviewed the City Manager/Executive Director's 2011-2012 Proposed Budget and Financial Plan; and

WHEREAS, on May 10, 2011, the City Council and the Redevelopment Agency approved the 2011-2012 Financial Plan and the 2011-2012 Capital Budget.

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

1. The City Council and the Agency Board 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. The annual budget for the City of Milpitas for fiscal 2011-2012 is hereby reaffirmed and adopted totaling \$140,787,115 for all appropriated funds. This budget assumes that certain savings shall be achieved through concessions from City employees on total compensation and/or the elimination or reduction of authorized positions (employee layoffs).
3. Appropriations and estimated fund balances are hereby allocated for the various purposes designated in the 2011-2012 Final Budget.
4. The budgets for all departments for the period July 1, 2011 through June 30, 2012, inclusively contained in this 2011-2012 Final Budget Resolution, are approved as the operating budget for those departments for fiscal 2011-2012.
5. Any unused non-salary and benefits-related appropriations, subject to the approval of the City Manager/Executive Director, at the end of fiscal 2010-2011 may be reappropriated for continued use in fiscal 2011-2012.
6. No office, department, or agency shall expend any amount or incur any liability or enter into any contract, which by its terms involves expenditures of money for any purpose in excess of the amounts appropriated for the particular departments, accounts, and funds set forth herein.
7. The City Manager/Executive Director may authorize, when in his or her judgment such action is consistent with the purposes and intent of the Budget as adopted, budget revisions subject to the following conditions:
 - a. Prior Council/Agency Approval Not Required. Prior approval of the City Council and/or Redevelopment Agency is not required under the following circumstances:
 - i. In order to allocate, redistribute and/or appropriate monies between department and non-department funds so as to reflect the budgetary savings achieved through concessions from City employees on total compensation and/or the elimination or reduction of authorized positions (employee layoffs). Such budgetary revisions may be done on a one-time basis upon the finalization of side letters, memoranda of understanding, lay-off and/or other similar proceedings near the beginning of the budget year.
 - ii. When revisions, which involve transfers from appropriated contingency reserves, are less than the aggregate amount of 1% of General Fund appropriations, or \$658,000 during fiscal 2011-2012, provided that the Council/Agency is notified in writing of the revision, giving the reason, the amount of the revision and the year-to-date total amount of revisions.

- iii. When revisions involve transfers within various departments or projects within the same fund, provided that the amount of transfer in any single instance does not exceed \$20,000.
- iv. For Police goods and services to be purchased from Asset Seizure funds, the City Manager/Executive Director or his/her designee, has the authority to purchase such goods or services if the expenditures of such goods and services do not exceed the amount designated from Asset Seizure funds as approved by the City Council/Redevelopment Agency during the fiscal 2011-2012 Budget hearing.

b. Prior Council/Agency Approval Required. Prior approval of the City Council and/or Redevelopment Agency is required if any of the following are involved:

- i. Changes providing for increases in permanent personnel or changes in classification for personnel from the number of classes or personnel approved in the adopted Budget.
- ii. Contract change orders in excess of \$20,000.
- iii. Changes when in his or her judgment such action would be inconsistent with the purposes and intent of the Budget as adopted.
- iv. Transfers from contingent reserves, which would cause the aggregate amount of 1% of General Fund appropriations, or \$658,000 during fiscal 2011-2012, to be exceeded.

8. In order to balance the budget for fiscal year 2011-2012, it has been necessary to assume as part of the budget solution the elimination of a number of authorized positions within the City service; and

Information establishing the current budget situation and steps to be taken to present balanced City and Redevelopment Agency Budgets have been presented during this meeting of May 10, 2011, and in prior budget presentations; and

It is the judgment of the City Council that it has become necessary in the interest of economy that the number of authorized positions within the City service be reduced without the right of appeal of the decision to eliminate or reduce the positions. We find that this decision is a fundamental managerial policy decision of the City Council and the Agency Board.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk/Agency Secretary

Jose S. Esteves, Mayor/Chair

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney/Agency Counsel

RESOLUTION NO. _____

A JOINT RESOLUTION OF THE REDEVELOPMENT AGENCY AND THE CITY COUNCIL OF THE CITY OF MILPITAS MAKING FINDINGS FOLLOWING A PUBLIC HEARING FOR USE OF REDEVELOPMENT FUNDS

WHEREAS, the Milpitas Redevelopment Agency and the City Council of the City of Milpitas seek to acquire, construct, and improve certain public facilities of benefit to the Redevelopment Area and to the community; and

WHEREAS, the 2011-2016 Capital Improvement Program enumerates the capital projects that the Agency and the City of Milpitas wish to undertake, setting forth the desired timing and financing resources for the projects that are available to undertake said projects; and

WHEREAS, notice was given of a joint public hearing before the Milpitas Redevelopment Agency and the City Council of the City of Milpitas at 6:00 p.m. on May 10, 2011 at the Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, California; and

WHEREAS, prior to said hearing the 2011-2016 Capital Improvement Program was prepared and made available for public inspection and copying, and the 2011-2016 Capital Budget of the 2011-2016 Capital Improvement Program is hereby referred to and made a part hereof as though fully set forth herein; and

WHEREAS, a joint hearing was held at said time and place. Opportunity was given to any member of the public to comment and to inquire. The hearing was closed, and following the closure thereof the 2011-2016 Capital Budget was approved; and

WHEREAS, evidence was offered by the Agency/City staff in support of the findings hereafter made.

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 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. The evidence offered by the Agency/City staff and contained in the 2011-2016 Capital Improvement Program sets forth the facts supporting the determinations required to be made pursuant to Section 33445 of the Health and Safety Code and sets forth the redevelopment purpose for which redevelopment funds are being used to pay for the acquisition, construction, and improvements of publicly-owned facilities.
3. The land and facilities to be acquired, constructed, and improvements that are to be made thereon are within the Project Area of the Agency or adjacent to the Project Area.
4. The acquisition of land, facilities, buildings, structures, and other improvements to be acquired or constructed as set forth in the 2011-2016 Capital Improvement Program are of benefit to the Project Area and will assist in eliminating blighting conditions within the Project Area or provide housing for low- or moderate-income persons, and are consistent with the latest Five Year Redevelopment Implementation Plan adopted by the Agency pursuant to Health & Safety Code Section 33490.

5. No other reasonable means of financing such buildings, land, facilities, structures or other improvements are available to the community.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk/Agency Secretary

Jose S. Esteves, Mayor/Chair

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney/Agency Counsel

City of Milpitas

Department of Financial Services



Date: May 10, 2011
To: Honorable Mayor and City Council
Through: Tom Williams, City Manager
From: Emma C. Karlen, Director of Financial Services
Subject: Evidence in support of Health & Safety Code §33445 Findings

Background:

The purpose of this report is to offer evidence to the Milpitas Redevelopment Agency Board and to the City Council, supporting findings that are consistent with the requirements of Cal. Health and Safety Code §33445. With the consent of the legislative body, the Agency may pay all or part of the value of the land and the cost of the installation and construction of any building, facility, structure, or other improvement which is publicly owned either within or outside the project area, if the legislative body determines the following:

1. That the buildings, facilities, structures, or other improvements are of benefit to the project area or the immediate neighborhood in which the project is located.
2. That no other reasonable means of financing the buildings, facilities, structures, or other improvements, are available to the community.
3. That the payment of funds for acquisition of land or the cost of buildings, facilities, structures, or other improvements will assist in the elimination of one or more blighting conditions inside the Project area, or provide housing for low or moderate-income persons and is consistent with the Implementation Plan.

Several of the projects to be financed by the Agency in the 2011-2012 Capital Improvement Program are either ongoing projects or have been identified in earlier Capital Improvement Programs. H&S §33445 findings for these projects have been made in previous years. Community Redevelopment Law changed in 1994 as a result of the passage of AB1290; specific blight findings are now required. Consequently, this report will reference many of the physical and economic conditions that cause blight as described in Health & Safety Code §33031 and how the financing of the projects listed will assist in the elimination of blighting conditions inside the Project Area.

Discussion:

The buildings, facilities, structures, or other improvements proposed to be funded in whole or in part by the Agency are enumerated in the 2010-2015 Capital Improvement Program. They are categorized as Community Improvement Projects and Storm Drain Improvement Projects. The proposed format and amounts of financing for these projects for fiscal year 2010-2011 are outlined in the 2010-2015 Capital Improvement Program.

Community Improvements

Project	Blighting Conditions	Improvements
Library	The Midtown Area was added to the Redevelopment Project Area in June 2003. Many blighting conditions were identified in the Midtown including buildings of substandard design, incompatible land uses, lower taxable retail sales, low residential and commercial sales prices, low lease rates and an increase in business closures.	The project will provide for the design and ultimately construction of a new library in the Midtown Area. The New Milpitas Public Library will be located at the historic Milpitas Grammar School. The existing Library in the Town Center is a highly utilized library but is extremely inadequate in size to serve its users. The new Library will eliminate blighting conditions in the Midtown by serving as a catalyst to bring patronage to the area and revitalize the commercial and residential development in Midtown.
City Building Improvements	Many of the City Buildings that are located inside or adjacent to the Project Area are seismically inadequate and ADA non-compliant. These buildings are unsafe and unhealthy for employees, citizens and community groups to work or use.	This project provides for the necessary rehabilitation work, electrical upgrades and renovations that will bring the City buildings up to code. These improvements will eliminate the conditions of the buildings that are unsafe and unhealthy for people to work or use and will benefit the Project Area by creating a strong infrastructure base providing stability to Area neighborhoods and businesses.
Milpitas Sports Center Master Plan Update	The Sports Center provides recreational services for citizens throughout the City. Its proximity to the Project Area benefits low and moderate income citizens in the neighborhood. A Master Plan Update is needed to implement building Improvements to support the indoor sports and fitness programs. The Master Plan update will also include a vehicular, bicycle and pedestrian circulation element..	This project will provide funding for the Master Plan update which will lead to building improvements of the Sports Center including parking improvement and traffic circulation within the site. The improvements will eliminate the blighting conditions of an unsafe public building for public use. The projects will also eliminate blighting conditions of inadequate recreational facilities and enhance property values of neighboring low and moderate income homes.

Street Improvements

Project	Blighting Conditions	Improvements
Sidewalk Replacement 2011	Within the Project Area, there are many depreciated and stagnant property conditions partly due to dilapidated sidewalk.	This project involves replacement of existing curb, gutter, and sidewalk. The work scope also includes installation of ADA ramps. This project will eliminate the blighting conditions by replacing dilapidated sidewalks that are necessary to improve the conditions of stagnant property values within the Project Area.
Sound Wall Renovation	Within the Project Area, there are many depreciated and	This project renovates the City sound walls along N. Milpitas Boulevard, Escuela Parkway, Jacklin Road at Horcajo, La

<p>RDA Area Pavement Reconstruction</p> <p>Street Light Improvements</p>	<p>stagnant property conditions partly due to deteriorated sound walls.</p> <p>Within the Project Area, there are many depreciated and stagnant property conditions partly due to dilapidated street surface and pothole conditions.</p> <p>Within the Project Area, there are many depreciated and stagnant property conditions, high vacancy in the commercial and industrial zone and high business turnover rates partly due to insufficiency of street lighting and deterioration of existing street light infrastructure.</p>	<p>Palma, Hillview Drive at Tularcitos Creek, Nicklaus at N. Park Victoria and other locations. Many of these sound walls are within the Project Area. This project will eliminate the blighting conditions by renovating or replacement the sound walls which are necessary to improve the conditions of stagnant property values within the Project Area</p> <p>This project provides roadways reconstruction within the RDA areas and arterial roads that the Project Area. These improvements will provide the transportation infrastructure and traffic circulation necessary to improve the conditions of stagnant property values within the Project Area.</p> <p>This project will renovate and replace many of the aging infrastructure, including replacement of street ballasts/lamps, light poles, electrical wiring systems and modification of foundations. The improvement will eliminate blight by providing for adequate street lighting and street light infrastructure.</p>
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Storm Drain Improvements

Project	Blighting Conditions	Improvements
<p>City Fuel Tank Improvements</p>	<p>Within the Project Area, there are many aging City-owned underground fuel tanks that may potentially contaminate ground water. Contaminated ground water is unsafe and unhealthy for local residents and businesses to use.</p>	<p>This project involves the removal of underground fuel tanks and installation of above ground double walled tanks at Wrigley Ford, Bellow, Penitencia, Berryessa, and Jungens Storm Pump Stations. These are State mandated improvements intended to protect ground water from potential contamination. Many of these fuels tanks are within the Project Area. This project will eliminate the blighting conditions of the aging underground fuel tanks and improve the health and safety of ground water for use in the Project Area.</p>
<p>Emergency Pump Station Generators and Replacement of Pumps at the California Circle</p>	<p>Within the Project Area's commercial and industrial zone, economically viable use of many buildings is hindered due to insufficient utility infrastructure.</p>	<p>These projects will provide for the purchase and installation of two trailer mounted emergency generators for use at the storm pump stations in case of emergency and replacement of pumps at the California</p>

Pump Station		Circle Pump Station which serves the Project Area. These improvements will eliminate factors that hinder the economically viable use or capacity of buildings or lots, by improving deteriorated, faulty and inadequate utility infrastructure serving the Project Area.
Storm Pump Station Improvements	Within the Project Area's commercial and industrial zone, economically viable use of many buildings is hindered due to insufficient utility infrastructure,	This project involves the design and construction of major renovations of Wrigley-Ford, McCarthy, Oak Creek, Murphy Ranch, Penintencia, Jungens and Abbott Storm Pump Stations. The work scope includes upgrades to the electrical and mechanical systems, as well as exterior improvements. These improvements will eliminate factors that hinder the economically viable use or capacity of buildings or lots, by improving deteriorated, faulty and inadequate utility infrastructure serving the Project Area.

Each of these projects will benefit the Project Area, and each project is consistent with the updated Five-Year Redevelopment Implementation Plan and the Amended and Restated Redevelopment Plan, adopted by the City Council and Agency in April 2010. Although many of these projects are partially funded by various revenue sources such as gas tax funds, grants, user fees, and developer contributions, these revenues are inadequate to fund all the foregoing projects. Without the Agency's funding, there are no other reasonable means of funding to complete these projects. The blighting conditions described above cause and will continue to cause a reduction and lack of proper utilization of the Project Area to such an extent that these conditions cannot be alleviated either by private enterprise or the City acting alone, requiring redevelopment financing to be used in the interest of the community.

Recommendation:

Adopt Resolution finding that the financing proposed is consistent with the purposes of California redevelopment law and the Agency's Implementation Plan, benefiting the Project Area and assisting in the elimination of blight in the Project Area and that no other reasonable means of financing the projects are available to the community.

RESOLUTION NO. ____

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF MILPITAS AUTHORIZING PAYMENTS TO THE CITY OF MILPITAS PURSUANT TO THE SECOND AMENDED AND RESTATED PUBLIC WORKS AGREEMENT

WHEREAS, on September 21, 1976, by Ordinance No. 192, the City Council of the City of Milpitas (“City”) adopted the redevelopment plan (“Redevelopment Plan”) for the Milpitas Redevelopment Project No. 1, (“the “Project”); and

WHEREAS, pursuant to the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000 *et seq.*) and its general city powers, the City desires to assist the Milpitas Redevelopment Agency (“Agency”) in the implementation of the Project; and

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

WHEREAS, under the 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 Agency Financing pages of the Five Year Capital Improvement Program, attached hereto as Attachment No. 1 (the “Public Improvements”) to serve and benefit the Project; and

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

NOW, THEREFORE the Board of the Redevelopment Agency of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The Redevelopment Agency Board has considered the full record before it, 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 it. The recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. In return for the City’s obligation to acquire, construct and perform such Public Improvements, the Redevelopment Agency shall pay to the City the full cost of the Public Improvements as set forth in Attachment No. 1, or any portion thereof as demanded by the City.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, Agency Secretary

Jose S. Esteves, Chair

APPROVED AS TO FORM:

Michael J. Ogaz, Agency Counsel

**PUBLIC IMPROVEMENTS
2011-16 CAPITAL IMPROVEMENT PROGRAM
REDEVELOPMENT AGENCY FINANCING**

FINANCE SOURCES

RDA Tax Increment	2011-12	2012-13	2013-14	2014-15	2015-16	TOTAL
Community Improvement	150,000	850,000	1,500,000	500,000	1,000,000	4,000,000
Park Improvement	0	0	0	0	0	0
Sewer Improvement	0	0	0	0	0	0
Storm Drain Improvement	562,000	550,000	0	400,000	0	1,512,000
Streets	2,750,000	5,000,000	5,200,000	0	0	12,950,000
Water	0	0	0	0	0	0
RDA Tax Increment Totals	3,462,000	6,400,000	6,700,000	900,000	1,000,000	18,462,000
RDA Bond (1997, 2000, and 2003)	2011-12	2012-13	2013-14	2014-15	2015-16	TOTAL
Community Improvement	209,000	0	0	0	0	209,000
Sewer Improvement	0	0	0	0	0	0
Streets	0	0	0	0	0	0
Water	350,000	0	0	0	0	350,000
RDA Bond Totals	559,000	0	0	0	0	559,000
TOTAL FINANCE SOURCES	4,021,000	6,400,000	6,700,000	900,000	1,000,000	19,021,000

PROJECT EXPENSES

Community Improvement	2011-12	2012-13	2013-14	2014-15	2015-16	TOTAL
8162 Library Project	134,000	0	0	0	0	134,000
8182 City Building Improvements	75,000	500,000	0	500,000	0	1,075,000
New Fire Station Improvements	0	0	1,500,000	0	1,000,000	2,500,000
New MSC Master Plan Update	150,000	0	0	0	0	150,000
New MSC Pool Resurfacing	0	350,000	0	0	0	350,000
Total	359,000	850,000	1,500,000	500,000	1,000,000	4,209,000
Streets	2011-12	2012-13	2013-14	2014-15	2015-16	TOTAL
4254 Sidewalk Replacement 2011	50,000	0	0	0	0	50,000
8196 Soundwall Renovation	300,000	0	0	0	0	300,000
New RDA Area Pavement Reconstruction	2,000,000	5,000,000	5,000,000	0	0	12,000,000
New Street Light Improvements	400,000	0	200,000	0	0	600,000
Total	2,750,000	5,000,000	5,200,000	0	0	12,950,000
Water	2011-12	2012-13	2013-14	2014-15	2015-16	TOTAL
New Abel Street Pipeline Extension	350,000	0	0	0	0	350,000
Total	350,000	0	0	0	0	350,000
Storm Drain Improvement	2011-12	2012-13	2013-14	2014-15	2015-16	TOTAL
3703 Emergency Pump Station Generators	100,000	0	0	0	0	100,000
3704 Fuel Tank Improvements	112,000	0	0	0	0	112,000
8188 Storm Pump Station Improvements	100,000	400,000	0	400,000	0	900,000
New Berryessa Pump Replacement 2013	0	150,000	0	0	0	150,000
New California Circle Pump Station	250,000	0	0	0	0	250,000
Total	562,000	550,000	0	400,000	0	1,512,000
TOTAL PROJECT EXPENSES	4,021,000	6,400,000	6,700,000	900,000	1,000,000	19,021,000

RESOLUTION NO. _____

**A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF MILPITAS
DETERMINING THAT THE PLANNING AND ADMINISTRATION EXPENSES TO BE FUNDED IN
FISCAL YEAR 2011-2012 BY THE HOUSING RESERVE FUND ARE NECESSARY FOR THE
PRODUCTION, IMPROVEMENT, AND/OR PRESERVATION OF AFFORDABLE HOUSING FOR
THE LOW AND MODERATE INCOME HOUSEHOLDS**

WHEREAS, on September 21, 1976, by Ordinance No. 192, the City Council of the City of Milpitas adopted the redevelopment plan (“Redevelopment Plan”) for the Milpitas Redevelopment Project Area No. 1 (“Original Project Area”); and

WHEREAS, pursuant to Section 33334.2(a) of the California Community Redevelopment Law (Health and Safety Code Section 33000, *et seq.*) not less than 30% of all taxes which are allocated to the Milpitas Redevelopment Agency (“Agency”) shall be set aside by the Agency in a Housing Reserve Fund and used by the Agency for the purpose of increasing, improving and preserving the community’s supply of low- and moderate-income housing available at affordable housing costs to people and families of low and moderate income; and

WHEREAS, pursuant to Section 33334.3(d) of the California Community Redevelopment Law (Health and Safety Code Section 33000, *et seq.*) it is the intent of the California State Legislature that the amount of money spent for planning and general administration from the Housing Reserve Fund not be disproportionate to the amount actually spent for the cost of production.

NOW, THEREFORE the Board of the Redevelopment Agency of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The Redevelopment Agency Board has considered the full record before it, 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 it. The recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The Redevelopment Agency Board hereby determines that it is necessary to allocate \$1,394,095 of the estimated \$9,943,492 Housing Reserve Fund Budget for the planning and administrative expenses necessary for the production, improvement, and/or preservation of low- and moderate-income housing during the 2011-2012 fiscal year.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, Agency Secretary

Jose S. Esteves, Chair

APPROVED AS TO FORM:

Michael J. Ogaz, Agency Counsel

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS REVISING CERTAIN PARKS & RECREATION FEES

WHEREAS, pursuant to Milpitas Municipal Code Section IV-3-2.00, the City Manager is required to calculate and propose adjustments to fees and charges imposed by various City of Milpitas departments to assure recovery of all or part of costs “reasonably borne” in providing the facilities, products or services provided by said City departments; and

WHEREAS, pursuant to this directive, certain Parks and Recreation Department rental charges for the use of certain facilities, ticket prices for attendance at certain recreational events and other fees must be updated; and

WHEREAS, such rental charges and other Parks and Recreation Department fees are not land use, application, or other fees subject to the procedural requirements of Government Code Section 66016 *et seq.*; and

WHEREAS, the proposed rental charges and fees do not constitute a new imposed “tax” and are not subject to the provisions of Proposition 26, since they are being charged for entirely voluntary entrance to or use of City property and/or are being charged for specific government services or products for which there are meaningful private market alternatives and provided directly to a willing payor; and

WHEREAS, to the extent required by Government Code Section 50402 and other provisions of law, the City has ensured that the charges or fees listed herein do not exceed the reasonable cost of providing the service, taking into account the personnel costs, utility charges, maintenance costs and other expenses associated with delivering access to the listed City properties and/or services; and

WHEREAS, the proposed fees and cost recovery schedule also complies with the percentage limitations of Milpitas Municipal Code Section IV-3-4.00 (Listing Percentage of “Costs Reasonably Borne” to Be Recovered for Various Service Centers); and

WHEREAS, the proposed update to the Parks and Recreation Department fees and cost recovery schedules shall ensure that general fund monies are not unfairly and inequitably used to subsidize certain services and facilities usage to the detriment of other vital and important public needs; and

WHEREAS, the proposed fee update is supported by detailed records, calculations based upon years of professional training, education and experience, and measurements of cost and resource allocations; and

WHEREAS, specifically, the total labor cost of providing any particular service shall include a calculation of the “fully loaded” hourly cost of each category of City employee under a methodology that measures both the direct cost and indirect cost components associated with providing a particular service (“Cost Allocation Methodology”), as set forth in the February 2007 Cost Allocation Study. Under the Cost Allocation Methodology, direct costs shall include payroll and benefits, supplies, contractual services and capital outlay. Indirect costs shall include City department administrative costs, central service costs, building occupancy costs, and facility and equipment costs. Such indirect costs are also known as administrative and overhead costs; and

WHEREAS, the 2007 Cost Allocation Methodology is hereby made an official part of the record and justification for the fees proposed in this Resolution; and

WHEREAS, with the exception of those fees for services or facilities specifically listed in Exhibit A attached hereto, the City Council does not wish to repeal or amend fees set by previous resolution.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, 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 it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

2. The Parks and Recreation Fees listed in Exhibit A are hereby updated and adopted.
3. All fees and facilities use charges shall be subject to an annual automatic cost of living adjustment based on the San Francisco - Oakland - San Jose Consumer Price Index - All Urban Consumers (U.S. Department of Labor). Staff shall take ministerial notice of such increases from official U.S. Department of Labor publications and incorporate them into the fee schedule for each year, absent City Council direction to the contrary in a particular year.
4. If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Resolution.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM

Michael J. Ogaz, City Attorney

EXHIBIT A

**AMENDMENT AND RESTATEMENT OF CERTAIN PARKS AND RECREATION
FEES AND CHARGES**

<u>Facilities Use, Events and Services</u>	<u>Fee</u>
• Rainbow Theatre	
- Audience Ticket Prices:	
- School Program Children	
(0-12 years)	\$6.00/child
(13-17 years)	\$12.00/child
- Adult (18+ years of age)	\$12.00/adult
- Participant Fees	
- Resident	\$100.00 each
- Non-resident	\$150.00 each
• Season Ticket Holder	\$100.00 (3 shows + reserved
- For Rainbow Theater	seating + acknowledgement)
• Special Events	
- July 4 th Fireworks	\$2.00/Per person age 12 and older Free/Per person under age 12
• Youth Programs	
- After the Bell Fee	\$7.00/day
- Summer Camp Fee	\$175.00/week
- Summer Camp Extended Care	\$40.00/ week
• Senior Center Program	
-Classes	\$2.00-\$4.00/hr (Depending upon class instruction costs)
- Non Resident Fee	\$10.00 Fee per class
• Senior Trips Administration Fee	\$5.00 - \$10.00 Fee per class (Depending upon trip costs)
• Milpitas Sports Center	
- Youth Sports User Fee	\$10.00/player
- Swim Lessons	\$69.00 per session for residents \$89.00 per session for non-residents
- Adult Sports League (per team)	\$500.00+ (depending upon City costs for field or athletic space preparation and maintenance, referee costs, etc.)
- Tidal Waves Swim Team (MTW)	\$68.00 per month for junior swimmers \$78.00 per month for Intermediate swimmers \$88.00 per month for Senior swimmers
- Non-Residents Sports Center User Fee	\$50.00/annually
• Small Parks (with restrooms)	
- Residents	
Peak Hours (Friday-Sunday)	\$60.00/day
Non Peak Hours (Monday-Thursday)	\$40.00/day
-Non-residents	
Peak Hours (Friday-Sunday)	\$90.00/day

Non Peak Hours (Monday-Thursday) \$70.00/day

- Large Parks

- Residents

- Peak Hours (Friday-Sunday) \$120.00/day

- Non Peak Hours (Monday-Thursday) \$80.00/day

- Non-residents

- Peak Hours (Friday-Sunday) \$160.00/day

- Non Peak Hours (Monday-Thursday) \$120.00/day