

**Master City of San José Consultant Agreement**

(Non-Capital Projects)

**Amendment to Approved Service Order - Cover Page**

1a. Intentionally Omitted.

1b. Master Agreement AC No.: 27113

2.  First  Second  Third Amendment to Approved Service Order No. 1

3. Consultant's Name: Circlepoint (the "Consultant")

**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:

*Audrey Zagazeta*  
a.zagazeta@circlepoint.com (10/13/2021)  
Email: a.zagazeta@circlepoint.com

Date: \_\_\_\_\_

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:

Date: \_\_\_\_\_

(Sr.) Deputy City Attorney:

*Johnny V. Phan*  
Johnny Phan (10/18/2021)  
Email: johnny.phan@sanjoseca.gov

8. City Director Approval:

*Chu Chang*  
Chu Chang (10/18/2021)  
Email: chu.chang@sanjoseca.gov

Date: \_\_\_\_\_

**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. 1 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 \$ 301,000.00 to \$ 305,946.07 and

<b>Appropriation Certification:</b> 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: <u>  001  </u>	Appn: <u>  202S  </u>	RC: <u>  000866  </u>	Amount: \$ <u>4,946.07</u>
Fund: _____	Appn: _____	RC: _____	Amount: \$ _____
Fund: _____	Appn: _____	RC: _____	Amount: \$ _____
Fund: _____	Appn: _____	RC: _____	Amount: \$ _____
Authorized Signature: <u><i>Lori Severino</i></u> <small>Lori Severino (10/18/2021)</small> Date: _____ <small>Email: lori.severino@sanjoseca.gov</small>			

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

a. Current <b>unencumbered</b> amount in Master Agreement:	\$	250,000.00
b. <b>Increase in the Maximum Service Order Compensation:</b>	\$	4,946.07
c. New unencumbered balance in Master Agreement	\$	245,053.93

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

This Revised Attachment A is attached to the  First  Second  Third amendment to Approved Service Order No. 1 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.

**Task No. A1, entitled “Kick-Off Meeting,” is amended as follows:**

- A. Services:** This scope of work includes Consultant’s attendance at one kickoff meeting to introduce Consultants to the City’s team members, discuss data needed from the City for the analysis, and draft a project schedule. Total amount of time anticipated to complete task: 20 hours.

Subsequent to the original scope of work, attendance at a total of eight meetings (seven additional meetings beyond original scope) was required. The date and topic of each of these meetings are listed below:

- November 25, 2019 (kickoff meeting – included in original scope)
- December 9, 2019 (finalizing scope of work)
- February 11, 2020 (discussion of project description and CEQA approach)
- February 19, 2020 (in-person meeting to further discuss project description)
- March 13, 2020 (discussion of City comments on first “in-progress” draft of project description)
- April 17, 2020 (meeting to go over completed draft of project description and to discuss project changes/new information including refined development capacity numbers, parks projects, additional transportation projects)
- June 3, 2020 (discussion of revised project boundaries)
- August 18, 2020 (status update meeting, including discussion of comments on most recent project description and need to update per the draft Amendment)

- B. Deliverable:** Kick off -Meeting and follow up meetings between Consultant and City staff.

Subsequent to the original deliverables an additional deliverable was required. Seven additional follow up meetings needed to confirm data required from City for the analysis and to finalize the project schedule. The date and reason for each of these meetings are summarized above under **A. Services.**

- 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: \_\_\_\_\_.
- On or before 45 Business Days from date of full execution of this service order.  
Consultant has completed this task.

**Task No. A2, entitled "Project Description," is amended as follows:**

**Services:** After the kick-off meetings and using information provided by the City, Consultant will develop a text and graphics-based Project Description for analysis under CEQA. The project description will include the following:

1. A summary of the previously approved project focusing on the relevant components of the DSAP Amendment.
2. The precise location and boundaries of the project on an aerial map.
3. A general description of the project's technical and environmental characteristics.
4. A detailed description of project components that have changed since the 2014 Diridon Station Area Plan (DSAP) EIR and 2018 Downtown Strategy 2040 EIR, including a comparative table showing what was approved and what is proposed.

Total amount of time anticipated to complete task: 120 hours.

Subsequent to the original scope of work, additional work was required. Most relevant project information was received in early February 2020, which allowed the Consultant to begin drafting the project description. However, many pieces of data (such as planned utility, transportation, and parks improvements) were not received until after the April 17 meeting (see **Task A1**, above), requiring substantial revisions and updates to the project description. In addition, several pieces of the project (including the boundary, recommended land use plan, and development capacities) changed significantly over time. In total, the Consultant prepared four full drafts of the project description, rather than the two (Admin Draft and Final) assumed in the original scope of work.

**B. Deliverable:** 2 electronic versions (Word and PDF) of Administrative Draft Project Description for City review and comments; 2 electronic versions (Word and PDF) of Final Project Description, which addressed all prior City comments and edits through four drafts of the project description.

**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: \_\_\_\_\_.

On or before 45 Business Days from date of full execution of service order and receipt of identified data from City. Consultant has completed this task.

**Task No. B3, entitled “Technical Analysis – Noise and Vibration Analysis (Illingworth & Rodkin),” is amended as follows:**

- A. Services:** The Consultant and its Subconsultant, Illingworth & Rodkin, will prepare a comprehensive noise analysis, which would include the following tasks:
- 1. Review and Collect Existing Noise and Vibration Data.** Recent environmental noise and vibration studies will be reviewed for applicable data that could be used to describe current noise and vibration exposure in the planning area. Supplemental measurements would be made at four to six additional locations to adequately represent existing conditions within the DSAP area.
  - 2. Update Existing Noise Contours.** Existing noise contour data for the area, developed as part of the General Plan, will be updated based upon the traffic data provided by the City. SoundPLAN will be used to model and graphically display transportation-related noise sources and stationary noise sources. SoundPLAN files can be directly imported into a GIS database. The noise contour map will be shown in terms of Ldn in increments of 5 decibels down to 60 dBA Ldn. The existing noise contour map will be prepared and submitted with the existing conditions baseline report, if existing traffic data is available.
  - 3. Prepare Noise Assessment.** The proposed land use changes will be analyzed to determine if they would expose new sensitive receptors to noise or vibration levels exceeding those considered normally acceptable based on the City’s policies, and the changes in the noise environment in the City resulting from the project. The change in noise levels will be calculated from the proposed project development scenario. Based on potential changes in noise and vibration levels along roadways, the analysis will determine where significant impacts would occur, and compared with the levels analyzed within the existing DSAP EIR and the Downtown Strategy EIR. Policies and programs of the DSAP will be evaluated for reducing noise impacts to less-than-significant levels. If as a result of the analysis, it is determined that additional mitigation measures would be appropriate to reduce future noise impacts, these would be presented in the form of suggested policy changes as part of the DSAP Amendment.

The Draft Noise and Vibration Analysis will be reviewed by the City during review of the Administrative Draft Initial Study/Addendum in Task C.1. The Final Noise and Vibration Analysis shall address all City comments and edits made during City review of the Draft Noise and Vibration Analysis. Total amount of time anticipated to complete task: 176 hours

Subsequent to the original scope of work, additional work was required. DSAP traffic volumes were not available in industry standard Excel format. City Public Works staff changes to the traffic scope being VMT-only required use of differently formatted data files and extensive coordination with other consultants to refine the methodology for using such data. Changes to the boundaries of the initial work area required additional work to the noise model due to an increase in the area of the plan.

- B. Deliverable:** An electronic version of the Draft Noise and Vibration Analysis in PDF format shall be included with Administrative Drafts of the environmental document (Addendum or Supplemental EIR), either in a CD or delivered electronically (such as via an FTP site) for City review and comment. This analysis may be included with the Air Quality Assessment outlined in Task A3. Final versions shall be included with the public draft of the environmental document (Addendum or Supplemental EIR) in a CD attached to the back of the public review draft, which addressed all prior City comment and edits.
- 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: \_\_\_\_\_.

On or before 245 Business Days from date of full execution of service order. Consultant has completed this task.

**Task No. B5, entitled “Technical Analysis – Historical Evaluation (JRP Historical Consulting, LLC),” is amended as follows:**

- A. Services: The Consultant and its Subconsultant,** JRP Historical Consulting, LLC (JRP) will prepare a historical evaluation for the DSAP Amendment. The Consultant and Subconsultant JRP will provide services to identify historical resources in and adjacent to the DSAP area, excluding the parcels in the approximately 84-acre Downtown West Mixed-Use Plan. It is the desire of the City to evaluate all the parcels in the DSAP area with intensive level surveys and the parcels within 200 feet of the DSAP boundary with reconnaissance level surveys. In order to meet this expectation and at the same time not overestimate the work or budget for this undertaking, the Consultant and Subconsultant JRP have developed a phased approach outlined below that should limit and focus the amount of work, providing the historic resources surveys through a process of screening and evaluation. Given the time it may take for the completion of the evaluations, this technical report may not be completed in time to be included in the adoption of the DSAP Amendment and Addendum. Therefore, Consultant and Subconsultant JRP shall discuss schedule and level of data required for the Addendum with City staff prior to the start of Phase 1.

**Phase 1 – Screening:** Screening involves identifying properties that have been subject to previous inventory and evaluation, and those from the historic period that have not been previously surveyed but require evaluation for the DSAP Amendment and Addendum. Subconsultant JRP will work with the City to determine the historic status and age of properties within the DSAP area. Source data would include City historic resources listings, a records search of the California Historical Resources Information System Northwest Information Center, and review of previous large surveys in the area. These large surveys include the Caltrain Electrification, BART extension, and High-Speed Train projects for which JRP prepared historic evaluations of properties in and adjacent to portions of the DSAP area. JRP will identify properties that could warrant intensive level surveys or updates, and which would be subject to reconnaissance level surveys. This task will include windscreen review of the DSAP and surrounding area, review of previous documentation, and preliminary research. Once there is consensus on the list properties requiring evaluation and reconnaissance surveys, the scope and budget for Phase 2 can be refined.

Because the Consultant and Subconsultant JRP do not know the level of effort for Phase 2, only preliminary information has been provided to establish a rough per unit cost of the survey with an approximal range of costs. JRP will provide a final listing of properties and what level survey would be required along with any other information discovered during the screening process.

**Phase 2 – Survey Work:** The Consultant and its Subconsultant, JRP, will perform an intensive-level survey and complete the DPR 523 forms for properties identified in Phase 1 (either as an update or a newly prepared full evaluation). It is estimated that the cost per property would be \$2,500. JRP will perform reconnaissance level survey (a DPR 523 Primary form and description of resource, no evaluation) for properties identified as such in Phase 1. It is estimated that the cost per property for a reconnaissance level survey would be \$900. A final catalog of the surveys and forms will be completed and submitted to the City. It is recommended that the City provide a data format that can be easily uploaded into GIS for easy tracking and access. The scope for this phase will be refined at the completion of Phase 1 at the request of the City.

The Draft Historic Evaluation will be reviewed by the City. The Final Historic Evaluation shall address City comments and edits made during City review of the Draft Historic Evaluation. Total amount of time anticipated to complete task: 348 hours.

Subsequent to the original scope of work, additional work was required. Multiple rounds of project changes by City required additional meetings between Consultant and their Subconsultant.

- B. Deliverable:** After the completion of Phase 1, the Consultant shall submit two (2) electronic versions (Word and PDF) of the results of the reconnaissance surveys and a list of properties requiring evaluation in Phase 2 to the City's Historic Preservation Officer and the City's Principal Planner for the Environmental Review Division. After completion of Phase 2, two electronic versions (Word and PDF) of a Draft report with the results of the intensive-level survey and complete DPR 523 forms for properties identified in Phase 1 shall be submitted to the City's Historic Preservation Officer and the City's Principal Planner for the Environmental Review Division for review. Final versions shall be included with the public draft of the environmental document (Addendum or Supplemental EIR) in a CD attached to the back of the public review draft, which addressed all prior City comments and edits.

Subsequent to the original deliverables, an additional deliverable was required. The deliverable after the completion of Phase 2 includes a database showing the historic status of all the parcels in the DSAP area plus a 200-foot buffer and a Built Resources Phase I Summary Memorandum to describe the data collected and used to populate the Built Resources Historic Status spreadsheet.

- C. Completion Time:** The Consultant must complete the only Phase 1 services and deliverables for this task in accordance with whichever one of the following time is marked:

On or before the following date: \_\_\_\_\_.

On or before 180 Business Days from completion of Task A.2, assuming availability of required data. Consultant has completed this task.

**Task No. C1, entitled "Preparation of Initial Study/Addendum," is amended as follows:**

- A. Services:** The Consultant will prepare an Initial Study/Addendum in a format acceptable to the City for compliance with CEQA Guidelines Section 15164. The project would be subject to the 2019 CEQA Guidelines, and analysis of the project will be based on the most current environmental threshold questions as they relate to CEQA Guidelines Section 15162 to establish that no new significant environmental effects would occur. Technical documentation required to support the CEQA Addendum are outlined above in Tasks B1 – B5; all other resource topics will be covered utilizing existing information sources and databases. Services include coordination with City staff through phone calls, e-mails, or meetings to ensure the Initial Study/Addendum meets the City's standards. The 1<sup>st</sup> Administrative Draft Initial Study/Addendum will be reviewed by the City and comments/edits will be submitted to the Consultant. If the scope and number of comments requires it, the Consultant will submit a 2<sup>nd</sup> Administrative Draft Initial Study/Addendum for City review and comments. The Final Initial Study/Addendum shall address all prior City comments and edits made during City review of the 1<sup>st</sup> and 2<sup>nd</sup> Administrative Draft Initial Study/Addendum. Total amount of time anticipated to complete task: 425hours.

Subsequent to the original scope of work, additional work was required. Multiple rounds of project changes required additional meetings with sub-consultants including modeling of non-standard traffic data to inform the noise model. The traffic modeling was also impacted by project changes to development capacity and expansion of plan boundaries. Changes to the recommended land use plan and the addition of 69 new or modified transportation projects within DSAP required additional coordination with subconsultants and City Public Works staff.

**B. Deliverable:** For the 1<sup>st</sup> and 2<sup>nd</sup> Administrative Drafts, Consultant shall submit two (2) electronic versions (Word and PDF) and five (5) hard copies of the Initial Study/Addendum to the City's Environmental Project Manager, along with PDFs of all supporting draft technical reports completed in Tasks B1 – B5 either in a CD or delivered electronically (such as via an FTP site). For the Screencheck Draft Initial Study/Addendum, Consultant shall submit two (2) electronic versions (Word and PDF) and one (1) hardcopy (no draft technical reports need to be submitted if there are no changes in the reports between the 2<sup>nd</sup> Administrative Draft and the Screencheck Draft). For the public review Draft Initial Study/Addendum, Consultant shall provide an electronic version in PDF format and 25 hard copies with an attached CD containing the final approved versions of supporting technical reports, which addressed all prior City comments and edits.

**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: \_\_\_\_\_.

On or before 40 Business Days from completion of Tasks under Section B, assuming availability of required data. Consultant has completed this task.

**Task No. D2 entitled "Contingency," is amended as follows:**

**A. Services:** If the environmental analysis conducted during the preparation of the Addendum results in the finding of a new significant impact that cannot be mitigated through project design or an increase in the severity of an impact identified in the Downtown Strategy 2040 EIR, the Consultant will discuss the alternative CEQA documentation options with the City, potentially including either preparation of a new EIR or a Mitigated Negative Declaration. A contract amendment with a separate scope and budget will then be prepared to address alternative approaches for CEQA clearance. The budget for this contingency would be allocated from funds initially earmarked for the LTA analysis (which is no longer required), up to \$83,000. Use of the contingency funds requires authorization in writing by the Director of Planning upon request by the Consultant.

Alternatively, changes to the project description, boundaries and other elements of the existing scope task A1 through D1 that result in additional costs associated with additional work, coordination or deliverables can be paid for out of some or all of the task D2 budget.

**B. Deliverable:** Preparation and completion of a draft CEQA document or additional work and deliverables for existing scope tasks A1 through D1.

**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 or as requested by City:

On or before the following date: \_\_\_\_\_.

On or before \_\_\_\_\_ Business Days from \_\_\_\_.

**Task No. A3, entitled "Community Meeting Attendance," is deleted in its entirety.**

**Task No. B2, entitled "Technical Analysis – Greenhouse Gas Emissions Analysis," is deleted in its entirety.**



Master Agreement AC No.: 27113  
Consultant: Circlepoint  
Service Order No.: 1

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. 1 issued pursuant to the Master Agreement.

Part 1 – Compensation for Services				Column 4
Column 1	Column 2	Column 3	Column 3	Column 4
Task Nos.	Basis of Compensation	Invoice Period	Invoice Period	Compensation
A.1	<input checked="" type="checkbox"/> Time & Materials <input type="checkbox"/> Fixed Fee	<input checked="" type="checkbox"/> Monthly <input type="checkbox"/> Completion of Task(s)	<input type="checkbox"/> Completion of Work	\$ 2,652.50
A.2	<input checked="" type="checkbox"/> Time & Materials <input type="checkbox"/> Fixed Fee	<input checked="" type="checkbox"/> Monthly <input type="checkbox"/> Completion of Task(s)	<input type="checkbox"/> Completion of Work	\$ 12,063.75
B.1	<input checked="" type="checkbox"/> Time & Materials <input type="checkbox"/> Fixed Fee	<input checked="" type="checkbox"/> Monthly <input type="checkbox"/> Completion of Task(s)	<input type="checkbox"/> Completion of Work	\$ 9,203.48
B.3	<input checked="" type="checkbox"/> Time & Materials <input type="checkbox"/> Fixed Fee	<input checked="" type="checkbox"/> Monthly <input type="checkbox"/> Completion of Task(s)	<input type="checkbox"/> Completion of Work	\$ 26,929.13
B.4	<input checked="" type="checkbox"/> Time & Materials <input type="checkbox"/> Fixed Fee	<input checked="" type="checkbox"/> Monthly <input type="checkbox"/> Completion of Task(s)	<input type="checkbox"/> Completion of Work	\$ 92,923.25
B.5	<input checked="" type="checkbox"/> Time & Materials <input type="checkbox"/> Fixed Fee	<input checked="" type="checkbox"/> Monthly <input type="checkbox"/> Completion of Task(s)	<input type="checkbox"/> Completion of Work	\$ 43,932.71
C.1	<input checked="" type="checkbox"/> Time & Materials <input type="checkbox"/> Fixed Fee	<input checked="" type="checkbox"/> Monthly <input type="checkbox"/> Completion of Task(s)	<input type="checkbox"/> Completion of Work	\$ 99,158.75
C.2	<input checked="" type="checkbox"/> Time & Materials <input type="checkbox"/> Fixed Fee	<input checked="" type="checkbox"/> Monthly <input type="checkbox"/> Completion of Task(s)	<input type="checkbox"/> Completion of Work	\$ 15,057.50
D.1	<input checked="" type="checkbox"/> Time & Materials <input type="checkbox"/> Fixed Fee	<input checked="" type="checkbox"/> Monthly <input type="checkbox"/> Completion of Task(s)	<input type="checkbox"/> Completion of Work	\$ 2,650.00
D.2	<input checked="" type="checkbox"/> Time & Materials <input type="checkbox"/> Fixed Fee	<input checked="" type="checkbox"/> Monthly <input type="checkbox"/> Completion of Task(s)	<input type="checkbox"/> Completion of Work	\$ 1,375.00
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.				\$0.00
<input type="checkbox"/> Expenses are separately reimbursable in the maximum amount of:				

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Part 3 – Subconsultant Costs		
<input checked="" type="checkbox"/> Subconsultant costs are <b>not</b> separately compensable. The amount(s) in Column 4 of Part 1 include(s) sub-consultant costs.	<input type="checkbox"/> Subconsultant costs are separately compensable in the maximum amount of:	\$0.00
<b>Maximum Service Order Compensation (sum of Parts 1 through 3):</b>		
		\$305,946.07