

**AMENDMENT NO. 1
TO THE AMENDED AND RESTATED AGREEMENT FOR SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
ROBERT E. VAN HEUIT**

PREAMBLE

This agreement ("Amendment No. 1") is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and Robert E. Van Heuit, an Oregon individual, (Contractor). City and Contractor may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

RECITALS

- A. The Parties previously entered into an agreement entitled "Amended and Restated Agreement for Services between the City of Santa Clara, California, and Robert E. Van Heuit, an Oregon individual," dated September 27, 2018 (the "Original Agreement"); and
- B. The Parties entered into the Original Agreement for the purpose of having Contractor provide certain support activities further outlined in Exhibit A – Scope of Services, for the City Place Santa Clara project, and the Parties now wish to amend the Original Agreement to update the term and compensation and payment.

The Parties agree as follows:

AGREEMENT TERMS AND CONDITIONS

1. AMENDMENT TERMS AND CONDITIONS

- A. That Section 2 of the Original Agreement, entitled "TERM OF AGREEMENT" is hereby amended to read as follows:

Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on June 2, 2015 and terminate on December 31, 2020.

- B. That Section 6 of the Original Agreement, entitled "COMPENSATION AND PAYMENT" is hereby amended to read as follows:

In consideration for Contractor's complete performance of Services, City shall pay Contractor for all materials provided and Services rendered by Contractor in accordance with Exhibit B, entitled "SCHEDULE OF FEES." The maximum compensation of this Agreement is Two Hundred and Fifty Thousand Dollars (\$250,000.00), subject to budget appropriations, which includes all payments that may be authorized for Services and for expenses, supplies, materials and equipment required to perform the Services. All work performed, or materials provided in excess of the maximum compensation, shall be at Contractor's expense. Contractor shall not be entitled to any payment above the maximum compensation under any circumstance.

2. TERMS

All other terms of the Original Agreement which are not in conflict with the provisions of this Amendment No. 1 shall remain unchanged in full force and effect. In case of a conflict in the terms of the Original Agreement and this Amendment No. 1, the provisions of this Amendment No. 1 shall control.

3. COUNTERPARTS

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.

//

//

//

//

//

//

//

//

//

//

//

The Parties acknowledge and accept the terms and conditions of this Amendment No. 1 as evidenced by the following signatures of their duly authorized representatives.

CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation

Approved as to Form:

Dated: _____

BRIAN DOYLE
City Attorney

DEANNA J. SANTANA
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

"CITY"

ROBERT E. VAN HEUIT
an individual

Dated: September 23, 2019

By (Signature): Robert E. Van Heuit

Name: Robert E. VanHeuit

Title: Owner

Principal Place of
Business Address: 2621 Heritage Way, Medford OR 97504

Email Address: rvanh2000@yahoo.com

Telephone: (541) 499-6123

Fax: ()

"CONTRACTOR"

EXHIBIT A

SCOPE OF SERVICES

The Services to be performed for the City by the Contractor under this Agreement are set forth below.

In a letter dated April 2, 2015 ("Letter"), the Santa Clara County Department of Environmental Health ("County" or "DEH"), acting as the Solid Waste Local Enforcement Agency, has required the City of Santa Clara ("City"), as the applicant for the planned development of the mixed-used project located in City, and commonly referred to as City Place Santa Clara ("Project"), to retain a suitably qualified independent consultant(s) to provide third party review to DEH for its review of the Project.

Contractor shall provide technical advice and assistance to the County for its review of the Project on behalf of the City. The Consultant will coordinate efforts with the City and the County.

The work involves environmental review of permit applications, landfill closure plan, site development plans, and other information as necessary to evaluate and prepare plan review documents for submission to the County. The review will be performed in collaboration with Barry Milstone, who will be reviewing the geotechnical aspects of the Project. The scope of services for the review will include the following:

- Review of project documents, including plans, specifications, and geotechnical investigation materials;
- Site reconnaissance to observe current site conditions;
- Direct communications, on an as-needed basis, with the project design team to request any materials required for clarification and to convey items to be addressed by the design team;
- Participation in required meetings with design team and regulatory personnel;
- Coordination of review efforts with Barry Milstone;
- Telephone consultation with County representatives and CalRecycle representatives; and
- Preparation, with Barry Milstone, of plan review documents for submission to County.

The Contractor recognizes that the City has contracted for the services described above to assist the County with the preparation of environmental review documents. The Contractor may be directed or ordered by the County without invalidating this agreement.

The Contractor agrees to keep confidential, and not to misappropriate, disclose or make available, any and all information concerning the plans, operations or activities of the City, its parent, affiliates, divisions and subsidiaries which the Contractor may learn or

discover from any source whatsoever in the performance of the services under this agreement, and Contractor shall not use the name of the Developer or the Developer logo on any division or project of Developer or otherwise without the prior written consent of City, which consent may be withheld in the City's sole and absolute discretion. Upon termination of this agreement, upon request of the City, the Contractor shall promptly return to the City's possession all copies of any writings, drawings or other confidential information which are then in the possession or control of the Contractor. The Contractor further agrees that, upon the request of the City at any time under this agreement, the Contractor shall promptly return to the City all such copies of writings, drawings or other confidential information which are then in the possession or control of the Contractor.

EXHIBIT B
SCHEDULE OF FEES

Contractor will bill City on a monthly basis for Services provided by Contractor during the preceding month on an invoice and in a format approved by City and subject to verification and approval by City. City will pay Contractor within thirty (30) days of City's receipt of an approved invoice.

Consultant shall submit a monthly invoice to the City based on costs incurred on a time and materials basis. The 2019 schedule of fees are as follows:

Hourly rate: \$175 per hour

Non-productive travel time: \$50 per hour

Per Diem when traveling: \$65 per day

Other expenses to be billed at cost

Vehicle miles: \$0.575 per mile