



AMENDMENT NO. 2 TO THE AGREEMENT
WITH
ACCO ENGINEERED SYSTEMS
FOR
MAINTENANCE AND REPAIR OF CITY HALL HVAC SYSTEM

This Amendment is entered into this 19th day of June 2013, by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "CITY") and **ACCO Engineered Systems, Inc.**, a California Corporation (hereafter referred to as "VENDOR").

RECITALS

WHEREAS, VENDOR was the lowest responsible bidder for the original installation of the HVAC system when City Hall was built, and

WHEREAS, due to the customized and proprietary nature of the software used in the HVAC control system, on February 17, 2009 the City Council adopted Resolution 7838 approving VENDORS maintenance and repair service as a "Sole Source" purchase pursuant to Municipal Code Section I-2-3.09 "Sole Source Procurement", for a period of five years which expires on February 17, 2014, and

WHEREAS, on June 15, 2010, City Council approved a three year agreement for maintenance and repair of the City Hall HVAC system with VENDOR for the annual not-to-exceed amount of \$61,236.80 for a total contract not-to-exceed amount of \$183,710.40, and

WHEREAS, the City and Vendor entered into a three year contract on July 1, 2010 which will expire on June 30, 2013, and

WHEREAS, the parties wish to amend the agreement to extend the term from June 30, 2013 to February 17, 2014 to coincide with the end of the "Sole Source" designation and increase the total contract amount by \$21,144.

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

1. Section 2, entitled "Term" of the agreement is amended to read as follows: "The effective date of this contract is July 1, 2010 and it terminates on February 17, 2014 unless sooner terminated as provide herein."
2. Section 3, entitled "Payment Limit" of the agreement is amended to read as follows: "City's total payment to contractor under this contract shall not exceed \$204,854.40."
3. All other provisions of the amended Agreement not modified by this Amendment No. 2 shall remain in full force and effect.

This Amendment is executed as of the date first written above.

APPROVED BY:

CITY OF MILPITAS

ACCO ENGINEERED SYSTEM

Thomas C. Williams, City Manager

Name/Title of Authorized Representative

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Michael J. Ogaz, City Attorney

Steve Erickson, City Project Manager