

RESOLUTION NO. 8446 / SA 7 / PFA 16

**A JOINT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS, THE BOARD OF THE SUCCESSOR AGENCY TO THE FORMER MILPITAS REDEVELOPMENT AGENCY AND THE BOARD OF THE MILPITAS PUBLIC FINANCING AUTHORITY APPROVING THE ADOPTION OF DISCLOSURE POLICIES AND PROCEDURES**

**WHEREAS**, the Securities and Exchange Commission (the "SEC") recommends that issuers of municipal bonds adopt policies and procedures to govern compliance and implement training with respect to their initial disclosure and continuing disclosure undertakings; and

**WHEREAS**, in response to the SEC's recommendations and in order to better monitor compliance with its disclosure undertakings, the City of Milpitas, the Successor Agency to the Former Milpitas Redevelopment Agency and the Milpitas Public Financing Authority find it desirable to adopt and maintain disclosure policies and procedures; and

**WHEREAS**, there has been presented to this meeting a proposed form of disclosure policies and procedures (the "Procedures"), a copy of which is attached hereto as Attachment 1.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City, the Board of the Successor Agency to the Former Milpitas Redevelopment Agency, and the Board of the Milpitas Public Financing Authority as follows:

Section 1. The City Council, the Board of the Successor Agency and the Board of the Authority hereby jointly approve and adopt the Disclosure Policies and Procedures attached hereto as Attachment 1, including Exhibit A thereto, presented to the meeting at which this Resolution is adopted,

Section 2. This Resolution shall take effect from and after the date of its passage and adoption.

PASSED AND ADOPTED this 3<sup>rd</sup> day of February, 2015, by the following vote:

AYES: (5) Mayor/Chair Esteves, Vice Mayor/Vice Chair Montano, and Members Barbadillo, Giordano and Grilli


NOES: (0)

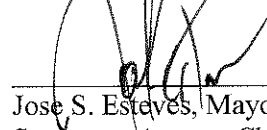
ABSENT: (0)

ABSTAIN: (0)


ATTEST:

APPROVED:

  
Mary Lavelle, City Clerk/Successor Agency  
Secretary/Public Financing Authority Secretary

  
Jose S. Esteves, Mayor /  
Successor Agency Chair /  
Public Financing Authority Chair

APPROVED AS TO FORM:

  
Michael J. Ogar, City Attorney /  
Successor Agency Counsel /  
Public Financing Authority Counsel

# ATTACHMENT 1

## CITY OF MILPITAS SUCCESSOR AGENCY TO THE FORMER MILPITAS REDEVELOPMENT AGENCY MILPITAS PUBLIC FINANCING AUTHORITY

### Disclosure Policies and Procedures

#### Article I *General*

These Disclosure Policies and Procedures (the “**Disclosure Procedures**”) of the City of Milpitas (the “**City**”), the Successor Agency to the Former Milpitas Redevelopment Agency (the “**Successor Agency**”) and the Milpitas Public Financing Authority (the “**Authority**”) and together with the City and the Successor Agency, the “**Local Agencies**” and each a “**Local Agency**”) are intended to ensure that the each Local Agency is in compliance with all applicable federal and state securities laws.

#### Article II *Disclosure Coordinator*

The chief financial officer of each Local Agency shall be the disclosure coordinator of such Local Agency (each, a “**Disclosure Coordinator**”).

#### Article III *Review and Approval of Official Statements*

The Disclosure Coordinator of each Local Agency shall review any Official Statement prepared in connection with any debt issuance by such Local Agency in order to ensure there are no misstatements or omissions of material information in any sections that contain descriptions of information prepared by such Local Agency.

In connection with its review of the Official Statement, the Disclosure Coordinator of each Local Agency shall consult with third parties, including outside professionals assisting such Local Agency, and all members of such Local Agency’s staff, to the extent that such Disclosure Coordinator concludes they should be consulted so that the Official Statement will include all “material” information (as defined for purposes of federal securities law).

As part of the review process, the Disclosure Coordinator of each Local Agency shall submit all Official Statements to the legislative body or governing board of such Local Agency (each, a “**Legislative Body**”) for approval. The cover letter used by the Disclosure Coordinators to submit the Official Statements shall be in substantially the form of Exhibit A.

The approval of an Official Statement by a Legislative Body shall be docketed as a new business matter and shall not be approved as a consent item. Each Legislative Body shall undertake such review as deemed necessary by such Legislative Body, following consultation with the applicable Disclosure Coordinator, to fulfill the responsibilities of such Legislative Body under applicable federal and state securities laws. In this regard, the Disclosure Coordinator for each Local Agency shall consult with disclosure counsel to the applicable Local Agency to the extent such Disclosure Coordinator considers appropriate.

#### **Article IV** ***Continuing Disclosure Filings***

To the extent that the Local Agencies have entered into continuing disclosure undertakings in connection with their respective debt offerings, the Local Agencies are required each year to file annual reports with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access ("EMMA") system in accordance with such undertakings. Such annual reports are required to include certain updated financial and operating information, and the City's audited financial statements.

To the extent that the Local Agencies have entered into continuing disclosure undertakings in connection with their respective debt offerings, the Local Agencies are also required under their continuing disclosure undertakings to file notices of certain events with EMMA.

The Disclosure Coordinator for each Local Agency is responsible for establishing a system (which may involve the retention or one or more consultants) by which:

- (i) such Local Agency will make the annual filings required by its continuing disclosure undertakings on a complete and timely basis, and
- (ii) such Local Agency will file notices of enumerated events on a timely basis.

#### **Article V** ***Public Statements Regarding Financial Information***

Whenever the Local Agencies make statements or release information relating to their finances to the public that are reasonably expected to reach investors and the trading markets, the Local Agencies are obligated to ensure that such statements and information are complete, true, and accurate in all material respects.

#### **Article VI** ***Training***

Each Disclosure Coordinator shall ensure that the staff members of their respective Local Agencies involved in the initial or continuing disclosure process and the respective Legislative Bodies of the Local Agencies are properly trained to understand and perform their responsibilities.

Each Disclosure Coordinator shall arrange for disclosure training sessions to be conducted by disclosure counsel for the respective Local Agencies. Such training sessions shall include education on these Disclosure Procedures, the respective disclosure obligations of the Local Agencies under applicable federal and State securities laws and the disclosure responsibilities and potential liabilities of staff members of the Local Agencies and members of their Legislative Bodies. Such training sessions may be conducted using a recorded presentation.

## EXHIBIT A

### Form of Staff Report

To: Members of the [City Council][Board]

From:

Date: \_\_\_\_\_

This Staff Report relates to the proposed issuance of \_\_\_\_\_ (the "Obligations") by the [City][Successor Agency to the Former Milpitas Redevelopment Agency][Milpitas Public Financing Authority]. The [City Council][Board] is asked to approve issuance of the Obligations and all related documents. The near-final versions of these documents are attached.

The attached Preliminary Official Statement has been reviewed and approved for transmittal to the [City Council][Board] by the [City's][Successor Agency's][Authority's] financing team. The distribution of the Preliminary Official Statement by the [City][Successor Agency][Authority] is subject to federal securities laws, including the Securities Act of 1933 and the Securities Exchange Act of 1934. These laws require the Preliminary Official Statement to include all facts that would be material to an investor in the Obligations. Material information is information that there is a substantial likelihood would have actual significance in the deliberations of the reasonable investor when deciding whether to buy or sell the Obligations. If the [City Council][Board] concludes that the Preliminary Official Statement includes all facts that would be material to an investor in the Obligations, it must adopt a resolution that authorizes staff to execute a certificate to the effect that the Preliminary Official Statement has been "deemed final."

The Securities and Exchange Commission (the "SEC"), the agency with regulatory authority over the [City's][Successor Agency's][Authority's] compliance with the federal securities laws, has issued guidance as to the duties of the [City Council][Board] with respect to its approval of the Preliminary Official Statement. In its "Report of Investigation in the Matter of County of Orange, California as it Relates to the Conduct of the Members of the Board of Supervisors" (Release No. 36761 / January 24, 1996) (the "Release"), the SEC indicated that, if a member of the [City Council][Board] has knowledge of any facts or circumstances that an investor would want to know about prior to investing in the Obligations, whether relating to their repayment, tax-exempt status, undisclosed conflicts of interest with interested parties, or otherwise, he or she should endeavor to discover whether such facts are adequately disclosed in the Preliminary Official Statement. In the Release, the SEC indicated that the steps that a member of the [City Council][Board] could take include becoming familiar with the Preliminary Official Statement and questioning staff and consultants about the disclosure of such facts.

Section 1. Purpose of Financing.

Section 2. Documents for Approval; Security for the Obligations.

Section 3. Risks Relating to Repayment and Tax-Exempt Status of the Obligations.

Section 4. Requested Approvals.