

CONSULTING SERVICES AGREEMENT BETWEEN
THE CITY OF MILPITAS AND
PMC

THIS AGREEMENT for consulting services is made by and between the City of Milpitas ("City") and PMC ("Consultant") as of April 18, 2012 ("Effective Date").

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, this Agreement shall prevail.

- 1.1 **Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end on December 31, 2012 unless the term of the 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 his profession. Consultant 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. 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 1.2 above and to complete Consultant's obligations hereunder.

Section 2. COMPENSATION. City hereby agrees to pay Consultant a guaranteed maximum price not to exceed \$29,020 for all services to be performed 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.

The parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

pw

2.1 **Invoices.** Consultant shall submit invoices monthly 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 time expended on 1/10 hourly basis;
- 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;
- For each work item in each task include a brief description of the work, and each reimbursable expense;
- The total number of hours of work performed under the Agreement by Consultant and a separate notice when the total number of hours of work by Consultant reaches or exceeds 500 hours.
- The Consultant's signature.

2.2 **Bi-Weekly Payment.** City shall make bi-weekly 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 incurred by Consultant in rendering services pursuant to this Agreement except as provided in Section 2.5.

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 (intentionally omitted)

2.5 **Reimbursable Expenses.** Reimbursable expenses shall be allowed only on a pre-approval basis. Except as allowed herein, expenses are not chargeable to City. Reimbursable expenses are included in the total not-to-exceed amount of compensation provided under this Agreement.

fw

- 2.6 **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.
- 2.7 **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.
- 2.8 **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 on a date certain from the City. City may also suspend services under this Agreement for such periods as are necessary to meet its economic needs.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Consultant shall, at his or her 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, personal computer, telephone, photocopier, fax, 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 additional expense, including but not limited to cellular telephone and vehicles.

Section 4. INSURANCE REQUIREMENTS. 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 within 30 days of the Effective Date. 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.

- 4.1 **Workers' Compensation.** Consultant shall perform all work under this Agreement and shall not maintain or hire any employees to accomplish said work. Consultant represents that he or she is performing such services in an individual capacity as a sole proprietor and shall not perform any such work as an employee of any firm, corporation, partnership or other sole proprietorship. As such, Consultant represents that he or she is not required to maintain Worker's Compensation coverage. Verification of such exemption from Workers' Compensation requirements shall be required 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.

If insurance is provided, 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 his or her 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 (intentionally omitted)

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.** Verification of coverage shall be made as set forth in Section 4 above. 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.** Not Applicable

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.

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.

pu

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 (5) 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 timeframe 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 City Attorney jointly with the Risk Manager (Finance Director) of the City have 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 and included in the Scope of Work attached as Exhibit A.

Section 5. (intentionally omitted)

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. 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, (even those not authorized to do so under this personal services 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.

fw

- 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 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 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 has all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice his or her respective profession. Consultant represents and warrants to City that Consultant shall, at his or her 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 his or her respective profession and to perform this Agreement.
- 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 upon thirty (30) days 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,

plw

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 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 any provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees not exceeding a total of \$10,000 for any legal representation whether in a court of law or at formal or informal arbitration or mediation relating to the performance by either party of the terms of this Agreement.
- 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 warrants that he or she 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 he or she has not paid any direct or contingent fee, contribution, donation or consideration of any kind to any firm, organization, or person 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 Sheldon S. Ah Sing, 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.

PW

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

Philip O. Carter
President
PMC
2729 Prospect Park Drive, Suite 220
Rancho Cordova, CA 95670

Any written notice to City shall be sent to:

Sheldon S. Ah Sing
Senior Planner
City of Milpitas
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

CONSULTANT

Thomas C. Williams, City Manager



Name Philip O. Carter, President

68-0348252

Taxpayer Identification Number

APPROVED AS TO CONTENT AND FORM:

Michael J. Ogaz, City Attorney

Plw

EXHIBIT A

SCOPE OF SERVICES

Scope for:

“Qualified Greenhouse Gas Emissions Reduction Strategy Pursuant to State and Bay Area Air Quality Management District California Environmental Quality Act Guidelines”.

The consultant services will be provided under the respective projects and programs listed below:

Project Understanding

The City’s goal is to develop a Qualified Climate Action Plan, which is also referred to as a Qualified Greenhouse Gas Emissions Reduction Strategy by the Bay Area Air Quality Management District CEQA Guidelines. Specific steps are required to develop a Climate Action Plan (CAP) that meets the criteria as outlined in the approach section below. Creating a CAP that meets the criteria will assist the City in streamlining future CEQA review related to GHG emissions and will support a more comprehensive integration of the topic of climate change in the City’s policy decisions. There are some deviations to the Request for Proposals (RFP) in order to fully develop a qualified GHG emissions reduction strategy consistent with BAAQMD Guidelines.

Milpitas Climate Action Plan – Scope of Work to Complete Project

Project Budget Summary

Task	Hours	Budget
1. Project Management & Meetings	50	\$5,000.00
2. GHG Reduction Measure Quantification	75	\$7,000.00
3. Prepare Climate Action Plan	95	\$9,500.00
4. Assist with General Plan Amendment	10	\$1,000.00
5. Assist with CEQA Review	10	\$1,000.00
6. Prepare implementation plan & monitoring program	50	\$5,000.00
Direct Costs		\$520.00
	290	\$29,020.00

Task 1: Project Management and Meetings

This is an ongoing project management task and task/budget for outreach and public hearings. The estimate is that a minimum of two hearings would be expected to review and adopt the CAP: one hearing to the planning commission and one hearing by the City Council. The City may also wish to engage in focused stakeholder outreach. The budget for this task also allows for PMC’s assistance

with intergovernmental coordination with the Bay Area Air Quality Management District, other regional agencies, and state agencies on behalf of the City and/or in support of the City.

Ongoing and active project management is essential to ensure a successful project. This task provides for project management by the PMC team throughout the project. The task includes overall project management, including coordination of team members and tasks, preparation of invoices and project updates, general consultation with the City, and team meetings. We envision bi-weekly conference calls with the City during much of the project, with periods during public review or holidays that spread team meetings out to once every few weeks. This approach allows the entire team to stay up to speed on the project. As a component of this task, PMC will generate agendas and notes for each team meeting for the City's records and use in updates to the City Council. The budget for this task recognizes that the PMC team will also communicate with the City team by e-mail and phone throughout the project in addition to attending formalized meetings.

Deliverables: Agenda and meetings notes for bi-weekly team conference

Assistance with staff report content/preparation

PowerPoint presentations for each meeting

Attendance and participation of PMC Project Manager or designee in two hearings

Budget: \$5,000

Task 2: Evaluation/Prioritization of GHG Emissions Reduction Measures

PMC prepared draft measures for review and discussion by staff. Staff has reviewed and identified edits. Next steps are to confirm the GHG reduction measure and action language, quantify the activity (i.e., electricity, fuel, VMT, natural gas, waste/methane, etc) and GHG reduction potential of each measure, and quantify/assess co-benefits.

In this phase, PMC will quantify and assess the preferred emissions reduction measures. Emissions reductions will be quantified using a methodology that ensures consistency with AB 32. At a minimum, PMC recommends including the following factors for measure quantification and assessment:

- The implementing agency (City, developer, site operators, etc.)
- The likely effectiveness, including:
- GHG reductions in metric tons carbon dioxide equivalent (CO₂e)
- Reductions in electricity (kWh), natural gas (therms), waste (tons), traffic (VMT), vehicle fuel (gallons), and water (gallons)
- Plan level cost estimates, including potential cost savings
- Available funding (City sources, grants, rebates, low-interest financing, etc.)
- Co-benefits (e.g., higher property values)

The PMC project management team will hold one (1) meeting with staff to review consolidated City comments on the reduction measures.

Deliverables: Draft Reduction Measures Matrix (electronic Adobe PDF)
Technical Memo (electronic Adobe PDF or MS Word)
Final Reduction Measure Matrix with Quantification

Budget: \$7,000

Task 3: Climate Action Plan

The task includes preparation of an administrative draft CAP, public review/hearing draft CAP, and final CAP.

The Administrative Draft CAP will integrate the detailed measure quantifications and thresholds with supportive text. The Administrative Draft CAP will include the following, at a minimum: 1) An introduction to climate change science and regulations; 2) A summary of the greenhouse gas emissions inventory, forecast, and targets; 3) Community energy use, transportation, land use, agriculture, water, and solid waste reduction strategies and measures; and 4) An implementation program (matrix) and a compliance checklist for use by planning staff to assist with determinations of project consistency with the CAP.

PMC will present a report template and an outline for City staff review at the initiation of this task. PMC anticipates that the CAP will use simple language, color, graphics, and other features to make the document easy to read and accessible. PMC will provide a visually appealing and user-friendly document.

Deliverables: CAP Outline (electronic)
Peer review and QA/QC on staff-generated draft
Graphical and copyediting support
Administrative Draft CAP (electronic Adobe PDF and MS Word)

Upon receipt of City comments, PMC will revise the Administrative Draft CAP in order to produce a Public Draft CAP. It is anticipated that the City will circulate the Public Draft CAP for review. PMC will present and receive comments on the Public Draft CAP at the workshops and Planning Commission and City Council meetings as identified in the RFP.

Deliverables: Public Draft CAP (electronic Adobe PDF and MS Word)
PowerPoint presentation (electronic)

PMC will revise the Draft CAP in response to public, Planning Commission, City Council, and staff changes and submit the Final CAP to staff for distribution. After formal review and adoption by the City Council, PMC will modify the CAP to include City Council comments and deliver the Final Climate Action Plan to the City.

Deliverables: Final Climate Action Plan (electronic Adobe PDF and MS Word)
PowerPoint presentation (electronic)

Budget: \$9,500

Task 4: General Plan Amendment

We understand the City will lead preparation of the General Plan amendment, so we are proposing to provide technical assistance to City staff. PMC will provide example and best practices, review staff drafts, and provide on-call support to the City as the City develops the General Plan amendment. PMC will share examples of how this has been done in other jurisdictions throughout the state and provide support on staff's development of an approach to effectively integrate the CAP into the General Plan.

Deliverables: Best practices of other general plans (electronic Adobe PDF and MS Word)

Budget: \$1,000

Option:

If staff chooses not proceed with a General Plan Amendment, the budget could be re-assigned to assistance with the CEQA Initial Study.

Task 5: CEQA Initial Study

In order to effectively create a CEQA tiering document and comply with the BAAQMD CEQA Guidelines, an environmental review must be undertaken. Although we expect the CAP to be self-mitigating, there is a possibility that the analysis may result in a determination that an SEIR is required to augment the analysis in the City's General Plan. PMC will assist the City in understanding which process is most appropriate at the completion of the CAP. PMC will provide templates, attend a kick-off meeting, and provide support to the City as the City develops the initial study.

Deliverables: Templates and examples of other applicable documents (electronic Adobe PDF and MS Word)

Option:

PMC is able to provide full assistance with preparation of an Initial Study and Mitigated Negative Declaration. A scope and budget could be provided upon request. An estimated budget is approximately \$15,000 for an IS/MND consistent with BAAQMD GHG Reduction Strategy Guidelines.

Budget: \$1,000 for focused assistance.

Task 6: Implementation plan/ monitoring and tracking program

PMC will develop an integrated Excel-based implementation plan and measurement tool to monitor progress in achieving GHG reduction targets on a biannual basis. Hand in hand with this tool will be a procedural manual for using the tool and updating GHG inventory data. The database includes an interactive spreadsheet for tracking GHG emissions reductions, a system for storing and tracking correspondence, and a place to store correspondence related to monitoring and tracking efforts. This database enables the City to sort GHG emissions reduction measures based on required

implementation timing, responsible agency, and level of success/completion. With this tool, the City is able to search for emissions reduction implementation locations/programs by location, reference number, responsible agency, or project name. The system will allow staff to regularly change this information and update the progress of each action. The tool will allow for an annual assessment of progress toward GHG reduction goals and will project the City's ability to meet its future GHG reduction goals. PMC will provide training and advice to the City on use of the tool. PMC will address any comments or modification requests identified by the City during the training session to produce the final tracking tool. We will provide a short memorandum to the City describing changes to the tool and include any additional instructions for its use.

Deliverables: Monitoring system (Excel-based)
Staff training and support

Budget: \$5,000

Direct Costs

Direct costs include reproduction, mileage, transportation, and direct costs of meeting materials.

Budget: \$520

Key Personnel PMC

The PMC project team combines decades of experience working with local governments on new policy issues, environmental compliance, sustainability, and public outreach. We are a unique solution to the unique problem of climate change.

The PMC project team has relevant, recent, and credible experience in all task areas needed for completion of the Milpitas Qualified GHG Emissions Reduction Strategy/Climate Action Plan (CAP). With multiple climate action plans in progress or complete, most of which are structured as CEQA tiering documents, we will bring a wealth of experience in climate action planning to this project.

Patrick Angell, Principal in Charge

Mr. Angell is an associate principal at PMC and oversees the company's environmental services. He also serves as a project director and manager for a variety of projects. Mr. Angell will also be providing technical guidance throughout the project and will help to ensure that the CAP positions the City to transition into completion of the General Plan SEIR. Mr. Angell will also provide senior quality control review of all PMC work products. He specializes in environmental and urban land use planning and has performed tasks for projects such as water and wastewater facilities, energy facilities, flood control projects, residential subdivisions, mixed-use urban developments, and redevelopment plans. Mr. Angell's experience includes preparing urban land use and growth analysis, recreation and visual resource studies, public services assessment, transportation and circulation studies, and cultural resource analysis. He has also been involved in the preparation of several CEQA and NEPA documents and technical studies and has over 16 years of environmental documentation preparation experience. He has conducted a variety of integrated climate action planning and CEQA documents.

Tammy Seale, Project Manager

Ms. Seale serves as a manager for PMC's Climate Change Services team. Ms. Seale has 15 years of experience in managing and preparing comprehensive planning documents, specifically in the areas of sustainability, climate action planning, and conservation planning. She co-manages PMC's Climate Services Team as it assists jurisdictions throughout California with their climate action planning programs. Ms. Seale is currently managing the City of Palmdale Greenhouse Gas Inventory and Climate Action Plan, the County of San Luis Obispo Climate Action Plan, general plan element updates, and numerous baseline greenhouse gas emissions inventories. She has collaborated with urban planning faculty at California Polytechnic State University to pursue research, publications, and professional development courses in climate action planning. She is a co-author of the article "Climate Action Plans and Emissions Inventories: Strengthening the Foundations of Policy Development" that has been submitted to the Journal of the American Planning Association for publication in a special issue on climate change and planning. Ms. Seale is also a co-author of the forthcoming book *Climate Action Planning: A Guidebook for Communities*. She will be the day-to-day contact for the City and will serve as the overall project manager.

Nora DeCuir, Public Outreach Task Manager

Nora DeCuir assists clients with climate action planning, strategic conservation planning, natural resource planning, and facilitation. She is an experienced facilitator for group discussions of climate change, greenhouse gas emissions reductions, park, open space, conservation, and non-motorized transportation issues. Ms. DeCuir also has expertise in comprehensive planning, water policy, park and recreation planning, non-motorized transportation planning and design, and agricultural land and open space conservation. She has prepared numerous general plan conservation and open space elements, pedestrian and bicycle master plans, trail feasibility studies, park and open space system plans and assessments, and agricultural conservation studies. In addition, she has led complex public outreach campaigns, featuring large workshops, events, open houses, intercept survey efforts, and newsletter and media outreach design. Ms. DeCuir is the assistant project manager for the City of Walnut Creek's Climate Action Plan and the public engagement coordinator for the County of San Luis Obispo Climate Action Plan. Ms. DeCuir will direct development of the public engagement plan and serve as a lead facilitator for stakeholder meetings.

Sandra Hamlat, Senior Sustainability and Climate Protection Planner

Ms. Hamlat has 12 years of experience developing and reviewing environmental documents. Most recently, she managed various environmental planning projects related to regional sediment management and climate change to help protect the San Francisco Bay for the San Francisco Bay Conservation and Development Commission. This agency is the first to propose climate change policies to regulate development. Ms. Hamlat has also been responsible for overseeing various environmental planning projects, including environmental review in accordance with the California Environmental Quality Act, and administering grants. In addition, she is adept at campaign strategy and fundraising, with knowledge and understanding of political issues. She is an excellent communicator who knows how to translate issues into effective policy.

Leeanne Singleton, LEED AP, Associate Climate Protection Planner

Ms. Singleton is a recent graduate from Cal Poly San Luis Obispo and is one of the newest members on the PMC team. Prior to joining PMC, Ms. Singleton was an intern for the City of San Luis Obispo in the Community Development Department and was a class leader in a multi-quarter project to develop the City of San Luis Obispo's Draft Climate Action Plan. At PMC, Ms. Singleton assists with a variety of planning projects with an emphasis on climate change and energy. She develops greenhouse gas (GHG) emissions inventories and GHG reduction measures, and assists with the preparation of climate action plans for local agencies. She became a LEED Accredited Professional in May 2009.

Jennifer Venema, Associate Climate Protection Planner

Ms. Venema works on a variety of planning projects, with an emphasis on climate change work. Ms. Venema conducts emissions models, quantifying the impacts of climate action plans and calculating greenhouse gas inventories and projections. She is also providing support services for Energy Efficiency and Conservation Block Grant projects and assisting in the implementation of collaborative energy efficiency partnerships. She has worked on a variety of other current and advance planning projects, including zoning codes, design guidelines, current planning projects, and land use modeling. Ms. Venema has training in numerous planning and greenhouse gas modeling

tools, including IPLACE3S, ICLEI's Clean Air Climate Protection (CACP) software, CARB's EMFAC2007 and OFFROAD2007, and the Local Government Operations Protocol v1.0. She has a background in participatory planning projects and international planning issues, and she is also the current vice-chair for special projects of the International Division of the American Planning Association.

Charlie Lewis, Assistant Climate Protection Planner

Mr. Lewis assists with a variety of planning projects with an emphasis on the development of sustainability, climate change and energy policies and programs, and greenhouse gas emissions (GHG) quantification. Mr. Lewis is well-versed in many GHG protocols, tools, and calculators including the Local Government Operations Protocol v1.1, the Climate Registry (TCR) General Reporting Protocol v1.1, ICLEI's CACP, TCR's CRIS reporting tool, and CARB's EMFAC 2011 and OFFROAD 2007 programs. Prior to joining the Sustainability and Climate Change team, he was a founding member of the City of Santa Cruz's Climate Action Program and the Municipal Energy Management Office and co-authored the City's community-wide Climate Action Plan. Mr. Lewis is a trained commercial energy auditor specializing in small to medium sized commercial facilities and serves as an on-call reviewer of ICLEI's Community-Scale GHG Emissions Accounting and Reporting Protocol.

Jonathan Faoro, GIS Analyst

Mr. Faoro is a GIS specialist experienced in ESRI ArcGIS 3.X/8.X/9.X, ESRI ArcIMS, ESRI ArcPad, and ArcGIS extensions: Spatial Analyst, 3-D Analyst and ERDAS Imagine. He is experienced in field mapping employing topographic maps and aerial photography, cartographic conventions, graphic design, and Microsoft Access database design.

Steve Parker, Web Developer/Graphic Designer

Mr. Parker is a Web developer/graphic designer with ten years of experience. His specialties include Web design (Macromedia Dreamweaver), Web programming (HTML, Action Script, ASP, PHP, C#, Visual Basic, JavaScript, VBScript, XML), database (mySQL, MSSQL, MS Access, Indexing), graphics (Macromedia Flash, Director, Fireworks; Adobe Photoshop, InDesign, Premier, After Effects and Illustrator), Windows XP, Vista and 7 and 2003, 2008 web server environment, web server hardware installation, upgrading and troubleshooting, Microsoft Office Suite. He possesses excellent problem-solving and project management skills and has a proven ability to achieve goals in a team and individual environments.

Suzanne Wirth, Technical Editor

Ms. Wirth has extensive experience preparing and editing documents. This experience was gained in multiple fields, resulting in familiarity with a wide range of subjects. Ms. Wirth brings her expertise to PMC as she edits a diverse array of documents including general plans, environmental impact reports, zoning codes, housing elements, master and specific plans, public outreach materials, graphics and websites, and a variety of other projects. She reviews for technical accuracy, ensures information consistency, confirms references, verifies sources/citations, and checks formatting. The editing process includes review of spelling, grammar, punctuation, readability, and the use of acronyms.



MEMO

To: Sheldon AhSing
CITY OF MILPITAS

From: Tammy L. Seale

Date: March 12, 2012

Re: Revised Scope of Work and Budget to complete the City of Milpitas Climate Action Plan

Based on our discussions with staff, we have prepared the following revised scope of work and budget for completion of the City's community-wide climate Action Plan. The proposed budget to re-start and complete the Climate Action Plan is \$29, 020. Upon review and approval of the scope and budget by staff and renewal of a contract between the City and PMC, the PMC Project Team will re-start the project in collaboration with City staff. We look forward to working with staff to complete the project.

MILPITAS CLIMATE ACTION PLAN – SCOPE OF WORK TO COMPLETE PROJECT

PROJECT BUDGET SUMMARY

Task	Hours	Budget
1. Project Management & Meetings	50	\$5,000.00
2. GHG Reduction Measure Quantification	75	\$7,000.00
3. Prepare Climate Action Plan	95	\$9,500.00
4. Assist with General Plan Amendment	10	\$1,000.00
5. Assist with CEQA Review	10	\$1,000.00
6. Prepare implementation plan & monitoring program	50	\$5,000.00
Direct Costs		\$520.00
	290	\$29,020.00

TASK I: PROJECT MANAGEMENT AND MEETINGS

This is an ongoing project management task and task/budget for outreach and public hearings. The estimate is that a minimum of two hearings would be expected to review and adopt the CAP: one hearing to the planning commission and one hearing by the City Council. The City may also wish to engage in focused stakeholder outreach. The budget for this task also allows for PMC's assistance with intergovernmental coordination with the Bay Area Air Quality Management District, other regional agencies, and state agencies on behalf of the City and/or in support of the City.

Ongoing and active project management is essential to ensure a successful project. This task provides for project management by the PMC team throughout the project. The task includes overall project management, including coordination of team members and tasks, preparation of invoices and project updates, general consultation with the City, and team meetings. We envision bi-weekly conference calls with the City during much of the project, with periods during public review or holidays that spread team meetings out to once every few weeks. This approach allows the entire team to stay up to speed on the project. As a component of this task, PMC will generate agendas and notes for each team meeting for the City's records and use in updates to the City Council. The budget for this task recognizes that the PMC team will also communicate with the City team by e-mail and phone throughout the project in addition to attending formalized meetings.

Deliverables: Agenda and meetings notes for bi-weekly team conference
Assistance with staff report content/preparation
PowerPoint presentations for each meeting
Attendance and participation of PMC Project Manager or designee in two hearings

Budget: \$5,000

TASK 2: EVALUATION/PRIORITIZATION OF GHG EMISSIONS REDUCTION MEASURES

PMC prepared draft measures for review and discussion by staff. Staff has reviewed and identified edits. Next steps are to confirm the GHG reduction measure and action language, quantify the activity (i.e., electricity, fuel, VMT, natural gas, waste/methane, etc) and GHG reduction potential of each measure, and quantify/assess co-benefits.

In this phase, PMC will quantify and assess the preferred emissions reduction measures. Emissions reductions will be quantified using a methodology that ensures consistency with AB 32. At a minimum, PMC recommends including the following factors for measure quantification and assessment:

- The implementing agency (City, developer, site operators, etc.)
- The likely effectiveness, including:
- GHG reductions in metric tons carbon dioxide equivalent (CO₂e)
- Reductions in electricity (kWh), natural gas (therms), waste (tons), traffic (VMT), vehicle fuel (gallons), and water (gallons)
- Plan level cost estimates, including potential cost savings
- Available funding (City sources, grants, rebates, low-interest financing, etc.)
- Co-benefits (e.g., higher property values)

The PMC project management team will hold one (1) meeting with staff to review consolidated City comments on the reduction measures.

Deliverables: Draft Reduction Measures Matrix (electronic Adobe PDF)
Technical Memo (electronic Adobe PDF or MS Word)
Final Reduction Measure Matrix with Quantification

Budget: \$7,000

TASK 3: CLIMATE ACTION PLAN

The task includes preparation of an administrative draft CAP, public review/hearing draft CAP, and final CAP.

The Administrative Draft CAP will integrate the detailed measure quantifications and thresholds with supportive text. The Administrative Draft CAP will include the following, at a minimum: 1) An introduction to climate change science and regulations; 2) A summary of the greenhouse gas emissions inventory, forecast, and targets; 3) Community energy use, transportation, land use, agriculture, water, and solid waste reduction strategies and measures; and 4) An implementation program (matrix) and a compliance checklist for use by planning staff to assist with determinations of project consistency with the CAP.

PMC will present a report template and an outline for City staff review at the initiation of this task. PMC anticipates that the CAP will use simple language, color, graphics, and other features to make the document easy to read and accessible. PMC will provide a visually appealing and user-friendly document.

Deliverables: CAP Outline (electronic)
Peer review and QA/QC on staff-generated draft
Graphical and copyediting support
Administrative Draft CAP (electronic Adobe PDF and MS Word)

Upon receipt of City comments, PMC will revise the Administrative Draft CAP in order to produce a Public Draft CAP. It is anticipated that the City will circulate the Public Draft CAP for review. PMC will present and receive comments on the Public Draft CAP at the workshops and Planning Commission and City Council meetings as identified in the RFP.

Deliverables: Public Draft CAP (electronic Adobe PDF and MS Word)
PowerPoint presentation (electronic)

PMC will revise the Draft CAP in response to public, Planning Commission, City Council, and staff changes and submit the Final CAP to staff for distribution. After formal review and adoption by the City Council, PMC will modify the CAP to include City Council comments and deliver the Final Climate Action Plan to the City.

Deliverables: Final Climate Action Plan (electronic Adobe PDF and MS Word)
PowerPoint presentation (electronic)

Budget: \$9,500

TASK 4: GENERAL PLAN AMENDMENT

We understand the City will lead preparation of the General Plan amendment, so we are proposing to provide technical assistance to City staff. PMC will provide example and best practices, review staff drafts, and provide on-call support to the City as the City develops the General Plan amendment. PMC will share examples of how this has been done in other jurisdictions throughout the state and provide support on staff's development of an approach to effectively integrate the CAP into the General Plan.

Deliverables: Best practices of other general plans (electronic Adobe PDF and MS Word)

Budget: \$1,000

Option:

If staff chooses not proceed with a General Plan Amendment, the budget could be re-assigned to assistance with the CEQA Initial Study.

TASK 5: CEQA INITIAL STUDY

In order to effectively create a CEQA tiering document and comply with the BAAQMD CEQA Guidelines, an environmental review must be undertaken. Although we expect the CAP to be self-mitigating, there is a possibility that the analysis may result in a determination that an SEIR is required to augment the analysis in the City's General Plan. PMC will assist the City in understanding which process is most appropriate at the completion of the CAP. PMC will provide templates, attend a kick-off meeting, and provide support to the City as the City develops the initial study.

Deliverables: Templates and examples of other applicable documents (electronic Adobe PDF and MS Word)

Option:

PMC is able to provide full assistance with preparation of an Initial Study and Mitigated Negative Declaration. A scope and budget could be provided upon request. An estimated budget is approximately \$15,000 for an IS/MND consistent with BAAQMD GHG Reduction Strategy Guidelines.

Budget: \$1,000 for focused assistance.

TASK 6: IMPLEMENTATION PLAN/ MONITORING AND TRACKING PROGRAM

PMC will develop an integrated Excel-based implementation plan and measurement tool to monitor progress in achieving GHG reduction targets on a biannual basis. Hand in hand with this tool will be a procedural manual for using the tool and updating GHG inventory data. The database includes an interactive spreadsheet for tracking GHG emissions reductions, a system for storing and tracking correspondence, and a place to store correspondence related to monitoring and tracking efforts. This database enables the City to sort GHG emissions reduction measures based on required implementation timing, responsible agency, and level of success/completion. With this tool, the City is able to search for emissions reduction implementation locations/programs by location, reference number, responsible agency, or project name. The system will allow staff to regularly change this information and update the progress of each action. The tool will allow for an annual assessment of progress toward GHG reduction goals and will project the City's ability to meet its future GHG reduction goals. PMC will provide training and advice to the City on use of the tool. PMC will address any comments or modification requests identified by the City during the training session to produce the final tracking tool. We will provide a short memorandum to the City describing changes to the tool and include any additional instructions for its use.

Deliverables: Monitoring system (Excel-based)
Staff training and support

Budget: \$5,000

DIRECT COSTS

Direct costs include reproduction, mileage, transportation, and direct costs of meeting materials.

Budget: \$520