

First

**Amendment to Master City of San José Consultant Agreement**

(Non-Capital Projects)

Second

Third

Consultants Name: Flynn Resource Consultants, Inc.

**(Master Agreement AC No. 663456)**

This Amendment to the Master Agreement is made and entered into this 6th day of June, 2023. The City and the 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 Master Agreement.
  2. The provisions of this Master 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:** Section 2 is amended to extend the expiration date from \_\_\_\_\_.
  5.  **Maximum Total Compensation:** Subsection 10.1 is amended to  Increase  Decrease the Maximum Total Compensation from \$\_\_\_\_\_ to \$\_\_\_\_\_.
  6.  **Agreement Section(s):** Sections 1.2 and 2 are amended to read as set forth in Attachment A of the Amendment. Exhibit E, "Notice of Exercise of Option to Extend Agreement Form", attached hereto, is hereby appended to the Master Agreement.
  7.  **Schedule of Rates and Charges – 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.
  8.  **Schedule of Specific Services – Exhibit D:** The  original  First Revised  Second Revised Exhibit D is amended to read as set forth in the attached  First  Second  Third Revised Exhibit D, 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**

**Consultant**

By



Email: sarah.zarate@sanjoseca.gov  
Date: 06/10/2023 GMT

By



Email: dougbocc@flynnrci.com  
Date: 06/09/2023 GMT

Name: Sarah Zarate  
Title: Director, Office of the City Manager

Name: Doug Boccignone  
Title: Chief Financial Officer

**Approval as to Form (City Attorney):**

**Form Approved by the Office of the City Attorney.**

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

**Approved as to Form:**



Email: rosa.tsongtaatarii@sanjoseca.gov  
Date: 06/09/2023 GMT

Name: Rosa Tsongtaatarii  
Title: Chief Deputy City Attorney

**First**

## **Attachment A**

**Second**

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

**Third**

(Non-Capital Projects)

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

Section 1.2, as set forth in the original Master Agreement, or in any previous amendment to the original Master Agreement, is amended as follows:

**1.2** **Exhibits:** This Master Agreement consists of this agreement form, all Approved Service Orders (defined in Subsection 3.2 below), and the following exhibits, which are incorporated herein by reference:

- Exhibit A:** Approved Service Order Form
- Exhibit B:** Schedule of Rates and Charges
- Exhibit C:** Insurance Requirements
- Exhibit D:** Schedule of Specific Services
- Exhibit E:** Notice of Exercise of Option to Extend Agreement Form

Section 2, as set forth in the original Master Agreement, or in any previous amendment to the original Master Agreement, is amended as follows:

## **2. AGREEMENT TERM**

**2.1** **Initial Term:** The Master Agreement term is from the Contract Date to June 30, 2023 inclusive, unless terminated earlier pursuant to Section 19 below ("Initial Term").

**2.2** **Optional Term:** After the Initial Term, the City reserves the right, at its sole discretion, to extend the term of this Master Agreement for up to three additional one-year terms ("Option Term(s)") up through June 30, 2026.

**2.2.1** **Notice:** The City shall provide the Consultant with no less than fifteen (15) calendar days' prior written notice of its intention to exercise its option to extend the term of this Master 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 Master 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 Master Agreement shall constitute an obligation of future legislative bodies of the City to appropriate funds for purposes of this Master Agreement. Accordingly, the parties agree that any Option

Term(s) is contingent upon the appropriation of funds by the City. This Master Agreement will terminate immediately if funds necessary to continue the Master Agreement are not appropriated. Despite the foregoing, the City shall pay Consultant for any services performed in accordance with this Master Agreement up to the date of termination.

**First**

**Revised Exhibit B: Schedule of Rates and Charges**

**Second**

(Non-Capital Project)

**Third**

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

The rates and charges set forth in the original Exhibit B, or in any previous amendment to the original Exhibit B, are amended as follows:

**June 19, 2018 – June 30, 2023:**

<b>Position</b>	<b>Hourly Rate</b>
<b>Flynn RCI</b>	
Principal	\$340
Managing Consultant	\$320
Senior Consultant-Power Engineer	\$300
Senior Consultant	\$275
Consultant	\$235
Associate Consultant	\$215
Senior Analyst	\$175
Analyst	\$150
Support Services	\$90
<b>DWGP*</b>	
Senior Principals	\$415
Principals and Of Counsel	\$390
Senior Associates (min. 5 years' experience)	\$350
Associates	\$309
Non-Attorney Staff	\$216
Senior Paralegals	\$175
Other Paralegals and Law Clerks	\$144
<b>LCC*</b>	
Principal	\$400
Senior Consultant	\$250
Consultant/Analyst	\$200
"Technical Area 4.2 Task": UPLAN grid model and PLATO data model for market simulation	\$10,000 fixed fee
<b>PMCI*</b>	
Senior Consultant	\$225
Programmer/Analyst	\$190
OASISLive Annual Subscription	To be Determined Based upon Task and Module

**Effective July 1, 2023:**

<b>Position</b>	<b>Hourly Rate</b>
<b>Flynn RCI</b>	
Principal	\$380
Managing Consultant	\$360
Senior Consultant-Power Engineer	\$340
Senior Consultant	\$310
Consultant	\$260
Associate Consultant	\$240
Senior Analyst	\$195
Analyst	\$165
Support Services	\$100
<b>LCG*</b>	
Principal	\$400
Senior Consultant	\$300
Consultant/Analyst	\$250
"Technical Area 4.2 Task": UPLAN grid model and PLATO data model for market simulation	\$15,000 fixed fee
<b>PMCI*</b>	
Senior Consultant	\$265
Programmer/Analyst	\$210
OASISLive Annual Subscription	To be Determined Based upon Task and Module

\* Flynn RCI will add a 5 percent markup to these hourly rates consistent with Section 10.6.1 of this Agreement.

Reimbursable expenses shall include: Consultant travel expenses if any. Travel mileage will be charged per the current IRS standard mileage rates at the time costs occur. Airfare and auto rental will be at cost. Reimbursable expenses should be included in the proposed cost for each deliverable, if needed, under its own task labeled 'TASK #X: TRAVEL EXPENSES'.

All task costs and hourly charge rates as shown in this Revised Exhibit B shall remain in effect for the duration of the Agreement, unless mutually agreed upon by the parties and subject to the execution of a written amendment, pursuant to Section 1.6 of this Agreement, or an executed Notice of Exercise of Option to Extend Agreement,.

### EXHIBIT E: NOTICE OF EXERCISE OF OPTION TO EXTEND AGREEMENT

<b>AGREEMENT TITLE:</b> <b>DATE:</b>	
<b>CONSULTANT</b> <b>Name:</b> <b>Address:</b> <b>Email:</b>	
<b>DATE OF OPTION:</b>	

*(date the notice is sent must be consistent with the time for exercise set forth in Agreement)*

Pursuant to Section 2.2 of the Master Agreement referenced above, the City of San José ("City") hereby exercises its option to extend the term under the following provisions:

<b>OPTION NO.</b>	
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#### NEW OPTION TERM

Begin Date:	
End Date:	

<b>MAXIMUM COMPENSATION for New Option Term:</b>	
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For the option term exercised by this Notice, City shall pay the Consultant an amount not to exceed the amount set forth above for the Consultant's services and reimbursable expenses, if any.

CITY OF SAN JOSE a municipal corporation  By  Name: Title:
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