

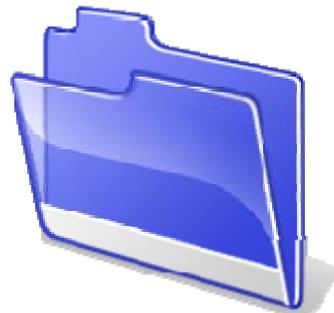


CITY OF MILPITAS

455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479
GENERAL INFORMATION: 408-586-3000, www.ci.milpitas.ca.gov



ATTACHMENTS AND/OR ADDITIONAL MATERIALS RELATED TO AGENDA ITEM AFTER AGENDA PACKET DISTRIBUTION



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**AMENDMENT No. 2 TO AGREEMENT
FOR CONSULTATION AND OTHER SERVICES**

This Amendment is entered into this 21st day of October 2008, by and between the City of Milpitas and the Milpitas Redevelopment Agency, a municipal corporation of the State of California (hereafter referred to as "CITY") and Critical Solutions, Inc. (hereafter referred to as "CONSULTANT").

RECITALS

WHEREAS, the parties entered into an Agreement for professional construction management and technical services for the Midtown East Parking Garage, Milpitas Public Library, and other Midtown Development Projects on March 8, 2006 with a total compensation not to exceed \$2,200,000, and;

WHEREAS, the parties now desire to amend the Agreement to allow the CONSULTANT to provide professional construction support services the Senior Center Remodel Project No. 8176, on a part-time basis as outlined in Exhibit "A-3".

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 The first sentence in Section 1.1, entitled "Term of Services" is repealed in its entirety and amended to read as follows:

The term of this Agreement shall begin on the date first noted above and shall end on April 1, 2010, and Consultant shall complete the work described in Exhibit A and its amendments by that date, unless the term of the Agreement is otherwise terminated or extended, as provide for in Section 8.

2. Section 1, entitled "Services" is amended by adding Exhibits "A-3", which are attached hereto and incorporated by reference herein.
3. Section 2, entitled " Compensation " is amended to add Exhibit "B-3", which is attached hereto and incorporated by reference herein. Section 2 is further amended by adding the following to the end of the Section:

The compensation for the services set forth in Exhibit "B-3" is a "not to exceed" amount. The total maximum amount of compensation to be paid for tasks outlined in Exhibits "B-3" shall be **\$164,876.00**.

4. All other provisions of the Agreement shall remain in full force and effect. This Amendment is executed as of the date written above.

APPROVED BY:

CITY OF MILPITAS/RDA

CONSULTANT
CRITICAL SOLUTIONS, INC.

As to Content:

Steve Erickson
Capital Improvement Manager

Ronald Johnson
Principal/Vice President

Thomas C. Williams
City Manager/Executive Director

Approved as to Form:

Michael J. Ogaz
City Attorney/Agency Counsel

Attested By:

Mary Lavelle
City Clerk/Agency Secretary

City of Milpitas Senior Center Project, Project No. 8176
Milpitas Redevelopment Agency

Project Summary and Project Management Budget

EXHIBIT A-3
SCOPE OF SERVICES

For the agreement between the City of Milpitas and the Milpitas Redevelopment Agency (hereinafter referred to for convenience only as "City") and Critical Solutions, Inc. ("Consultant" or "CSI") (together sometimes referred to as the "Parties") dated October 21, 2008 (the "Effective Date") in Milpitas, California.

Critical Solutions Inc. shall assist the City's Project Management Team on a **part-time** on-site basis. Daryl Witbeck, Senior Construction Manager will be onsite assisting City staff up to 16-hours per week from January thru April 2009, 8-hours per week from May thru December 2009, and 16-hours per week from January thru March 2010.

Task I. Pre-Qualification Statement Review and Bidding – Senior Center Project

CSI personnel, as staff extension shall assist City with review of pre-qualification statements submitted by contractors; assist in review of protests of findings of non-qualification by City; assist in the creation of the approved bidders list; assistance City with project bidding including pre-bid walk through, and responding to bid questions; assist in the review of bids received; review bid protests as directed by City staff.

NTE \$ 17,800

Task II. Construction Management Assistance – Senior Center Project

Provide assistance to the City's Construction Management Staff as directed, including assisting in the review and processing of submittals; contractor Requests For Information (RFI's); Requests for Quotation; Contract Change Orders; and the review of progress pay estimates; and assistance in the resolution of construction field problems. Duties may include attendance at weekly job-site meetings with the contractor.

Other tasks to include the assistance in the review of the contractors master project and two-week look ahead schedules, assist in the review of plans and specifications, assist City staff in preparation of reports and presentation to Council, City Commissions, as required.

NTE \$ 147,076

Exhibit B-3

Compensation

CONSULTANT shall, during the term of this AGREEMENT, invoice CITY every four weeks for services performed under this AGREEMENT during the previous four-week period. Providing the services covered by the invoice have been completed in accordance with the provisions of this AGREEMENT, CITY shall pay CONSULTANT the amount shown on the invoice within thirty (30) days of receipt of the invoice.

The monthly invoice shall describe the topics and tasks completed during by consultant and subconsultants. The invoice shall list the hours expended with personnel charge rates, and reimbursable expenses. A budget summary shall be included on the front page of the invoice and shall show the total budget amount, total amount billed to date, and the budget balance. A spreadsheet (attached) shall be used to record the monthly invoices and shall be attached to each invoice.

Services performed under Exhibit A-3 shall be invoiced separately to the attention of: Special Projects, 455 E. Calaveras Blvd., Milpitas CA 95035.

CONSULTANT:
 CONTRACT DATE:
 CONTACT PERSON:

PROJECT NAME:
 PROJECT NO:
 ACCOUNT NO:

PO NO:

INVOICE NUMBER	INVOICE DATE	INVOICE AMOUNT	INVOICE TO DATE	AUTHORIZED		CONTRACT AND AMENDMENT			RETENTION		BALANCE REMAINING
				PAYMENT AMOUNT	PAID TO DATE	ACTION	DATE	AMOUNT	THIS INVOICE	TOTAL TO DATE	
						Agreement					

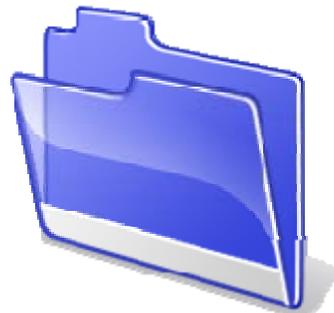


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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS MAKING FINDINGS AND AUTHORIZING THE PROVISION OF WATER SERVICE TO A SITE OUTSIDE THE URBAN GROWTH BOUNDARY AND AUTHORIZING THE EXECUTION OF A WATER SUPPLY AGREEMENT WITH THE MILPITAS UNIFIED SCHOOL DISTRICT AND THE COUNTY OF SANTA CLARA FOR AIR POINT SCHOOL

WHEREAS, the City of Milpitas (“City”) operates a water distribution system within its boundaries; and

WHEREAS, the California Department of Public Health has determined that the private on-site groundwater well that is the sole current source of water for the Milpitas Unified School District’s Air Point School (“School”) located at 3001 Calaveras Road in Milpitas, California, contains coliform bacteria and therefore cannot reliably provide potable water of acceptable quality; and

WHEREAS, the Milpitas Unified School District now wishes to connect to the City water system in order to address its urgent need for potable water for School staff and students; and

WHEREAS, because the cost to construct an independent connection directly to the City water distribution system is prohibitively expensive to the Milpitas Unified School District, the County of Santa Clara has agreed to allow City water to be conveyed to the Air Point School via the County’s on-site distribution system for Ed Levin Park and the Spring Valley Golf Course; and

WHEREAS, the Air Point School is located within the City of Milpitas but outside the Urban Growth Boundary, as set forth in the Milpitas General Plan; and

WHEREAS, Section 2.a I-2.1 of the Milpitas General Plan allows the City Council to approve or authorize the provision of city water service to a site that lies outside the Urban Growth Boundary but within City limits if it makes findings, based upon substantial evidence, that an urgent public health or safety concern affecting existing development is present; and

WHEREAS, the City Council has considered all of the evidence submitted into the administrative record which includes, but is not limited to, an agenda report prepared by City Staff and its attachments, summaries and citations of the relevant portions of the Milpitas General Plan and other applicable regulations and codes, and all related documents received and/or submitted at or prior to the October 21, 2008 City Council meeting.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Milpitas:

1. That the following general and specific findings are made with regards to the extension of City water service outside the Urban Growth Boundary, but within City limits, as permitted by Milpitas General Plan Section 2.a.I-2.1:
 - a. The recitals above are true and correct and incorporated herein as general findings.
 - b. Substantial evidence exists to support the following specific findings, which are now made by this City Council:
 - i. An urgent public health or safety concern exists because of the severe degradation of water quality at a functioning school facility, thereby posing an ongoing threat to the well being of students and faculty. The California Department of Public Health and other regulatory officials have repeatedly cited the School for water quality violations or noted the existence of dire health and safety conditions.
 - ii. An independent, certified professional engineer approved by the City has concluded that the

- iii. only economically feasible solution to that public health or safety concern is to provide or extend City water service to the School.
- iv. On or before November 3, 1998, the School had a vested right to develop an approved land use. Construction plans for the Air Point School were approved in 1965 by the State of California Department of General Services (Office of Architecture and Construction) and the Milpitas Unified School District had full developmental rights as to the parcel underlying the School by that time.
- v. The Milpitas Unified School District, as the applicant for the provision or extension of City water service, has agreed to pay for its proportionate share of the service or service extension costs. Fees and costs associated with an engineering consultant, construction costs for School on-site water distribution connections, land right acquisitions, and other facilities and interests shall be borne by the Milpitas Unified School District, as incurred already by said organization up to the present date and/or set forth in the attached "Agreement Between the City of Milpitas, the County of Santa Clara, and the Milpitas Unified School District for the Provision of Potable Water Service to the Air Point School Facility." After the commencement of water flows, the Milpitas Unified School District shall also pay for the costs of receiving water service in the form of service rate payments to the City.

2. That, based upon the findings set forth above, the City Manager is authorized to execute the "Agreement Between the City of Milpitas, the County of Santa Clara, and the Milpitas Unified School District for the Provision of Potable Water Service to the Air Point School Facility" in the form or substantially the same form as that attached and to take other necessary actions to provide potable water to the School.

PASSED AND ADOPTED this _____ day of _____ 2008, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney