

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

☐ First

☐ Second

☒ Third

Consultant's Name: TYLIN International

(CPMS Contract No. 6598)
(Standard Agreement AC No. 663324-000)

This Amendment is made and entered into this 3rd day of August, 2023. The City and Consultant amend the above-referenced agreement as set forth herein.

RECITALS

WHEREAS, the City of San José ("City") executed Standard Consultant Agreement No. 663324-000 ("Consultant Agreement") with TYLIN International ("Consultant"), dated April 30, 2018, to provide engineering services related to the preparation of scoping, environmental documents, plans, specifications and estimates, Right of Way services and design support during the construction for the Santa Clara Street Bridge at Coyote Creek Replacement project ("Project"); and

WHEREAS, the Consultant Agreement set forth a maximum compensation of \$1,295,098 for the initial three-year term, with three 1-year options to extend; and

WHEREAS, the City and Consultant executed a First Amendment to the Consultant Agreement on September 5, 2018, which amended Provision 13. "Compensation", to allow for the payment of a fix fee in the amount of \$105,749.40 to be paid to the Consultant during the term of the contract; and

WHEREAS, the City and Consultant executed a Second Amendment to the Consultant Agreement on June 14, 2021, following the expiration of the initial term on May 4th 2021, which extended the term of the Consultant Agreement until May 5, 2022, in order to provide for continued work on completing the required right of way work, final design plans, specifications and estimates and design support during the construction of the project; and

WHEREAS, during the term of the Consultant Agreement, the Valley Transit Authority ("VTA"), changed design criteria for the Project on multiple occasions which required the Consultant to revise their design plans for the Project twice, and ultimately resulted in the depletion of the compensation amount contained within the amended Consultant Agreement; and

WHEREAS, the City now desires to retroactively execute a Third Amendment to the Consultant Agreement which would increase the compensation amount by \$130,828.00 to compensate the Consultant for the work already completed;

NOW THEREFORE, for good and valuable consideration, the Parties agree as follows:

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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.
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4. ☒ **Agreement Term:** Section 2 is amended to extend the expiration date from May 5th, 2022 to May 5th, 2023.
 5. ☒ **Maximum Total Compensation:** Subsection 10.1 is amended to ☒ Increase ☐ Decrease the Maximum Total Compensation from \$1,295,098.00 to \$1,425,926.00.
 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 *Sarah Zarate*
Email: sarah.zarate@sanjoseca.gov
Date: 08/03/2023 GMT

Name: Sarah Zarate
Title: Director, City Managers Office

Consultant

By *William K. Harnagel*
Email: william.harnagel@tylin.com
Date: 07/31/2023 GMT

Name: William Harnagel
Title: CFO

Approval as to Form (City Attorney):

☒ **Approved as to Form:**

Attorney
Matthew Tolnay

Matthew Tolnay
Email: matthew.tolnay@sanjoseca.gov
Date: 08/03/2023 GMT

By *Michael F. Pyrz*
Email: michael.pyrz@tylin.com
Date: 08/02/2023 GMT

Name: Michael F. Pyrz
Title: Vice President

☐ 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:

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

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

Section 1 – Compensation Table

Part 1 – Compensation for Basic Services			
Column 1	Column 2	Column 3	Column 4
Task Nos.	Basis of Compensation	Invoice Period	Compensation
Task 0	☒ Time & Materials ☐ Fixed Fee	☒ Monthly ☐ Completion of Task(s) ☐ Completion of Work	\$381,749
Task 1	☒ Time & Materials ☐ Fixed Fee	☒ Monthly ☐ Completion of Task(s) ☐ Completion of Work	\$252,232
Task 2	☒ Time & Materials ☐ Fixed Fee	☒ Monthly ☐ Completion of Task(s) ☐ Completion of Work	\$75,615
Task 3	☒ Time & Materials ☐ Fixed Fee	☒ Monthly ☐ Completion of Task(s) ☐ Completion of Work	\$716,330.00
Task 4	☒ Time & Materials ☐ Fixed Fee	☒ Monthly ☐ Completion of Task(s) ☐ Completion of Work	\$0
Task 5	☒ Time & Materials ☐ Fixed Fee	☒ Monthly ☐ Completion of Task(s) ☐ Completion of Work	\$0
Task 6	☒ Time & Materials ☐ Fixed Fee	☒ Monthly ☐ Completion of Task(s) ☐ Completion of Work	\$0
Part 2 – Reimbursable Expenses			
☒ No expenses are separately reimbursable. The amount(s) in Column 4 of Part 1 include(s) payment for all expenses.		☐ Expenses are separately reimbursable in accordance with Subsection 10.5 of the Agreement. The maximum amount of reimbursable expenses is:	\$0
Part 3 – Subconsultant Costs			
☒ The amount(s) in Column 4 of Part 1 include(s) payment for subconsultants. Subconsultant costs are not separately compensable.		☐ Subconsultant costs are separately compensable in accordance with Subsection 10.6 of the Agreement. The maximum amount of compensation for subconsultant costs is:	\$0

Part 4 – Additional Services

☒ No money is budgeted for Additional Services, and the Director can not authorize any Additional Services.	☐ The Director may authorize the Consultant to perform Additional Services up to the following maximum amount:	\$0
Maximum Total Compensation (sum of Parts 1 through 4):		\$1,425,926.00

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: