

RESOLUTION NO. 2015-012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROHNERT PARK AUTHORIZING AND APPROVING AMENDMENT NO. 5 TO THE AGREEMENT FOR SERVICES WITH MICHAEL BRANDMAN ASSOCIATES (AKA FIRSTCARBON SOLUTIONS) FOR THE PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR THE WALMART EXPANSION PROJECT

WHEREAS, the City of Rohnert Park Municipal Code Title 3 Chapter 3.04 provides that the city's purchasing functions shall be governed by the city's purchasing policy;

WHEREAS, City and Michael Brandman Associates, aka FirstCarbon Solutions ("Consultant") are parties to an Agreement for Services ("Agreement") dated April 14, 2009, and authorized through City Council Resolution No. 2009-031 for the preparation of an Environmental Impact Report ("EIR") for the Walmart Expansion Project for a not-to-exceed total cost of \$285,740;

WHEREAS, the First Amendment to the Agreement in the amount of \$10,000 was authorized on April 10, 2010, for additional work related to economic analysis in response to inquiries from the public on the project's economic impact, thereby increasing the total cost of the Agreement to \$295,740;

WHEREAS, the Second Amendment to the Agreement in the amount of \$3,500 was authorized on June 16, 2010, for additional work related to traffic impact analysis, thereby increasing the total cost of the Agreement to \$299,240;

WHEREAS, the Third Amendment to the Agreement in the amount of \$44,000 was authorized on May 23, 2013, for additional work preparing the Partially Recirculated Draft EIR ("PREDIR") and responses to comments received on the PRDEIR, thereby increasing the total cost of the Agreement to \$343,240;

WHEREAS, Fourth Amendment to the Agreement in the amount of \$1,300 was authorized on August 4, 2014, for additional work preparing copies of the Draft EIR, Final EIR, PRDEIR, and Mitigation Monitoring and Reporting Program, thereby increasing the total cost of the Agreement to \$344,540;

WHEREAS, a proposal has been submitted by the Consultant for additional work for the Walmart Expansion Project for a not-to-exceed amount of \$20,000;

WHEREAS, City and Consultant now desire to enter into a Fifth Amendment to the Agreement for Services to provide for the additional work.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ROHNERT PARK AS FOLLOWS:

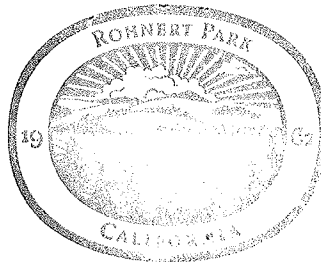
Section 1. Recitals. That the above recitations are true and correct and material to this Resolution.

Section 2. Environmental Clearance. That the adoption of this Resolution and accompanying Amendment is exempt from review under the California Environmental Quality Act because the activity in question is not a project as defined under CEQA Guidelines Section 15378 in that there is no potential that the activity will result in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.


Section 3. Agreement. That the Fifth Amendment to the Agreement between Michael Brandman Associates and the City of Rohnert Park is hereby authorized and approved in an amount not to exceed an additional twenty thousand dollars (\$20,000).

Section 4. Authorization. That the City Manager is hereby authorized and directed to take all actions to effectuate the Fifth Amendment to the Agreement for and on behalf of the City of Rohnert Park, including execution if necessary, in substantially similar form to the Fifth Amendment attached hereto and incorporated by this reference as Exhibit "A," subject to minor modification by the City Manager or City Attorney.

DULY AND REGULARLY ADOPTED this 13th day of January, 2015.

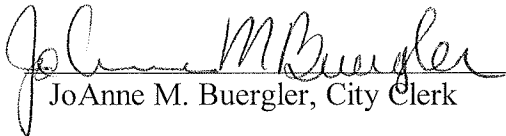


CITY OF ROHNERT PARK



Amy O. Ahanotu, Mayor

ATTEST:


JoAnne M. Buergler, City Clerk

Attachment (Exhibit "A") – Fifth Amendment

CALLINAN: AYE MACKENZIE: AYE STAFFORD: AYE BELFORTE: AYE AHANOTU: AYE
AYES: (5) NOES: (0) ABSENT: (0) ABSTAIN: (0)

EXHIBIT "A" TO RESOLUTION

FIFTH AMENDMENT TO THE CONSULTANT SERVICES AGREEMENT WITH MICHAEL BRANDMAN ASSOCIATES (aka "FIRSTCARBON SOLUTIONS") FOR PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR THE WALMART EXPANSION PROJECT

This Fifth Amendment to the Agreement between the City of Rohnert Park ("City") and Michael Brandman Associates aka FirstCarbon Solutions, ("Consultant") for additional services ("Fifth Amendment") is entered into as of the _____ day of _____, 2015, ("Effective Date"), by and between City and Consultant.

RECITALS

- A. City and Consultant are parties to that certain Agreement entitled "*Agreement for Services*" dated April 14, 2009, and authorized through City Council Resolution No. 2009-031 for the preparation of an Environmental Impact Report (EIR) for the Walmart Expansion Project for a not-to-exceed total cost of \$285,740.00.
- B. On April 10, 2010, via Purchasing Ordinance No. 754, the Interim City Manager authorized the First Amendment to the Agreement, which authorized additional work for an additional amount of \$10,000.00, thereby increasing the total cost of the Agreement to \$295,740.00.
- C. On June 16, 2010, the Director of Development Services authorized the Second Amendment to the Agreement, which authorized additional work for an additional amount of \$3,500.00, thereby increasing the total cost of the Agreement to \$299,240.00.
- D. On May 23, 2013, via Chapter 3.04 of the Rohnert Park Municipal Code, the City Manager authorized the Third Amendment to the Agreement, which authorized additional work for an additional amount of \$44,000.00 thereby increasing the total cost of the Agreement to \$343,240.00.
- E. On August 4, 2014, via Purchasing Policy 441.1.5 adopted by Council Resolution No. 2012-22, the Interim Director of Development Services authorized the Fourth Amendment to the Agreement, which authorized additional work for an additional amount of \$1,300.00 thereby increasing the total cost of the Agreement to \$344,540.00.
- E. Consistent with Purchasing Policy 441.1.5 adopted by Council Reso. No. 2012-22, City and Consultant now desire to enter into this Fifth Amendment to the Agreement to provide for additional work as described below.

AGREEMENT

NOW, THEREFORE, in consideration of the following mutual promises, the parties hereby amend the Agreement as follows:

- 1. **Scope of Services.** In addition to the services provided under the Agreement and Amendments One, Two, Three, and Four, Consultant shall provide additional services as described in the attached Exhibit A, which is attached hereto and incorporated by this reference.
- 2. **Compensation.** Consultant shall perform the services described in this Fifth Amendment for a total not-to-exceed amount of \$20,000.00. The total cost of the Agreement is thereby increased to \$364,540.00.
- 3. **Agreement in Effect.** Except as amended by this Fifth Amendment and Amendments One, Two, Three, and Four, the Agreement shall remain in full force and effect.

4. Counterpart Signatures. This Fifth Amendment may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

IN WITNESS THEREOF, the parties have executed this Fifth Amendment as of the date first written above.

CITY OF ROHNERT PARK:

By: _____ / _____
Darrin Jenkins, City Manager (Date)
Per Reso. #2015-_____ adopted by the City Council at its
meeting of _____, 2015.

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

CONSULTANT:

By: _____ / _____
Name: Jason Brandman (Date)
Title: Vice President

By: _____ / _____
Name: _____ (Date)
Title: _____

EXHIBIT A to Amendment #5

North America | Europe | Africa | Australia | Asia
www.FirstCarbonSolutions.com



November 19, 2014

Marilyn Ponton, Development Services Director
City of Rohnert Park
130 Avram Avenue
Rohnert Park, CA, 94928

Subject: Rohnert Park Walmart Expansion Project – Additional Budget Request

Dear Ms. Ponton:

First-Carbon Solutions, their team of technical experts and W-Trans, our traffic consultant, are respectfully requesting additional budget to for previous out-of scope activities and those upcoming to complete the Rohnert Park Walmart Expansion Project Recirculated Environmental Impact Report process. This additional budget request covers the following activities: (1) staff time and materials spent addressing the appeals submitted following the August 14, 2014 Planning Commission meeting (2) conference calls with City staff and sub-consultants in advance of the November 10, 2014 City Council Meeting; (3) and preparation for the November 10, 2014 City Council Meeting; and (4) attendance, conference calls, and meeting preparation for the January 13, 2015 City Council Meeting. The total cost for the additional work is **\$20,000**. Please contact Jason Brandman at (925) 200-1656 or jbrandman@fcs-intl.com with any questions regarding this request.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Brandman". The signature is fluid and cursive, with a large loop at the end.

Jason Brandman
FirstCarbon Solutions
1350 Treat Boulevard, Suite 380
Walnut Creek, CA 94597
Phone: (925) 357-2562