AMENDMENT NO. 4 TO
CONSULTING SERVICES AGREEMENT
BETWEEN THE CITY OF MILPITAS AND CAYENTA

This Amendment No. 4 is entered into this 20th day of June, 2017, by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "CITY") and Cayenta, an Unincorporated Division of N. Harris Computer Corporation (hereafter referred to as "CONSULTANT"). City and Consultant may be jointly referred to herein as “the parties.”

RECITALS

WHEREAS, on October 26, 2015, the parties entered into a written Consulting Services Agreement (the “Agreement”), with a term period ending June 30, 2016, and a maximum compensation amount payable to Consultant of Thirty-Three Thousand Seven Hundred and Forty-Four Dollars ($33,744); and

WHEREAS, on March 25, 2016, the parties entered into Amendment No. 1 to the Agreement, which (1) extended the term period through December 31, 2016, and (2) expanded the original scope of services set out in Exhibit A to the Agreement by the additional services set out in Exhibit B, incorporated into and made part of the Agreement, and (3) increased the compensation amount by Eleven Thousand Nine Hundred Seventy Dollars ($11,970), for a new combined total maximum compensation amount of Forty-Five Thousand Seven Hundred Fourteen Dollars ($45,714); and

WHEREAS, on April 5, 2016, the parties entered into Amendment No. 2 to the Agreement, which (1) expanded the scope of services provided for in Exhibits A and B to the Agreement by the additional services set out in Exhibits C-1 and C-2, incorporated into and made part of the Agreement, and (2) increased the compensation amount by Thirty Five Thousand Seven Hundred Twenty Dollars ($35,720), for a new total combined maximum compensation amount of Eighty One Thousand Four Hundred Thirty Four Dollars ($81,434); and

WHEREAS, on September 6, 2016, the parties entered into Amendment No. 3 to the Agreement, which (1) expanded the scope of services provided for in Exhibits A, B, C-1 and C-2 to the Agreement by the additional services set out in Exhibit D, incorporated into and made part of the Agreement, and (2) extended the term period through June 30, 2017, and (3) increased the compensation amount by Seven Thousand Eight Hundred Dollars ($7,800), for a new total combined maximum compensation amount of Eighty Nine Two Hundred Thirty Four Dollars ($89,234); and

WHEREAS, the parties desire to further amend the Agreement to (1) extend the term of the Agreement through June 30, 2018, (2) expand the scope of services provided for in Exhibits A, B, C-1, C-2 and D to the Agreement by the additional services set out in Exhibit E, attached hereto and incorporated into and made part of the Agreement, and (3) increase the compensation amount by Twenty-Three Thousand Five Hundred Fifty Dollars ($23,550), for a new total combined maximum compensation amount of One Hundred Twelve Thousand Seven Hundred Eighty-Four Dollars ($112,784).
NOW THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties agree as follows:

1. Exhibit E, attached hereto is herein incorporated by reference into and made a part of the Agreement.

2. Section 1 of the Agreement entitled “Services” is amended to read as follows:

   Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services (“Services”) described in the Scope of Work attached as Exhibits A, B, C-1, C-2, D, and E at the time and place and in the manner specified herein. In the event of a conflict or inconsistency between the terms of this Agreement and Exhibits A, B, C-1, C-2, D, and E, the Agreement shall prevail.

3. Section 1.1 of the Agreement entitled “Term of Services” is deleted in its entirety and replaced with the following:

   1.1. Term of Services. The term of this Agreement shall begin on the date first noted above and shall end on June 30, 2018, and the Consultant shall complete all the work described in Exhibits A, B, C-1, C-2, D, and E attached hereto, prior to that date unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the City’s right to terminate the Agreement, as provided for in Section 8.

4. Section 2 of the Agreement entitled “COMPENSATION” is hereby amended as follows:

   Section 2. COMPENSATION. City hereby agrees to pay Consultant a guaranteed maximum price not to exceed One Hundred Twelve Thousand Seven Hundred Eighty-Four Dollars ($112,784) 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 Exhibits A, B, C-1, C-2, D, and E, attached hereto. 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.
5. Section 2.3 of the Agreement entitled “Total Payment” is amended to read as follows:

**2.3 Total Payment.** City shall pay for the services to be rendered by Consultant pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.

In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed contract amendment. In the event that Consultant identifies additional work outside the Scope of Services specified in Exhibits A, B, C-1, C-2, D, and E that may be required to complete the work required under this Agreement, Consultant shall immediately notify the City and shall provide a written not-to-exceed price for performing this additional work.

6. Section 2.4 of the Agreement entitled “Hourly Fees” is amended to read as follows:

**2.4 Hourly Fees.** Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on Exhibits A, B, C-1, C-2, D, and E.

7. Section 2.5 of the Agreement entitled “Reimbursable Expenses” is amended to read as follows:

**2.5 Reimbursable Expenses.** Expenses not listed in Exhibits A, B, C-1, C-2, D and E are not chargeable to City. Reimbursable expenses are included in the total not-to-exceed amount of compensation provided for under this Agreement.

8. Section 8.6.3 of the Agreement is amended to read as follows:

**8.6.3 Retention of a different consultant at Consultant’s cost to complete the work described in Exhibits A, B, C-1, C-2, D, and E not finished by Consultant.**

9. All other provisions of the Agreement not amended by this Amendment No. 4 shall remain in full force and effect.
This Amendment No. 4 is executed as of the date written above.

CITY OF MILPITAS

__________________________
Steve J. Pangelinan,
Acting City Manager

APPROVED AS TO FORM:

__________________________
Christopher J. Diaz, City Attorney

CONSULTANT

__________________________
Name of Authorized Representative

APPROVED AS TO CONTENT:

__________________________
Will Fuentes, Finance Director