

**AMENDMENT NO. 4 TO THE AGREEMENT FOR
CONSULTANT AND OTHER SERVICES**

BETWEEN

CITY OF MILPITAS

AND

RMC WATER AND ENVIRONMENT, INC.

This Amendment is entered into this 15th day of October, 2013, 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. a California Corporation (hereafter referred to as "CONSULTANT").

RECITALS

WHEREAS, the parties entered into an agreement titled "Consulting Services Agreement" ("Agreement") for professional engineering services for BART Extension and Various City Capital Projects on March 1, 2011 with an expiration date of December 31, 2011 in the amount of One Hundred Fifty Four Thousand Four Hundred Sixty Eight Dollars (\$154,468); and

WHEREAS, on August 16, 2011, the parties entered into Amendment No. 1 to the Agreement to increase the scope of work, extend the term of the Agreement with an expiration date of June 30, 2012, and increase the compensation to an amount not to exceed Four Hundred Twenty Thousand Sixty Eight Dollars (\$420,068); and

WHEREAS, on May 10, 2012, the parties entered into Amendment No. 2 to the Agreement to extend the term of the Agreement with an expiration date of October 31, 2012 with no changes to compensation; and

WHEREAS, on August 7, 2012, the parties entered into Amendment No. 3 to the Agreement to increase the scope of work, extend the term of the Agreement with an expiration date of October 31, 2013, and increase the compensation to an amount not to exceed Eight Hundred Seven Thousand One Hundred Sixteen Dollars (\$807,116); and

WHEREAS, the parties desire to increase the scope of work and extend the term of the Agreement with an expiration date of October 31, 2014 for additional 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, entitled "Term of Services" of the Agreement is amended by adding to additional scope of services as set forth in Exhibit A-4, which is attached hereto and incorporated by reference herein.
2. The first sentence in Subsection 1.1, entitled "Term of Services" of the Agreement is amended to read:

"The term of this Agreement shall begin on the date first noted above and shall end on October 31, 2014."

3. Section 2, entitled "Compensation" of the Agreement is amended to read as follows:
"City hereby agrees to pay Consultant a guaranteed maximum price not to exceed One Million One Hundred Seven Thousand One Hundred Sixteen Dollars (\$1,107,116) for all services to be performed and reimbursable costs incurred under this Agreement as further set forth in Exhibit B-4, which is attached hereto and incorporated by reference herein."
4. The CONSULTANT agrees to maintain and pay for all insurance policies as stated in Section 4, entitled "Insurance Requirements" of the Agreement dated March 1, 2011, between CONSULTANT and CITY. The CONSULTANT shall provide CITY with renewal certificates of the current policies upon the expiration of the current policy.
5. All other provisions of the amended Agreement not amended by this Amendment No. 4 shall remain in full force and effect.

This Amendment is executed as of the date written on this page.

CITY OF MILPITAS

CONSULTANT

Thomas C. Williams, City Manager

Steve Bui, Vice President

APPROVED AS TO CONTENT

Jeff Moneda, Public Works Director

APPROVED AS TO FORM

Michael J. Ogaz, City Attorney

EXHIBIT A-4

Scope of Services

The City of Milpitas desires Consultant support to assist with the BART Extension Project, and backfill for City staff on other various City Capital Improvement Projects. Consultant shall assign Isaac Serrano as one of the team members to perform this work and expect that his work shall be 40 hours per standard work week, excepting City holidays and personal leave and vacation, for the duration of the Agreement.

Task 1 - BART Extension Support Services

Consultant shall provide professional engineering support services for the BART project. Duties shall include:

- Review documents, such as plans, specifications, performance criteria, maps, submittals
- Coordinate City support services during construction activities. Review and responses to RFI and Submittals
- Research maps and records
- City support services on draft documents, such as plans, specifications, performance criteria, maps
- Attend coordination meetings
- Prepare documents, such as maps, charts, memos, meeting minutes
- Track utility relocations
- Manage and maintain documents
- Assist Milpitas staff as needed
- Water and Sewer system modeling as needed to support utility relocation work
- Contract management, including support, review, and invoicing

Task 2 - Various City Capital Improvement Projects

Consultant shall provide professional engineering support services for the City's various Capital Improvement Projects.

Duties shall include:

- Review documents, such as plans, specifications, performance criteria, maps, submittals
- Research maps and records

Project Name: BART Extension
Project No.: GT 1063 and CP 4265

- Coordinate City responses on draft documents, such as plans, specifications, performance criteria, maps
- Attend coordination meetings
- Prepare documents, such as maps, charts, memos, meeting minutes
- Review CIP invoices
- Prepare change orders
- Manage documents
- Assist Milpitas staff as needed
- Contract management, including support, review, and invoicing

Task 3 – Private Job Reimbursement

Consultant shall provide professional engineering support services for Private Job Reimbursement.

Duties shall include:

- Review documents, such as plans, specifications, performance criteria, maps, submittals
- Coordinate City support services during construction activities. Review and responses to RFI and Submittals
- Research maps and records
- Prepare documents, such as maps, charts, memos, meeting minutes, permits
- Manage and maintain documents

All work shall be completed by October 31, 2014.

Project Name: BART Extension
 Project No.: GT 1063 and CP 4265

EXHIBIT B-4
COMPENSATION SCHEDULE

	Task 1	Task 2	Task 3	
Agreement	\$115,900	\$38,568		
Amendment No.1	\$233,296	\$32,304		
Amendment No.2	\$0	\$0		
Amendment No. 3	<u>\$327,304</u>	<u>\$59,744</u>		
Previously Approved	\$676,500	\$130,616		
Amendment No.4	\$85,000	<u>-\$85,000</u>		
	<u>\$290,000</u>		<u>\$10,000</u>	
Total Compens. Amount	\$1,051,500	\$45,616	\$10,000	Total = \$1,107,116

	Principal		Senior Project Engineer		Project Engineer		Senior Admin		Labor Cost	Expenses	Total	Funding Source Reallocation
	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost				
Task 1	2	\$430	40	\$7,800	1800	\$279,000	32	\$2,770	\$290,000	\$0	\$290,000	+\$85,000
Task 2	0	\$0	0	\$0	0	\$0	0	\$0	\$0	\$0	\$0	-\$85,000
Task 3	1	\$215	8	\$1,560	50	\$7,750	5	\$435	\$9,960	\$40	\$10,000	
Totals	3	\$645	48	\$9,360	1850	\$286,750	37	\$3,219			\$300,000	

City of Milpitas, California

BUDGET CHANGE FORM

Type of Change	From		To	
	Account	Amount	Account	Amount
Check one: <input checked="" type="checkbox"/> Budget Appropriation <input type="checkbox"/> Budget Transfer	311-9514265153575	\$ 500,000	311-951426524800	\$ 500,000

Explain the reason for the budget change:

Background: On August 3, 2010, the City entered into a Master Agreement with the Santa Clara Valley Transportation Authority (VTA) for reimbursement of City work on the Silicon Valley Berryessa Extension project. The Master Agreement also allows reimbursement of consultant costs for design review services. On March 1, 2011, Council approved a Consultant Services Agreement with RMC Water and Environment (RMC), a California Corporation, to work on either the BART project directly or work on other capital improvement projects, thereby freeing staff to work on the BART project. On August 16, 2011, Council approved Amendment No. 1 to the agreement with RMC for a total agreement amount not to exceed \$420,068 with extended expiration date of June 30, 2012, for engineering support associated with the BART project and various city capital projects. On May 10, 2012, the parties entered into Amendment No. 2 to extend the expiration date to October 31, 2012 with no changes to compensation. On August 7, 2012, Council approved Amendment No. 3 to the agreement with RMC for a total agreement amount not to exceed \$807,116 with extended expiration date of October 31, 2013, for engineering support associated with the BART project and various city capital projects. Staff is currently reviewing 95% level plans for several subprojects. It is necessary to extend the RMC agreement to provide additional funding for consultant support. It is cost-effective to use Consultant Services for the BART project and to use staff for the City CIP projects. It is recommended to shift \$85,000 from the CIP task to the BART task, add a task to allow for Private Job reimbursement, and increase the Consultant Agreement by \$300,000. This will bring the total value of the agreement to \$1,107,116. It is necessary to extend the expiration date to October 31, 2014. A budget appropriation from the previously approved Master Agreement is required.

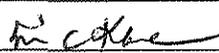
Fiscal Impact: A budget appropriation of \$500,000 to CP 4265 is anticipated to cover the various consultant charges through October 31, 2014. The charges are fully reimbursable under Master Agreement with VTA. The city capital projects have sufficient funding for the remaining support.

Recommendation:

1. Approve Amendment No. 4 with RMC Water and Environment in the amount of \$300,000, for a total agreement amount not to exceed \$1,107,116 and to extend the expiration date to October 31, 2014 for engineering support associated with the BART extension, Project No. CP4265, various city capital projects, and related Private Job reimbursement.
2. Approve a budget appropriation of \$500,000 for the various Consultant expenses for the Valley Transportation Authority BART project.

Check if City Council Approval required.

Meeting Date: October 15, 2013

Requested by:	Marilyn Nickel, Engineering	Date: October 3, 2013
Reviewed by:	Finance Director: 	Date: 10/4/13
Approved by:	City Manager:	Date:
Date approved by City Council, if required:		Confirmed by: