



Date: June 28, 2016

To: City Manager for Council Action

From: Acting Director of Planning and Inspection

Subject: Amendment No. 3 to the Performance of Services Agreement with RTKL Associates Inc. Increasing the Total Not-to-Exceed Amount to \$896,854 for Preparation of the Lawrence Station Area Plan and Environmental Impact Report (EIR)

EXECUTIVE SUMMARY

Development of the Lawrence Station Area Plan is one of the Council's current Strategic Objectives. The prerequisite for the 2015-2025 Phase II of the General Plan requires development of a comprehensive plan for the Lawrence Station Focus Area, an older industrial area near the Lawrence Caltrain Station. The proximity of the area to the Caltrain transit stop and to the surrounding employment area, in conjunction with the age and character of the existing older industrial properties, make it a good candidate for higher density housing to support the growth of jobs in the City and region. On January 13, 2015, the City Council approved a \$613,114 contract with RTKL Associates Inc. to assist staff in preparation of the comprehensive plan for adoption along with the associated Environmental Impact Report (EIR). The plan is being developed in conjunction with the review of three development proposals for sites within the study area.

On September 29, 2015, Council approved Amendment No. 1 to the Agreement to expand the scope of services for additional meetings and analyses that increased the contract amount accordingly, for a revised not-to-exceed amount of \$794,797. Amendment No. 2 to extend the term of the Agreement to expire in December 2016 instead of April was approved by the Council on March 22, 2016.

Staff is currently working on finalizing the area plan and the environmental document for public circulation. In the process of completing the project, the consultant team was required to undertake additional modeling and update the traffic impact analysis to be consistent with the recently adopted Santa Clara Valley Transportation Authority guidelines, update the air quality and noise technical reports, and make substantial changes to the administrative draft versions of the environmental impact report and the area plan documents. For these additional services, the consultant is requesting an additional \$102,057 to complete the project. The proposed Amendment No. 3 to the agreement with RTKL will increase the contract amount accordingly, for a revised not-to-exceed amount of \$896,854.

ADVANTAGES AND DISADVANTAGES OF ISSUE

The proposed amendment to the agreement with RTKL will ensure the preparation of an all-inclusive plan document that would help articulate and enhance the City's identity, along with defining new residential neighborhoods and other amenities along major transportation corridors (Lawrence and Central Expressways and Caltrain) and in proximity to employment destinations.

ECONOMIC/FISCAL IMPACT

The additional cost for Amendment No. 3 is funded through the City's Building Inspection Reserves account (063-44465) and funding is available in the account. Private entities are processing planning entitlements for their project sites concurrently with the comprehensive plan and EIR, and staff anticipates entering into a reimbursement agreement with each of those stakeholders and future developers within the plan area. The City's work for this plan sets the groundwork for the private development in terms of updating the General Plan, Zoning, conceptual infrastructure plans, and establishment of a Community Financing District. While staff has continuously sought reimbursement for the preparation of the EIR, staff is recommending seeking proportionate reimbursement for the expense incurred for development of both the plan and the associated environmental document. The reimbursement agreement would allow the private entities to refund the City's cost of the preparation of the EIR and the plan, likely saving them substantial costs compared to preparing individual environmental documents and other associated entitlements for each project within the plan area. With approval of the subject amendment, the total cost of \$896,854 would be eligible for reimbursement, with each development proposal responsible for its prorated fair share. The reimbursement will be due to the City prior to the issuance of the first building permit for each project.

RECOMMENDATION

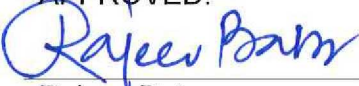
That the Council:

1. Approve the transfer of \$102,057 from the Building Inspection Reserves account (063-44465) and appropriate in the Lawrence Station Area Plan project (539-5532-80100-6537); and
2. Approve and authorize the City Manager to execute Amendment No. 3 to the Performance of Services Agreement with RTKL Associates Inc., increasing the funding by \$102,057 for a total not-to-exceed amount of \$896,854 to prepare the Lawrence Station Area Plan and Environmental Impact Report (EIR).




Sharon Goei
Acting Director of Planning and Inspection


APPROVED:



Rajeev Batra
Acting City Manager

Certified as to Availability of Funds:

063-44465 \$ 102,057.00 



Gary Ameling
Director of Finance/
Assistant City Manager

FIVE COUNCIL VOTES

Documents Related to this Report:

- 1) Amendment No. 3 to the Performance of Services Agreement with RTKL Associates, Inc.

**AMENDMENT NO. 3
TO THE AGREEMENT BETWEEN
THE CITY OF SANTA CLARA, CALIFORNIA
AND
RTKL ASSOCIATES INC.**

PREAMBLE

This agreement ("Amendment No. 3") is by and between RTKL Associates Inc., a Maryland corporation, with its principal place of business located at 901 S. Bond St., Baltimore, MD 21231 ("Contractor"), and the City of Santa Clara, California, a chartered California municipal corporation with its primary business address at 1500 Warburton Avenue, Santa Clara, California 95050 ("City"). City and Contractor may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Amendment No. 3."

RECITALS

- A. The Parties previously entered into an agreement entitled "Agreement for the Performance of Services", dated January 13, 2015 (the "Original Agreement"); and
- B. The Original Agreement was previously amended by Amendment No. 1, dated September 29, 2015, and was again amended by Amendment No. 2, dated March 28, 2016; and
- C. The Original Agreement and all previous amendments are collectively referred to herein as the "Original Agreement as Amended"; and
- D. The Parties entered into the Original Agreement as Amended for the purpose of having Contractor provide professional services in the preparation of the Lawrence Station Area Plan and Environmental Impact Report, and the Parties now wish to amend the Original Agreement as Amended to increase the amount billed for services by one hundred two thousand fifty-seven dollars (\$102,057.00).
- E. The Parties agree as follows:

AGREEMENT PROVISIONS

1. AMENDMENT PROVISIONS

That Exhibit B is hereby amended to read as follows:

In no event shall the amount billed to City by Contractor for services under this Agreement exceed eight hundred ninety six thousand eight hundred fifty-four dollars (\$896,854.00), subject to budget appropriations.

2. TERMS

All other terms of the Original Agreement as Amended which are not in conflict with the provisions of this Amendment No. 3 shall remain unchanged in full force and effect. In case of a conflict in the terms of the Original Agreement as Amended and this Amendment No. 3, the provisions of this Amendment No. 3 shall control.

3. COUNTERPART/FACSIMILE SIGNATURE

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument; and, the Parties agree that signatures on this Agreement, including those transmitted by facsimile, shall be sufficient to bind the Parties.

The Parties acknowledge and accept the terms and conditions of this Amendment No. 3 as evidenced by the following signatures of their duly authorized representatives. The Effective Date is the date that the final signatory executes the Agreement. It is the intent of the Parties that this Amendment No. 3 shall become operative on the Effective Date first set forth above.

CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation

APPROVED AS TO FORM:

Dated: _____

RICHARD E. NOSKY, JR.
City Attorney

RAJEEV BATRA
Acting City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

ATTEST:

ROD DIRIDON, JR.
City Clerk

“CITY”

RTKL ASSOCIATES INC.
a Maryland corporation

Dated: 6/16/16
By: Nathan Cherry
(Signature of Person executing the Agreement on behalf of Contractor)
Name: Nathan Cherry
Title: Vice President
Local Address: 333 S. Hope St., C-200
Los Angeles, CA 90071
Email Address: ncherry@rtkl.com
Telephone: (213) 633-1184
Fax: (213) 633-6060

“CONTRACTOR”