



## Agenda Report

22-1726

Agenda Date: 1/11/2022

### REPORT TO COUNCIL

#### SUBJECT

Action on Amendments to Three Professional Service Agreements for the Related Santa Clara Development Project Extending the Terms and Total Contract Amount with Milstone Geotechnical Consulting Services, Environmental Risk Services, and Robert E. Van Heuit

#### COUNCIL PILLAR

Promote and Enhance Economic, Housing and Transportation Development

#### BACKGROUND

The Related Santa Clara project (formerly known as City Place) is a 9.1 million square foot development on a former all-purpose landfill site. There are various local and State agencies that are charged with the oversight of a closed landfill. City staff and Related Santa Clara (Developer) have been working closely with these agencies in order to secure necessary approvals and permits to allow for the future construction of the project.

The Related Santa Clara project is a complex, multi-faceted development project that requires significant technical expertise beyond City and other regulatory agencies' staff knowledge on matters related to the landfill as well as disciplines in other areas.

The City has entered into three third-party consulting agreements to assist with the work associated with the Related Santa Clara Development Project. These contracts are funded by Related Santa Clara (Developer), through funds provided to the City as required by the June 2016 Disposition and Development Agreement. Discussion on each of the contracts is reflected below.

Due to staffing capacity issues, all three agreements termed-out on December 31, 2021; therefore, retroactive approval of the amendments effective January 1, 2022 is requested.

#### DISCUSSION

The requested actions are amendments to existing agreements and do not require competitive bidding. However, to consider competitive bidding for these services at this time would be an idle act under Purchasing Code Section 2.105.100(h)(3) where formal bidding would substantially interfere with ongoing operations because of the time it would take to solicit bids and a high probability of re-work due to the loss of continuity if a new vendor(s) is selected.

Santa Clara County Department of Environmental Health (County), acting as the Solid Waste Local Enforcement Agency regarding the post closure land use of the Related Santa Clara Development, has determined, based on recent reviews and evaluations of specific completed projects and current Curriculum Vitae (CV), that the Third Party Review consultants Robert E. Van Heuit, PE., BCEE and Barry S. Milstone, P.E., G.E., should continue to be retained by the City of Santa Clara to provide

continued third party review to County (Attachment 1).

Barry Milstone DBA Milstone Geotechnical - Amendment No. 5

On January 23, 2019, the City entered into an Agreement for Services with Barry Milstone DBA Milstone Geotechnical (Milstone Geotechnical) to provide technical advice and assistance to County for its review of the project on behalf of the City.

Milstone Geotechnical has been providing technical advice and assistance to the County as the Local Enforcement Agency (LEA) with oversight of the landfill for its review of the Related Santa Clara project. Working closely with Robert Van Heuit, the scope of work includes 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.

City staff reached out to the County LEA to affirm its continuing need for third party consulting work and Milstone specifically. The County staff affirmed its need for Milstone's continuing work on the project to assist with the review of the project on behalf of its role as LEA.

The contract expired on December 31, 2021. Amendment No. 5 would authorize an additional \$50,000 for a total not to exceed amount of \$170,000 and would extend the term through December 31, 2022.

Environmental Risk Services (ERS) - Amendment No. 5

In July 2018, the City entered into an agreement with Environmental Risk Services (ERS) to provide consulting services to assist the City in the evaluation of environmental risk for the Related Santa Clara project. The agreement was amended on February 12, 2019 to update the scope of work and increase the contract amount. The agreement was further amended on July 25, 2019 to increase the contract amount.

ERS has been providing the City with highly specialized technical services related to the City's current and ongoing obligations associated with its ownership of the all-purpose landfill. ERS is a multidisciplinary environmental science, engineering, and land-use planning company. The company provides expert technical and strategic services to assess, manage, reduce, and/or leverage environmental risks and liabilities associated with hydrogeology, geochemistry, geophysics, remediation engineering, and risk assessment.

The work with the State regulatory agencies is not complete and ERS' technical expertise continues to be required to secure approvals. Approval of Amendment No. 5 would allow the City to continue to access ERS' services through December 31, 2022. There are sufficient funds available on the existing contract; therefore, no additional funds are requested.

Robert E. Van Heuit - Amendment No. 4 to the Amended and Restated Agreement

Robert Van Heuit also provides technical expertise to the County Department of Environmental Health as the LEA in coordination with Milstone Geotechnical as necessary to review the Related Santa Clara project. On June 2, 2015, the City entered into an Agreement for Services with Robert E. Van Heuit (Van Heuit) to assist the County LEA with its review of the project. The scope of work includes 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.

City staff reached out to the County LEA who confirmed the ongoing requirement for third party consulting work from Robert Van Heuit to assist with the review of the project on behalf of its role as LEA.

The contract expired on December 31, 2021. Amendment No. 4 would authorize an additional \$100,000 for a total not to exceed amount of \$400,000 and would extend the term through December 31, 2022.

### **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a “project” within the meaning of a California Environmental Quality Act (“CEQA”) pursuant to the CEQA Guidelines section 15378(a) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

### **FISCAL IMPACT**

The current contract with the Milstone Geotechnical to provide technical advice and assistance to the County as the Local Enforcement Agency with oversight of the landfill for its review of the Related Santa Clara project has a total not-to-exceed amount of \$120,000. The proposed Amendment increases the contract amount by \$50,000, for a maximum amount not-to-exceed \$170,000. This contract is funded by the Developer, Related Santa Clara, through advances provided to the City as required by the Related Development Agreement.

The current contract with Van Heuit to provide technical advice and assistance to the County for its review of the project on behalf of the City has a total not-to-exceed amount of \$300,000. The proposed Amendment increases the contract amount by \$100,000, for a maximum amount not-to-exceed \$400,000. This contract is funded by the Developer, Related Santa Clara, through advances provided to the City as required by the Related Development Agreement.

### **COORDINATION**

This report has been coordinated with the City Attorney's Office.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) <<mailto:clerk@santaclaraca.gov>>.

### **RECOMMENDATION**

Approve and authorize the City Manager to execute:

1. Amendment No. 5 with Barry Milstone DBA Milstone Geotechnical Consulting Services for the Related Santa Clara Development Project to extend the term through December 31, 2022 and to increase the contract amount by \$50,000 for a total not-to-exceed amount of \$170,000;
2. Amendment No. 5 to the Amended and Restated Agreement with Environmental Risk Services for Consulting Services for the Related Santa Clara Development Project to extend the term through December 31, 2022;
3. Amendment No. 4 to the Amended and Restated Agreement with Robert E. Van Heuit for

Consulting Services for the Related Santa Clara Development Project to extend the term through December 31, 2022 and to increase the contract amount by \$100,000 for a total not-to-exceed amount of \$400,000; and,

4. Authorize the City Manager to execute subsequent amendments to extend the terms of the Agreements, without increasing the maximum compensation.

Reviewed by: Ruth Mizobe Shikada, City Manager's Office

Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. Letter from Santa Clara County Department of Environmental Health
2. Amendment No. 5 with Barry Milstone DBA Milstone Geotechnical Consulting Services
3. Executed Agreement with Barry Milstone and Amendments 1-4
4. Amendment No. 5 to Amended and Restated Agreement with Environmental Risk Services
5. Executed Agreement with Environmental Risk Services and Amendments 1-4
6. Amendment No. 4 to Amended and Restated Agreement with Robert E. Van Heuit
7. Executed Agreement with Robert E. Van Heuit and Amendments 1-3