



## PUBLIC WORKS DEPARTMENT

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### CITY COUNCIL STAFF REPORT

Meeting: March 5, 2024

#### Subject

Second Amendment to the master agreement with Richard Yau to provide program and project management consultant services on various Capital Improvement Program (CIP) projects, for a not-to-exceed amount of \$470,000.

#### Recommended Action

Authorize the City Manager to execute a Second Amendment to the master agreement with Richard Yau to provide program and project management consultant services on various Capital Improvement Program projects, increasing the contract amount by \$300,000 for a new total not-to-exceed contract amount of \$470,000 and extending the term of the agreement to June 30, 2027.

#### Reasons for Recommendation

Public Works relies on consultant support to provide program and project management services on CIP projects when needed. Providing this support enables staff to deliver capital projects effectively and efficiently. Public Works typically issues master agreements to consultants when broad support is needed for CIP projects.

Master agreements enhance transparency and accountability by identifying the full contract amount for a specified time period with any one vendor. It is typical to establish master agreements with multiple vendors providing similar services to allow for flexibility with respect to availability and specialized skills.

“A master service agreement (MSA) is a fundamental contract **outlining the scope of the relationship between two parties, including terms and conditions for current and future activities and responsibilities**. There is great value in using these arrangements, especially for entities with multiple agreements pertaining to the same client. An MSA is a contract that establishes basic terms between vendors and clients at the beginning of a business relationship. This initial agreement helps to speed up the negotiation process for future contracts and facilitates the project management process, resulting in a more efficient and streamlined process. By establishing these basic terms upfront, subsequent contracts can be more easily negotiated and agreed upon, saving time and

money for everyone involved. Due to their ability to simplify the contract negotiation process, MSAs are a popular choice for businesses of all types.” (from *Thomson Reuters Legal*)

The master agreement with Richard Yau establishes a menu of typical services that may be performed for the administration and management of CIP projects and establishes a contract amount. Funds are not encumbered by the master agreement. Instead, project-specific services are authorized on a project-by-project basis through the issuance of a service order, which complies with the California Public Contract Code and Cupertino Municipal Code. Funding for these services is budgeted and encumbered to each project. The City Council approves each project budget, typically when the budget for the Capital Improvement Program is adopted each year.

In January 2019, the first master agreement with Richard Yau was executed. The contract amount was \$125,000 and the duration was two years. It was subsequently amended to add an additional year to the term of the agreement. Only \$105,875 was expensed from this agreement to support three CIP projects.

In July 2021, a second master agreement with Richard Yau was executed for a contract amount of \$125,000 for a duration of three years, expiring on June 30, 2024. This master agreement was amended in February 2023 to increase the contract amount by \$45,000 to a total of \$170,000, to facilitate support of additional CIP projects that were projected to exceed the existing contract total. To date, \$158,000 has been contracted through service orders on 14 CIP projects.

This second amendment to the current master agreement will be an extension of the services currently provided by Richard Yau. The agreement is requested to be amended to extend the contract term through June 30, 2027, and to increase the not-to-exceed amount by \$300,000 for a total contract amount of \$470,000. Through his various support efforts, extensive professional experience as a civil engineer, and specific work leading projects in Cupertino, Mr. Yau has proven his qualifications to the City for the scope of work being requested. He is currently active on the Tamien Innu projects, Regnart Road Improvement project, Creekside School Age Playground Equipment replacement project, and McClellan Road Separated Bike Corridor Phase 3. Extending the contract term and providing additional funds is necessary for the orderly completion of these projects. Further, Mr. Yau’s hourly rate is highly competitive within the field when compared to all other firms on the City’s list of qualified consultants for the requested work scope.

Richard Yau has provided valuable support on 17 different CIP projects in the past five years including Orange Avenue Sidewalk Improvements, Regnart Creek Trail and Fencing, Memorial Park Ponds Repurposing, Stevens Creek Boulevard/Calabazas Creek Emergency Storm Drain and Bubb Road Separated Bikeways. Aside from the projects he is currently working on, staff would like to utilize Mr. Yau’s expertise on Stevens Creek

Boulevard Class IV Bikeway - Phases 2A and 2B, the Bridge Preventive Maintenance Program projects, and storm drain/outfall projects.

The approval of the master agreement with Richard Yau allows the City to continue to utilize his project and construction management expertise on an as-needed basis to support the completion of CIP projects.

Sustainability Impact

No sustainability impacts.

Fiscal Impact

No additional appropriation is required for this action. After a master agreement is executed, the requisite funds are encumbered from existing CIP project budgets.

California Environmental Quality Act (CEQA)

Not applicable.

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Prepared by: Susan Michael, Capital Improvement Programs Manager

Reviewed by: Chad Mosley, Director of Public Works

Reviewed by: Matt Morley, Assistant City Manager

Approved for Submission by: Pamela Wu, City Manager

Attachments:

A - Draft Second Amendment

B – Exemption Request