

Master City of San José Consultant Agreement

(Capital Projects)

Amendment to Approved Service Order - Cover Page

- 1a. CPMS Contract No.: 10038; Airport 23-036 1b. Master Agreement AC No.: 33196; Giles: 663895-000
- 2. First Second Third Fourth Amendment to Approved Service Order No. 36
- 3. Consultant's Name: Kimley-Horn & Associates, Inc.

4. The above-referenced Approved Service Order is amended as follows:

- 4a. **Budget/Fiscal:** The original Budget/Fiscal information in Section 7 of the Approved Service Order First Revised Budget/Fiscal Attachment Second Revised Budget/Fiscal Attachment is amended to read as set forth in the attached First Second Third Revised Budget/Fiscal Attachment.
- 4b. **Tasks - Attachment A:** The original First Revised Second Revised Attachment A is amended to read as set forth in the attached First Second Third Revised Attachment A.
- 4c. **Compensation Table - Attachment C:** The original First Revised Second Revised Attachment C is amended to read as set forth in the attached First Second Third Revised Attachment C.

5. Each of the attachments to this amendment is incorporated herein by reference.

6. Consultant Approval:

Pearse Melvin

Email: pearse.melvin@kimley-horn.com
Date: 03/15/2023 GMT

7. Approval as to Form (City Attorney):

Form Approved by the Office of the City Attorney

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

Approved as to Form:
Kevin Fisher, Assistant City Attorney:

Attorney
Kevin Fisher

Kevin Fisher

Email: kevin.fisher@sanjoseca.gov
Date: 03/15/2023 GMT

8. Airport Director Approval:



Email: john.aitken@sanjoseca.gov
Date: 03/16/2023 GMT

First **Second** **Third** **Revised Budget/Fiscal Attachment**

1. This Revised Budget/Fiscal Attachment is attached to the First Second Third amendment to Approved Service Order No. 36 issued pursuant to the Master Agreement.
2. The Maximum Service Order Compensation set forth on Line 7.b. of Section 7 of the Approved Service Order cover page is:

Decreased from \$ _____ to \$ _____.

Increased from \$ 24,856.96 to \$ 321,856.96

Appropriation Certification: I certify that an unexpended appropriation in the amount of the increased compensation is available in the following fund(s) and that such fund(s) will be encumbered to pay for this Approved Service Order.

Fund: 520/527 Appn: 401F RC: 21046X Amount: \$26,602,000

3. If the Maximum Service Order Compensation is being increased, the unencumbered amount in the Master Agreement is sufficient as follows:

a.	Current unencumbered amount in Master Agreement:	\$	297,726.12
b.	Increase in the Maximum Service Order Compensation:	\$	297,000
c.	New unencumbered balance in Master Agreement	\$	726.12

First **Second** **Third** **Revised Attachment A: Tasks**

This Revised Attachment A is attached to the First Second Third amendment to Approved Service Order No. 36 issued pursuant to the Master Agreement.

The tasks set forth in the original Attachment A, or in any previous amendment to the original Attachment A, are amended as set forth herein. All other tasks shall remain unchanged.

Paragraph C of Task No. 1: Project Management and Administration is restated to read as follows:

C. Completion Time: The Consultant must complete the services and deliverables for this task in accordance with whichever one of the following time is marked:

- On or before the following date: July 31, 2023
- On or before: 45 Calendar Days after the date of Airport's notice of substantial completion of construction."

Task No. 2: Construction Administration (CA) Services is restated to read as follows:

A. Services: Consultant shall provide construction administration services during the construction phase of the Project as follows:

Task 2.1 – Construction Administration

- **Shop Drawings and Samples** – The Consultant Team will review, approve, and respond or take other appropriate action in respect to Shop Drawings, Submittals, Request for Information (RFI), and Samples and other data which the contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Such review and approvals or other action will not extend to means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction or to related safety precautions and programs.
- **Substitutes and "or-equal"** – The Consultant Team and the subconsultant(s) where applicable, will evaluate and render to City an opinion as to the acceptability of substitute or "or-equal" materials proposed by the contractor, with the understanding that such opinion is subject to the provisions of applicable standards of the City and FAA.
- **On-Site Observation and Representation** – The Consultant Team will assist the City with on-site construction administration and observation services during the

Construction Activities. The Consultant Team shall provide construction administration and observation services as follows:

- a) Document contractor's general conformance to the contract documents.
- b) Participate in weekly progress meetings (on-site/virtual).
- c) Submit observed noncompliance or deficiency reports based on general observations by the Consultant Team or test results provided by the contractor or City lab.
- d) Review and assist with monitoring Contractor's Quality Control Plan.
- e) Review and assist with monitoring contractor's on-going quality control testing program results.
- f) Review and assist with monitoring acceptance tests at the frequency stated in the CDs.
- g) Inspections and Tests – The Consultant Team will require such Special Inspections and tests of the contractor's work as the Consultant Team deems appropriate and receive and review certificates of inspections within their area of responsibility, tests, and approvals required by laws and regulations or the Contract Documents. The Consultant Team's review of such certificates will be for the purpose of determining that the results certified indicate general compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests or approvals comply with the requirements of the Contract Documents. The Consultant Team shall be entitled to rely on the accuracy and completeness of such tests and data. Special Inspector shall be approved by the City of San José, Public Works Department.
- h) Defective Work – The Consultant Team will inform the contractor of deficiencies so that corrections can be made and retests performed. Recommendations with Respect to Defective Work - The Consultant Team will recommend to the City that the contractor's work be disapproved and rejected while it is in progress if, on the basis of such observations and/or testing results, the Consultant Team believes that such work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents.
- i) Clarifications and Interpretations – The Consultant Team will issue clarifications and interpretations of the Contract Documents to the contractor as appropriate to facilitate the orderly completion of the

contractor's work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. Field Orders authorizing variations from the requirements of the Contract Documents will be authorized by the City.

- j) Disagreements between the City and the Contractor - The Consultant Team will, as requested, render a written recommendation on claims submitted by the contractor relating to the acceptability of the contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of contractor's work. In rendering such recommendations, the Consultant Team shall be fair and not show impartiality to the contractor.
- Envision Documentation – The Taxiway Victor project could qualify as an “Envision Verified Project”.

Consultant will outline the steps that identify the documentation required for Taxiway Victor Envision Certification and provide the outline to the City.

After Consultant provides to City the outline, Consultant will then coordinate with the Airport staff, City staff/inspectors, and/or Contractor, as needed, to obtain the required documentation.

After Consultant obtains the required documentation for both Taxiway Victor's Phase 1A and a future awarded Phase 1B, Consultant will submit the documentation to the Institute for Sustainable Infrastructure for Envision Verified Project consideration, as one singular project.

Any fees for Taxiway Victor Envision Certification will be submitted to the Institute for Sustainable Infrastructure by City staff after the documentation has been collected by Consultant for Taxiway Victor Phase 1B.

The parties hereto understand and agree that there is no guarantee that after submission of all the documents, the Taxiway Victor project will be awarded an Envision Certification; Certification will be dependent on the quality of the documentation provided by Airport staff, City staff/inspectors, and/or Contractor relative to the Consultant's outline requirements.

- Prepare Clean-Up Item List – Following the final inspection, the Consultant Team will prepare a list of the items the contractor must clean up before the final payment can be made.
- Substantial Completion – The Consultant Team will, after notice from Contractor that it considers the entire Work ready for its intended use, in company with Client and Contractor, conduct a site visit to determine if the Work is substantially complete. Work will be considered substantially complete following satisfactory completion of all items except for those identified on a final punch list. If, after considering any objections of Client, the Consultant Team considers the Work substantially complete, the Consultant Team will notify Client and Contractor.

- **Final Notice of Acceptability of the Work** – The Consultant Team will conduct a final site visit to determine if the completed Work of Contractor is generally in accordance with the Contract Documents and the final punch list so that the Consultant Team may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, the Consultant Team shall also provide a notice that the Work is generally in accordance with the Contract Documents to the best of the Consultant Team’s knowledge, information, and belief based on the extent of its services and based upon information provided to the Consultant Team upon which it is entitled to rely.

B. Deliverables:

- i. Review of Contractor Submittals
- ii. Construction administration and observation activities
- iii. Render opinions and make recommendations
- iv. Participate in weekly construction meetings
- v. Envision Certification outline for obtaining required documents, and submission.

C. Completion Time: The Consultant must complete the services and deliverables for this task in accordance with whichever one of the following time is marked:

- On or before the following date: July 31, 2023
- On or before: 45 Calendar Days after the date of Airport’s notice of substantial completion of construction.”

First **Second** **Third** **Revised Attachment C: Compensation Table**

This Revised Attachment C is an attachment to the First Second Third amendment to Approved Service Order No. 36 issued pursuant to the Master Agreement.

Part 1 – Compensation for Services and Deliverables						
Column 1	Column 2		Column 3			Column 4
Task Nos. from Attachment A	Basis of Compensation		Invoice Period			Compensation
1	<input type="checkbox"/> Time & Materials	<input checked="" type="checkbox"/> Fixed Fee	<input checked="" type="checkbox"/> Monthly	<input type="checkbox"/> Completion of Task(s)	<input type="checkbox"/> Completion of Work	\$13,686.25
2	<input type="checkbox"/> Time & Materials	<input checked="" type="checkbox"/> Fixed Fee	<input checked="" type="checkbox"/> Monthly	<input type="checkbox"/> Completion of Task(s)	<input type="checkbox"/> Completion of Work	\$308,170.31
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 the maximum amount of:			
Part 3 – Subconsultant Costs						
<input checked="" type="checkbox"/> Subconsultant costs are <i>not</i> separately compensable. The amount(s) in Column 4 of Part 1 include(s) subconsultant costs.			<input type="checkbox"/> Subconsultant costs are separately compensable in the maximum amount of:			
Maximum Service Order Compensation (sum of Parts 1 through 3):						\$321,856.56