

First

## Amendment to Master City of San José Consultant Agreement

(Non-Capital Projects)

Second

Consultants Name: WSP USA, Inc. (formerly Golder Associates USA, Inc.)

Third

**(Master Agreement AC No. 32014)**

This Amendment to the Master Agreement is made and entered into this 28th day of February, 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 \_\_\_\_\_ to \_\_\_\_\_.
  5.  **Maximum Total Compensation:** Subsection 10.1 is amended to  Increase  Decrease the Maximum Total Compensation from \$ \_\_\_\_\_ to \$ \_\_\_\_\_.
  6.  **Agreement Section(s):** Section 20.3 is amended, and Recitals and Section 1.8 are added to the Master Agreement, to read as set forth in Attachment A of the Amendment.
  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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**NOTE: WSP USA, Inc. must sign one of the following. The City will not process the Amendment unless WSP USA, Inc. has signed one of the provisions.**

*Edward D. Jackson*

Email: ed.jackson@wsp.com  
Date: 02/27/2023 GMT

The Consultant certifies that the Consultant has a permanent place of business in California or is registered with the California Secretary of State to do business in California. The Consultant will file a California tax return and withhold on payments of California source income to nonresidents when required. If the Consultant ceases to have a permanent place of business in California or ceases to do any of the above, the Consultant will promptly notify the City at the address specified in Subsection 20.3 of this Master Agreement.

Or

If the Consultant is unable to make the above certification, the Consultant acknowledges and agrees to provide the City with the applicable tax forms issued by the Internal Revenue Service and California Franchise Tax Board, as applicable, as specified in Section 10.8 of this Master Agreement.

**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: 02/28/2023 GMT

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

**Consultant – Golder Associates USA, Inc.**

By

*Edward D. Jackson*

Email: ed.jackson@wsp.com  
Date: 02/27/2023 GMT

Name: Edward D. Jackson  
Title: Senior Vice President

**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:**

*Colleen Winchester*

Email: colleen.winchester@sanjoseca.gov  
Date: 02/27/2023 GMT

Name: Colleen Winchester  
Title: Sr. Deputy City Attorney

**Consultant – WSP USA, Inc.**

By

*Hillary F. Jassey*

Email: hillary.jassey@wsp.com  
Date: 02/27/2023 GMT

Name: Hillary F. Jassey  
Title: Secretary

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.

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

#### Recitals are incorporated in the Master Agreement as follows:

WHEREAS, on January 1, 2023, Golder Associates USA, Inc. merged with and into its affiliate WSP USA, Inc., and WSP USA, Inc. desires to assume the rights and obligations of Golder Associates USA, Inc. under the Master Agreement as of January 1, 2023; and

WHEREAS, Section 21.7 of the Master Agreement prohibits the assignment of the Master Agreement without the City's prior written consent, and WSP USA, Inc. desires to obtain the consent of the City to WSP USA, Inc.'s assumption of Golder Associates USA, Inc.'s rights and obligations of this Master Agreement; and

WHEREAS, City has determined that WSP USA, Inc. is eligible to assume the rights and obligations of Golder Associates USA, Inc.; and

WHEREAS, WSP USA, Inc. acknowledges that WSP USA, Inc. has reviewed the Master Agreement and understands all of the obligations of Golder Associates USA, Inc. under the Master Agreement, and WSP USA, Inc. assumes the rights, title, interest, and obligations of Golder Associates USA, Inc. under the Master Agreement without waiver or release of any right, term or condition except as expressly stated herein; and

WHEREAS, WSP USA, Inc. represents that no false or misleading statements have intentionally been made to City in any oral or written communications in connection with the proposed assumption and release; and

WHEREAS, City hereby consents to the assignment of the Master Agreement to WSP USA, Inc. as of January 1, 2023;

#### Section 1.8 is added to the Master Agreement to read as follows:

**1.8 Consent to Assignment.** On January 1, 2023, Golder Associates USA, Inc. merged with and into its affiliate WSP USA, Inc. As a result of the merger, WSP USA, Inc. will succeed to all of Golder Associates USA, Inc.'s rights and obligations by operation of law. As of January 1, 2023, all references in the Master Agreement to Golder Associates USA, Inc. or "Consultant" shall be deemed as references to WSP USA, Inc., a New York corporation authorized to do business in California.

- 1.8.1 No Waiver of Rights by City.** Nothing contained herein shall be construed to constitute a waiver or release by the City of any right, interest, term or condition of the Master Agreement.
- 1.8.2 Payments and Reimbursements.** WSP USA, Inc. agrees that all payments and reimbursements made by the City to Golder Associates USA, Inc. for services provided before the date of execution of the Second Amendment fully discharged the City's obligations for such payments under the Master Agreement. All payments paid by City pursuant to the Master Agreement for services provided from and after the date of execution of the Second Amendment shall be payable to WSP USA, Inc.
- 1.8.3 No Obligation of City for Costs.** The parties agree that City is not obligated to pay or reimburse Golder Associates USA, Inc. or WSP USA, Inc. or otherwise give effect to, any costs, taxes or other expenses, or related increases in such, directly or indirectly arising out of or resulting from the City's consent to assignment, other than such amounts as City may have been obligated to pay in the absence of such consent to assignment.
- 1.8.4 Representations and Warranties.** Golder Associates USA, Inc. and WSP USA, Inc. represent and warrant that they have the authority to enter into this assignment and that no other party has any claim, right or interest in the Master Agreement. WSP USA, Inc. represents and warrants that it has met all of the conditions necessary to conduct business in California and within the City.
- 1.8.5 Defense and Indemnification.** In addition to the Indemnification in the Master Agreement, Section 11.1, Golder Associates USA, Inc. and WSP USA, Inc shall defend, indemnify, and hold harmless, including all costs and attorneys' fees, City, its officials, agents and employees, for any claim, action or other liability arising directly or indirectly, in whole or in part, out of this assignment.

**Section 20.3 is replaced in its entirety with the following:**

- 20.3 To Whom Given:** All notices and other communications between the parties regarding a specific Approved Service Order must be given to the individuals identified in the Approved Service Order. All notices and other communications between the parties regarding the Master Agreement must be given to the individuals identified below using the appropriate contact information for giving notice:

To the City:	City of San José Department of Environmental Services Attn: Geoffrey Blair 200 E. Santa Clara Street, 10 <sup>th</sup> Floor San José, CA 95113 (408) 975-2576 <a href="mailto:Geoffrey.blair@sanjoseca.gov">Geoffrey.blair@sanjoseca.gov</a>
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To the Consultant:       WSP USA, Inc.  
                                  Attn: Kris Johnson  
                                  2750 N. First Street, Suite 100  
                                  San José, CA 95131  
                                  (408) 220-9223  
                                  [kjohnson@wsp.com](mailto:kjohnson@wsp.com)