



**MILPITAS CITY COUNCIL MEETING AGENDA
SEPTEMBER 16, 2008**

**7:00 P.M. (PUBLIC BUSINESS)
455 E. CALAVERAS BOULEVARD**

SUMMARY OF CONTENTS

- I. CALL TO ORDER/ROLL CALL**
- II. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- III. INVOCATION (Vice Mayor Livengood)**
- IV. APPROVAL OF COUNCIL MEETING MINUTES – September 2, 2008**
- V. SCHEDULE OF MEETINGS (Council Calendars for September and October 2008)**
- VI. PRESENTATIONS**

Proclamations:

- Hispanic Heritage Month, September 15 to October 16, 2008
- Family Day, September 22, 2008

Certificates of Commendation for American Cancer Society's Relay for Life

- Captain Phil Duncan, Overall Top Team Fund Raiser
- Heather Gunn, Overall Top Individual Fund Raiser

VII. 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.

VIII. ANNOUNCEMENTS

IX. ANNOUNCEMENT OF CONFLICT OF INTEREST

X. APPROVAL OF AGENDA

XI. CONSENT CALENDAR (Items with Asterisks*)

XII. PUBLIC HEARING

- 1. Consider Adoption of the Community Development Block Grant Consolidated Annual Performance Evaluation Report for FY 2007-08 (Staff Contacts: Felix Reliford, 586-3071, and Gloria Anaya, 586-3075)**

XIII. UNFINISHED BUSINESS

- 2. Receive Report on Status Update of Emergency Medical Dispatch Implementation (Staff Contacts: Clare Frank, 586-2811, and Charlotte Pang, 586-2432)**

- * 3. Review the Emergency Action for Response and Repair of the Emergency Water Intertie Crossing on I-880 between Dixon Landing Road and McCarthy Boulevard, and Continue the Emergency Action (Staff Contact: Greg Armendariz, 586-3317)

XIV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor/Chair

RA2. Roll Call

RA3. Approval of Minutes (September 2, 2008)

RA4. Approval of Agenda and Consent Calendar (Item with asterisk*)

***RA5. Adopt Resolution Granting Initial Acceptance of the Parking Garage Emergency Phone Installation, Project No. 8161 (Staff Contact: Steve Erickson, 586-3414)**

RA6. Agency Adjournment

XV. REPORTS OF OFFICER AND COMMISSION

City Council

- * 4. Consider Mayor's Recommendation for Appointments to City Commissions (Contact: Mayor Esteves, 586-3029)

Library Advisory Commission

- 5. Review and Recommendation to Approve Proposed Financial Donations Policy for the Milpitas Public Library as a Standard Operating Procedure of the City of Milpitas (Staff Contact: Leslie Stobbe, 586-3352)

XVI. NEW BUSINESS

- 6. Discussion of Joint Meeting between the City Council and the Milpitas Unified School District Board of Education (Staff Contact: Tom Williams, 586-3050)
- * 7. Approve Budget Appropriation for the Fiscal Year 2008-09 California Department of Conservation Grant in the Amount of \$17,463 (Staff Contact: Leslie Stobbe, 586-3352)

XVII. ORDINANCES

- * 8. Waive the Second Readings and Adopt Ordinances No. 277 and No. 208.43 Making Minor Amendments to the City's Existing Development Impact Fee Program and Exempting the Transit Area from Sewer Treatment Plant Fee (Staff Contact: James Lindsay, 586-3273)

XVIII. RESOLUTIONS

- * 9. Adopt a Resolution to Approve Site Development Permit Amendment No. SA08-0004, for the Hui Residence (Staff Contact: Cindy Hom, 586-3284)
- * 10. Adopt a Resolution Granting Initial Acceptance of Well Upgrade Program, Phase II (Pinewood Well), Project No. 7076 (Staff Contact: Jeff Leung, 586-3326)
- * 11. Adopt a Resolution Amending the List of Designated Full Disclosure Positions for the City of Milpitas' Conflict of Interest Code (Staff Contact: Mary Lavelle, 586-3001)

XIX. BIDS AND CONTRACTS

- * 12. **Authorize the City Manager to Execute a Contract for City Hall Civic Center Landscape Maintenance Service with Gachina Landscape Management (Staff Contact: Chris Schroeder, 586-3161)**
- * 13. **Authorize the City Manager to Execute a Contract for Parks and Streetscape Maintenance Service with East Bay Construction (Staff Contact: Chris Schroeder, 586-3161)**
- * 14. **Authorize the City Manager to Execute a Contract with Alice Wright for Abandoned Shopping Cart Retrieval Service (Staff Contact: Chris Schroeder, 586-3161)**
- * 15. **Authorize the City Manager to Negotiate a Cost-Sharing Agreement with Santa Clara Valley Water District to Provide a One-to-One Match for the Water Efficient Landscape Rebate for Residential Customers, and Direct Staff to Take this Item to the Finance Subcommittee (Staff Contact: Kathleen Phalen, 586-3345)**

XX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, OCTOBER 7, 2008 AT 7:00 P.M.**

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 OPEN GOVERNMENT SUBCOMMITTEE

at the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035

e-mail: mogaz@ci.milpitas.ca.gov / Fax: 408-586-3030 / Phone: 408-586-3040

The Open Government Ordinance is available from the City Clerk's Office or by visiting the City's website www.ci.milpitas.ca.gov, select Open Government Ordinance under News Features.

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 and at the Milpitas Library during normal business hours.

BECOME A CITY COMMISSIONER!

Currently, there are openings for the:

Community Advisory Commission (Alternate)

Emergency Preparedness Commission (Industry Rep)

Mobile Home Park Rental Review Board

Recycling and Source Reduction Advisory Commission

Youth Advisory Commission (Alternate)

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 HEARING

1. Consider Adoption of the Community Development Block Grant Consolidated Annual Performance Evaluation Report for FY 2007-08 (Staff Contacts: Felix Reliford, 586-3071, and Gloria Anaya, 586-3075)

Background: The Consolidated Annual Performance Evaluation Report (CAPER) is a US Department of Housing and Urban Development mandated report that describes the City's one-year Community Development Block Grant (CDBG) Programs and Activities undertaken during the 2007-08 program year. The CAPER also evaluates the City's overall progress in carrying out those priority projects that were identified in the approved Five-Year Consolidated Plan and One-Year Action Plan.

The report identifies the following major accomplishments:

- Approved 1,249 affordable housing units with rental and for-sale housing for very low, low and moderate-income households;
- Implementation of the Five-Year Consolidated Plan (2007-2012), Midtown Specific Plan, General Plan Housing Element Policies and goals to support and encourage affordable housing opportunities for Milpitas residents;
- Completion and Implementation of the Transit Area Specific Plan to allow higher densities to accommodate 5,000-7,000 new dwelling units;
- Financial assistance for Terrace Gardens Senior Housing project, Calle Oriente Park American Disabilities Act accessibility improvements, Rebuilding Together safety repairs/accessibility/mobility home improvements for seniors and the Milpitas Housing Rehabilitation Program;
- Funding to assist 19 public service agencies and housing providers; and
- Provided \$599,777 in CDBG funds, assisting more than 5,000 Milpitas residents.

The CAPER was advertised for public review and comments for 15 days and copies were sent to all service and housing providers that received CDBG funds from the City and other interested parties. Copies were also made available at City Hall and the Milpitas Public Library. To date, no public comments were received. A copy of the CAPER was provided in the Council's agenda packet.

Fiscal Impact: None

Recommendations:

1. Following any comments, move to close the public hearing.
2. Adopt the Consolidated Annual Performance Evaluation Report (CAPER) for FY 2007-08.

XV. UNFINISHED BUSINESS

2. Receive Report on Status Update of Emergency Medical Dispatch Implementation (Staff Contacts: Clare Frank, 586-2811, and Charlotte Pang, 586-2432)

Background: The City Council directed the Milpitas Police and Fire departments to pursue implementation of enhanced Emergency Medical Dispatch (EMD) for response to medical calls, as provided by other cities in Santa Clara County. EMD has two components: (1) prioritization that ensures the most urgent injuries receive the closest ambulance, and (2) pre-arrival instructions that allow the reporting party to provide immediate aid while awaiting arrival of the

firefighters/paramedics. The first step was to identify a funding source and the second to prepare for implementation. Staff has successfully completed both steps.

The City obtained initial implementation funding for the EMD enhancement by staff's efforts to apply for and receive an award from the County of Santa Clara Emergency Medical Services Trust Fund, which covers the cost of contracting with the Santa Clara County Communications Center to provide EMD services to Milpitas. The trust-fund award has been approved for Fiscal Year 2008-09 by the County Board of Supervisors, and staff expects a one year extension to be approved to cover funding through Fiscal Year 2009-10. All dispatch and emergency medical response personnel have already received training on the new system and are ready for implementation, on the proposed start date of September 22, 2008.

The contractual agreement between the County of Santa Clara and the City of Milpitas for the provision of the EMD services is included with the Council's agenda packet.

Fiscal Impact: No current impact on General Fund. In FY 2008-09, the project will be funded through the Santa Clara County Emergency Medical Services Trust Fund in the amount of \$42,500.

Recommendation: Receive status report from staff and authorize the City Manager to execute the agreement between the County of Santa Clara and the City of Milpitas for Emergency Medical Dispatch services.

- * 3. **Review the Emergency Action for Response and Repair of the Emergency Water Intertie Crossing on I-880 between Dixon Landing Road and McCarthy Boulevard, and Continue the Emergency Action (Staff Contact: Greg Armendariz, 586-3317)**

Background: On August 19, 2008, pursuant to Section 20168 of the Public Contract Code, the City Council adopted Resolution No. 7777/RA311 finding that emergency response and repair of the City's emergency water intertie pipeline crossing on I-880 between Dixon Landing Road and McCarthy Boulevard was needed. This water line is listed as an emergency facility in the City's Water Emergency Response Plan because it supplies fire flow pressure to the McCarthy Boulevard developments. Council authorized the Public Works Director to administer the emergency response and repair to restore this water line without a competitive bid solicitation in order to safeguard life, health, and property. For the emergency project to continue, the Public Contract Code requires that the City Council review this emergency action at each subsequent regularly scheduled meeting and determine by four-fifths vote that the emergency status should continue until such time as the action is terminated.

Subsequent to the August 19 Council meeting, the Public Works Director authorized Preston Pipeline to complete the repair of the failed water pipe by inserting a smaller 12-inch PVC pipe inside the existing 14-inch ductile iron pipe. Preston Pipeline will work from insertion and extraction pits on McCarthy Blvd. and an easement off of California Circle. The work is expected to take four weeks and will require traffic control on McCarthy Blvd. It will not interrupt regular water service to the McCarthy Blvd businesses. Preston Pipeline has ordered needed materials but has been delayed by two weeks due to a pipe supply shortage. Preston now plans to excavate on both sides of the freeway starting the third week of September. The company will install the new pipe and complete reconnections by the second week of October. It will then backfill and repave in the third week to complete the project on October 17. The urgent need to repair this essential component of fire fighting capability in the McCarthy Boulevard area remains.

Fiscal Impact: None. The cost of the emergency response and repair will be paid from the Department of Public Works utilities maintenance budget, which has sufficient funds for this purpose.

Recommendation: By a four-fifths vote, continue to find the existence of an emergency situation requiring emergency action for response and repair of emergency water intertie crossing on I-880 between Dixon Landing Rd and McCarthy Blvd, pursuant to §22050 of the Public Contract Code.

XIV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor/Chair

RA2. Roll Call

RA3. Approval of Minutes (September 2, 2008)

RA4. Approval of Agenda and Consent Calendar (Items with asterisk*)

***RA5. Adopt Resolution Granting Initial Acceptance of the Parking Garage Emergency Phone Installation, Project No. 8161 (Staff Contact: Steve Erickson, 586-3414)**

Background: This project installed twelve emergency blue-light phones within the newly completed Midtown East Parking Garage. Three phones were installed on each of the garage's four floors and are routed to police dispatch. When a phone is operated, dispatch will be able to determine which floor, and which phone is being used. The contract for the installation of the emergency phones was awarded to Design Electric on March 18, 2008. The project has been successfully completed, and staff now recommends that the City Council grant an initial acceptance, and authorize the reduction of the contractor's faithful performance bond to 10% of the contract amount or \$5,295.

Fiscal Impact: None

Recommendation: Adopt a resolution granting initial acceptance of the Parking Garage Emergency Phone Installation, Project No. 8161, subject to the one-year warranty period and reduction of the faithful performance bond to \$5,295.

RA6. Agency Adjournment

XV. REPORTS OF OFFICER AND COMMISSION

City Council

* **4. Consider Mayor's Recommendation for Appointments to City Commissions (Contact: Mayor Esteves, 586-3029)**

Background: Mayor Esteves recommends the following Milpitas residents be appointed:

Economic Development Commission:

Appoint Mike Mendizabal as the MUSD representative to a term that expires in April 2010. He would fill the seat previously held by Board Member Barbara Santos.

Recycling and Source Reduction Advisory Commission:

Appoint Echo Arthur (current Alternate No. 1) as a regular member to a term that expires in October 2010.

Appoint Judy Duong as Alternate No. 1 to a term that expires in October 2009.

Recommendation: Consider Mayor's recommendation for appointments to City Commissions and vote on appointments.

Library Advisory Commission

5. Review Recommendation to Approve Proposed Financial Donations Policy for the Milpitas Public Library as a Standard Operating Procedure of the City of Milpitas (Staff Contact: Leslie Stobbe, 586-3352)

Background: At its March 17 meeting, the Library Advisory Commission (LAC) discussed elements of a policy to accept monetary donations for earmarked materials, equipment and other items according to the needs of the Milpitas Public Library. The policy was envisioned to include a tiered recognition based upon the amount of donated funds. The Commission requested that staff return with a draft policy, which it reviewed and amended at its May 19 meeting. On July 21, the LAC reviewed, amended and approved a final draft for recommendation to City Council. The Library Subcommittee provided comments and direction to staff at its June 24 and July 22 meetings.

The purpose of this policy is two-fold: 1) to establish a process to review and accept financial donations designated for use by the Milpitas Public Library, and; 2) to provide criteria for donations with a specified use and memorial donations. Included in the Council's packet are a copy of the final draft policy and a donation form.

To publicly acknowledge donors, this policy would establish a tiered recognition program to formally thank and memorialize substantial monetary donations that help sustain library services. A precious metal color system on a plaque or other means provided by the City would display the named donor within the Milpitas Public Library:

- Bronze: A monetary gift of \$1,000 to \$2,499.
- Silver: A monetary gift of \$2,500 to \$4,999.
- Gold: A monetary gift of \$5,000 to \$9,999.
- Platinum: A monetary gift of \$10,000 or greater.

Donations of less than \$1,000 would be directed to the County Library Joint Powers Authority and subject to the requirements of its policy: Donations of Funds and Materials for the Collection.

This proposed policy would direct inquiries about monetary donations of \$1,000 or more to the LAC for review and recommendation to City Council. The Commission would use a simple form completed by donors noting the monetary amount given and donor's desired use of the funds (to greatest need, programs for library users, books and materials, furnishings and equipment). All requests for specified use would be considered subject to the needs of the library. Policy guidelines include considering such patron benefits as increasing literary awareness, expanding a collection, promoting cultural and historical interests of the Milpitas community, raising awareness of the arts, or increasing access to equipment and other materials.

Fiscal Impact: No direct fiscal impact. Donations accepted by City Council would be tracked in a separate account. Expenditures from the account would be reviewed by the LAC and follow City purchasing procedures. The Finance Department would provide reporting of expenditures and fund balance upon request of the LAC.

Recommendation: Approve the "Financial Donations Policy for the Milpitas Public Library" as a Standard Operating Procedure of the City of Milpitas, subject to approval as to form by the City Attorney.

XVII. NEW BUSINESS

6. Discussion of Joint Meeting between the City Council and the Milpitas Unified School District Board of Education (Staff Contact: Tom Williams, 586-3050)

Background: At the City Council meeting of August 5, 2008, Councilmember Polanski requested that the City Council consider a joint meeting with the Milpitas Unified School District Board of Education (Board) for the purpose of discussing issues of mutual interest.

Fiscal Impact: There will be cost associated as a result of hiring an independent facilitator as agreed by the City and School Board representatives at the joint meeting of August 21, 2008. Cost is unknown at this time.

Recommendation: Discuss joint meeting and direct staff accordingly.

- * **7. Approve Budget Appropriation for the Fiscal Year 2008-09 California Department of Conservation Grant in the Amount of \$17,463 (Staff Contact: Leslie Stobbe, 586-3352)**

Background: The California Beverage Container Recycling and Litter Reduction Act authorizes the Department of Conservation (DOC) to allocate a total of \$10.5 million on an annual basis to eligible cities and counties for beverage container recycling and litter cleanup activities. On May 15, 2001, and October 7, 2003, the City Council adopted Resolutions No. 7094 and No. 7351, respectively, authorizing annual application to the DOC for grant funding. Staff submitted an application for FY 2008-09 grant to be used to support public information outreach for recycling programs and is pleased to report that the DOC has granted the City an award of \$17,463.

Fiscal Impact: None, the grant of \$17,463 from DOC into budget account GT1018, will pay for City recycling public information outreach efforts.

Recommendation: Approve the Budget Appropriation for the FY 2008-09 California Department of Conservation grant in the amount of \$17,463, into the DOC Grant Fund.

XVII. ORDINANCES

- * **8. Waive the Second Readings and Adopt Ordinances No. 277 and No. 208.43 Making Minor Amendments to the City's Existing Development Impact Fee Program and Exempting the Transit Area from Sewer Treatment Plant Fee (Staff Contact: James Lindsay, 586-3273)**

Background: On September 2, 2008, the City Council introduced Ordinance No. 277 making minor amendments to the City's existing development impact fee program and introduced Ordinance No. 208.43 exempting the Transit Area from the sewer treatment plant fee. Both ordinances are now ready for a second reading and adoption.

Fiscal Impact: None.

Recommendations:

1. Waive the second readings of Ordinances No. 277 and No. 208.43.
2. Adopt Ordinances No. 277 related to Fees for New Development, and No. 208.43 related to Sewer Treatment Plant Fees.

XIX. RESOLUTIONS

- * **9. Adopt a Resolution to Approve Site Development Permit Amendment No. SA08-0004 for the Hui Residence (Staff Contact: Cindy Hom, 586-3284)**

Background: On August 27, 2008, the Planning Commission reviewed and recommended the City Council approve a Site Development Permit Amendment for building and site modifications at 1628 Pebble Beach Court. This amendment would allow for the conversion of an existing 199 square feet covered porch into living space, a 1,175 square feet basement addition, renovation of an existing rear yard deck and installation of accessory structures. A more detailed description of the project is provided in the Planning Commission staff report provided in the Council's agenda

packet. The project is consistent with the General Plan and is in conformance with the Zoning Ordinance.

Fiscal Impact: N/A

Recommendation: Adopt a resolution approving Site Development Permit Amendment No. 08-0004 for 1628 Pebble Beach Court.

- * 10. **Adopt a Resolution Granting Initial Acceptance of Well Upgrade Program, Phase II (Pinewood Well), Project No. 7076 (Staff Contact: Jeff Leung, 586-3326)**

Background: The City Council awarded the project to Blocka Construction, Inc. on November 7, 2006. The work at Pinewood Well included installation of water chlorination system and ammonia chiller system as required by California Department of Public Health. The work also included installation of programmable logic control system, chemical analyzers and packer-head assembly. The project has been successfully completed, and staff recommends that Council grant an initial acceptance and authorize the reduction of the contractor's faithful performance bond to 10% of the contract in the amount of \$34,100.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting initial acceptance of Project No. 7076 subject to the one-year warranty period and reduction of the faithful performance bond to \$34,100.

- * 11. **Adopt a Resolution Amending the List of Designated Full Disclosure Positions for the City of Milpitas' Conflict of Interest Code (Staff Contact: Mary Lavelle, 586-3001)**

Background: California's Political Reform Act requires that the City Council review the City's Conflict of Interest Code biennially (in even-numbered years) to determine if it is up to date or if changes are necessary. The City's Conflict of Interest Code was last reviewed and amended on September 19, 2006. Additional job classifications should be added now, and the list of positions updated appropriately. This is the complete list of those who must file an annual Form 700 with the City Clerk by April 1 each year.

A resolution including an amended Appendix adopting the City's Conflict of Interest Code, to incorporate the changes, is included in the Council's agenda packet.

Recommendation: Adopt a resolution updating the list of employee classifications required to file under the City's Conflict of Interest Code.

XX. BIDS AND CONTRACTS

- * 12. **Authorize the City Manager to Execute a Contract for City Hall Civic Center Landscape Maintenance Service with Gachina Landscape Management (Staff Contact: Chris Schroeder, 586-3161)**

Background: Purchasing and Facilities Maintenance jointly developed specifications for a Request for Proposal (RFP) for landscape maintenance services for the City Hall Civic Center. Contracts are awarded to the proposer offering the most advantageous proposal after consideration of all evaluation criteria. On August 7, 2008 staff sent out the RFP. The contract is for a one (1) year term with two (2) additional one (1) year options based on prior performance and incremental pricing at the City's discretion. In addition, the RFP was advertised in the local newspaper, on the City website, and in the Blue Book. Proposals were evaluated by a City team consisting of the Purchasing Agent, the Facilities Maintenance Supervisor, and a Park Maintenance Supervisor. After consideration of all criteria, the team found Gachina Landscape Management to have the most advantageous proposal.

Fiscal Impact: \$ 9,300.00. Funds are available for this service from the Facilities Maintenance operating budget.

Recommendation: Authorize the City Manager to execute a contract for City Hall Civic Center Landscape Maintenance Service to Gachina Landscape Management for the annual not-to-exceed amount of \$9,300.00, subject to approval as to form by the City Attorney.

* 13. **Authorize the City Manager to Execute a Contract for Parks and Streetscape Maintenance Service with East Bay Construction (Staff Contact: Chris Schroeder, 586-3161)**

Background: Purchasing and Engineering jointly developed specifications for a Request for Proposal (RFP) for parks and streetscape maintenance services for Abel Street, Thompson Street, Thompson Court, Machado Avenue, O'Toole Elms Park, Tom Evatt Park, and John McDermott Park. Contracts are awarded to the proposer offering the most advantageous proposal after consideration of all evaluation criteria. On August 1, 2008 staff sent out the RFP. The contract is for a one (1) year term with two (2) additional one (1) year options based on prior performance and incremental pricing at the City's discretion. In addition, the RFP was advertised in the local newspaper, on the City website, and in the Blue Book. The proposals were evaluated by a City team consisting of the Purchasing Agent, the Senior Tree and Landscape Supervisor, two (2) Park Maintenance Supervisors, and an Assistant Civil Engineer. After consideration of all criteria, the team determined that East Bay Construction presented the most advantageous proposal.

Fiscal Impact: \$ 98,503.00. Funds are available for this service from the Public Works and the Parks and Recreation Services Operating budgets.

Recommendation: Authorize the City Manager to execute a contract for Parks & Streetscape Maintenance Service with East Bay Construction for the annual not-to-exceed amount of \$98,503.00, subject to approval as to form by the City Attorney.

* 14. **Authorize the City Manager to Execute a Contract with Alice Wright for Abandoned Shopping Cart Retrieval Service (Staff Contact: Chris Schroeder, 586-3161)**

Background: Purchasing and Code Enforcement jointly developed specifications for a Request for Proposal (RFP) for abandoned shopping cart retrieval. Contracts are awarded to the proposer offering the most advantageous proposal after consideration of all evaluation criteria. On August 26, 2008 staff sent out the RFP. The contract is for a one (1) year term with two (2) additional one (1) year options based on prior performance and incremental pricing at the City's discretion. In addition, the RFP was advertised in the local newspaper and on the City website. Proposals were evaluated by a City team consisting of the Purchasing Agent, the Senior Housing and Neighborhood Preservation Specialist, and a Utility Associate Engineer. After consideration of all criteria, the team determined that Alice Wright presented the most advantageous proposal.

Fiscal Impact: \$18,000. Funds are available for this purchase from the Neighborhood Preservation operating budget.

Recommendation: Authorize the City Manager to execute a contract for Abandoned Shopping Cart Retrieval Service with Ms. Alice Wright for the annual not-to-exceed amount of \$18,000, subject to approval as to form by the City Attorney.

* 15. **Authorize the City Manager to Negotiate a Cost-Sharing Agreement with Santa Clara Valley Water District to Provide a One-to-One Match for the Water Efficient Landscape Rebate for Residential Customers, and Direct Staff to Take this Item to the Finance Subcommittee (Staff Contact: Kathleen Phalen, 586-3345)**

Background: At the August 5, 2008 meeting, Council directed staff to study the feasibility of providing a City match for the Santa Clara Valley Water District (SCVWD) water efficient landscape rebate program. SCVWD offers Santa Clara County residents and businesses a rebate of \$75 per 100 square feet to replace high water-demand plants, such as turf grass, with low water-demand plants or permeable hardscape. SCVWD caps this rebate at \$1,000 for residents and \$10,000 for businesses. To date, twelve City of Milpitas customers have expressed interest in the program and four have had their proposed projects inspected for eligibility, but none have completed projects.

The SCVWD landscape rebate program requirements include the following:

- A SCVWD Water Wise consultant must inspect and prequalify a proposed project before it is eligible for the rebate.
- The project must remove existing high-water demand landscaping, such as an irrigated turf grass lawn. Projects to install landscaping in places that have never been landscaped or where the landscaping has deteriorated due to inadequate irrigation are not eligible.
- Replacement plants must be selected from an approved plant list provided by SCVWD.
- Replacement hardscape must be permeable to allow rainwater infiltration.
- Artificial turf will not qualify as a replacement product.
- The applicant is not eligible for rebate of areas larger than the existing irrigated area.
- The applicant must deduct any other rebates from the project cost before applying for the rebate.
- If the project uses an irrigation system, it must be drip, soaker, bubbler, micro-spray, or an underground irrigation system; no pop-up spray sprinklers are allowed.
- Participants must agree to leave the replacement landscaping in place for a minimum of five years.

These requirements restrict the pool of interested applicants to those desiring to replace their existing irrigated lawn with an equal area of drought-tolerant plants or hardscape such as gravel. The incentive is not large enough to provide full reimbursement, so the applicants must be willing to pay for a substantial amount of the conversion or complete the work themselves. However, applicants will eventually realize cost savings from reduced water use. The Cities of Palo Alto and Morgan Hill entered into cost-sharing agreements with SCVWD to match the landscape rebate, thereby doubling the maximum rebate to \$2,000 for residential projects and \$20,000 for business projects. Palo Alto did increase customer participation after increasing the incentive, but Morgan Hill has not noted any increased participation.

Feasibility of Providing a City Match: Offering a City match is feasible if the City finds that there is a benefit to the public from increasing the incentive for conversion to low-water use landscaping and if the City has funding available for this purpose. The SCVWD landscape rebate program promotes water conservation by providing incentive for customers to remove turf lawns. Conserving water benefits the public because the City needs to restrict its total water use within its contractual wholesale supply limits, including the contractual mandatory reductions that may be imposed on the City in times of drought. The City's matching of this rebate would double the value of the incentive.

However, it should be noted that the total costs for landscape conversion are generally significantly higher than the amount of the rebate even when doubled, especially if the customer hires a professional landscaper to do the work. Conversion costs include those for removing the existing lawn and spray irrigation system and reinstalling new plants with a drip or bubbler irrigation system. Therefore, the rebate should be viewed as increasing the incentive for persons already motivated to undertake the conversion, not as a means to provide full reimbursement.

Conversion of front yard lawns to low water-demand plantings or hardscape will negatively impact the City's street trees. These aesthetically desirable and environmentally beneficial trees do need landscape water to survive, so the City does risk losing portions of its urban forest if there is substantial conversion neighborhood front yards to low-water demand plantings.

Alternative considerations: The City may choose to negotiate the structure of the cost-sharing agreement for the rebate match in any manner it desires. Here are some of the factors the City may consider:

- 1) No City Match – If the City does not provide a rebate match, all Milpitas residents and businesses will still be eligible to apply for the SCVWD rebate. SCVWD states that the program will continue as long as funds are available, but the District informed City staff it had no plans to discontinue the rebate program at this time. Under this option, staff would publicize the program in the annual Consumer Confidence Report, on the City utility bill, and on the City website.
- 2) Cost-Sharing Match with SCVWD – The City can choose to match the rebate at any rate, but to be consistent with the Palo Alto and Morgan Hill, the match would be one-to-one, thereby doubling the unit rebate rate from \$75 to \$150 for 100 square feet of landscaping. Staff recommends consistency with the one-to-one match offered by Palo Alto and Morgan Hill to reduce confusion for potential applicants. Staff would publicize the SCVWD rebate and City match as described above for alternative 1.
- 3) Funding Source – There is no funding allocated in the FY09 budget designated specifically for this purpose. The budget does include \$10,000 for water conservation programs within the Engineering Department Utilities budget for public information and outreach. The Council may choose to use a portion of these funds to provide a match for the landscaping rebate. Staff also recommends taking this item to the Finance Subcommittee to further research the availability of funds.
- 4) Funding Cap – Staff recommends capping the total amount offered for each individual matching rebate at \$5,000 for FY 2008-09. This will leave \$5,000 in the budget for other planned water conservation public outreach consisting of mailers and bill inserts. This will limit eligibility to the first five residential customers who receive project approval from SCVWD. In the event that the first five customers do not fully deplete the \$5,000, the City could continue providing match funding up to the \$5,000 cap.
- 5) Residential vs. Business Rebate – The City may choose to limit the rebate match to residential customers. The maximum rebate SCVWD offers residents is \$1,000, while it offers up to \$10,000 to businesses. Matching a single business rebate could cost the City \$10,000, which is higher than the total budget proposed. Alternately, the City could include business customers, but reduce the match ten-fold such that it would be \$7.50 per 100 square feet up to a maximum of \$1,000.
- 6) Limited Time Trial – The City may offer the program for a limited period to gauge the public interest. Staff recommends offering it as a trial during FY 2008-09. If the request for rebates exceeds \$5,000, staff will recommend budgeting for the program in FY 2009-10 at an increased level.

Conclusion: Staff finds that it is feasible for the City to offer to match the SCVWD landscape rebate program and that doing so will provide incentive for water conservation. Because the City has not budgeted for this program, staff recommends that the City start with a trial program limited to residential customers to gauge the public's interest. For this trial, the maximum individual rebate would be capped at \$1,000 per applicant and the program cap would be \$5,000, which would fund five rebates. Staff recommends taking this item to the Finance Subcommittee to further research the availability of funds. Staff will publicize the SCVWD rebate and City match, if approved, with a message in the utility bill and announcement on the City webpage. Staff will report the customer response to Council next spring with a recommendation whether to continue or expand the program in FY 2009-10.

Fiscal Impact: There is no fiscal impact to the budget from a trial City match rebate program. Funding in an amount not exceeding \$5,000 would be drawn from the Utility Engineering Water Community Promotions budget (account 400-416-4201), which has sufficient funds for this purpose.

Recommendations:

1. Authorize the City Manager to negotiate a cost-sharing agreement with SCVWD to provide a one-to-one match for the Water Efficient Landscape Rebate for City of Milpitas residential customers. The agreement shall specify that the City match will be a trial program for FY 2008-09 and the total amount shall not to exceed \$5,000.
2. Direct staff to present this item to the Council's Finance Subcommittee to further research the availability of funds.