

Amendment to Standard City of San José Consultant Agreement
(Capital Projects)

First

Second

Third

Consultant's Name: Fugro USA Land, Inc.
(Formerly known as Fugro Roadware, Inc.)

(CPMS Contract No. 8161)
(Standard Agreement AC No. 28436)


This Amendment is made and entered into this 13th day of April, 2022. The City and Consultant amend the above-referenced agreement as set forth herein.

-
1. Capitalized words in this Amendment have the same meaning as in the Agreement.
 2. The provisions of this Agreement and 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:** Section 2 is amended to extend the expiration date from March 21, 2021 to March 21, 2023. The extension is retroactive to the expiration date of the Agreement. The Director accepts and approves any services provided after the expiration date and before the execution of this Amendment.
 5. **Maximum Total Compensation:** Subsection 10.1 is amended to Increase Decrease the Maximum Total Compensation from \$ _____ to \$ _____.
 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 B:** The original First Revised Second Revised Exhibit B is amended to read as set forth in the attached First Second Third Revised Exhibit B, which is incorporated by reference into this Amendment.
 9. **Additional Service:** 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.
-

This Amendment is executed by the authorized representatives of the City and Consultant as follows:

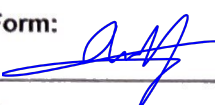
City of San José

By  _____ 4/13/22
Name: John Ristow **Date**
Title: Director, Department of Transportation

Consultant 
By _____ 11 April 2022
Name: Siddharth Batra **Date**
Title: Project Manager

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:  _____ 4/13/2022
Name: Aaron Yu **Date**
Title: Deputy City Attorney

By  _____ 11 April 2022
Name: Lutrell Gordon **Date**
Title: Project Management/Office Manager

First

Attachment A

Second

Agreement Provision Amendment(s)

Third

(Capital Project)

This Attachment A is an attachment to the First Second Third amendment to Agreement.

The Section(s) set forth in the original Agreement, or in any previous amendment to the original Agreement, is/are amended as follows:

2. AGREEMENT TERM

The Agreement term is from the Contract Date to March 21, 2023, unless terminated earlier pursuant to Section 19 below.

First **Second** **Third** **Revised Exhibit B: Compensation** (Capital Projects)

AXY/AHT

This revised Exhibit B is an attachment to the First Second Third amendment to the Agreement.

Section 1 – Compensation Table – no change

Section 2 – 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:

LANE MILES

(1) Less than or equal to 2000 miles	\$ <u>160.00</u> per lane-mile
(2) Data Collection for additional 900 miles	\$ <u>115.00</u> per lane-mile
(3) Asset Data Collection and Extraction less than or equal to 2900 miles	\$ <u>45.00</u> per lane-mile

- NOTES: 1. All pricing is “firm fixed” for a 6 year period and must account for all costs, include all labor as well as any additional reimbursable expenses/ administrative costs required to complete each task. (Labor rates must be all inclusive)
2. Only prices that appear on this City Cost Form will be considered. No other pages with prices and no attached price lists will be considered.



- FOR YOUR ELECTRONIC SIGNATURE
 FULLY EXECUTED COPY TO FOLLOW

CITY STAFF: Matthew Sablan
STAFF EMAIL: Matthew.sablan@sanjoseca.gov

SCANNED SIGNATURE AUTHORIZATION

DATE: 11 April 2022 TOTAL PAGES: (INCLUDING THIS PAGE) 1

CONSULTANT NAME: Lutrell Gordon
EMAIL: lgordon@fugro.com
PHONE: 814 762 4480

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):
Matthew.sablan@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



- FOR YOUR ELECTRONIC SIGNATURE
 FULLY EXECUTED COPY TO FOLLOW

CITY STAFF: Matthew Sablan
STAFF EMAIL: Matthew.sablan@sanjoseca.gov

SCANNED SIGNATURE AUTHORIZATION

DATE: 11 April 2022 TOTAL PAGES: (INCLUDING THIS PAGE) 1

CONSULTANT NAME: Siddharth Batra
EMAIL: s.batra@fugro.com
PHONE: 416 725 7020

- 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
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Memorandum

TO: Sarah Zarate
DIRECTOR
City Manager's Office

FROM: JOHN RISTOW
DIRECTOR
Department of Transportation

SUBJECT: Approval of Retroactivity
Fugro Pavement Condition
Assessment Agreement

DATE: May 5, 2022

Approved

Sarah Zarate

Date

May 23, 2022

Email: sarah.zarate@sanjoseca.gov

SUBJECT: APPROVAL OF RETROACTIVITY IN THE AGREEMENT FOR FUGRO PAVEMENT CONDITION ASSESSMENT AGREEMENT.

In June 2013, the City Auditor released an audit report entitled "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 his/her authority to commit.

The Department is seeking authorization for the retroactive provision to pay for services in the following agreement.

The justification for the requests detailed below that are to include a retroactivity provision is that the agreements were competitively procured and either:

- Its execution was already in process when the services started.
- The services responded to an *immediate* threat to public health, safety, or property.
- The manner of compensation doesn't involve a commitment of City funds.
- The consultant/contractor provided a letter stating that the City isn't obligated to pay for any services it provided if the contract/amendment isn't executed.
- Starting services protected or advanced the following significant City interest:
If this option is selected, explain the City interest and how the services protected/advanced that City interest.

May 5, 2022

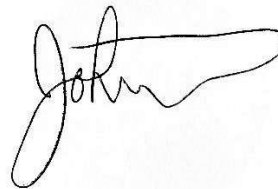
Subject: FUGRO PAVEMENT CONDITION ASSESSMENT AGREEMENT

Page 2

The City maintains approximately 2,519 miles of streets with an average Pavement Condition Index (PCI) rating of 67 on a scale 0-100, which is considered “fair” according to Metropolitan Transportation Commission (MTC) standards. Each year, DOT collaborates with a consultant to assess the pavement condition of a portion of the street network and the results facilitate long term project planning and budgeting targets. MTC requires updated PCI data for federal funding eligibility, which can significantly enhance the annual pavement budget. As part of MTC’s requirements, pavement section for arterial and collector streets should be re-inspected every two years and residential streets should be re-inspected every five years. This is done in order to obtain most current and accurate PCI data.

In 2010, the City Council established a goal of improving pavement condition to an overall “Good” rating with a PCI of 70. The data collected by the consultant, Fugro, is analyzed and incorporated into StreetSaver, the City’s Pavement Management System (PMS). This agreement is beneficial in keeping the City’s PMS updated, allowing Project Managers to be able to facilitate strategic planning and management of the pavement maintenance program. As well as assist with meeting the requirements to be eligible for federal funding. Thus, continuing the efforts of the City towards achieving an overall PCI score of 70.

The Department understand that retroactive agreements are to be avoided. However, in this instance explain why agreement is retroactive. The Department requests an exception be made and the agreement detailed in this memorandum be allowed to proceed with retroactive clauses. The Department acknowledges the process was out of City contract compliance and will monitor future agreements to prevent this oversight in the future.



JOHN RISTOW
Director, Department of Transportation

For questions please contact Matthew Sablan, Associate Engineer, at (408) 794-6451 or matthew.sablan@sanjoseca.gov.



City of San José Contract/Agreement Transmittal Form

Route Order

Attached / Completed

Electronically Signed

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

- Insurance Certificates / Waivers Electronically Signed:
 Business Tax Certificate Audit Trail Attached (if applicable)
 Contacted Clerk re: Form 700 Scanned Signature Authorization
 Supplemental Memorandums (if applicable):

Type of Document: _____

Type of Contract: _____

REQUIRED INFORMATION FOR ALL CONTRACTS:

Existing GILES # _____ -002

Contractor: _____

Address: _____

Phone: _____ Email: _____

Contract Description: _____

Term Start Date: _____ Term End Date: _____ Extension: _____

Method of Procurement: _____ RFB, RFP or RFQ No.: _____ Date Conducted: _____

Agenda Date (if applicable): _____ Agenda Item No.: _____

Resolution No.: _____ Ordinance No.: _____

Original Contract Amount: _____ Amount of Increase/Decrease: _____

Option #: ___ of ___ Option Amount: _____ Updated Contract Amount: _____

Fund/Appropriation: _____

Form 700 Required: _____ Revenue Agreement: _____

Business Tax Certificate No.: _____ Expiration Date: _____

Department: _____

Department Contact Name/Phone: _____

Notes: _____

Department Director Signature:  _____ 4/13/22 _____
Date

Office of the City Manager Signature: _____ _____
Date