



**AMENDMENT NO. 2 TO THE AGREEMENT**  
**WITH**  
**OTIS ELEVATOR COMPANY**  
**FOR**  
**FULL SERVICE ELEVATOR, ESCALATOR, CHAIRLIFT, AND PLATFORM LIFT**  
**MAINTENANCE AND REPAIR**

This Amendment is entered into this 7<sup>th</sup> day of June, 2016, by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "CITY") and **Otis Elevator Company**, a New Jersey corporation registered in the State of California; (hereafter referred to as "CONTRACTOR").

**RECITALS**

WHEREAS, the parties entered into an agreement entitled "Piggy Agreement" on December 7, 2011 ("Agreement") for full service elevator, escalator, chairlift and platform lift maintenance and repair for a term from December 7, 2011 to December 6, 2016 in the annual amount not-to-exceed \$6,460 for maintenance of two (2) elevators at the Milpitas Library Parking Garage; and

WHEREAS, the "Piggyback Agreement" was based on a competitive solicitation by the National Intergovernmental Purchasing Alliance (NIPA) which is a cooperative purchasing organization with the specific purpose of reducing procurement costs by leveraging group volume. The lead agency for the solicitation was the Metropolitan Government of Nashville and Davidson County Tennessee. The contract resulting from the bid was awarded exclusively to Otis Elevator Company and was made available on a national basis to any government agency; and

WHEREAS, the parties entered into Amendment No. 1 to the Agreement on June 17, 2014 which added six (6) additional city elevators of various different types and makes, clarified the prevailing wage requirements under the Agreement and increased the annual compensation for all equipment under the contract to \$30,000 per year for a five year total not-to-exceed contract amount of \$84,394; and

WHEREAS, Amendment No. 5 to the (NIPA) contract between the Metropolitan Government of Nashville and Davidson County Tennessee and Otis Elevator Company states under item 3. – TERM "This amendment clarifies services for Metro Nashville expires on July 26, 2016. However, nothing in this contract shall prohibit any other governmental entity from extending this contract beyond the stated term to the extent such extension is permissible under its procurement laws"; and

WHEREAS, there is no provision of the Milpitas Purchasing Municipal code that would prohibit extension of the contract; and

WHEREAS, the Otis Elevator Company has agreed to cap the cost of service at the prices listed below in Section 1, plus three percent per year; and

WHEREAS, the parties desire to amend the Agreement by extending the term of the Agreement for five years from July 25, 2016 to July 24, 2021.

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

Section 1. **Pricing:** The Agreement includes the following eight (8) elevators. Pricing includes all regularly scheduled maintenance and annual and five year tests.

- a. Police Department - 1275 N. Milpitas Blvd. "Dover Hydraulic Passenger #1": ID # F50943 \$223.99 per month
- b. Public Works Administration - 1265 N. Milpitas Blvd. "Dover Hydraulic Passenger #2": ID # F50946 \$238.01 per month
- c. Public Works Maintenance Shop - 1265 N. Milpitas Blvd. "Dover Hydraulic Freight": ID # F50944 \$225.94 per month
- d. Public Works Fleet Maintenance Shop - 1265 N. Milpitas Blvd. "Chairlift": ID # F50945 \$225.94 per month
- e. City Hall - 455 E. Calaveras Blvd. "TKE Hydraulic Passenger": ID # F50947 \$244.50 per month
- f. City Hall - 455 E. Calaveras Blvd. "TKE Traction Passenger": ID # F50948 \$382.95 per month
- g. Library Parking Garage – 160 N. Main St. "Schindler Hydraulic Passenger #1": ID # D94414 \$222.78 per month
- h. Library Parking Garage – 160 N. Main St. "Schindler Hydraulic Passenger #2": ID # D94438 \$223.99 per month

Annual Total (a. through h.) \$23,857.20.

Section 2. **Compensation:** The total compensation for all services under the Agreement for years one (1) through five (5) for the period December 7, 2011 to July 25, 2016 shall be in the amount not-to-exceed \$84,394 The total annual compensation for all services under the Agreement for years six (6) through ten (10) for the period July 25, 2016 to July 24, 2021 shall be in the amount of \$28,857.20, which includes \$23,857.20 for maintenance and \$5,000 for contingency repair services. The maintenance portion shall increase annually by three percent in years seven (7) through ten (10) (See: attached Exhibit B). Total years six (6) through ten (10) contract amount not-to-exceed \$151,661. Total ten year contract amount not-to-exceed \$236,055.

Section 3. **Term:** This contract became effective on December 7, 2011 and the period covered by this Amendment No. 2 shall be till **July 24, 2017** (the "Anniversary Date") unless the City exercises its option to extend this Contract as approved below. The City reserves the right to review the Contractor's performance on the Anniversary Date of each year and cancel all or part of the contract. The City of Milpitas reserves the right to extend this contact for four (4) one (1) year options exercisable at the City's sole discretion, not to exceed five (5) years in total. The City may exercise the renewal option years by written notice to the Contractor by mail, fax or email. If a renewal option is exercised it will be transmitted to the Contractor using "**Exhibit A (of the Contract) – Notice of Exercise of Option to Extend Agreement**".

All other provisions of the Agreement not amended by this Amendment No. 2 shall remain in full force and effect.

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

APPROVED BY:

CITY OF MILPITAS

OTIS ELEVATOR COMPANY

\_\_\_\_\_  
Thomas C. Williams, City Manager

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Printed Name of Authorized Representative

\_\_\_\_\_  
Title of Authorized Representative

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Christopher J. Diaz, City Attorney

\_\_\_\_\_  
James Levers, City Project Manager

**Contract Exhibit A**

**NOTICE OF EXERCISE OF OPTION TO EXTEND AGREEMENT**

<b>AGREEMENT TITLE and DATE:</b>	
<b>CONTRACTOR Name and Address:</b>	
<b>DATE OF OPTION:</b>	

*(date the notice is sent must be consistent with the time for exercise set forth in Agreement)*

Pursuant to Section \_\_\_\_\_ of the Agreement referenced above, the City of Milpitas hereby exercises its option to extend the term under the following provisions:

<b>OPTION NO.</b>	
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**NEW OPTION TERM**

Begin date:	
End date:	

**CHANGES IN RATE OF COMPENSATION**

<b>Percentage change in ___ Index upon which adjustment is based:</b>	
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Pursuant to Section \_\_\_ of the Agreement the Rates of Compensation are hereby adjusted as follows:

*(use attachment if necessary)*

<b>MAXIMUM COMPENSATION for New Option Term:</b>	
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For the option term exercised by this Notice, City shall pay Contractor an amount not to exceed the amount set forth above for Contractor's services and reimbursable expenses, if any. The undersigned signing on behalf of the City of Milpitas hereby certifies that an unexpended appropriation is available for the term exercised by this Notice, and that funds are available as of the date of this signature.

CITY OF MILPITAS  
a municipal corporation

CONTRACTOR

By \_\_\_\_\_

By \_\_\_\_\_

\_\_\_\_\_  
Name of Authorized Representative

\_\_\_\_\_  
Name of Authorized Representative

\_\_\_\_\_  
Title of Authorized Representative:

\_\_\_\_\_  
Title of Authorized Representative

**Exhibit B**

**Amendment No. 2 to Otis Elevator  
2nd Five Years**

	<b>Annual Maintenance</b>		<b>Repair Contingency</b>	
Year 6	\$23,857.20	plus	\$5,000.00	\$28,857.20
Year 7	\$24,572.92	plus	\$5,000.00	\$29,572.92
year 8	\$25,310.10	plus	\$5,000.00	\$30,310.10
Year 9	\$26,069.41	plus	\$5,000.00	\$31,069.41
Year 10	\$26,851.49	plus	\$5,000.00	\$31,851.49
<b>Plus 3% per Year</b>			<b>Total compounded value</b>	<b>\$151,661.11</b>