



# Memorandum

**TO:** Honorable Mayor and City Council

**FROM:** Joe Rois  
City Auditor

**SUBJECT: THIRD AMENDMENT TO THE  
AGREEMENT WITH MACIAS, GINI &  
O'CONNELL TO PROVIDE ANNUAL  
FINANCIAL AND COMPLIANCE AUDITS**

**DATE:** March 24, 2023

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## RECOMMENDATION

Approve the third amendment to the agreement with Macias, Gini & O'Connell LLP to add audit services related to the financial statements for Wastewater Revenues, the annual Single Audit, and San José Clean Energy, and delete services related to the San José-Santa Clara Water Financing Authority Fund the Public Safety Bond audits, increasing total compensation under the term of the agreement by an amount not to exceed \$74,909 with a revised maximum total compensation of \$4,246,091.

## BACKGROUND

Section 805 of the San José City Charter specifies that the Office of the City Auditor conduct or cause to be conducted annual post audits of all the fiscal transactions and accounts kept by or for the City. In addition, Section 1215 of the San José City Charter requires that the City Council employ an independent Certified Public Accountant to audit the municipal books, records, accounts, and fiscal procedures of all officers of the City who receive, administer or disburse public funds on behalf of the City.

In February 2018, the City Council approved an agreement with Macias, Gini & O'Connell LLP to perform annual financial and compliance audit services for fiscal years ending June 30, 2018, 2019, and 2020 with three one-year extension options for fiscal years ended June 30, 2021, 2022, and 2023, with annual compensation not to exceed \$612,664 in year one and fees adjusted for subsequent years by the Consumer Price Index, not to exceed 3 percent per year in years two through six, for a total amount not to exceed \$3,952,789 for a potential six year term subject to annual appropriation of funds by the City Council.

In June 2018, the City Council approved the first amendment to the agreement to add audit services related to the financial statements of the Executive Management and Professional Employees Tier 3 Defined Contribution Plan, and the City of San José Voluntary Employee Beneficiary Association (VEBA) plans, increasing total compensation under the term of the agreement by an amount not to exceed \$63,652, with revised maximum total compensation of \$4,016,441.

In August 2020, the City Council approved the second amendment to the agreement to add audit services related to San José Clean Energy (SJCE) and the Public Safety and Infrastructure Bond

Fund, and delete audit services related to the Hayes Mansion, increasing total compensation by an amount not to exceed \$154,741, with a revised maximum total compensation of \$4,171,182.

## **ANALYSIS**

This amendment will add additional audit services to the current agreement with Macias, Gini & O'Connell LLP in three areas:

- Adding an audit of the Wastewater Treatment System Fund financial statements. For the fiscal year ending June 30, 2023, annual compensation for this service will be an amount not to exceed \$100,000, of which \$20,000 is for first year start-up costs.
- This amendment will also increase the not to exceed amount to Macias, Gini & O'Connell LLP for the annual federal Single Audit. The Single Audit is required under federal law, with procedures required under applicable federal regulations. Since the start of the COVID-19 pandemic, the amount of federal assistance received by the City, such as through the Coronavirus Aid, Relief, and Economic Security act (CARES) and the American Rescue Plan Act (ARPA), has significantly increased. As a result, the scope of work around the annual Single Audit has similarly increased. For the fiscal year ending June 30, 2023, the additional costs to reflect the expanded scope of work total an amount not to exceed \$54,515.
- Next, this amendment will increase the not to exceed amounts for the annual financial audit of the SJCE Fund financial statements, and audit tests for compliance with the SJCE Energy Risk Management Policy and Energy Risk Management Regulations. The current contract fees were based on scopes of work that were not fully defined at the time of the second amendment and the level of work has exceeded those estimates. The work has also become more complex as SJCE has continued to mature. For the fiscal year ending June 30, 2023, the additional costs to reflect the additional scopes of work total amounts not to exceed \$24,294 for the financial statements and \$9,074 for the compliance testing.

In addition, this amendment will delete services related to the San José-Santa Clara Clean Water Financing Authority Related Funds Compliance Audit and the Public Safety Bonds Audit. For each, the associated bond funds have been fully expended and these are no longer necessary. The compensation allocated to these services in the amount of \$73,979 will offset the cost of the additional services.

Lastly, this amendment will make a further change to the not to exceed amount to reflect a lower-than-expected annual cost of living adjustment from a prior year. The cost-of-living adjustment is tied to the Consumer Price Index and to calculate the not-to-exceed amount over the full term of the agreement, the contract assumed a 3 percent annual increase. For audit services for the fiscal year ending June 30, 2021, the cost-of-living adjustment was just 1.1 percent. Adjusting for this will reduce the overall not to exceed amount by an additional \$38,995.

## **CLIMATE SMART SAN JOSE**

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

## **PUBLIC OUTREACH**

This memorandum will be posted on the City's Council Agenda website for the XXX, 2022 Council Meeting.

## **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

## **COMMISSION RECOMMENDATION/INPUT**

No commission recommendation or input is associated with this action.

## **BUDGET REFERENCE**

The table below identifies the fund and appropriation proposed to fund the additional costs recommended as part of this memorandum.

Fund #	Appn #	Appn Name	Total Appn	Amt. for Contract	2022-23 Adopted Operating Budget page	Last Budget Action (Date, Ord. No.)
54I	0762	Environmental Services – Non-Personal/Equipment	\$252,992	\$100,000	1043	6/21/22 Ord. No. 30790
50I	212D	San José Clean Energy Annual Audits	\$130,650	\$33,368	1036	6/21/22 Ord. No. 30790
00I	2042	Grant Compliance Single Audit	\$97,276	\$54,515	909	6/21/22 Ord. No. 30790

## **CEQA**

Not a project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

Respectfully submitted,



Joe Rois  
City Auditor