

**AMENDMENT No. 2 TO AGREEMENT**  
**FOR CONSULTATION AND OTHER SERVICES**  
**BETWEEN THE CITY OF MILPITAS AND RMC WATER AND ENVIRONMENT, INC.**

This Amendment is entered into this 19th day of January, 2016, 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 for professional Engineering services for Water and Sewer System Hydraulic modeling on December 6, 2011 with an expiration date of December 31, 2014; and

WHEREAS, on November 18, 2014, the parties entered into Amendment No.1 to extend the Agreement to December 31, 2017.

WHEREAS, the parties now desire to further amend the Agreement to increase compensation by \$100,000 for a total not to exceed amount of \$300,000.

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 "Compensation" of the Agreement is amended in its entirety to read as follows:

Section 2. Compensation. City hereby agrees to pay Consultant an amount not to exceed Three Hundred Thousand Dollars (\$300,000) for all services to be performed and reimbursable costs incurred 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. Except as specifically authorized by City, Consultant shall not bill City for duplicate services performed by more than one person. Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Hourly rates for personnel performing services shall be as shown in Exhibit B. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.
2. The CONSULTANT agrees to maintain and pay for all insurance policies as stated in Section 4, entitled "Insurance Requirements" of the Agreement dated December 6, 2011, between CONSULTANT and CITY. The CONSULTANT shall provide CITY with renewal certificates of the current policies upon the expiration of the current policy.
3. All other provisions of the Agreement shall remain in full force and effect.

This Amendment is executed as of the date on the first page.

APPROVED BY:

CITY OF MILPITAS

CONSULTANT

-----  
Thomas C. Williams, City Manager

-----  
Steve Bui, Principal

APPROVED AS TO CONTENT:

-----  
Steven J. Machida, Director of Engineering

APPROVED AS TO FORM:

-----  
Christopher J. Diaz, City Attorney

**City of Milpitas, California**

**BUDGET CHANGE FORM**

Type of Change	From		To	
	Account	Amount	Account	Amount
<b>Check one:</b>  <input checked="" type="checkbox"/> <b>Budget Appropriation</b>  <input type="checkbox"/> <b>Budget Transfer</b>	<b>100-3613</b>	<b>\$50,000</b>	<b>100-413-4237</b>	<b>\$50,000</b>

**Approve Amendment No. 2 to the Consultant Agreement with RMC Water and Environment, Inc. for \$100,000 For On-Call Water and Sewer System Hydraulic Modeling For Private Jobs and Capital Improvements Projects, No. 7108 & No. 6110; and Approve a Budget Appropriation. (Staff Contact: Steven Machida, 586-3355)**

**Background:** RMC Water and Environment, Inc. prepared the City’s water and sewer system master plans and, as part of this work, developed the hydraulic models for these systems. Modeling is a useful tool for assessing how new utility connections will impact the existing system and identifying any short-term impacts when pipelines are temporarily taken out of service. The City’s need for hydraulic modeling support remains strong due to the current level of development interest, infrastructure replacement, and the proposed utility relocations due to the BART construction.

On December 6, 2011, the City Council approved a consultant agreement with RMC in the amount of \$200,000 to perform various water and sewer system hydraulic modeling scenarios, on an on-call basis, to evaluate the potential impact of various development proposals on the system’s capacity. On November 18, 2014, Council approved Amendment No. 1 to extend the agreement term through December 31, 2017 with no additional funding request.

Since 2014, the request for modeling has increased due to the increased development activity, utility relocations due to BART construction and the additional analysis to support the water augmentation program such that the original \$200,000 budget has now been spent. The demand for utility modeling continues to be high from development so Staff is requesting approval of amendment No. 2 which provides an additional \$100,000 for continued on-call hydraulic water and sewer modeling on a project basis. The total not-to-exceed contract amount is \$300,000. The split of the requested \$100,000 will be \$50,000 each from Land Development Engineering Operation and Capital Improvement Project funds. Private development will provide reimbursement to the City for the modeling costs related to their projects.

A copy of the consultant agreement and budget appropriation form are included in the Council packet.

**California Environmental Quality Act (CEQA):** The amendment is exempt from CEQA as there will be no physical change to the environment.

**Alternative:** If this amendment is not approved, City utility system operations will be negatively impacted. In addition, requirements for developer projects cannot be confirmed.

**Fiscal Impact:** There are sufficient funds in the Capital Improvement Projects for City utility operations modeling work. A budget appropriation of \$50,000 to the Land Development Engineering operating budget is required to perform the Private Developer work. Funds for the private developer work will be reimbursed by developers through their private jobs accounts. As such, General Fund revenue is being increased in the amount of \$50,000.

**Recommendation:**

1. Approve Amendment No. 2 to the Consultant Agreement with RMC Water and Environment, Inc. for \$100,000 for on-call Water and Sewer System Hydraulic Modeling for Private Jobs and various Capital Improvement Projects, No. 7108 and No. 6110.
2. Approve a budget appropriation of \$50,000 to the Land Development Engineering Operating Budget and increase General Fund private jobs revenue by \$50,000

Check if City Council Approval required.

Meeting Date: January 19, 2016

Itemization of funds, if needed:		Amount
<b>Requested by:</b>	Steve Machida, Director of Engineering	<b>Date:</b>
<b>Department Head:</b>	Steve Machida, Director of Engineering	<b>Date:</b>
<b>Reviewed by:</b>	<b>Finance Director:</b> 	<b>Date:</b> 1/11/2016
<b>Approved by:</b>	<b>City Manager:</b>	<b>Date:</b>
<b>Date approved by City Council, if required:</b>		<b>Confirmed by:</b>

FI/24786/V

Form 30-222 (Rev. 1/92)