CONSULTING SERVICES AGREEMENT BETWEEN
THE CITY OF MILPITAS AND
ECONOMIC & PLANNING SYSTEMS, INC.

THIS AGREEMENT for consulting services is made by and between the City of Milpitas ("City") and Economic & Planning Systems, Inc. ("Consultant") as of November 6, 2007.

AGREEMENT

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

1.1 Term of Services. The term of this Agreement shall begin on the date first noted above and shall end on November 6, 2008, and Consultant shall complete all the work described in Exhibit A prior to that date, unless the term of this Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the City's right to terminate the Agreement, as provided for in Section 8.

1.2 Standard of Performance. Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices its profession. Consultant shall prepare all work products required by this Agreement in a substantial, first-class manner and shall conform to the standards of quality normally observed by a person practicing in Consultant's profession.

1.3 Assignment of Personnel. Consultant shall assign only competent personnel to perform services pursuant to this Agreement. Exhibit A shall name any specific personnel who shall be performing services. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.

1.4 Time. Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 1.1 above and to complete Consultant's obligations hereunder.

Section 2. COMPENSATION. City hereby agrees to pay Consultant a guaranteed maximum price not to exceed $98,520.00 for all services to be performed and reimbursable costs incurred under this Agreement. City shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Hourly rates for personnel performing services shall be as shown in Exhibit B. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 Invoices. Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred during the billing period. Invoices shall contain the following information:

- Serial identification of bills;
- The beginning and ending dates of the billing period;
- A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion, if applicable;
- At City's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
- The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder, as well as a separate notice when the total number of hours of work by Consultant and any individual employee, agent, or subcontractor of Consultant reaches or exceeds 800 hours, which shall include an estimate of the time necessary to complete the work described in Exhibit A;
- The Consultant's signature.

2.2 Monthly Payment. City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above and is otherwise acceptable to the City to pay Consultant. In the event that an invoice is not acceptable to the City, said

invoice shall be returned to Consultant within thirty (30) days of the City's receipt of the invoice with a detailed explanation of the deficiency. City's obligation to pay a returned invoice shall not arise earlier than thirty (30) days after resubmission of the corrected invoice.

2.3 Total Payment. City shall pay for the services to be rendered by Consultant pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.

In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment. In the event that Consultant identifies additional work outside the scope of services specified in Exhibit A that may be required to complete the work required under this Agreement, Consultant shall immediately notify the City and shall provide a written not-to-exceed price for performing this additional work.

2.4 Hourly Fees. Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on Exhibit B.

2.5 Payment of Taxes. Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any other applicable federal or state taxes.

2.6 Payment upon Termination. In the event that the City or Consultant terminates this Agreement pursuant to Section 8, the City shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets in order to verify costs incurred to that date. The City shall have no obligation to compensate Consultant for work not verified by logs or timesheets.

2.7 Authorization to Perform Services. The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of a written Notice to Proceed from the City.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

City shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant's use while consulting with City employees and reviewing

records and the information in possession of the City. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of City. In no event shall City be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, cellular telephone, long-distance telephone, or other communication charges, vehicles, and reproduction facilities.

If the performance of the work specified in Exhibit A requires destructive testing or other work within the City's public right-of-way, Consultant, or Consultant's subconsultant, shall obtain an encroachment permit from the City.

Section 4. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Consultant shall procure "occurrence coverage" insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant and its agents, representatives, employees, and subcontractors. Consultant shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects to the City. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement and shall produce said policies to the City upon demand. The cost of such insurance shall be included in the Consultant's price. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution.

4.1 Workers' Compensation. Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than ONE MILLION DOLLARS ($1,000,000.00) per accident. In the alternative, Consultant may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the City Attorney. The insurer, if insurance is provided, or the Consultant, if a program of self-insurance is provided, shall waive all rights of subrogation against the City and its officers, officials, employees, and volunteers for loss arising from work performed under this Agreement.

An endorsement shall state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

4.2 Commercial General and Automobile Liability Insurance.

4.2.1 General requirements. Consultant, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than ONE MILLION DOLLARS ($1,000,000.00) per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

4.2.2 Minimum scope of coverage. Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (ed. 11/88) or Insurance Services Office form number GL 0002 (ed. 1/73) covering comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (ed. 12/90) Code 1 ("any auto"). No endorsement shall be attached limiting the coverage.

4.2.3 Additional requirements. Each of the following shall be included in the insurance coverage or added as an endorsement to the policy:

a. City and its officers, employees, agents, contractors, consultants, and volunteers shall be covered as insureds with respect to each of the following: liability arising out of activities performed by or on behalf of Consultant, including the insured's general supervision of Consultant; products and completed operations of Consultant; premises owned, occupied, or used by Consultant; and automobiles owned, leased, or used by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City or its officers, employees, agents, contractors, consultants, or volunteers.

b. The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.

c. An endorsement must state that coverage is primary insurance with respect to the City and its officers, officials, employees, contractors, consultants, and volunteers, and that no insurance or

self-insurance maintained by the City shall be called upon to contribute to a loss under the coverage.

d. Any failure of CONSULTANT to comply with reporting provisions of the policy shall not affect coverage provided to CITY and its officers, employees, agents, and volunteers.

e. An endorsement shall state that coverage shall not be suspended, voided, or canceled by either party, reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

4.3 Professional Liability Insurance. If Consultant shall be performing licensed professional services, Consultant shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than ONE MILLION DOLLARS ($1,000,000) covering the licensed professionals' errors and omissions.

4.3.1 Any deductible or self-insured retention shall not exceed $150,000 per claim.

4.3.2 An endorsement shall state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

4.3.3 The policy must contain a cross liability clause.

4.3.4 The following provisions shall apply if the professional liability coverages are written on a claims-made form:

a. The retroactive date of the policy must be shown and must be before the date of the Agreement.

b. Insurance must be maintained and evidence of insurance must be provided for at least three years after completion of the Agreement or the work, unless waived in writing by the City.

c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant must provide extended reporting coverage for a minimum of five years after completion of the Agreement or the work. The City shall have the right to exercise, at the Consultant's sole cost and expense, any

extended reporting provisions of the policy, if the Consultant cancels or does not renew the coverage.

d. A copy of the claim reporting requirements must be submitted to the City prior to the commencement of any work under this Agreement.

4.4 Requirements for All Policies.

4.4.1 Acceptability of insurers. All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A.

4.4.2 Verification of coverage. Prior to beginning any work under this Agreement, Consultant shall furnish City with certificates of insurance and with original endorsements effecting coverage required herein. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The City reserves the right to require complete, certified copies of all required insurance policies at any time.

4.4.3 Subcontractors. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

4.4.4 Deductibles and Self-Insured Retentions. Consultant shall disclose to and obtain the approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement.

During the period covered by this Agreement, only upon the prior express written authorization of the City, Consultant may increase such deductibles or self-insured retentions with respect to City, its officers, employees, agents, contractors, consultants, and volunteers. The City may condition approval of an increase in deductible or self-insured retention levels with a requirement that Consultant procure a bond, guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to the City.

4.4.5 Notice of Reduction in Coverage. In the event that any coverage required by this section is reduced, limited, or materially affected in any other manner, Consultant shall provide written notice to City at Consultant's earliest possible opportunity and in no case later than five days after Consultant is notified of the change in coverage.

4.5 Remedies. In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;

- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or

- Declare Consultant in material breach of the Agreement and terminate the Agreement.

4.6 Waiver. The Risk Manager of the City has the authority to waive or vary any provision of Sections 4.2 through 4.5. Any such waiver or variation shall not be effective unless made in writing.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES. Consultant shall indemnify, defend with counsel reasonably acceptable to the City, and hold harmless the City and its officials, officers, employees, agents, contractors, consultants, and volunteers from and against any and all losses, liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct or negligent acts or omissions of Consultant or its employees, subcontractors, or agents, by acts for which they could be held strictly liable, or by the quality or character of their work. The foregoing obligation of Consultant shall not apply when (1) the injury, loss of life, damage to property, or violation of law arises wholly from the negligence or willful misconduct of the City or its officers, employees, agents, contractors, consultants, or volunteers and (2) the actions of Consultant or its employees, subcontractor, or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law. It is understood that the duty of Consultant to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of

any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Section 6. STATUS OF CONSULTANT.

6.1 Independent Contractor. At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3. Otherwise, City shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

6.2 Consultant No Agent. Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 7. LEGAL REQUIREMENTS.

7.1 Governing Law. The laws of the State of California shall govern this Agreement.

7.2 Compliance with Applicable Laws. Consultant and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.

7.3 Other Governmental Regulations. To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.

7.4 Licenses and Permits. Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to City that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to

practice their respective professions and to perform this Agreement. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid business license from City.

7.5 Nondiscrimination and Equal Opportunity. Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the City or this Agreement.

Section 8. TERMINATION AND MODIFICATION.

8.1 Termination. City may terminate this Agreement at any time and without cause upon written notification to Consultant.

In the event of termination, Consultant shall be entitled to compensation for services performed prior to the effective date of termination as provided in Section 2. City, however, may condition payment of such compensation upon Consultant delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or the City in connection with this Agreement.

8.2 Extension. City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the City, City shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.

8.3 Amendments. The parties may amend this Agreement only by a writing signed by all the parties.

8.4 Assignment and Subcontracting. City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience,

and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the City. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors listed in the Consultant's proposal, without prior written approval of the City.

8.5 Survival. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant shall survive the termination of this Agreement.

8.6 Options upon Breach by Consultant. If Consultant materially breaches any of the terms of this Agreement, City's remedies shall include, but not be limited to, any or all of the following:

8.6.1 Immediate cancellation of the Agreement;

8.6.2 Retention of the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement prior to cancellation; and

8.6.3 Retention of a different consultant at Consultant's cost to complete the work described in Exhibit A not finished by Consultant.

Section 9. KEEPING AND STATUS OF RECORDS.

9.1 Records Created as Part of Consultant's Performance. All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Consultant hereby agrees to deliver those documents to the City at any time upon demand of the City. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. Failure by Consultant to deliver these documents to the City within the time period specified by the City shall be a material breach of this Agreement. City and Consultant agree that, until final approval by City, all data, plans, specifications, reports and other documents are preliminary drafts not kept by the City in the ordinary course of business and will not be disclosed to third parties without prior written consent of both parties.

9.2 Consultant's Books and Records. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and

disbursements charged to the City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.

9.3 Inspection and Audit of Records. Any records or documents that Section 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds TEN THOUSAND DOLLARS ($10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of three (3) years after final payment under the Agreement.

Section 10 MISCELLANEOUS PROVISIONS.

10.1 Attorneys' Fees. If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

10.2 Venue. In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Santa Clara or in the United States District Court for the Northern District of California.

10.3 Severability. If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

10.4 No Implied Waiver of Breach. The waiver of performance or any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

10.5 Successors and Assigns. The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.

10.6 Use of Recycled Products. Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.

10.7 Conflict of Interest. Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of

location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

Consultant hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Consultant were an employee, agent, appointee, or official of the City in the previous twelve months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code §1090 *et.seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, may be disqualified from holding public office in the State of California.

Consultant certifies that it has not paid any direct or contingent fee, contribution, donation or consideration of any kind to any firm, organization, or person (other than a bona fide employee of Consultant) in connection with procuring this Agreement, nor has Consultant agreed to employ or retain any firm, organization, or person in connection with the performance of this Agreement as a condition for obtaining this Agreement.

10.8 Solicitation. Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

10.9 Contract Administration. This Agreement shall be administered by Felix J. Reliford who is authorized to act for, and on behalf of, City. All correspondence shall be directed to or through the Contract Administrator or his or her designee.

10.10 Notices. Any written notice to Consultant shall be sent to:

Walter Kieser, Managing Principal
Economic & Planning Systems
2501 Ninth Street, Suite 200
Berkeley, CA 94710-2515

Any written notice to City shall be sent to:
James Lindsay, Planning Director

455 East Calaveras Boulevard
Milpitas, California 95035

10.11 Professional Seal. Where applicable in the determination of the City, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.

10.12 Integration. This Agreement, including the exhibits, represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

10.13 Exhibits. All exhibits referenced in this Agreement are incorporated by reference herein.

CITY OF MILPITAS

_____
Thomas C Williams, City Manager

ATTEST:

_____
Mary Lavelle, City Clerk

APPROVED AS TO FORM:

_____
Steven T. Mattas, City Attorney

APPROVED AS TO CONTENT:

_____
_____, Department/Division Head

APPROVED:

_____
Emma Karlen, Finance Director/Risk Manager

CONSULTANT

_____
Walter Kieser, Managing Principal
Economic & Planning Systems

_____
Taxpayer Identification Number

I. PROJECT UNDERSTANDING

As is described in the Request for Proposals (RFP) the City of Milpitas has been engaged in an intensive planning effort during the past two years to develop a specific plan for the planned Milpitas BART Station. At the present time work is underway to complete the Draft Milpitas Transit Area Specific Plan document and accompanying Draft Environmental Impact Report during August of this year, with review and the public hearing process to follow. As the Specific Plan has been developing it has become clear that a comprehensive assessment of infrastructure and public facility needs and a related financing plan will be required. These needs include "backbone" infrastructure improvements within the Plan area, off-site water and sewer treatment system capacity, rights-of-way and other public land needs, and ongoing maintenance and operation costs. Additionally, there is the corresponding need to identify funding sources and financing mechanisms to pay for these improvements and services.

It is common for specific plans to address infrastructure financing, either as a part of an implementation chapter or in an accompanying financing plan. In fact, it is a statutory requirement. But in some cases, and the Milpitas Transit Area is an example, a special effort is required because of the largely developed character of the area and the significant infrastructure costs likely to be involved. The Financing Plan proposed by EPS would address the following issues identified in the RFP and produce a Financing Plan that underpins successful implementation of the Transit Area Specific Plan and creation of a new, vital urban neighborhood surrounding the Milpitas BART Station:

- Resolve infrastructure and other costs. Infrastructure cost estimates that have been previously prepared by consulting engineers will be thoroughly reviewed, expanded, and organized into a comprehensive cost "data base" that includes all infrastructure and public facility costs that will be required. Operating and maintenance costs related to these improvements and other City services will also be identified.

- Evaluate and select financing mechanisms. A range of funding and financing mechanisms are available including the normal development-based sources (fees, special assessments, etc.) and, because of the location of the Transit Area Specific Plan in the City's Redevelopment Project Area, redevelopment agency resources. However, the key is to evaluate the capacity of these mechanisms in a time series to assure that adequate funding is available for the properly phased (i.e., necessary to maintain service levels) construction of infrastructure and public facilities. A detailed time series financing model will be prepared to conduct a financial analysis.

- Address land equity issues. The Specific Plan overlays a new urban form on a pre-existing land use and ownership pattern. Assembling the necessary public rights-of-way and sites for public facilities must be done in a manner that is equitable and attractive to property owners. A public land equity program will be developed that achieves this objective.

- Create funding source of planning costs. The City has incurred substantial costs in the preparation of the Specific Plan and related technical studies. State law allows recovery of these costs through a reimbursement development impact fee. The Financing Plan will include technical documentation necessary to levy such a fee.

It is also understood that the City seeks to complete the required financial analysis and Financing Plan as the Transit Area Specific Plan and related Draft EIR are undergoing public review and hearings during the late summer and fall of 2007. This is possible if existing data resources (e.g., infrastructure cost estimates, etc.) prove to be complete and accurate, the financial analysis does not uncover any fundamental feasibility issues, and all other aspects of the effort (e.g., stakeholder involvement) go well. As an early effort in the preparation of the Financial Plan it will be necessary to carefully assess the schedule interactions and, if problems are foreseen, develop a contingency schedule in concert with the planning team.

II. TECHNICAL APPROACH

EPS has prepared financing plans for numerous specific plans throughout California, including those encompassing developed urban areas and those surrounding transit stations. This experience has informed how we conduct these assignments which can be expressed as five key aspects of our technical approach:

- Maximum Use of Existing Data. A considerable amount of work has been accomplished on the Transit Area Specific Plan. EPS will need to "come up to speed" quickly regarding what has been accomplished and determine how to make best use of what has been prepared, aligning where appropriate and augmenting where necessary.

- Effective Liaison with Planning Team. A planning team has been at work for several years, composed of consulting planners, civil engineers, environmental specialists, and City staff. EPS will need to integrate with the planning team and become an effective member. This integration is essential because the scope of work outlined by the RFP includes critical review of prior work and the likelihood that the Specific Plan, currently being drafted, will need to altered or amended in various ways reflecting the outcome of the financial analysis.

- Comprehensive Financial Analysis. The heart of the matter is a comprehensive financial model. EPS deploys a spreadsheet-based time series pro forma model of the project area for this purpose. This model includes a time-series expression of the development program and the quantitative changes (development) projected, year-to-year, through a selected horizon year (usually a "buildout" condition). The model also incorporates a detailed cost data base which includes a line item breakdown of all infrastructure and facility costs reflecting appropriate phasing and linkage to the development program. The model also includes detailed cost allocations to specific plan subareas (e.g., ownerships) and to funding sources. Given the capacity and allocation to each funding source, a range of feasibility measures are also calculated to assure that economic, statutory, or municipal finance industry limitations are not exceeded. Modeling is conducted in an interactive iterative manner engaging the opinions and knowledge of all planning team members.

- Effective engagement with stakeholders. The success of the Specific Plan is directly tied to its effective implementation which is based upon creating a sound financing plan. This plan, in turn, must be technically sound and credible to the range of stakeholders, including public officials, landowners in the area, and prospective developers. Accordingly an ongoing engagement with stakeholders will be an essential element involved in development of the financing plan.

- Refinement/Preparation of Implementing Documents. The entire financial analysis effort will be focused on a set of specific products including a final draft of the Specific Plan document, a stand-alone Financing Plan, and related implementation documents (e.g., a technical "nexus" report for the proposed specific plan fee).

III. WORK PROGRAM

The following work program is informed by the requirements of the explicit requirements set forth in the RFP as well as the experience EPS has gained conducting similar financial planning efforts. A series of seven tasks are proposed culminating with the preparation of a Financing Plan and related implementation documents.

TASK 1—PROJECT INITIATION

Following an initial review of available Specific Plan documents by the Consultant, EPS proposes an "all hands" meeting along with follow-up meetings with the whole group or key members, as needed. These meetings would allow the planning team to review the work program, identify relevant technical resources, discuss key issues and objectives, coordinate schedules, and establish liaison protocols. Following this meeting EPS will prepare a memorandum that documents what has been agreed upon, including assignments to planning team members. The memorandum will also outline any necessary refinements to the work program.

TASK 2—REVIEW EXISTING TECHNICAL REPORTS

Following the project initiation meeting and any follow-up interaction with other Specific Plan Team members, the EPS team will conduct a detailed review of all relevant technical documents, particularly those documenting infrastructure costs (e.g., the RMC cost estimates) and project economics (e.g., the ERA Fiscal Analysis). The backdrop of this effort will be the need to compile a comprehensive infrastructure and public facility cost data base, including the items specifically identified in the RFP.

EPS will complete the review of the engineering cost estimates by determining the logic behind and reviewing documentation of each individual cost estimates. EPS will prepare a technical memorandum that provides a critique of the cost estimates, identifying any inconsistencies, obvious errors, or missing items. If formal "peer review" is deemed necessary or if establishing (missing) cost estimates requires special expertise (e.g., roads, parks, schools), a qualified civil engineer or other experts may need to be retained (under a separate contract) for this purpose.

TASK 3—FINALIZE COST ESTIMATES

The critique that results from the **Task 2** effort will be the basis of any required changes or additions to the cost data base. It is assumed that this effort will be completed by planning team members, or, as mentioned above, additional expertise as may be appropriate. For example, it is assumed that RMC will respond to questions regarding the basic infrastructure items that they have previously evaluated and prepared cost estimates. City staff may be involved in finalizing costs for public facilities (e.g., parks,

public parking, etc.). In some instances "third party agencies" such as the school districts will need to be consulted to assure that cost estimates are complete and accurate. EPS will manage this effort and, at its conclusion, prepare a technical memorandum that documents a draft final version of the infrastructure cost data base. Following final review by the City staff, this data base will be integrated into the financing model.

TASK 4—ESTABLISH DEVELOPMENT PHASING AND INFRASTRUCTURE LINKAGE

Establishing the linkage between required infrastructure and public facility construction and proposed development in the area is a critical aspect of the Financing Plan. It is likely that substantial infrastructure investments will be required in advance of development and the related increases financial capacity. Given the requirement for this significant early investment, the phasing of infrastructure becomes one of the most critical aspects of the financing plan.

Simultaneously with the review of technical documents and the finalizing of the cost data base (**Tasks 2** and **3**) EPS will document explicit or implied linkage of specific infrastructure items to phases and amounts of development. Where lacking, an effort will be made to determine the appropriate linkage. In general this linkage is established by the need to maintain service levels; it is assumed that the Specific Plan will contain policies that require that existing City service standards for roads, parks, and other infrastructure and facilities be maintained or improved. As a result of this analysis each line item in the infrastructure data base will include a "field" that indicates precisely when it is required in relationship to real estate development in the area.

TASK 5—IDENTIFY POTENTIAL FUNDING SOURCES AND FINANCING MECHANISMS

The range of potential funding sources and financing mechanisms will be identified, documented, and evaluated for their relevance to the Transit Specific Plan area. In general, it can be expected that regardless of specifics the funding sources will be primarily "development-based" meaning derived from the value created by the prospective development in the Transit Specific Plan area. In the case of the Transit Specific Plan area it is likely that funding sources and financing mechanisms will include the following:

- Land dedication requirements pursuant to City policy, Code, and the provisions of the Specific Plan.

- An area-specific development impact fee (Government Code Section 66000) along with related credit and reimbursement programs that encourage private investment.

- A land or special tax-secured bond issuance (e.g., Mello-Roos Community Facilities District) and possibly other benefit assessment districts.

- Issuance of revenue bonds backed by utility rates (or other revenues) within the Specific Plan area.

- Issuance of property tax increment bonds by the Redevelopment Agency.

- State, federal, or regional funding sources such as Community Development Block Grant funds.

EPS will describe each of these funding sources and financing mechanism in detail and generally determine each of their capacity and relevance for the Transit Station area in a technical memorandum. A range of policy issues are often involved in the selection of funding sources and financing mechanisms and so it will be important, before detailed financial analysis, to vet the potential funding sources and financing mechanisms with stakeholders and to obtain approval from City decision makers. For example, the use of redevelopment agency powers and, specifically, tax increment financing, will need to be generally agreed upon and conditions and limitations revealed.

TASK 6—FINANCIAL ANALYSIS

The core of Financing Plan preparation involves the creation and deployment of a comprehensive time-series pro forma cash flow financial model. The model will build upon the work that has been conducted to date and the early tasks in this work program. As noted above the financial model will be a spreadsheet-based interactive model that allows repeated iterations and sensitivity analysis. Ultimately, the results of the model help determine the optimal financing mechanisms and strategy that will be reflected in the Financing Plan.

- Development Program Forecast. A development program forecast is derived from the Specific Plan. This forecast estimates the type and amount of development expected over a set time horizon, typically through "buildout" of the Specific Plan authorized development capacity. As was done in the fiscal analysis, it is typical to do sensitivity analysis in which slower or less development (or less value) actually occurs. Values for the development constructed are derived from available market studies; in this case the fiscal analysis has made value estimates that can be used as a starting point. Given the critical importance of these market assumptions, an early review will be conducted to determine the need for supplemental market analysis.

- Financial Capacity. As noted above, financing capacity will largely be determined, in one manner or another, by the value of private development occurring in the Transit Station area. Accordingly the various revenue streams flowing from this development will be measured including annual units (or DUEs) constructed (for fee

and utility rate revenue) and total real estate product sales value (for special tax, assessment, and tax increment calculations). In each case, given statutory limitations, industry standards, and local policy preferences, the capacity of the selected funding sources and financing mechanisms will be estimated. These calculations will include estimates of when bonds can be issues given available related revenue streams.

- Cost Data Base. The cost data base derives from the work in **Task 3**. It is a "line item" detailing of all infrastructure and public facility costs. In addition to the "backbone" infrastructure costs required to improve the Transit Station area, several major off-site improvements will be included in the data base, e.g., expansion of the City's sewer treatment capacity. A separate schedule will document all existing City ordinance-based development impact fees and other charges imposed upon new development.

- Cost Allocation. The costs are allocated in two separate dimensions for analytical purposes—geographically (to subareas or parcel ownerships) and to individual funding/financing mechanisms. The geographic allocation, which is based upon various impacts or benefit formulae, provides a basis for "rational nexus" tests needed to legally underpin adoption of funding or financing mechanisms. The allocation to funding/financing mechanism allows matching costs to estimated financial capacity and determination of cost incidence and aggregate burdens, the latter necessary for determining feasibility of individual mechanisms and overall feasibility of the financing strategy being tested.

- Incidence of Financial Burden and Feasibility Analysis. The financial model, given the real estate values created, calculates the incidence of burden upon the affected real estate. This analysis assures that the proposed financing strategy and related Financing Plan are financially feasible from a private sector investment perspective and will, accordingly, promote desired development. Needless to say, individuals will differ regarding what constitutes an acceptable financial burden with respect to funding public infrastructure, facilities, and services. In this instance EPS, based upon extensive public and private-sector feasibility analysis experience, will offer its independent opinion.

The results of the financial modeling exercise will, following the necessary iterations, be documented in a technical memorandum that describes the financial challenges being faced and what strategy is necessary to overcome these challenges.

TASK 7—ASSEMBLE FINANCING PLAN AND RELATED IMPLEMENTATION DOCUMENTS

A series of documents will derive from the financial planning effort described in **Tasks 1** through **6**. These products will be "stand alone" reports to be used as necessary to underpin various implementation efforts related to financing infrastructure and public facilities:

- Edits and additions to the Specific Plan document. It is likely that the financial planning effort will result in the need to edit or make additions to the Specific Plan text. This may include changes to the development program, inclusion of a financing policy framework, and description of implementing (financing) components.

- Prepare Transit Area Specific Plan Financing Plan. The Financing Plan will be a technical document that describes the financial planning and analysis effort, provides key conclusions and results, and provides technical support for subsequent implementation of recommended funding sources and financing mechanisms. A version of the financial model will be included as a technical appendix.

- Prepare Specific Plan Fee Technical Report. The RFP cites the desire to create a specific plan fee, a development impact fee authorized by State statute that allows the City to recover some or all of the costs associated with preparation of the Specific Plan. EPS will prepare, based upon cost data provided by the City, a calculation of this fee.

- Draft Public Land Equity Program. The pattern of public land requirements in the Transit Station Plan area will require substantial public land acquisition. While normally handled through a normal right-of-way acquisition process, the scale and importance of achieving the pattern of public lands anticipated in the Specific Plan requires a special analysis and program to assure adequate funding and to promote equity among affected landowners. EPS will prepare this program. In general the program will be based upon an allocation of the public land requirements (as a percentage of the project area) to all benefiting (developing) properties. While such a program can facilitate public land acquisition, it cannot entirely avoid the need for the normal process of public land acquisition, including the use of eminent domain, when necessary to achieve a public purpose.

- Development Agreement Business Terms. While it has not been concluded that development agreements will be used, they do offer a range of benefits to both the City and prospective developers. Assuming that such agreements will be a part of Specific Plan implementation, EPS will prepare a set of business terms that link a prototypical development agreement to the overall requirements of the Financing Plan and any special provisions sought by the City as consideration for contractually granting entitlements.

EPS staff will also participate in public workshops and public hearings regarding the Transit Area Specific Plan, as directed by City staff. Assuming adoption of the Specific Plan, EPS will also assist City staff in preparation of an action plan needed to implement various recommendations of the Financing Plan. As noted above, this proposed work program is our independent response to the requirements described in the RFP. EPS is willing to discuss changes to the work program as a part of the consultant selection process or as a result of the review and discussions that occur during the project initiation task.

EPS 2007 HOURLY BILLING RATES

Managing Principal	$245 – $275
Principal	$230
Executive Vice President	$205
Senior Vice President	$190
Vice President	$180
Senior Technical Associate	$150 - $170
Senior Associate	$155
Associate	$120
Research Analysts	$70 - $95
Production and Administrative Staff	$70

Billing rates updated annually.

Table 1
Budget Estimate
Milpitas Transit Area Specific Plan Financing Plan; EPS #17107

Task/ Description	EPS Staff				Staff Cost Subtotal	Direct Costs	Grand Total
	Kieser	Benassini	Nimon	Prod.Staff			
Task 1 -- Project Initiation	16	24	40	0	$11,080	$300	$11,380
Task 2 -- Review Technical Reports	16	40	40	4	$13,280	$300	$13,580
Task 3 -- Finalize Cost Estimates	8	24	60	4	$11,060	$100	$11,160
Task 4 -- Establish Development Phasing	8	20	40	4	$8,680	$100	$8,780
Task 5 -- Identify Funding Sources	8	36	40	4	$10,600	$100	$10,700
Task 6 -- Conduct Financial Analysis	40	60	60	4	$24,180	$100	$24,280
Task 7 -- Assemble Financing Plan	40	36	20	16	$18,340	$300	$18,640
TOTAL HOURS	136	240	300	36			
Billing Rates	$275	$120	$95	$70			
TOTAL PROJECT COSTS	$37,400	$28,800	$28,500	$2,520	$97,220	$1,300	$98,520

IV. EPS QUALIFICATIONS AND REFERENCES

ABOUT ECONOMIC & PLANNING SYSTEMS

The Firm

Economic & Planning Systems (EPS) is a land economics consulting firm experienced in the full spectrum of services related to real estate development, economic and market analysis, public/private partnerships, and the financing of government services and public infrastructure.

Guiding Principle

EPS was founded on the principle that real estate development and land use-related public policy should be built upon realistic assessment of market forces and economic trends, feasible implementation measures, and recognition of public policy objectives, including provisions for required public facilities and services.

Areas of Expertise

- Real Estate Market and Feasibility Analysis
- Public Finance
- Fiscal Impact Analysis
- Economic Impact Analysis
- Reuse, Revitalization and Redevelopment
- Real Estate Transactions and Negotiations
- Regional Economics and Industry Analysis
- Land Use Planning and Growth Management
- Open Space and Resource Conservation
- Government Organization
- Information Systems

Clients Served

Since 1983 EPS has provided consulting services to hundreds of public and private sector clients in California and throughout the United States. Clients include cities, counties, special districts, multi-jurisdictional authorities, property owners, developers, financial institutions, and land use attorneys.

Staff Capabilities

Each of the firm's four Managing Principals has over 25 years of professional experience providing a broad range of economics consulting services. The professional staff includes over 50 specialists in public finance, real estate development, land use and transportation planning, government organization, and computer applications. The firm excels in preparing concise analyses that disclose risks and impacts, support decision making, and provide solutions to real estate development and land use-related problems.

Office Locations

Berkeley, California
Sacramento, California
Denver, Colorado

PROPOSED EPS TEAM

Walter Kieser, Managing Principal, will serve as Principal-in-Charge of the project. Mr. Kieser has over 30 years of professional experience and has prepared financing plans for a number of specific plans, including Union City's DIPSA and the Santa Rosa Station Area. As Principal-in-Charge, Mr. Kieser will be involved in all aspects of the Financing Plan and will be available for all key team meetings, stakeholder meetings, and public meetings. **Rebecca Benassini**, Associate, will serve as Project Manager for the project. Ms. Benassini has recently served as project manager on several specific plan financing plans and has become expert in related financial analysis. As Project Manager, Ms. Benassini will be responsible for day-to-day management of the project and conducting key technical tasks, including the financial modeling effort. Mr. Kieser and Ms. Benassini will be assisted by **Michael Nimon**, Research Analyst, as well as other members of the EPS research staff for specific research and technical tasks. Additionally, other EPS Principals may be consulted on an as needed basis regarding various technical issues encountered. Resumes for the EPS team are provided with this proposal.

PROJECT EXPERIENCE AND REFERENCES

DIPSA Specific Plan
Union City, California

The Decoto Industrial Park Study Area (DIPSA) is a redevelopment project area in Union City, California. The 440 acre site, formerly the location of Pacific States Steel Company, has, over the past decade, been transformed into new residential neighborhoods and surrounding an intermodal (BART, Caltrain, AC Transit) transit station.

EPS has served as a consultant to Union City during the past two decades, completing a variety of assignments beginning with the creation of a financing plan as a part of the original DIPSA Specific Plan. Subsequent assignments have included detailed analysis of redevelopment agency participation, development agreement negotiations with prospective developers, negotiation of a memorandum of understanding with BART regarding station area improvements, and establishing financing mechanisms specified in the Specific Plan including a Mello Roos Community Facilities District and an area development impact fee.

Client:	City of Union City
Contact:	Mark Leonard Director, Community Development Civic Center 34009 Alvarado Niles Road Union City, CA 94587-4452
Telephone:	510-675-5319

Santa Rosa Station Area Specific Plan
Santa Rosa, California

As a part of developing a specific plan in downtown Santa Rosa, EPS conducted real estate market analysis and project feasibility analysis, helped define the land use program, and prepared a financing strategy and action plan for required infrastructure and public facilities. The Station Area encompasses approximately 650 acres surrounding a rail transit station along the proposed Sonoma Marin Area Rail Transit (SMART) rail line. The Specific Plan envisions substantial intensification and infill development of the largely developed Station Area and the creation of a range of urban infrastructure, public facilities, and amenities. The market feasibility analysis evaluated feasibility of a range and mix of likely building prototypes being considered for each of 15 opportunity sites within the Station Area. The financing plan addressed how required infrastructure and public amenities can be funded.

Client:	City of Santa Rosa
Contact:	Ken MacNab
	City Planner, Department of Community Development
	100 Santa Rosa Avenue, Room 3
	Santa Rosa, CA 95402
Telephone:	707-543-3187

San Mateo Land Use Transportation Corridor Study
San Mateo, California

The CalTrain commuter rail service is expanding its service between San Francisco and San Jose. The City of San Mateo lies between these two employment centers, and has emerged as a significant employment location in its own right. EPS has been retained as part of an inter-disciplinary team to examine the development opportunities in a corridor served by two rail stations. This effort has involved an assessment of demographic and economic trends, real estate market conditions, physical development opportunities presented by underutilized lands, and the economic relationships between various land uses and transit service. In addition, EPS is assessing various public policy issues, including jobs/housing balance and housing affordability, travel demand management, community facilities demand, and infrastructure financing strategies. EPS will help the City to select preferred development scenarios based on financial feasibility, fiscal impacts, and long-term economic and social benefits.

Client:	City of San Mateo
Contact:	Steven Scott
	Project Planner, Planning Division
	330 W. 20th Ave.
	San Mateo, CA 94403-1338
Telephone:	650-522-7202

Economic &
Planning Systems

Public Finance
Real Estate Economics
Regional Economics
Land Use Policy

WALTER F. KIESER

Managing Principal

Mr. Kieser is a Founder, Managing Principal, and President of Economic & Planning Systems, Inc., an urban economics consulting firm with offices in Berkeley, Sacramento, and Denver. The firm serves public and private sector clients throughout the United States.

EXPERTISE

Urban and Regional Planning

Participated in the preparation of numerous comprehensive and specific plans for cities and counties, with emphasis on demographic and economic forecasts, real estate market analyses, land use analyses, and policies and programs related to growth management, transportation, urban revitalization, recreation and open space, public services and infrastructure, and housing.

Economic Development and Revitalization

Assisted cities with preparing economic development and revitalization strategies associated with downtown business areas, visitor-serving resort development, and retail shopping centers. These strategies have involved the use of traditional redevelopment techniques, public/private partnerships, and implementation of transit-oriented mixed use development.

Resource Conservation

Participated in numerous programs and projects designed to preserve open space and natural habitats, preserve agricultural lands, and ensure productive and sustainable use of natural resources. These programs applied creative regulatory mechanisms (planning and zoning), compensatory regulations, and public acquisition techniques.

Government Organization

Prepared numerous governance feasibility studies addressing municipal incorporation, major annexations, special district formations and consolidations, and inter-governmental agreements. These feasibility studies typically involved preparation of detailed pro forma operational and capital budgets, and analysis of impacts of reorganization upon existing agencies.

Negotiated Agreements

Managed and participated in numerous real estate developments, infrastructure financing, and intergovernmental negotiations involving public and private participants. These negotiations have resulted in successful agreements, including mitigation and tax sharing agreements, intergovernmental agreements, development agreements, owner participation agreements, and real estate disposition agreements.

EDUCATION

Bachelor of Arts degree in Environmental Studies and Biology from Sonoma State University (SSU) in 1974.

Graduate course work in economics and public administration at SSU and the University of California, Berkeley.

AFFILIATIONS

American Planning Association, Member

California Association of Local Agency Formation Commissions, Associate Member

HONORS + AWARDS

FTA/FHWA/APA "Transportation Planning Excellence Award" 2004 – Valley Metro Rail Station Development Opportunities and Strategies, Phoenix, AZ

California APA "Award of Merit for Planning Implementation" 2002 – Sonoma County Housing Element, Sonoma County, CA

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fax: 303-623-9049

Fiscal and Economic Impact Analysis

Prepared detailed fiscal and economic impact analysis on a wide variety of land use plans, development projects, government reorganization proposals, infrastructure projects and initiative ballot measures. These quantitative analyses have focused on determining potential fiscal and financial impacts, the costs of growth, and ensuring successful implementation of public policy objectives.

Public Finance

Prepared numerous public financing strategies and plans for a wide variety of public services and infrastructure projects, including development project–related infrastructure, area-wide capital improvement programs, open space and conservation projects and specific infrastructure projects. Financing techniques applied have included formulation of area-specific and facility-specific development impact fees, special tax bonds, and redevelopment tax increment financing.

Economic &
Planning Systems

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Regional Economics
Land Use Policy

REBECCA BENASSINI

Associate

Ms. Benassini has worked at EPS as an Associate for more than a year, since her completion of a master's program. She has experience in public finance, economic and fiscal impacts analysis, feasibility studies, public/private developments, and cash flow models.

EDUCATION

Master of Public Policy, University of California, Berkeley, 2005

Bachelor of Arts in Political Science, University of California, Los Angeles, 1999

PREVIOUS EMPLOYMENT

Analyst, San Francisco Recreation and Parks Department (2005)

Budget Analyst, New York City Office of Management and Budget (2004)

Administrative Analyst, San Francisco Office of the City Architect (2001-2003)

AFFILIATIONS

Commonwealth Club of California

World Affairs Council

SELECTED PROJECT MANAGEMENT EXPERIENCE

Pier 70 Master Plan, Port of San Francisco
EPS is currently working with the Port of San Francisco on developing a comprehensive Master Plan for the Pier 70 area., an approximately 65 acre site located in the Central Waterfront area. EPS is leading a multi-disciplinary team in devising a plan which meets to Port's various objectives including an economically viable land use program, the rehabilitation of important historic resources, and the provision of significant waterfront public access.

Chula Vista Bayfront Master Plan - Fiscal and Financing Analysis
Responding to a complex cost-sharing partnership between the City, Port, and Redevelopment Agency, EPS developed a cash flow model to assist the City in negotiations with the Port of San Diego and interested developers in planning for the Bayfront's redevelopment. The model incorporated fiscal impacts to the City and the Port due to intensification of the area as well as tested the overall feasibility of various development scenarios.

SFPUC Aggregate Operator Proposal Evaluation
Working with the staff and members of the San Francisco Public Utilities Commission (SFPUC), EPS developed a cash flow model as a tool to assist in evaluating a number of proposals to operate the PUC's aggregate quarry. The cash flow included valuations of environmental enhancements and differential discount levels to account for market uncertainties over the multi-decade life of the lease term.

Economic/Fiscal Impacts of Colusa Subreach Planning
Working with The Nature Conservancy and the Sacramento River Conservation Area Forum, EPS evaluated the economic and fiscal impacts caused by the conversion of agricultural land to riparian habitat and park land on the economies of Colusa County and Glenn County including alterations in total employment, wages, and economic output.

Public/Private Joint Venture Developer Selection and Negotiations
EPS provided an evaluation of development proposals' financial terms and negotiation support for the Santa Clara Valley Transportation Authority's use in its transit-oriented development program, which is aimed at generating revenue and rider ship from excess VTA properties located near train stations.

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phone: 303-623-3557
fax: 303-623-9049

EDUCATION

Bachelor of Management Science, B.S. University of California, San Diego, 2005

PREVIOUS EMPLOYMENT

Associate, Grubb & Ellis, (2005-2006)

Intern, San Diego Regional Economic Development Corporation, (2005)

AFFILIATIONS/LICENSES

Urban Land Institute, Young Leaders Group

California Real Estate Sales License

Alpha Epsilon Pi Fraternity, Sigma Chi Chapter

MICHAEL NIMON

Research Analyst II

As a Research Analyst at EPS, Mr. Nimon's scope of work includes, but is not limited to financial modeling, report preparation, and project management. Mr. Nimon has experience in commercial real estate and fiscal, economic, market and financial analysis studies.

SELECTED PROJECT EXPERIENCE

Downtown Rialto Revitalization Plan, Rialto, CA

Mr. Nimon has been the project manager for the Downtown Rialto Market Study analyzing socioeconomic, public transit, and commercial real estate market conditions. The study is geared to support the City's downtown revitalization effort and economic development.

River Run Master Planned Community, Stockton, CA

With Keenan Land Company as a client, Mr. Nimon has been the project manager of the fiscal impact analysis of this 2,000-acre site adjacent to the City of Stockton. The project is expected to include approximately 8,100 housing units along with 200,000 square feet of commercial space.

Treasure Island Redevelopment, San Francisco, CA

Mr. Nimon has been involved in the EPS service provision to the Treasure Island Development Authority (TIDA) and the City of San Francisco, which includes financial and market analysis of waterfront development, evaluation of infrastructure financing for the Treasure Island reuse plan, and pro forma cash flow and fiscal analyses.

Coyote Valley Master Planned Development, San Jose, CA

Mr. Nimon has been involved in the market analysis for the Coyote Valley Specific Plan, conducting an overview of existing real estate conditions and recommends a level of future development for residential and commercial space. The project comprises over 7,000 acres and is planned for residential, commercial, and community civic uses.

Interstate 80 Land Use Analysis, Solano, Sacramento, Yolo, and Placer Counties, CA

Mr. Nimon has been involved in the regional market analysis for the Metropolitan Transportation Committee, investigating local and regional economic issues and market feasibility related to higher-density and transit-oriented development along the Interstate 80 Capitol Corridor.

Budget # _____
Refer # _____

City of Milpitas, California

BUDGET CHANGE FORM

Type of Change	From		To	
	Account	Amount	Account	Amount
Check one: ☒ **Budget Appropriation** ☐ **Budget Transfer**	390-2940	$98,520	390-5124237	$98,520

Explain the reason for the budget change:
In July of 2007, staff sent out a Request for Proposals (RFP) to a number of qualified consultants to seek professional assistance in the preparation of a Financing Plan for implementation of the Milpitas Transit Area Specific Plan. Five responses to the RFP were received and reviewed by a panel comprised of representatives from various City departments. A short list of the three most qualified firms was prepared, and on August 22, staff interviewed each of the three firms. Following these interviews, staff concluded that the firm of Economic & Planning Systems Inc. had prepared the best proposal and was the most qualified to prepare the Financing Plan for the TASP.

Economic & Planning Systems, Inc. (EPS) has extensive experience in preparation of similar financing plans for other jurisdictions, has excellent references, and has demonstrated success and knowledge in the complexities of preparing financing plans for public improvements involving numerous land owners and developers

The Redevelopment Agency is advancing the funds necessary for this work. As part of EPS's scope of work, they will be preparing a Specific Plan reimbursement fee that will allow the City to recover some or all of the costs associated with preparation of the Transit Area Specific Plan, including costs associated with preparation of this Financing Plan. The budget for this assignment would be in the amount not-to-exceed $98,520.

Approve the budget appropriation of $98,520 from Redevelopment Agency with future reimbursement fee to recover cost to the Planning's operating budget for prepare the Financing Plan for the TASP.

☒ **Check if City Council Approval required.** **Meeting Date**: November 6, 2007

Itemization of funds, if needed:		**Amount**

Requested by:	**Division Head:**	**Date:**
	Department Head:	**Date:**
Reviewed by:	**Finance Director:** Eric C. Karl	**Date:** 10/31/07
Approved by:	**City Manager:**	**Date:**

Date approved by City Council, if required: **Confirmed by:**

FI/24786/V **Form 30-222 (Rev. 1/92)**