

Project Name: Master Plan Updates and Developer Impact Fee Analysis

**THIRD AMENDMENT TO AGREEMENT  
FOR CONSULTATION AND OTHER SERVICES**

This Amendment is entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2008, by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "CITY") and RMC Water and Environment, Inc. (hereafter referred to as "CONSULTANT").

**RECITALS**

WHEREAS, the parties entered into an Agreement for professional engineering services for Developers Impact Fee Analysis and Connection Fee Update, on November 8, 2006; and

WHEREAS, the parties amended the Agreement to include city-wide Treatment Plant Fee review and impact fee analysis for the Transit Area Specific Plan on March 6, 2007; and

WHEREAS, the parties amended the Agreement to integrate the Transit Area Specific Plan, several proposed miscellaneous General Plan Amendments, and large user review into a Water and Sewer Master Plan Update on June 5, 2007; and

WHEREAS, the parties desire to amend the Agreement to allow CONSULTANT to provide additional capacity and fee analysis.

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

1. The first sentence in Subsection 1.1, entitled "Term of Services" is amended to read:

The term of this Agreement shall begin on the date first noted above and shall end on June 30, 2009.

2. Section 1, entitled "Services" is amended by adding Exhibit "A-3," which is attached hereto and incorporated by reference herein.
3. Section 2, entitled "Compensation" is amended to add \$214,900 in Exhibit "B-3," which is attached hereto and incorporated by reference

herein. Section 2 is further amended by changing the following at the beginning of the Section:

CITY hereby agrees to pay CONSULTANT a guaranteed maximum price not to exceed \$394,962 for all services to be performed and reimbursable costs incurred under this Agreement.

4. The CONSULTANT agrees to maintain and pay for all insurance policies as stated in Section 4, entitled "Insurance Requirements" of the Agreement dated November 8, 2006, between CONSULTANT and the CITY. The CONSULTANT shall provide the CITY with renewal certificates of the current policies upon the expiration of the current policy.
5. All other provisions of the Agreement shall remain in full force and effect.

APPROVED BY:

CITY OF MILPITAS

CONSULTANT

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Public Works Director / City Engineer  
as to content

\_\_\_\_\_  
City Attorney as to Form

ATTESTED BY:

\_\_\_\_\_  
City Clerk

## Exhibit A-3 Consultant Services

**BACKGROUND:** RMC is preparing the City's Water and Sewer Master Plan Update. This work includes integrating the following items: Transit Area Specific Plan, 19 miscellaneous proposed general plan amendments, and a review of the large water users. Additional analysis is required which will result in revised recommendations for a capital program and impact fees.

### SCOPE OF WORK

**Task 14 (Optional – To be performed upon written direction of City staff)**  
**Phase 1 Modified Density Evaluation** – This is an **optional** task and Consultant shall begin work only upon written direction from City. The Transit Area Specific Plan (TASP) identifies specific land uses with corresponding zoning limits. Build-out of every parcel at the maximum limit is not anticipated and a “Reasonable Worst Case” Scenario was developed to identify expected build-out for the region. For example, full buildout at maximum density would yield over 9,000 dwelling units; however the TASP Reasonable Worst Case Scenario is limited to 7,109 total dwelling units. Parcels were assigned various densities for the hydraulic modeling. Parcels that develop first have more flexibility in the allowed densities. Parcels that develop near the end of the TASP life may be limited in their densities in order to remain within the total Reasonable Worst Case Scenario. A preliminary review of Phase 1 (the first three proposed developments) has shown that the proposed project densities greatly exceed the densities assigned to these parcels for modeling purposes. The purpose of this task is to determine the impact of modified densities at these parcels on the water and sewer infrastructure. The *Additional Model Evaluation Phase 1 Transit Area Development letter* dated January 31, 2008 shall be updated to reflect changes in Phase 1 improvement projects. The 2018 with Midtown Buildout model scenario will be used as the baseline model run.

#### **14.1 – Water Improvements Re-evaluation**

RMC shall update the City's H2O Map water model for the higher density Phase 1 evaluation. The Master Plan criteria shall be used to identify infrastructure deficiencies. Any deficiencies identified shall be addressed assuming the recommended infrastructure improvements for the buildout scenario 3 that was evaluated in the Master Plan Update effort.

#### **14.2 – Sewer Improvements Re-evaluation**

RMC shall update the City's Hydra sewer model for the higher density Phase 1 evaluation. The Master Plan criteria shall be used to identify infrastructure deficiencies. Any deficiencies identified shall be addressed assuming the recommended infrastructure improvements for the buildout scenario 3 that was evaluated in the Master Plan Update effort.

#### **14.3 – “Reasonable Worst Case” Evaluation**

RMC shall provide a summary of the results and the conservativeness of the Reasonable Worst Case Scenario density assumptions based upon the modified densities for these 3 sites.

Deliverables: Provide Technical Memorandum documenting Phase 1 Reevaluation findings to City.

### **Task 15 Water Model Data Re-Evaluation**

**Task 15.1 – Revise Large User Data** - RMC shall update the water model with revised large water user data provided by the City.

**Task 15.2 – Update Water Use Flow Projections** - RMC shall update water use projections for the Scenario 3 model runs.

**Task 15.3 – Update Water Model with the revised Water Use Projection** - RMC shall update the H2OMap model with the revised flow projection. RMC shall perform Scenario 3 model runs for maximum day, peak hour, and fire flow conditions. System deficiencies shall be identified for each of the scenarios.

**Task 15.4 – Alternative Improvement Analysis and Capital Improvement Program** To address any capacity deficiencies, alternative improvements shall be identified. Model runs shall be performed to evaluate the improvements projects. RMC shall develop cost estimates for the alternative water distribution improvements identified for Scenario 3. Per the Master Plan Methodology, pipeline replacement costs will be estimated on a \$/in-dia-LF basis, using estimates from the previous cost estimating effort, escalated per ENR Construction Cost Index. The selected improvements to address each deficiency shall make up the capital improvement program.

**Task 15.5 – Water System Connection and Impact Fee Update** - RMC shall update the fee chapter of the Draft Water Master Plan Update (September 2007) for the revised capital improvement programs identified and to incorporate the Transit Area Financing Plan. Fees may also be modified based on selection of an alternative methodology for determining fees.

### **Task 16 Sewer Model Data Re-Evaluation**

**Task 16.1 – Revise Large User Data** - RMC shall update the sewer model with revised large water user data provided by the City.

**Task 16.2 – Update Sewer Flow and Strength Generation Projections** -

RMC shall update sewer use projections for Scenario 3 model runs. The projection shall include an estimate of wastewater strength needs (BOD, TSS, and Ammonia) and shall identify any capacity shortfalls.

**Task 16.3 – Update Sewer Model with the revised Sewer Flow Generation Projection -**

RMC shall update the collection system model with the revised flow projection. RMC shall perform Scenario 3 model runs for future system flows. Surcharging pipelines shall be identified for Scenario 3. The city-wide estimate for total sewer treatment capacity shall be updated.

**Task 16.4 – Alternative Improvement Analysis and Capital Improvement Program**

To address any surcharging pipelines, alternative improvements shall be identified. Model runs shall be performed to evaluate the improvements projects. RMC shall develop cost estimates for the alternative sewer collection system improvements identified for Scenario 3. Per the Master Plan Methodology, pipeline replacement costs will be estimated on a \$/in-dia-LF basis, using estimates from the previous cost estimating effort, escalated per ENR Construction Cost Index. The selected improvements to address each deficiency shall make up the capital improvement program.

**Task 16.5 – Sewer System Connection and Impact Fee Update -**

RMC shall update the fee chapter of the Draft Water Master Plan Update (September 2007) for the revised capital improvement programs identified and to incorporate the Transit Area Financing Plan. Fees may also be modified based on selection of an alternative methodology for determining fees.

**Task 17 Expansion and Revision of Water and Sewer Master Plans**

**Task 17.1 – Incorporate Recycled Water Project for the Transit Area into the Water Master Plan Update** – RMC shall integrate recycled water projects, costs, and fees from the Transit Area Recycled Water Analysis (July 2007) into the Water Master Plan.

**Task 17.2 – Incorporate Additional Information into the Master Plan Updates** - RMC shall expand the Draft September 2007 Water and Sewer Master Plan Updates to incorporate additional information, Treatment Plant Fee analysis, basis of assumptions, revision to water tank storage conclusion (separate zone by supplier), Task 15 and 16 results, and City comments.

Deliverable: Provide a second draft of the Water and Sewer Master Plan Updates.

**Task 18 Supplemental Programmatic Environmental Impact Report (EIR) for the Water and Sewer Master Plans** - RMC will prepare a Supplemental

Programmatic EIR for the Water and Sewer Master Plan Updates. The Supplemental EIR will supplement the Milpitas Transit Area Specific Plan EIR which covers the majority of the Water and Sewer Master Plan projects to a programmatic level. The major elements of work include:

- Prepare Notice of Preparation (NOP)
- Conduct Agency Consultation
- Prepare Administrative Draft Supplemental Program EIR
- Prepare Public Draft Supplemental Program EIR
- Prepare Responses to Comments
- Prepare Final Program EIR, Findings, and Mitigation Monitoring and Reporting Program
- Public and Project Coordination Meetings

**Task 18.1 – Notice of Preparation (NOP)**

RMC will prepare an NOP to meet CEQA requirements. RMC will work with the City to develop a complete and concise Project Description that includes the goals, objectives, location and boundaries of all of the remaining projects identified in the Water and Sewer Master Plan Updates that have not been covered in the Milpitas Transit Area Specific Plan EIR. Any changes to the Project Description once the environmental review and analyses have begun will likely result in the need for additional budget, scope, and schedule.

Deliverables: Ten (10) copies of an Administrative Draft NOP package including the Project Description. After incorporating the City’s comments, RMC will then prepare thirty (30) copies of the NOP package to undergo the 30-day public review. RMC will deliver fifteen (15) required copies to the State Clearinghouse on behalf of the City and provide the remaining fifteen (15) copies to the City. RMC will also provide the NOP package in PDF format so the City can place the NOP package on its website and/or copy to DVD.

**Task 18.2 – Conduct Agency Consultation**

RMC will consult with the agencies that provided substantive comments during the NOP process or have expressed interest in a specific component of the project implementation. We have budgeted 40 hours for thorough and direct consultation with involved federal, state, and/or local agencies and other interested parties during the preparation of the Draft Supplemental EIR.

**Task 18.3 – Prepare Administrative Draft Supplemental Program EIR**

RMC will prepare an Administrative Draft Supplemental Program EIR, consistent with CEQA requirements. RMC will compile comments from the NOP review process to refine the scope of services and consideration in the EIR. RMC to notify City if there are significant changes to the Project Description, new alternatives identified, and/or requests/demands for more technical studies to be undertaken as these efforts may not be included within

this task. The Administrative Draft Supplemental Program EIR document will contain the following sections:

- Executive Summary
- Goals and Objectives of the Project
- Description of the Proposed Project
- Description of existing environmental conditions within the project area
- Discussion of potential environmental impacts associated with the implementation of the Proposed Project, which may include, but is not necessarily limited to:
  - Aesthetics
  - Agricultural/Land Use
  - Air Quality
  - Biological Resources
  - Cultural Resources
  - Geology/Soils
  - Hazards/Hazardous Materials
  - Hydraulics/Flood Control Benefits
  - Noise
  - Public Services/Utilities
  - Public Health and Safety
  - Recreation
  - Socioeconomics
  - Transportation/Traffic
  - Growth/Cumulative Impacts
  - Climate Change/Global Warming Issues
- Description of mitigation for identified potential significant effects
- Discussion of a reasonable range of alternatives to be evaluated to reduce and/or avoid any environmental impacts identified above. The proposed budget includes evaluation of a total of three alternatives, including the required No Project Alternative.
- Documentation of consultation and coordination with interested federal, state, and/or local agencies.
- List of Preparers
- References and supporting information

As part of the development of the Administrative Draft Supplemental Program EIR, RMC will describe the environmental setting and prepare an analysis of the direct and indirect environmental impacts of the Proposed Project(s). As this is a Supplemental Program EIR, RMC will rely on existing information to conduct the impact analyses; no site-specific investigations or extensive studies will be conducted. RMC will incorporate tables, charts, and graphics as appropriate to illustrate and help communicate the impact analyses. RMC will apply existing impact significance criteria as directed by the City for each issue and clearly establish whether an impact is significant or less than significant. The Supplemental Program EIR will also identify feasible mitigation measures

for significant impacts, and clarify whether a mitigation measure has been proposed as part of the Project or identified through the EIR process. RMC will also identify which mitigation measures are required by existing regulatory processes and laws and which are elective for the City's consideration.

Deliverables: Ten (10) copies of the Administrative Draft Supplemental Program EIR for internal team review. RMC will also provide the Administrative Draft Supplemental Program EIR in electronic format (Word).

#### **Task 18.4 – Prepare Public Draft Supplemental Program EIR**

City to consolidate all comments on the Administrative Draft Supplemental Program EIR into one marked-up document. Upon receipt of the City's comments, RMC will revise the document to reflect the recommended changes and will prepare a Final Screen – Check Supplemental Program EIR for final review by the City prior to going out for public review. Any changes will be incorporated into this document, which will constitute the Public Supplemental Draft Program EIR and will be distributed for a 45-day public review period. RMC will prepare the Notice of Completion and Notice of Availability and assist the City in distributing the Draft Program EIR to the public. City is responsible for creating a distribution list and mailing the document.

Deliverables: RMC will provide thirty (30) paper bound copies of the draft Supplemental Program EIR for distribution. RMC will deliver fifteen (15) copies to the State Clearinghouse and the remaining fifteen will be delivered to the City. RMC will also prepare electronic copies of the document that can be distributed or made available on the City's website as well.

#### **Task 18.5 – Prepare Responses to Comments**

Upon completion of the 45-day public review period, as required by CEQA, RMC will compile the comments received and prepare appropriate responses. The response to comments package will include:

- Comment letters received during the public review period with individual comments delineated
- Responses to each individual comment as prepared by RMC, other consultants, and/or City staff

A budget of 80 hours is available to prepare comment responses.

Deliverable: Ten (10) copies of the draft response to comments for internal team review.

#### **Task 18.6 – Prepare Final Supplemental Program EIR, Findings, and Mitigation Monitoring and Reporting Plan**

RMC will prepare an Administrative Final Supplemental Program EIR and Mitigation Monitoring Reporting Plan (MMRP) that presents:

- Discussion of issues and responses to comments
- Comment letters received during the public review period
- Changes, corrections, or modifications to the Draft Supplemental Program EIR resulting from the comments received. Changes will be made as errata to the Draft Supplemental Program EIR; the entire text of the Draft Supplemental Program EIR will not be revised and reprinted.
- Description of mitigation measures to be adopted as part of project implementation, including identifying responsible parties for mitigation implementation, monitoring, and approval.

Deliverables: RMC will submit ten (10) copies of the Administrative Final Supplemental Program EIR, findings, and MMRP to the City for review and comment. Upon receipt of City's comments, RMC will prepare a screen-check copy of the Final Supplemental Program EIR, findings, and MMRP for public distribution. Upon Project approval by the Milpitas City Council, RMC will prepare the Notice of Determination for CEQA purposes and deliver it to the State Clearinghouse.

#### **Task 18.7 – Public and Project Coordination Meetings**

RMC will prepare for, attend, and participate in a total of two (2) public meetings and hearings as part of the Supplemental Program EIR preparation process. These meetings are:

- One Draft Supplemental Program EIR public meeting to receive public/agency comments on the document's findings and conclusions
- One City Council Final Supplemental Program EIR and Project Hearing to respond to comments or inquiries.

In addition, RMC will attend four project coordination meetings with City staff to review progress and discuss project-related issues.

**Task 19 – Attend Council Meeting** - RMC shall attend one Council meeting for Master Plan Update adoption.

**Task 20 – Project Management** – RMC shall provide project management services for the duration of the project, including budget, schedule, tracking, and payment control. Attend 2 meetings with City staff to discuss findings and recommendations. Provide quality control on work products prior to submittal to City.

All project work shall be completed by June 30, 2009.

## Exhibit B-3 Budget

Task/ Rate	RMC Labor				Total RMC Hours	Total RMC Labor	PTC	Other Direct Costs	Total Costs
	Principal	Senior Project Manager	Project Engineer	Admin/ Graphics					
	\$225	\$210	\$165	\$115					
<b><u>Task 14 (OPTIONAL): Phase 1 Modified Density Evaluation</u></b>									
14.1: Water Improvements Reevaluation	1	4	18		23	\$4,035	\$121	\$0	\$4,160
14.2: Sewer Improvements Reevaluation	1	4	18		23	\$4,035	\$121	\$0	\$4,160
14.3: "Reasonable Worst Case" Evaluation	1	4	6		11	\$2,055	\$62	\$0	\$2,120
<b>Task Subtotal:</b>									<b>\$10,440</b>
<b><u>Task 15: Water Model Data Re-evaluation</u></b>									
15.1: Revise Large User Data		2	16		18	\$3,060	\$92	\$0	\$3,150
15.2: Update Water Use Flow Projections		4	8		12	\$2,160	\$65	\$0	\$2,220
15.3: Update Water Model with Revised Water Use Projection		2	12		14	\$2,400	\$72	\$0	\$2,470
15.4: Alternative Improvement Analysis and Capital Improvement Program		4	30		34	\$5,790	\$174	\$0	\$5,960
15.5: Water Supply Connection and Impact Fee Update		8	24		32	\$5,640	\$169	\$0	\$5,810
<b>Task Subtotal:</b>									<b>\$19,610</b>
<b><u>Task 16: Sewer Model Data Re-evaluation</u></b>									
16.1: Revise Large User Data		2	16		18	\$3,061	\$92		\$3,150
16.2: Update Sewer Flow Generation Projections		2	8		10	\$1,740	\$52	\$0	\$1,790
16.3: Update Sewer Model with the Revised Sewer Flow Generation Projection		4	12		16	\$2,820	\$85	\$0	\$2,900
16.4: Alternative Improvements Analysis and Capital Improvement Program		4	30		34	\$5,790	\$174	\$0	\$5,960
16.5: Sewer System Connection and Impact Fee Update		8	24		32	\$5,640	\$169	\$0	\$5,810
<b>Task Subtotal:</b>									<b>\$19,610</b>
<b><u>Task 17: Expansion and Revision of Water and Sewer Master Plans</u></b>									

17.1: Incorporate Recycled Water Project for the Transit Area into the Water Master Plan Update	2	4	20		26	\$4,590	\$138	\$0	\$4,730
17.2: Incorporate Additional Information into the Master Plan Updates	4	24	80		108	\$19,140	\$574	\$200	\$19,920
<b>Task Subtotal:</b>									<b>\$24,650</b>
<b><u>Task 18: Supplement Programmatic EIR for Water and Sewer Master Plan</u></b>									
18.1: Prepare NOP		4			4	\$1,300	\$39	\$0	\$1,340
18.2: Conduct Agency Consultation		20			20	\$4,200	\$126	\$50	\$4,380
18.3: Prepare Admin Draft EIR	8	52	280	104	444	\$70,880	\$2,126	\$1,000	\$74,060
18.4: Prepare Draft EIR	2	6	36	8	52	\$8,570	\$257	\$1,500	\$10,400
18.5: Prepare Response to Comments	4	16	44	16	80	\$13,360	\$401	\$0	\$13,760
18.6: Prepare Final EIR, Findings, and MMRP	2	16	30	12	60	\$10,140	\$304	\$1,500	\$12,020
18.7: Public and Project Coordination Meetings	6	48		6	60	\$12,120	\$364	\$100	\$12,590
<b>Task Subtotal:</b>									<b>\$128,550</b>
<b><u>Task 19: Attend Council Meeting</u></b>									
19: Attend Council Meeting		4	4		8	\$1,500	\$45	\$20	\$1,570
<b>Task Subtotal:</b>									<b>\$1,570</b>
<b><u>Task 20: Project Management</u></b>									
20: Project Management, Meetings, Invoices, Progress Reports	4	30		24	58	\$9,960	\$299	\$200	\$10,470
<b>Task Subtotal:</b>									<b>\$10,470</b>
<b>Total Budget</b>	<b>35</b>	<b>276</b>	<b>716</b>	<b>174</b>	<b>1201</b>	<b>\$203,986</b>	<b>\$6,120</b>	<b>\$4,570</b>	<b>\$214,900</b>

Totals are rounded to the nearest \$10  
Other Direct Costs include 5% mark-up