

**SECOND AMENDMENT TO
AGREEMENT FOR AUDIT SERVICES
BETWEEN
THE CITY OF SAN JOSE
AND
MACIAS GINI & O'CONNELL LLP**

This SECOND AMENDMENT TO AGREEMENT is entered into this ____ day of _____, 2020, by the CITY OF SAN JOSE ("CITY"), a municipal corporation, and MACIAS GINI & O'CONNELL LLP, a California limited liability partnership ("AUDITOR").

RECITALS

WHEREAS, on February 6, 2018, CITY and AUDITOR entered into an agreement entitled "AGREEMENT FOR AUDIT SERVICES BETWEEN THE CITY OF SAN JOSE AND MACIAS GINI & O'CONNELL LLP ("AGREEMENT"); and

WHEREAS, on June 19, 2018, CITY and AUDITOR entered into a 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, for the fiscal year ended June 30, 2018, the City of San José Voluntary Employee Beneficiary Association ("VEBA") Plans; and

WHEREAS, CITY and AUDITOR desire to further amend the amended AGREEMENT to add audit services related to the financial statements for San José Clean Energy and the Public Safety and Infrastructure Bond Fund, and delete services related to the Hayes Mansion;

NOW, THEREFORE, the parties agree to further amend the amended AGREEMENT as follows:

SECTION 1. SECTION 4, "COMPENSATION" is amended to read as follows:

- "A. The maximum amount of compensation payable under this AGREEMENT for the Initial Term and, if exercised, the Option Periods, shall not exceed Four Million One Hundred Seventy-One Thousand One Hundred Eighty-Two Dollars (\$4,171,182). The rate and schedule of payment is set out in SECOND REVISED EXHIBIT D, entitled "COMPENSATION," which is attached hereto and incorporated herein.
- B. AUDITOR agrees that in the performance of this AGREEMENT, AUDITOR shall adhere to City Council Policy 1-19, the following provisions of which are made applicable to this AGREEMENT:
1. It is the policy of the CITY that CITY's funds should not be used for the purchase of single-serving bottled water.
 2. The following circumstances shall constitute exceptions to City Council Policy 1-19:
 - a. Public safety emergencies, investigations and extended deployments or activation of the Office of Emergency Services.
 - b. High risk of cross-contamination with non-potable water.
 - c. Situations where there are no reasonable alternatives to bottled water, such as large public events and when large quantities of water may need to be distributed for health and safety reasons.
 3. AUDITOR acknowledges and agrees that an invoice seeking reimbursement from CITY for the cost of single-serving bottled water under the exception referenced above in Subsection 2 (c) must be accompanied by a waiver form provided by CITY and signed by the department head of the CITY department administering this AGREEMENT."

SECTION 2. REVISED EXHIBIT B, "SCOPE OF SERVICES" is amended to read as shown in SECOND REVISED EXHIBIT B, attached and incorporated into this Second Amendment.

SECTION 3. REVISED EXHIBIT C, "SCHEDULE OF PERFORMANCE" is amended to read as shown in SECOND REVISED EXHIBIT C, attached and incorporated into this Second Amendment.

SECTION 4. REVISED EXHIBIT D, "COMPENSATION" is amended to read as shown in SECOND REVISED EXHIBIT D, attached and incorporated into this Second Amendment.

SECTION 5. All of the terms and conditions of the original AGREEMENT not specifically modified by this Second Amendment shall remain in full force and effect.

WITNESS THE EXECUTION HEREOF on the day and year first written above.

"CITY"

APPROVED AS TO FORM:

CITY OF SAN JOSE, a municipal
corporation

DANIELLE KENEALEY
Chief Deputy City Attorney

By _____
TONI J. TABER, CMC
City Clerk

"AUDITOR"

MACIAS GINI & O'CONNELL LLP, a
California limited liability partnership

By _____
DAVID BULLOCK
Partner

SECOND REVISED EXHIBIT B
SCOPE OF SERVICES

A. OVERVIEW OF SERVICES

1. Subject to the provisions of SECTION 2 of this AGREEMENT, AUDITOR shall perform the services ("Audit Services") for the fiscal years ending on June 30th of 2018, 2019, and 2020 and, if CITY exercises its rights to extend the Initial Term of this AGREEMENT, for the fiscal years ending on June 30th of 2021, 2022 and 2023.
2. AUDITOR shall provide all Audit Services in accordance with all applicable federal, state and local codes, rules, regulations and generally accepted auditing and accounting professional standards for certified public accountants. All of the Audit Services to be furnished by AUDITOR under this AGREEMENT shall be of the highest professional standard and quality which prevail among certified public accountants of superior knowledge and skill engaged in related work throughout California under the same or similar circumstances.
3. AUDITOR shall inform, in accordance with the American Institute of CPAs ("AICPA") and U.S. Government Accountability Office ("GAO") guidelines, the CITY promptly of any discrepancy or irregularity, including fraud and defalcations, material to the financial statements which AUDITOR may discover in the course of the audits; and AUDITOR shall submit to the CITY those recommendations resulting from their audits as to methods of investigation considered necessary or appropriate to determine the cause and extent of any such discrepancy or irregularity. In addition, AUDITOR shall inform the CITY of upcoming Governmental Accounting Standards Board ("GASB") pronouncements and provide assistance for an appropriate and timely implementation.
4. AUDITOR shall provide consultation and guidance to aid the CITY in meeting the requirements of the Government Finance Officers Association's ("GFOA") Certificate of Achievement for Excellence in Financial Reporting program for the CITY's Comprehensive Annual Financial Report ("CAFR").
5. AUDITOR shall perform all Audit Services to the satisfaction of the CITY's Auditor.

B. AUDIT WORK PLANS

Each year during the term of this AGREEMENT, AUDITOR shall prepare and submit an audit work plan for the CITY to the CITY's Auditor, scheduling the required work for the efficient and prompt completion of the Audits, Reports and Opinions described herein. This audit work plan will be published by the AUDITOR and delivered to CITY's Auditor not later than the agreed-upon due dates specified in EXHIBIT C. The audit work plan is to contain discussion on the following items: (1) the organizational structure of the CITY, the Finance Department, and the audit firm; (2) an overview on the basis of accounting utilized, any significant accounting areas, data processing, and the budgetary process; (3) financial and operating information as considered necessary; (4) any areas of potential concern to AUDITOR; (5) description of CITY assistance required, including a listing of reports and workpapers and when those would be required; (6) engagement staffing; (7) other issues AUDITOR believes should be included; and (8) methods of communication that will be used to keep CITY personnel informed during audit fieldwork. Each audit work plan is subject to the review and approval of CITY's Auditor.

C. QUALITY CONTROL

In order to maintain audit quality control and assurance, AUDITOR shall have an appropriate internal quality control system in place and shall undergo external peer review in accordance with AICPA guidelines and Government Auditing Standards, 2011 revision. AUDITOR promptly shall provide CITY's Auditor with documentation of each external peer review which occurs during the term of this AGREEMENT.

AUDITOR shall utilize only staff members who are experienced in public sector auditing and who have, within the past two (2) years, received an appropriate level of education and training directly related to the government environment and government auditing.

D. AUDIT REPORTS

In connection with each of the audits described in Paragraph J, AUDITOR shall prepare a written audit report ("Audit Report") in accordance with generally accepted auditing standards as promulgated by the AICPA and the applicable audit standards contained in Government Auditing Standards, 2011 or later revision, issued by the Comptroller General of the United States, as well as comply with subsequent issued revisions, with the objective of expressing an opinion on the financial statements.

E. USE OF WORK PRODUCT

AUDITOR shall perform the procedures necessary to ensure that CITY may use AUDITOR's reports in connection with any official purpose including without limitation publication of AUDITOR's reports in offering documents for the issuance of debt and annual bond disclosure reporting. AUDITOR agrees that such reports may be reproduced and published by CITY without restriction or limitation upon their use. The CITY understands that under auditing standards generally accepted in the United States of America, the independent auditor is presumed not to be associated with financial statements included in an offering statement.

F. INTERNET PUBLICATION OF WORK PRODUCT

AUDITOR shall provide all written work product in an electronic format or publication on the internet such as a searchable Adobe PDF document or other electronic format as approved by the CITY that meets Disability Access Design Standards. With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on the CITY's website, CITY understands that electronic sites are a means to distribute information and therefore, AUDITOR is not required to read the information contained on these sites or to consider the consistency of other information on the electronic site with the original document.

G. AUDIT INQUIRIES

AUDITOR will assist CITY in responding to inquiries from federal, state and/or regional agencies on issues related to AUDITOR's Audit Services.

H. GASB GUIDANCE

AUDITOR will provide guidance and information to CITY on changes in accounting principles due to new GASB pronouncements.

I. ADDITIONAL SERVICES

The CITY reserves the right to add or delete entities or request additional Audit Services. If an entity is added, CITY may request AUDITOR to provide a quote as to the cost of auditing the additional entity based on the per hour rate agreed upon in this AGREEMENT. CITY reserves the right to negotiate the quote or decline to engage AUDITOR's services for such.

J. AUDIT SERVICES

1. General City Audit – Basic Financial Statements

a. Audit Report

AUDITOR shall conduct an audit of the Basic Financial Statements (government-wide financial statements, fund financial statements, and financial disclosures) of the CITY for the fiscal year July 1 to June 30 to the extent required for the AUDITOR to issue an Opinion on the fair presentation, in accordance with generally accepted accounting principles, of such Basic Financial Statements ("BFS"), prepared by CITY, pertaining to all funds established by CITY, and maintained by CITY's Director of Finance during said fiscal year.

This Opinion shall include organizations other than the CITY which are required to be included in the CITY's annual financial statements by the GASB Statement 14, "The Financial Reporting Entity", and as amended in Statement 39, "Determining Whether Certain Organizations Are Component Units", as well as comply with subsequently issued amendments. The Opinion will be used for inclusion in the CITY's CAFR.

AUDITOR shall review sections of the CITY's CAFR - transmittal letter, combining schedules, and statistical section - all of which will be prepared by CITY personnel. The review of the transmittal letter and the statistical section will be designed to enable the AUDITOR to comply with the requirements of Statement on Auditing Standards No. 8, "Other Information in Documents Containing Audited Financial Statements." The review of the combining schedules will be designed to enable the AUDITOR to report on such supplementary data as being fairly stated in all material respects in relation to the BFS taken as a whole.

b. Management Letter

AUDITOR shall evaluate the adequacy of the system of internal control and design compliance tests, where appropriate, to determine that the controls are in operation. This evaluation will be performed to the extent required by generally accepted auditing standards and will be for the purpose of determining the nature, timing, and extent of the AUDITOR 's substantive audit procedures. The resulting recommendations and any other audit findings or comments shall be included in a separate letter ("Management Letter") addressed to the City Council to be issued as soon as

possible after conclusion of the audits, but not later than the agreed-upon due dates specified in EXHIBIT C.

c. Gann Agreed-Upon Procedures Report

AUDITOR shall perform certain agreed-upon procedures relating to the CITY's calculation of its appropriation limit in accordance with Article XIIIB of the California Constitution. AUDITOR will provide a report addressed to CITY documenting the results of the agreed-upon procedures.

2. Single Audit

- a. AUDITOR shall conduct, for the fiscal years from July 1 to June 30, compliance audit procedures as required by applicable federal law or regulation, currently specified in Title 2 U.S. *Code of Federal Regulations* Part 200 *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). AUDITOR shall conduct the compliance audit procedures in accordance with governmental auditing standards adopted by the GAO in Standards for Audit of Governmental Organization, Programs, Activities and Functions and in accordance with the guidelines detailed in the AICPA Audit and Accounting Guide, Audits of State and Local Governmental Units (Revised).
- b. AUDITOR shall evaluate the adequacy of the system of internal accounting and administrative controls as they relate to the Federal Programs and design compliance tests, where appropriate, to determine that the controls are in operation. As a result of the single audit procedures, the AUDITOR shall issue reports which include the following:
 - i. A report on internal controls (accounting and administrative) at the BFS level and the Federal Program level which describes the scope of the testing of internal controls and the results of the tests.
 - ii. A report on compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on the BFS and the Federal Program, identifying all findings of noncompliance and questioned costs.
 - iii. An in-relation report on a supplementary schedule of the Expenditures of Federal Awards, showing total expenditures

for each federal program and Schedule of the Office of Criminal Justice Planning, State Grants.

3. Norman Y. Mineta San José International Airport Audit

- a. AUDITOR shall conduct an audit of the financial statements of the CITY pertaining to the Norman Y. Mineta San José International Airport ("Airport") for the fiscal years from July 1 to June 30, as required by the Master Trust Agreement as approved by Resolution No. 70532 of the CITY, and as subsequently amended and supplemented, authorizing the issuance by CITY of City of San José Airport Revenue Bonds, which amended and restated Resolution No. 57794 and the supplemental resolutions thereto.

b. Passenger Facility Charge Compliance Report

AUDITOR shall conduct an audit of the Airport's compliance with the requirements described in the Passenger Facility Charge Audit Guide for Public Agencies, issued by the Federal Aviation Administration, applicable to its passenger facility charge program for the year ended June 30. The Audit Report shall consist of the AUDITOR's written opinion on compliance together with the final financial statements and related notes.

c. Customer Facility Charge Compliance Report

AUDITOR shall conduct an audit of the Airport's compliance with the requirements described in the California Civil Code Section 1936, as amended by Assembly Bill 359, applicable to its customer facility charge program for the year ended June 30. The Audit Report shall consist of the AUDITOR's written opinion on compliance together with the final financial statements and related notes.

4. San José – Santa Clara Clean Water Financing Authority Related Funds Compliance Audit

AUDITOR shall conduct an audit of the CITY's funds for the City of San José Sewer System and the San José – Santa Clara Water Pollution Control Plant Funds for the fiscal years from July 1 to June 30, as required in Section 5.2(b) of the Improvement Agreement entered into by the San José – Santa Clara Clean Water Financing Authority.

5. Audit of Hayes Mansion Conference Center Financial Statements and Agreed-Upon Procedures

- a. For the fiscal years ending on June 30th of 2018 and 2019, AUDITOR shall conduct an audit of the Hayes Mansion Conference Center ("Center") Financial Statements for the fiscal years from July 1 to June 30 ("Dolce Audit"). In connection with the Dolce Audit, the AUDITOR shall prepare a written Audit Report in accordance with applicable professional auditing standards and reproduce the Center's Financial Statements and related notes. The Audit Report shall consist of the AUDITOR's written opinion on the Center's Financial Statements audited together with the final financial statements and related notes. The parties acknowledge that the services specified in this paragraph 5 will not be performed by AUDITOR commencing with the financial statements for the fiscal year ending on June 30, 2020.

b. Management Letter

AUDITOR shall evaluate the adequacy of the system of internal control and design compliance tests, where appropriate, to determine that the controls are in operation. This evaluation will be performed to the extent required by generally accepted auditing standards, and will be for the purpose of determining the nature, timing, and extent of the AUDITOR's substantive audit procedures. The resulting recommendations and any other audit findings or comments shall be included in a separate letter ("Management Letter") addressed to the City Council to be issued as soon as possible after conclusion of the audits, but not later than the agreed-upon due dates specified in EXHIBIT C.

c. Agreed-Upon Procedures

AUDITOR shall also perform agreed-upon procedures related to compliance by the operator of the Center with the management agreement between the operator and the CITY. AUDITOR shall evaluate the adequacy of the system of internal control at the Center and design compliance tests, where appropriate, to determine that the controls are in operation. This evaluation will be performed to the extent required by generally accepted auditing standards, and will be for the purpose of determining the nature, timing, and extent of the firm's substantive audit procedures. The resulting recommendations and any other audit findings or comments shall be included in a separate letter addressed to the City Council to be issued as soon as possible after conclusion of

the audits, but not later than the agreed-upon due dates specified in EXHIBIT C.

6. Bicycle/Pedestrian Facilities Grant

AUDITOR shall conduct an audit of the financial statements of CITY with regard to grant funds received by the CITY from the Metropolitan Transportation Commission ("MTC") related to pedestrian bicycle projects in conformance with the requirements of California Public Utilities Code including, but not limited to, Sections 99245, 99245.2, 99233.3, Title 21, California Code of Regulations Sections 6664, 6664.1, 6666, and MTC allocation instructions and as such provisions and instructions may be amended. The audit shall include a review of compliance with prescribed operating procedures as promulgated by the MTC, the State of California Department of Transportation, and the State of California Controller's Office. AUDITOR shall issue its Audit Report in conformance with the requirements set forth above.

7. Audit of the Financial Statements Prepared by Team San José ("TSJ") for the San José Convention Center and Cultural Facilities ("Facilities")

a. AUDITOR shall conduct an audit of the Facilities Financial Statements prepared by TSJ for the fiscal years from July 1 to June 30, as required in Section 31.7 of the Agreement for the Management of the San José Convention Center and Cultural Facilities between the CITY and TSJ. The AUDITOR shall prepare a written Audit Report, which shall include a statement of net position, a statement of revenues, expenses and changes in net position, a statement of cash flows, and a budgetary comparison schedule, prepared in accordance with generally accepted accounting principles and applicable professional auditing standards. The Audit Report shall consist of the AUDITOR's written opinion on the Financial Statements audited together with the final financial statements and related notes.

b. Management Letter

AUDITOR shall evaluate the adequacy of the system of internal control and design compliance tests, where appropriate, to determine that the controls are in operation. This evaluation will be performed to the extent required by generally accepted auditing standards, and will be for the purpose of determining the nature, timing, and extent of the AUDITOR's substantive audit procedures. The resulting recommendations and any other audit findings or comments shall be included in a separate letter ("Management

Letter”) addressed to the City Council to be issued as soon as possible after conclusion of the audits, but not later than the agreed-upon due dates specified in EXHIBIT C.

8. Parks Bond Funds Financial Statements and Report on Compliance with Measure “P” (2000)

- a. AUDITOR shall conduct an audit of the Parks Bond Funds (“Parks”) Financial Statements for the fiscal years from July 1 to June 30. In connection with the Parks, the AUDITOR shall prepare a written Audit Report in accordance with applicable professional auditing standards and reproduce the Parks Bond Fund Financial Statements and related notes. The Audit Report shall consist of the AUDITOR’s written opinion on the Parks Bond Fund Financial Statements audited together with the final financial statements, a statement of revenues, expenditures, and changes in fund balance by fiscal year for the period beginning June 6, 2001, and related notes.

b. Compliance Report

AUDITOR shall also perform tests of the CITY’s compliance with applicable laws, regulations, and the provisions of contracts or agreements to obtain reasonable assurance that the financial statements are free of material misstatement. In addition, AUDITOR shall examine certain provisions of the CITY’s Measure P (2000) as follows:

Bond proceeds are used for installing lighting, reconstructing deteriorating playgrounds and restrooms; preserving open space; constructing trails; constructing new recreational sports facilities; improving Community and Senior Centers; and constructing improvements to regional parks, like Happy Hollow. Bond proceeds are not used for park administrators’ salaries. Annual audits are performed and a citizen’s oversight committee is established.

AUDITOR’s examination will be conducted in accordance with attestation standards established by the AICPA and will include tests of the CITY’s records and other procedures necessary to express an opinion on whether the CITY complied with Measure P (2000) in all material respects.

9. CITY's 911, Fire, Police, Paramedic and Neighborhood Security Act ("Public Safety Bonds") Financial Statements and Report on Compliance with Measure "O" (2002)

- a. AUDITOR shall conduct an audit of the Public Safety Bond Funds Financial Statements for the fiscal years from July 1 to June 30. In connection with the Public Safety Bond Fund, the AUDITOR shall prepare a written Audit Report in accordance with applicable professional auditing standards and reproduce the Public Safety Bond Fund Financial Statements and related notes. The Audit Report shall consist of the AUDITOR's written opinion on the Public Safety Bond Fund Financial Statements audited together with the final financial statements and related notes.

b. Compliance Report

AUDITOR shall also perform tests of the CITY's compliance with applicable laws, regulations, and the provisions of contracts or agreements to obtain reasonable assurance that the financial statements are free of material misstatement. In addition, AUDITOR shall examine certain provisions of CITY's Measure O (2002) as follows:

Bond proceeds can be used for the construction of fire and police stations, training facilities and 911 communications facilities and the cost of land acquisition for these improvements. Bond proceeds will be deposited in a special account. A citizen's oversight committee is established and will review annual reports of the expenditure of the bond proceeds.

AUDITOR's examination will be conducted in accordance with attestation standards established by the AICPA and will include tests of the CITY's records and other procedures necessary to express an opinion on whether the CITY complied with the Public Safety Bond Measure "O" (2002) in all material respects.

10. Branch Library Bond Projects Fund Financial Statements and Report on Compliance with Measure "O" (2000)

- a. AUDITOR shall conduct an audit of the Branch Library Bond Projects Fund ("Libraries") Financial Statements for the fiscal years from July 1 to June 30. In connection with the Libraries, the AUDITOR shall prepare a written Audit Report in accordance with applicable professional auditing standards and reproduce the

Libraries Bond Fund Financial Statements, a statement of revenues, expenditures and changes in fund balance by fiscal year for the period beginning June 6, 2001, and related notes. The Audit Report shall consist of the AUDITOR's written opinion on the Libraries Financial Statements audited together with the final financial statements and related notes.

b. Compliance Report

AUDITOR shall also perform tests of the CITY's compliance with applicable laws, regulations, and the provisions of contracts or agreements to obtain reasonable assurance that the financial statements are free of material misstatement. In addition, AUDITOR shall examine certain provisions of the CITY's Measure O (2000) as follows:

Bond proceeds are used for expanding and improving aging branch libraries to reduce noise, add parking, and add space for more books and computers; and building new libraries in neighborhoods throughout the City. Bond proceeds are not used for library administrators' salaries. Annual audits are performed and a citizen's oversight committee is established.

The AUDITOR's examination will be conducted in accordance with attestation standards established by the AICPA and will include tests of the CITY's records and other procedures necessary to express an opinion on whether the CITY complied with Measure O (2000) in all material respects.

11. **Library Parcel Tax Fund Financial Statements and Report on Compliance with Measure "S" (2004)**

- a. AUDITOR shall conduct an audit of the Library Parcel Tax Fund ("Parcel Tax") Financial Statements for the fiscal year July 1 to June 30. In connection with the Parcel Tax, the AUDITOR shall prepare a written Audit Report in accordance with applicable professional auditing standards and reproduce the Parcel Tax Financial Statements and related notes. The Audit Report shall consist of the AUDITOR's written opinion on the Parcel Tax Financial Statements audited together with the final financial statements and related notes.

b. Compliance Report

AUDITOR shall also perform tests of the CITY's compliance with applicable laws, regulations, and the provisions of contracts or agreements to obtain reasonable assurance that the financial statements are free of material misstatement. In addition, AUDITOR shall examine certain provisions of the CITY's Measure S (2004) as follows:

Parcel tax is used for buying books and materials; preventing severe reduction in hours; and preventing deep cuts in children's reading programs. The CITY's annual parcel tax will be adjusted for inflation capped at 3% annually and will be limited to ten years. Independent audits will be performed. A citizen's oversight committee is established.

The AUDITOR's examination will be conducted in accordance with attestation standards established by the AICPA and will include tests of the CITY's records and other procedures in order to express an opinion on whether the CITY complied with Measure S (2004) in all material respects.

12. **Semi-Annual Investment Program Compliance Agreed Upon Procedures**

a. Compliance Report

On a semi-annual basis, AUDITOR shall perform tests of the CITY's compliance with applicable laws, regulations, and the provisions of contracts or agreements to obtain reasonable assurance that the CITY's investments within the CITY's pooled portfolio are in compliance with the CITY's Investment Policy (<http://www.sanjoseca.gov/DocumentCenter/View/3842>), internal controls, and department procedure. The CITY's Investment Policy refers to California Government Code Sections 53600 et. seq. as standards to which the CITY has determined it should conform, although not legally required to. AUDITOR shall agree individual investments and deposits to supporting documentation and reconcile such to the CITY's Treasurer's Report as of June 30 and December 31, and the CITY's general ledger. AUDITOR shall evaluate the adequacy of the system of internal control over investments and design compliance tests, where appropriate, to determine that the controls are in operation.

13. South Bay Water Recycling Audit

a. AUDITOR shall conduct an audit of the CITY's Schedule of Net Operating Revenues for South Bay Water Recycling for the fiscal year July 1 to June 30 ("Schedule"), as required by the terms of the Integration Agreement entered into between the CITY and the Santa Clara Valley Water District on March 2, 2010. The AUDITOR shall prepare a written Audit Report in accordance with applicable professional auditing standards and reproduce the Schedule and related notes. The Audit Report shall consist of the AUDITOR's written opinion on the Schedule audited together with the Schedule and related notes.

b. Report to the Recycled Water Policy Advisory Committee

AUDITOR shall evaluate the adequacy of the system of internal control and design compliance tests, where appropriate, to determine that the controls are in operation related to the Schedule of Net Operating Revenues for South Bay Water Recycling. This evaluation will be performed to the extent required by generally accepted auditing standards, and will be for the purpose of determining the nature, timing, and extent of the AUDITOR's substantive audit procedures. The resulting recommendations and any other audit findings or comments shall be included in a separate letter addressed to the Recycled Water Policy Advisory Committee to be issued as soon as possible after conclusion of the audits, but not later than the agreed-upon due dates specified in EXHIBIT C.

14. Executive Management and Professional Employees Tier 3 Defined Contribution 401(a) Plan

AUDITOR shall conduct an audit of the financial statements of the Executive Management and Professional Employees Tier 3 defined contribution plan for eligible employees hired on or after February 3, 2013 ("401(a) Program") and administered by a third party (currently Voya Financial since February 3, 2013), for the initial period of February 3, 2013 through June 30, 2018 and the fiscal years from July 1 to June 30 for the remainder of the term of this AGREEMENT.

15. City of San Jose Voluntary Employee Beneficiary Association (VEBA) Plans.

AUDITOR shall conduct an audit of the financial statements of the City of San José VEBA Plans set out in Chapter 3.57 (Police and Fire VEBA) and Chapter 3.58 (Federated Employees' VEBA) of the San José Municipal Code (collectively, "VEBA Plans"), and administered by a third party (currently Voya Financial). The period of the audit shall be from the

inception of the VEBA Plans through June 30, 2018. AUDITOR shall issue one report showing the results of the audit of both plans. At the request of CITY, AUDITOR shall present the audit report to the VEBA Advisory Committee.

16. Audit of the San Jose Clean Energy Fund Financial Statements and Agreed-Upon Procedures

- a. Commencing with the fiscal year ending June 30, 2020, AUDITOR shall conduct an audit of the San José Clean Energy (“SJCE”) Fund Financial Statements. In connection with the SJCE Fund, the AUDITOR shall prepare a written Audit Report in accordance with applicable professional auditing standards and reproduce the Financial Statements and related notes. The Audit Report shall consist of the AUDITOR’s written opinion on SJCE Fund’s Financial Statements audited together with the final financial statements and related notes.

b. Agreed-Upon Procedures

AUDITOR shall also perform tests of CITY’s compliance with the following related to CITY’s operation of SJCE: applicable laws and regulations, including the CITY’S Energy Risk Management Policy and Energy Risk Management Regulations, and the provisions of contracts or agreements to obtain reasonable assurance that SJCE’s investments and risk management practices are in compliance with the internal controls, risk management policies, and department procedures. AUDITOR shall evaluate the adequacy of the system of internal control over risk management practices and design compliance tests, where appropriate, to determine that the controls are in operation.

17. Public Safety and Infrastructure Bond Fund Financial Statements and Report on Compliance with Measure “T” (2018)

- a. Commencing with the fiscal year ending June 30, 2020, AUDITOR shall conduct an audit of the Public Safety and Infrastructure (“Measure T”) Bond Fund Financial Statements. In connection with Measure T Bond Fund Financial Statements, the AUDITOR shall prepare a written Audit Report in accordance with applicable professional auditing standards and reproduce the Measure T Bond Fund Financial Statements, a statement of revenues, expenditures and changes in fund balance by fiscal year for the period beginning July 1, 2019, and related notes. The Audit Report shall consist of the AUDITOR’s written opinion on the Measure T Bond Fund

Financial Statements audited together with the final financial statements and related notes.

b. Compliance Report

AUDITOR shall also perform tests of the CITY's compliance with applicable laws, regulations, and the provisions of contracts or agreements to obtain reasonable assurance that the financial statements are free of material misstatement. In addition, AUDITOR shall examine certain provisions of the CITY's Measure T (2018) as described in Part 66 of Chapter 4.80 of the San Jose Municipal Code and Resolution 78739 of the San Jose City Council.

The AUDITOR's examination will be conducted in accordance with attestation standards established by the AICPA and will include tests of the CITY's records and other procedures necessary to express an opinion on whether the CITY complied with Measure T (2018) in all material respects.

SECOND REVISED EXHIBIT C
SCHEDULE OF PERFORMANCE

- A. AUDITOR shall complete the following phases and/or deliver the following documents according to the following time schedule for the audit of the fiscal years noted in Paragraph D below. "Delivered" shall mean physical receipt by the persons designated below as recipients of delivery. Two (2) bound copies of each of the documents listed below, together with an unbound copy of each report, and an electronic copy of each report, are to be delivered directly to CITY's Auditor and CITY's Director of Finance.

<u>TASK</u>	<u>SCHEDULE</u>
<u>Planning</u>	
Entrance conference	By April 15
Client service planning meeting	By May 15
Present final audit plan to CITY representatives	By July 15
<u>Interim Fieldwork</u>	
On-site interim fieldwork	April through July
Present interim findings and preliminary management letter listing to CITY representatives	August 15
<u>Year-End Fieldwork</u>	
Coordination of year end fieldwork status with CITY's Finance Department	August through November
On-site year-end financial statement fieldwork	August through November
Present preliminary audit findings and management letter comments to CITY representatives	September through October
Exit conference with CITY representatives	November

<u>Reports</u>	<u>Due by</u>
▪ General City Audit Workplan	July 15
▪ Executive Management and Professional Employees Tier 3 Defined Contribution 401(a) Plan Audit Report	September 30
▪ City of San Jose Voluntary Employee Beneficiary Association (VEBA) Plans Audit Report	September 30, 2018
▪ Convention Center Audit Report including Financial Statements and Opinion ▪ Convention Center Management Letter	September 30

<u>Reports</u>	<u>Due by</u>
<ul style="list-style-type: none"> ▪ Hayes Mansion Audit Report including Financial Statements and Opinion ▪ Hayes Mansion Management Letter ▪ Hayes Mansion Agreed-upon Procedures Report 	September 30 for Fiscal Years only ending: June 30, 2018 and June 30, 2019
<ul style="list-style-type: none"> ▪ City's Investment Program Compliance 	September 30 and March 30
<ul style="list-style-type: none"> ▪ Libraries Bond Fund Audit Report including Financial Statements and Opinion ▪ Libraries Bond Fund Compliance Report 	October 15
<ul style="list-style-type: none"> ▪ Parks Bond Fund Audit Report including Financial Statements and Opinion ▪ Parks Bond Fund Compliance Report 	October 15
<ul style="list-style-type: none"> ▪ Library Parcel Tax Fund Audit Report including Financial Statements and Opinion ▪ Library Parcel Tax Compliance Report 	October 15
<ul style="list-style-type: none"> ▪ Public Safety Bonds Audit Report including Financial Statements and Opinion ▪ Public Safety Bonds Compliance Report 	October 15
<ul style="list-style-type: none"> ▪ Public Safety and Infrastructure Bond Audit Report including Financial Statements and Opinion ▪ Public Safety and Infrastructure Bond Compliance Report 	October 15
<ul style="list-style-type: none"> ▪ San Jose-Santa Clara Clean Water Financing Authority Related Funds Compliance Audit 	October 15
<ul style="list-style-type: none"> ▪ San Jose Clean Energy Fund Audit Report including Financial Statements and Opinion ▪ San José Clean Energy Fund Agreed-Upon Procedures tests and evaluations. 	October 31
<ul style="list-style-type: none"> ▪ Airport Comprehensive Annual Financial Report (CAFR) Opinion 	October 31
<ul style="list-style-type: none"> ▪ Bicycle/Pedestrian Facilities Grant 	November 15
<ul style="list-style-type: none"> ▪ South Bay Water Recycling Audit Report ▪ Report to the Recycled Water Policy Advisory Committee 	November 15
<ul style="list-style-type: none"> ▪ Single Audit Report 	November 15
<ul style="list-style-type: none"> ▪ Comprehensive Annual Financial Report Opinion 	November 15
<ul style="list-style-type: none"> ▪ Management Letter - City 	November 15
<ul style="list-style-type: none"> ▪ Gann Agreed-Upon Procedures Report 	November 30

- B. Either CITY's Auditor or CITY's Director of Finance may, upon notice and showing of good cause therefore given and made by AUDITOR at least fifteen (15) days before the above-scheduled dates, grant an extension of time for

completion of such audit and completion and delivery of such reports and management letters for a reasonable period of time after the specified delivery dates.

- C. AUDITOR shall make its presentation to a City Council Committee (currently the Public Safety, Finance & Strategic Support Committee) and/or the City Council or any other Committee designated by CITY's Auditor.
- D. AUDITOR will perform all services associated with the audits for fiscal years ending on June 30th of 2018, 2019 and 2020 and with the audits for the Option Periods ending on June 30th of 2021, 2022 and 2023, in accordance with the schedule specified in Paragraph A above.

SECOND REVISED EXHIBIT D
COMPENSATION

- A. The amount of compensation to be paid to AUDITOR under this AGREEMENT for all professional services related to this AGREEMENT shall not exceed the following amounts for each year of the Initial Term and, if exercised, the Option Periods:

<u>Year</u>	<u>Compensation</u>
Contract Date – December 31, 2018	\$629,747.15
January 1, 2019 – December 31, 2019	\$637,899.17
January 1, 2020 – December 31, 2020	\$711,758.74
January 1, 2021 – December 31, 2021	\$709,106.32
January 1, 2022 – December 31, 2022	\$730,379.51
January 1, 2023 – December 31, 2023	\$752,290.90

TOTAL: \$4,171,181.79

The total amount of compensation to be paid to AUDITOR under this AGREEMENT for all professional services related to this AGREEMENT for the Initial Term and, if exercised, all Option Periods shall not exceed Four Million One Hundred Seventy-One Thousand One Hundred Eighty-Two Dollars (\$4,171,182).

Any hours worked for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to CITY.

- B. Such compensation for services related to the first year of the Initial Term with such additions and deletions identified for specific years shall not exceed the following annual amount for the following services:

<u>Services</u>	<u>Compensation</u>
Comprehensive Annual Financial Report Audit	\$239,380.24
Single Audit	\$84,166.45
Norman Y. Mineta San José International Airport Audit	\$73,837.61
Hayes Mansion Conference Center Audit and Agreed-Upon Procedures for fiscal years ending June 30, 2018 and June 30, 2019 only	\$35,635.94
San José-Santa Clara Clean Water Financing Authority Related Funds Compliance Audit	\$24,695.28
Bicycle/Pedestrian Facilities Grant Audit	\$9,135.07
San José Convention Center and Cultural Facilities Audit	\$50,928.35
Library Bond Fund Audit	\$15,438.67

Services	Compensation
Library Parcel Tax Fund Audit	\$13,386.91
Parks Bond Fund Audit	\$15,438.67
Measure T Bond Fund Audit (commencing with the fiscal year ending June 30, 2020)	\$16,310.00
City's Investment Program Compliance Agreed Upon Procedures (two each year)	\$14,270.65 for both
Public Safety Bonds Audit	\$15,337.73
South Bay Water Recycling Program and System Audit	\$21,012.00
Executive Management and Professional Employees Tier 3 Defined Contribution 401(a) Plan Audit	\$8,541.79
City of San Jose Voluntary Employee Beneficiary Association (VEBA) Plans Audit for fiscal year ending June 30, 2018 only	\$8,541.79
San Jose Clean Energy Fund Audit Report (commencing with the fiscal year ending June 30, 2020)	\$42,612.00
San Jose Clean Energy Agreed Upon Procedures (commencing with the fiscal year ending June 30, 2020)	\$10,186.00
TOTAL EXCLUDING THE AMOUNT SPECIFIED IN SUBSECTION C OF THIS EXHIBIT:	\$698,855.15

- C. For the fiscal year ending June 30, 2020 only, CITY will pay AUDITOR start-up costs for the audits related to the Measure T Bond Fund and the San José Clean Energy Fund in the not to exceed amount of \$23,306.00, in addition to the amounts specified in Subsection B above, allocated as follows:

Measure T Bond Fund Audit	\$5,566.00
San José Clean Energy Fund Audit	\$13,492.00
San José Clean Energy Agreed Upon Procedures	\$4,248.00
TOTAL:	\$23,306.00

- D. CITY will pay AUDITOR on a monthly basis for its accumulated time spent in accordance with the hourly rates set forth below, up to ninety percent (90%) of the amount set forth in Paragraph B above, designated for each component of the services to be provided by AUDITOR under this AGREEMENT. For billing purposes, each monthly statement shall include an itemization of staff, hours worked, and hourly rates. After the first year of the AGREEMENT, AUDITOR may increase the hourly rates annually by up to the lesser amount of three percent (3%) or the increase in the Consumer Price Index for All Urban Consumers, All Items, for the San Francisco-Oakland-San José Metropolitan Area (1982-84=100) (October) or such successor index as published by the Bureau of Labor Statistics of the U.S. Department of Labor. The parties acknowledge that the dollar amounts specified in SECTION 1 of this

AGREEMENT and subsection A of this Exhibit for each year subsequent to 2018 include a 3% adjustment.

<u>Staff Classification</u>	<u>Hourly Rate</u>
Partner	\$335
Senior Manager	\$234
IT and Actuarial Consultant	\$295
Senior Auditor	\$153
Staff Auditor	\$115
Administrative Assistant	\$80

There shall be no separately reimbursable expenses under this AGREEMENT.

The balance of the amount due to AUDITOR will be paid within thirty (30) days after the delivery of the Audit and Procedures Report(s) and the filing of the final draft of the Management Letter(s), provided that CITY's Auditor has determined that all conditions and terms of this AGREEMENT have been met by AUDITOR.