

- First
- Second
- Third

## Amendment to Airport City of San José Consultant Agreement

Consultant's Name: PFM Financial Advisors LLC and Public Resources Advisory Group, Inc.

(Standard Agreement AC No. 666993) &663035

This Amendment is made and entered into this 25th day of August, 2022 The City and Consultant amend the above-referenced 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:** September 1, 2017 through December 31, 2022.
  5.  **Maximum Total Compensation:** Subsection 10.1 is amended to  Increase  Decrease the Maximum Total Compensation from \$\_\_\_\_\_ to \$\_\_\_\_\_.
  6.  **Agreement Section(s):** Section(s) 2.2 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**

*Sarah Zarate*

Email: sarah.zarate@sanjoseca.gov  
Date: 08/25/2022 GMT

By \_\_\_\_\_

Name: Sarah Zarate **Date**  
Title: Director, Office of the City 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:**

\_\_\_\_\_  
Name: Rosa Tsongtaatarii **Date**  
Title: Sr. Deputy City Attorney

**Public Resources Advisory Group, Inc.**

*Edmund Soong*

Email: esoong@pragadvisors.com  
Date: 08/12/2022 GMT

By \_\_\_\_\_

Name: Edmund Soong **Date**  
Title: Executive Vice President

**PFM Financial Advisors LLC**

*Brian Gallucci*

Email: galluccib@pfm.com  
Date: 08/22/2022 GMT

By \_\_\_\_\_

Name: Brian Gallucci **Date**  
Title: Director

**First**

## **Attachment A**

**Second**

### **Agreement Provision Amendment(s)**

**Third**

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

WHEREAS, City and Consultant agree that the term of the Agreement is hereby extended for the third Option Term, for the period of July 1, 2022 through December 31, 2022, in accordance with the provisions of Section 2.2 and First Revised Exhibit C.

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

- 2.2** **Optional Term:** After the Initial Term, the City reserves the right at its sole discretion, to extend the term of this Agreement for up to two additional one-year terms and one additional six-month term ("Option Term(s)") up through December 31, 2022.
- 2.2.1** **Notice:** The City shall provide the Consultant with no less than thirty (30) calendar days' written notice of its intention to exercise its option to extend the term of this Agreement. See Exhibit E for Notice of Exercise of Option to Extend Agreement Form.
- 2.2.2** **Appropriation of Funds Contingency:** The City's funding of this Agreement shall be on a fiscal year basis (July 1 to June 30) and is subject to annual appropriations. The Consultant acknowledges that the City, a municipal corporation, is precluded by the California State Constitution and other laws from entering into obligations that financially bind future governing bodies, and that, therefore, nothing in this Agreement shall constitute an obligation of future legislative bodies of the City to appropriate funds for purposes of this Agreement. Accordingly, the parties agree that any Option Term(s) is contingent upon the appropriation of funds by the City. This Agreement will terminate immediately if funds necessary to continue the Agreement are not appropriated. Despite the foregoing, the City shall pay Consultant for any services performed in accordance with this Agreement up to the date of termination.

**First**    **Second**    **Third**   **Revised Exhibit C: Compensation**

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

**I. Manner of Payment**

- A. The maximum amount of compensation to be paid to Consultant under this Agreement, including both payment for professional services and reimbursable expenses (collectively, "Compensation"), shall not exceed Two Hundred Ninety Thousand Dollars (\$290,000.00) for the period of September 1, 2017 through December 31, 2022, with an annual maximum amount of Compensation not exceeding Fifty-Eight Thousand Dollars (\$58,000.00) for the fiscal years 2017-18, 2018-19, and 2019-20, and each Option Term, unless the Director notifies Consultant in writing that the maximum amount of Compensation has been reduced or increased to reflect changes in appropriation.
- B. Prior to the beginning of fiscal years 2018-19 and 2019-20, and as necessary during each of the foregoing fiscal years to reflect changes in appropriation, City's Director of Finance, upon consultation with the City's Director of Aviation, will notify Consultant in writing of the maximum amount of Compensation to be paid to Consultant under this Agreement for the applicable fiscal year.
- C. The maximum amount of Compensation to be paid to Consultant for each Option Term shall not exceed the maximum amount of Compensation specified in the City's Option Notice for such Option Term or any amendment to this Agreement; unless the Director of Finance, upon consultation with the City's Director of Aviation, notifies Consultant in writing that the maximum amount of Compensation has been adjusted to reflect changes in appropriation.
- D. Any hours worked for which payment would result in a total exceeding the maximum amount of Compensation set forth herein or in the applicable written notification from the Director to Consultant shall be at no cost to City.

**II. Schedule of Rates and Charges**

- A. City agrees to compensate Consultant at hourly rates as set forth below for professional services performed in accordance with the terms and conditions of this Agreement.

**Table 1**

**PRAG**

<b><u>Professional Category</u></b>	<b><u>Hourly Rates</u></b>
Executive Vice President / Senior Managing Director	\$375.00
Managing Director / Director / Counselor	\$325.00
Vice President / Assistant Vice President	\$300.00
Associate / Analyst	\$225.00

**Table 2**

**PFM**

<b><u>Professional Category</u></b>	<b><u>Hourly Rates</u></b>
Managing Director	\$350.00
Director	\$325.00
Senior Managing Consultant	\$300.00
Consultant	\$275.00

- B. Reimbursable expenses shall include reasonable out-of-pocket expenses related to the performance of Consultant’s services under this Agreement, including all travel-related expenses, courier and mailing fees, telephone calls, conference calls and photocopies as approved by City’s Contract Manager. Any other expenses must have prior written approval by the Director. Consultant must provide documentation for all reimbursable expenses.
- C. **Expenses That Are Reimbursable:** Any reimbursement to the Consultant is limited to the expenses set forth below in the Reimbursable Expense Schedule. The City will reimburse these expenses at actual cost only unless a markup is specified.

<b>Reimbursable Expense Schedule</b>		<b>Mark Up</b>
1.	The cost of mailing, shipping and/or delivery of any documents or materials.	No Markup
2.	The cost of photographing, printing, reproducing and/or copying any documents or materials.	No Markup
3.	Telephone and facsimile transmission charges.	No Markup
4.	The rental of any specialized equipment to the extent the City’s Contract Manager has preapproved, in writing, the cost of such rental.	As specified, not to exceed 10%
5.	With the written pre-authorization of the City’s contract manager, mileage and other travel-related expenses to the same extent that the City reimburses its employees pursuant to the Employee Travel Policy (City Policy Manual, Sections 1.8.2 and 1.8.3). The Consultant acknowledges that it has received a copy of Sections 1.8.2 and 1.8.3 and is familiar with these sections of the Employee Travel Policy.	No Markup
6.	Any other expenses approved by the Director.	No Markup unless approved by the Director

D. **Services Related to the Issuance of Bonds:** The fee to be included in any additional agreement(s) between City and Consultant for the provision of services related to the issuance of debt as set forth in **Exhibit A** shall be contingent on the sale of such debt and shall be in the amounts set forth below:

<u>Issue Size</u>	<u>Fixed Fee Range</u>
Up to \$100 million	\$85,000 – \$130,000
\$100 - \$200 million	\$125,000 – \$180,000
\$200 - \$300 million	\$175,000 – \$250,000
\$300 million or more	\$250,000 – \$325,000

<u>Out-of-Pocket Expenses</u>	
<u>Expense</u>	<u>Rate</u>
Travel	At cost <sup>(a)</sup>
Automobile:	
Rental Cars	At cost
Personal Cars	\$0.535/mile <sup>(b)</sup>
<sup>(a)</sup> Professionals would endeavor to use the lowest cost transportation that scheduling permits.	
<sup>(b)</sup> Or the current standard mileage rate as determined by the IRS.	

For purposes of applying the fixed fee specified above, an issue consists of one or more series of bonds or notes of a similar type of security and sold as part of the same financing as set forth below. Financing services not contemplated under this Agreement will be negotiated under a separate agreement with Consultant.

<u>Single Issue</u>	<u>Separate Issues</u>
<ul style="list-style-type: none"> <li>• Variable rate bonds sold as part of the same plan of finance consisting of different types of variable rate products (e.g., a series of variable rate demand bonds and a series of auction rate bonds) and secured by the same revenue source.</li> <li>• Fixed rate bonds sold as the same plan of finance including separate tax-exempt, taxable, and AMT series and secured by the same revenue source.</li> <li>• One or more series of bonds payable from general airport revenues (GARBs) and one or more series of GARBs additionally payable from Customer Facility Charges (“CFCs”) or Passenger Facility Charges (“PFCs”).</li> </ul>	<ul style="list-style-type: none"> <li>• Fixed rate and variable rate bonds sold as part of the same plan of finance.</li> <li>• One or more series of GARBs and a stand-alone series of revenue bonds payable from CFCs or PFCs under a separate master indenture.</li> </ul>