

**AMENDMENT NO. 3 TO AGREEMENT**  
**FOR CONSULTING SERVICES BETWEEN THE CITY OF MILPITAS**  
**CDM SMITH INC.**

This Amendment No. 3 is entered into this 6th day of August, 2013, by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "CITY") and CDM Smith Inc., a Massachusetts corporation registered in the State of California (hereafter referred to as "CONSULTANT").

**RECITALS**

WHEREAS, the parties entered into an Agreement entitled "CONSULTING SERVICES AGREEMENT BETWEEN THE CITY OF MILPITAS AND CAMP DRESSER & McKEE, INC." dated August 3, 2009 ("Agreement"); and

WHEREAS, the parties entered into Amendment No. 1 to the Agreement on October 18, 2011 to increase the compensation from a total not to exceed amount of \$19,880.00 to \$29,910.00 and amend the scope of services to include 2009 Subtitle D review; and

WHEREAS, the parties entered into Amendment No. 2 to the Agreement on February 21, 2012 to increase the compensation from a total not to exceed amount of \$29,910.00 to \$38,620.00 and amend the scope of services to include 2010 Subtitle D review; and

WHEREAS, on December 8, 2011 CONSULTANT filed an Articles of Amendment with the State of Massachusetts to change the corporate name from Camp Dresser & McKee, Inc to CDM Smith Inc.; and

WHEREAS, the parties desire to amend the Agreement to increase the compensation to provide for additional CONSULTANT services;

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

1. Section 1.1, entitled "Term of Services" is amended by adding Exhibit "A-3", which is attached hereto and incorporated by reference herein.
2. Section 2, entitled "Compensation" is amended to add \$16,780 in Exhibit "B-3", which is attached hereto and incorporated by reference herein. Section 2 is further amended to read as follows:

"City hereby agrees to pay CONSULTANT a guaranteed maximum

price not to exceed fifty five thousand four hundred dollars (\$55,400) for all services to be performed and reimbursable costs incurred under this Agreement.”

3. The Consultant agrees to maintain and pay for all insurance policies as stated in Section 4, entitled "Insurance Requirements" of the Agreement dated August 3, 2009 between CONSULTANT and CITY throughout the term of the Agreement. CONSULTANT shall provide the City with renewal certificates of the current policies upon the expiration of the current policy.
4. CDM Smith Inc. acknowledges and agrees that the corporate name of Camp, Dresser & Mckee, Inc. was changed to CDM Smith, Inc. on December 8, 2011 and CDM Smith Inc., agrees to each and every term and condition of the amended Agreement and assumes all responsibility and liability under the amended Agreement.
5. All other provisions of the amended Agreement shall remain in full force and effect.

This Amendment is executed as of the date written on Page 1.

APPROVED BY:

CITY OF MILPITAS

CONSULTANT

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Thomas C. Williams, City Manager

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Mari Garza-Bird, Vice President

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Jeff Moneda, City Engineer

APPROVED AS TO FORM:

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Michael J. Ogaz, City Attorney

**Exhibit A - 3**  
**(Scope of Consultant's Duties and Services)**

**Introduction**

The purpose of this scope of work is to describe the tasks required to evaluate the claims submitted by Republic Services (Republic) for reimbursement of costs incurred due to regulatory changes at the Newby Island Landfill for calendar years 2011 and 2012. CDM Smith will evaluate the claims for consistency with the provisions of the Disposal Agreement between Republic and the City of Milpitas (City) dated September 2, 1986. The claim evaluation process will consist of CDM Smith assessing documents prepared by Republic justifying the claim, and reviewing the appropriate permits and regulations governing the landfill disposal operations.

**Task 1 – Review of Republic Services Documentation**

Republic has developed and submitted to the City of Milpitas information documenting their request for cost reimbursement due to regulatory changes at the Newby Island Landfill for the years 2011 and 2012. Upon receipt of the documentation, CDM Smith will evaluate the applicability of the claim presented for reimbursement. The claim will be evaluated with respect to the criteria established in the Disposal Agreement between the City and Republic.

**Task 2 – Letter Report Preparation**

Separate draft letter reports will be prepared for the two claim periods, documenting the evaluation performed under Task 1. The letter report will consist of four sections; Introduction, Regulatory Framework, Vendor Invoice Analysis, and Claim Calculation. The final report will be prepared after receipt of City and Republic review comments.

**Task 3 – Project Meetings**

CDM Smith will participate in a project meeting with the City to review the findings of the 2011 and 2012 claim reviews. The purpose of the meeting is to discuss significant issues identified in CDM Smith's evaluation of Republic's claim. This meeting would be scheduled after receipt of comments from Republic on the draft letter report.

If necessary, a meeting or conference call will be held with Republic to resolve any issues identified in Republic's review of CDM Smith's draft report. The objective of the meeting is to develop a consensus on the applicability of all claim items. The final report will be prepared, incorporating decisions made at this meeting, to complete the claim reimbursement process.

**Schedule**

The Task 2 draft letter report for the 2011 claim period will be submitted within 4 weeks of the receipt of the Notice to Proceed (NTP) from the City. The Task 2 draft letter report for the 2012 claim period will be submitted within 6 weeks of the receipt of the NTP from the City. Meetings will be scheduled by the City as needed to facilitate the claim reimbursement project.

**Professional Team**

**Wayne Pickus, PE- Project Manager**

Mr. Pickus has over 30 years of experience in the areas of sanitary landfill engineering and waste management. His responsibilities have involved the planning and engineering of solid waste

management facilities including sanitary landfills, sludge processing facilities, transfer stations, material recovery facilities, and recycling centers. Mr. Pickus has performed the role of site operations engineer at four sanitary landfills and hazardous waste disposal sites over an eight-year period ranging in size from 2,000 to 13,000 tons per day. He has extensive experience working within the regulatory environment governing the permitting and operation of sanitary landfills in California. Mr. Pickus has conducted reimbursement claim reviews for the Newby Island Landfill every year since 1989.

**James Kim, PE - Staff Engineer**

Mr. Kim has performed the review of Allied's (Republic's) claim for reimbursement due to regulatory since the 2007 and 2008 reporting periods. He is an environmental engineer experienced with hydraulic evaluation of water distribution systems and pump stations, master plans and the design of distribution pipelines. Mr. Kim has experience with the state and Federal environmental regulations governing water treatment and waste management facilities.

**Exhibit B-3  
Compensation Schedule**

Task Description		CDM Smith 2011 and 2012 Claim for Reimbursement; Newby Island Landfill <sup>1, 2</sup>					CDM Smith Labor Costs (\$)	Subcon sultant	ODCs (\$)	TOTAL (\$)
		Project Manager	Staff Engineer (Grade 4)	Word Processing	Admin	CDM Smith Hours				
		\$240/hr	\$150/hr	\$95/hr	\$95/hr					
<b>Task 1 - Review of 2011 Claim</b>										
1.1	<b>Review of Republic Services Documentation</b>	2	18	0	0	20	\$3,180	\$0	\$0	\$3,180
1.2	<b>Letter Report Preparation</b>	2	15	4	4	25	\$3,490	\$0	\$100	\$3,590
1.3	<b>Project Meetings</b>	4	6	0	0	10	\$1,860	\$0	\$0	\$1,860
<b>Task 2 - Review of 2012 Claim</b>										
2.1	<b>Review of Republic Services Documentation</b>	2	18	0	0	20	\$3,180	\$0	\$0	\$3,180
2.2	<b>Letter Report Preparation</b>	2	15	4	4	25	\$3,490	\$0	\$100	\$3,590
2.3	<b>Project Meetings</b>	2	6	0	0	8	\$1,380	\$0	\$0	\$1,380
<b>Total</b>		<b>14</b>	<b>78</b>	<b>8</b>	<b>8</b>	<b>108</b>	<b>\$16,580</b>	<b>\$0</b>	<b>\$200</b>	<b>\$16,780</b>

<sup>1</sup>The total all-inclusive maximum price for Tasks 1, 2 and 3, as described in Exhibit A-3, is not to exceed \$16,780. The CITY shall pay CONSULTANT monthly based on actual hours of service provided during the invoice period. Bill rates will be applied as indicated above and on the Exhibit B-3 Compensation Schedule. Escalation of billing rates will be allowed as presented on Exhibit B-3.

<sup>2</sup>Escalation Clause

Prices shall not change, unless there is a price decrease, during the initial contract term. However, the consultant may request, and the City may allow, subject to approved budgeted appropriations, a price increase effective on the anniversary of each renewal term. The consultant must submit to City, sixty (60) days prior to renewal, evidence to justify requests for price increases.

Requests for price increases shall not exceed the annual change in the Consumer Price Index (CPI-U) for All Urban Consumer, US City Average. All items, index based on the latest available listing prior to contract renewal period. For the initial contract period, this would be the CPI-U index in effect as of August 8, 2013 to August 7, 2014 contract period. This same method will be used for renewal period, if awarded, utilizing the future CPI-U Index listings.