

**AMENDMENT NO. 5
TO THE AGREEMENT FOR SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
BARRY MILSTONE DBA MILSTONE GEOTECHNICAL**

PREAMBLE

This agreement ("Amendment No. 5") is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and Barry Milstone DBA Milstone Geotechnical, a California 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 "Agreement for Services Between the City of Santa Clara, California, and Barry Milstone DBA Milstone Geotechnical," dated January 23, 2019 (Agreement)
- B. The Agreement was previously amended by Amendment No. 1, dated November 7, 2019, Amendment No. 2, dated December 2019, and Amendment No. 3, dated February 9, 2021, Amendment No. 4, dated November 29, 2021 and is again amended by this Amendment No. 5. The Agreement and all previous amendments are collectively referred to herein as the "Agreement as Amended"; and
- C. The Parties entered into the Agreement as Amended for the purpose of having Contractor provide technical advice and assistance to the County of Santa Clara on behalf of the City in its review of the Related Santa Clara Project (formerly CityPlace Santa Clara), and the Parties now wish to amend the Agreement as Amended to increase the total contract amount by \$50,000 to a total not to exceed contract amount of \$170,000.

NOW, THEREFORE, the Parties agree as follows:

AMENDMENT TERMS AND CONDITIONS

1. Section 2 of the Agreement as Amended, entitled "TERM OF AGREEMENT" is 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 May 1, 2018 and terminate on December 31, 2022."

2. Section 6 of the Agreement as Amended, entitled "Compensation and Payment" is 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 One Hundred Seventy Thousand Dollars (\$170,000), 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."

3. Except as set forth herein, all other terms and conditions of the Agreement as Amended shall remain in full force and effect. In case of a conflict in the terms of the Agreement as Amended and this Amendment No. 5, the provisions of this Amendment No. 5 shall control.

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The Parties acknowledge and accept the terms and conditions of this Amendment No. 5 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: _____

Office of the City Attorney

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

“CITY”

BARRY MILSTONE DBA MILSTONE GEOTECHNICAL
AN INDIVIDUAL

Dated: _____

By (Signature): _____

Name: Barry Milstone

Title: Owner

Principal Place of Business Address: 17020 Melody Lane
Los Gatos, CA 95033

Email Address: barry@milstonegeo.com

Telephone: (408) 353-5528

Fax: ()

“CONTRACTOR”