

First

## Amendment to Standard City of San José Consultant Agreement

Second

(Non-Capital Projects)

Third

Associated Right of Way Services

(Standard Agreement AC No. 27348)

This Amendment is made and entered into this 17th day of December, 2022. The City and Consultant amend the above-reference agreement as set forth herein.

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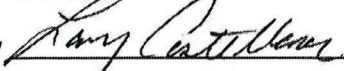
1. Capitalized words in this Amendment have the same meaning as in the Agreement.
  2. The provisions of this Agreement (including any previous amendments) not modified by this Amendment remain in full force and effect.
  3. The provisions of this Amendment are effective upon execution of the Amendment by both parties.
  4.  **Agreement Term:** Subsection 2.A is amended to retroactively extend the expiration date from June 30, 2022 to June 30, 2023.
  5.  **Maximum Total Compensation:** Exhibit C, Item 2 is amended to  Increase  Decrease the Maximum Total Compensation from \$150,000 to \$200,000
  6.  **Agreement Section(s):** Section(s) \_\_\_\_\_ is/are amended to read as set forth in Attachment A of the Amendment.
  7.  **Scope of Basic Services – Exhibit A:** The  original  First Revised  Second Revised Exhibit A is amended to read as set forth in the attached  First  Second  Third Revised Exhibit A, which is incorporated by reference into this Amendment.
  8.  **Compensation – Exhibit C** The  original  First Revised  Second Revised Exhibit C is amended to read as set forth in the attached  First  Second  Third Revised Exhibit C, which is incorporated by reference into this Amendment.
  9.  **Additional Services:** The Consultant is authorized to perform the Additional Services set forth in the attached Additional Services Exhibit, which is incorporated by reference into this Amendment.
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This Amendment is executed by the authorized representatives of the City and Consultant as follows:

City of San José

By Sarah Zarate  
Email: sarah.zarate@sanjosaca.gov  
Date: 12/17/2022 GMT 12/17/2022  
Name: Sarah Zarate Date  
Title: Director

Consultant

By  9/8/2022  
Name: Larry Castellanos Date  
Title: Vice President

Approval as to Form (City Attorney):

Form Approved by the Office of the City Attorney.

(Maximum Total Compensation, as amended, is \$100,000 or less, and the provisions of the form are not altered.)

Approved as to Form:

 12/16/2022  
Email: shasta.greene@sanjosaca.gov  
Date: 12/17/2022 GMT

[Sr.] Deputy City Attorney

Date

First  Second  Third  Revised Exhibit C: Compensation (Non-Capital Projects)  
 This revised Exhibit C is an attachment to the  First  Second  Third amendment to the Agreement.

**Item 3 – Compensation**

Part 1 – Compensation for Basic Services			
Column 1	Column 2	Column 3	Column 4
<b>Task Nos.</b>	<b>Basis of Compensation</b>	<b>Invoice Period</b>	<b>Compensation</b>
A-D	<input checked="" type="checkbox"/> Time & Materials <input type="checkbox"/> Fixed Fee	<input type="checkbox"/> Monthly <input type="checkbox"/> Completion of Task(s) <input type="checkbox"/> Completion of Work	\$200,000
	<input type="checkbox"/> Time & Materials <input type="checkbox"/> Fixed Fee	<input type="checkbox"/> Monthly <input type="checkbox"/> Completion of Task(s) <input type="checkbox"/> Completion of Work	\$
	<input type="checkbox"/> Time & Materials <input type="checkbox"/> Fixed Fee	<input type="checkbox"/> Monthly <input type="checkbox"/> Completion of Task(s) <input type="checkbox"/> Completion of Work	\$
Part 2 – Reimbursable Expenses			
<input checked="" type="checkbox"/> No expenses are separately reimbursable. The amount(s) in Column 4 of Part 1 include(s) payment for all expenses.	<input type="checkbox"/> Expenses are separately reimbursable in accordance with Subsection 10.5 of the Agreement. The maximum amount of reimbursable expenses is:		
<b>Part 3 – Subconsultant Costs</b>			
<input checked="" type="checkbox"/> The amount(s) in Column 4 of Part 1 include(s) payment for subconsultants. Subconsultant costs are <b>not</b> separately compensable.	<input type="checkbox"/> Subconsultant costs are separately compensable in accordance with Subsection 10.6 of the Agreement. The maximum amount of compensation for subconsultant costs is:		
<b>Part 4 – Additional Services</b>			
<input checked="" type="checkbox"/> No money is budgeted for Additional Services, and the Director cannot authorize any Additional Services.	<input type="checkbox"/> The Director may authorize the Consultant to perform Additional Services up to the following maximum amount:		
<b>Maximum Total Compensation (sum of Parts 1 through 4):</b>			\$200,000

**Item 3 – Schedule of Rates and Charges**

- Omitted.** No Schedule of Rates and Charges is included because the City will not be compensating the Consultant for any Basic Services on a “time & materials” basis.
- The following is the Schedule of Rates and Charges applicable to this Agreement:

<b>Consulting Category</b>	<b>Hourly Rate</b>
Principal Consultant	\$200.00
Managing Consultant	\$185.00
Consultant I	\$150.00
Consultant II	\$130.00
Consultant III	\$115.00
Right of Way Coordinator	\$80.00
Administrative Support	\$65.00
Appraisal Reports	Lump Sum
Appraisal Services	\$200.00
Subcontractors	Cost + 10%
Depositions, Court Appearances, Arbitrations, Mediations, Hearings, and Testimony (inc. preparation)	\$275.00



- FOR YOUR ELECTRONIC SIGNATURE
- FULLY EXECUTED COPY TO FOLLOW

CITY STAFF: Kathleen Geier  
STAFF EMAIL: Kathleen.Geier@sanjoseca.gov

## SCANNED SIGNATURE AUTHORIZATION

DATE: September 8, 2022 TOTAL PAGES: 8  
(INCLUDING THIS PAGE)

CONSULTANT NAME: Larry Castellanos  
EMAIL: lcastellanos@arws.com  
PHONE: 925-691-8500

I agree to use electronic signatures

SIGNATURE OF CONSULTANT: 

### DIRECTIONS:

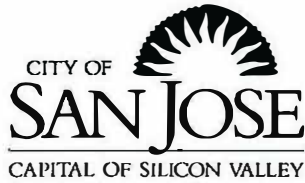
REVIEW THE ENCLOSED DOCUMENT, IF IT IS ACCEPTABLE:

1. SIGN THE DOCUMENT
2. CHECK THE BOX BELOW YOUR NAME AND SIGN AGREEING TO THE USE OF ELECTRONIC SIGNATURES
3. SCAN YOUR EXECUTED DOCUMENT TOGETHER WITH THIS COVER PAGE **IN BLUE INK**
4. EMAIL THE ENTIRE DOCUMENT TO (CITY STAFF EMAIL ADDRESS):  
GARRETT.STANTON@SANJOSECA.GOV

### To BE COMPLETED BY CITY STAFF:

ALTERNATIVE METHODS OF VERIFICATION:

- USE OF A PASSWORD PROTECTED WEBSITE
- CONFIRMED BY A KNOWN TELEPHONE NUMBER
- PERSONALLY KNOWN TO CITY STAFF



# Memorandum

**TO:** Sarah Zarate

**FROM:** Jacky Morales-Ferrand

**SUBJECT:** SEE BELOW

**DATE:** October 3, 2022

Approved

*Sarah Zarate*

Date

Nov 15.2022

Email: sarah.zarate@sanjoseca.gov  
Date: 11/14/2022 GMT

**SUBJECT: Approval of Retroactivity Provision in Consultant Agreement**

In June 2013, the City Auditor released an audit report titled "Consulting Agreements: Better Enforcement of Procurement Rules, Monitoring, and Transparency is Needed." (City Audit Report No. 13-06.) Recommendation No. 4 (Audit Report pages 16-17) involves limiting retroactive agreements to situations where contract execution is in process. The audit report states that when a City employee informally authorizes work before execution of the agreement, the employee commits City funds not within their authority to commit.

The Housing Department is seeking authorization for the retroactive provision in the following agreement already in progress prior to the March 16, 2020 COVID-19 Shelter in Place Order.

**Associated Right of Way Services, Inc.** – Second Amendment to the Master agreement, extending expiration date from June 30, 2022 to June 30, 2023 for consulting services. Compensation will be increased from \$150,000 to \$200,000. This action is 100% funded through the Multi-Source Housing Fund (F448, A0562).

The Housing Department understands that retroactive agreements are to be avoided. However, due to the COVID-19 Shelter in Place, it was not possible to execute this document prior to the start date. The Housing Department requests an exception be made and the agreements detailed in this memorandum be allowed to proceed with retroactive clauses.

JACKY MORALES-FERRAND  
Director of Housing

For questions please contact Mark Gerhardt, Administrative Officer, at 408-535-8242

# City of San José Contract/Agreement Transmittal Form

## Route Order

TO:  City Attorney  
 City Manager  
 City Clerk **OR** Return to  
Dept. (circle one)

## Attached / Completed

Insurance Certificates / Waivers  
 Business Tax Certificate  
 Contacted Clerk re: Form 700  
 Supplemental Memorandums (if applicable): Select One

## Electronically Signed

Electronically Signed: Select one  
 Audit Trail Attached (if applicable)  
 Scanned Signature Authorization

Type of Document: Existing Contract

Type of Contract: Professional Services

### REQUIRED INFORMATION FOR ALL CONTRACTS:

Existing GILES # 661079

Contractor: Associated Rights of Way Services, Inc.

Address: 2300 Contra Costa Blvd, Suite 525, Pleasant Hill, CA 94523

Phone: 925-691-8500

Email: mschock@arws.com

Contract Description: Second Amendment to the Master agreement, extending expiration date from June 30, 2022 to June 30, 2023 for consulting services. Compensation will be increased compensation from \$150,000 to \$200,000

Term Start Date: 06/30/2020

Term End Date: 06/30/2023

Extension: Select one

Method of Procurement: RFP

RFB, RFP or RFQ No.: CSJ HSG

Date Conducted: 2016

Agenda Date (if applicable): \_\_\_\_\_

Agenda Item No.: \_\_\_\_\_

Resolution No.: \_\_\_\_\_

Ordinance No.: \_\_\_\_\_

Original Contract Amount: \$150,000

Amount of Increase/Decrease: \$50,000

Option #:     of     Option Amount: n/a

Updated Contract Amount: \$200,000

Fund/Appropriation: F448, A0562

Form 700 Required: No

Revenue Agreement: Select one

Business Tax Certificate No.: 7675722210

Expiration Date: 04/15/2023

Department: Housing (56)

Department Contact Name/Phone: Mark Gerhardt/535-8242

Notes:

Department Director Signature: 

10/4/22

Date

Office of the City Manager Signature: \_\_\_\_\_

Date