

SEVENTH AMENDMENT TO AGREEMENT 401
BETWEEN THE CITY OF CUPERTINO AND MIG, INC
FOR ALL-INCLUSIVE PLAYGROUND AT JOLLYMAN
PARK

This Seventh Amendment to Agreement 401 between the City of Cupertino, a municipal corporation (hereinafter "City") and MIG, Inc, a Corporation ("Contractor") whose address is 2055 Junction Ave, Suite 205, San Jose, CA 95131, and is made with reference to the following:

RECITALS:

- A. On December 09, 2021 Agreement 401 ("Agreement") was entered into by and between City and Contractor for All-Inclusive Playground at Jollyman Park.
- B. The City and the Contractor entered into a First Amended Agreement ("First Amended Agreement") effective October 13, 2022; and
- C. The City and the Contractor entered into a Second Amended Agreement ("Second Amended Agreement") effective July 14, 2023; and
- D. The City and the Contractor entered into a Third Amended Agreement ("Third Amended Agreement") effective September 7, 2023; and
- E. The City and the Contractor entered into a Fourth Amended Agreement ("Fourth Amended Agreement") effective April 8, 2024; and
- F. The City and the Contractor entered into a Fifth Amended Agreement ("Fifth Amended Agreement") effective May 22, 2024; and
- G. The City and the Contractor entered into a Sixth Amended Agreement ("Sixth Amended Agreement") effective August 23, 2024; and
- H. The Agreement, First Amendment, Second Amendment, Third Amendment, Fourth Amendment, Fifth Amendment and Sixth Amendment are collectively referred to as the "Agreement" unless otherwise indicated.
- I. City and Contractor desire to modify the Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. **Paragraph 4.1 Maximum Compensation** of the Agreement is modified to read as follows: City will pay Consultant for satisfactory performance of the Service a total amount that will be based upon actual costs but that will be capped so as not to exceed \$533,821.00 ("Contract Price"), based on the budget and rates set forth in Exhibit C, Compensation, and attached and incorporated here. The Contract Price includes all expenses and reimbursements and will

remain in place even if Consultant's actual costs exceed the capped amount. No extra work or payment is permitted in excess of the Contract Price. Exhibits A and A-1 and A-2 and A-3, A-4, and A-5 of the Agreement are modified to include Exhibit A-6 Additional Services, attached hereto.

2. **Paragraph 4.3 Additional Services** of the Agreement is modified to read as follows: City has the discretion, but not the obligation, to authorize Additional Services up to an amount not to exceed \$144,310.00. Additional Services provided to City's reasonable satisfaction will be compensated on a lump sum basis or based on time and expenses, in accordance with the Hourly Rates and Reimbursable Expenses Schedules included in Exhibit C. If paid on an hourly basis, Consultant will be compensated for actual costs only of normal business expenses and overhead, with no markup or surcharge. ("Reimbursable Expenses"). Consultant will not be entitled to reimbursement for copying, printing, faxes, telephone charges, employee overtime, or travel to City offices or to the Project site.

Exhibits A and A-1 and A-2 and A-3, A-4, and A-5 of the Agreement are modified to include Exhibit A-6 Additional Services, attached hereto.

3. Except as expressly modified herein, all other terms and covenants set forth in the Agreement shall remain the same and shall be in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this modification of Agreement to be executed.

CITY OF CUPERTINO

By _____

Title _____

Date _____

MIG, INC

By _____

Title _____

Date _____

APPROVED AS TO FORM

City Attorney

ATTEST:

City Clerk

Date _____

EXPENDITURE DISTRIBUTION

Item	PO Number	Amount
Original Agreement	2022-326	\$389,511.00
Amendment 1		\$12,000.00
Amendment 2		\$18,250.00
Amendment 3		\$38,400
Amendment 4	Extend Term to 6/30/2026	0
Amendment 5		\$9,250
Amendment 6		\$45,000
Amendment 7		\$21,410
Total		\$533,821



~~October 9, 2024~~ Revised April 2, 2025

Susan Michael, Capital Projects Programs Manager
City of Cupertino, City Hall
10300 Torre Ave.
Cupertino, CA 95014

Re: Revised Additional Services #7 Jollyman Park Inclusive Playground (MIG proj. no. 30902)

Dear Susan,

We are requesting additional services to assist the City with construction observation beyond the scope of work in the original contract. The work has expanded to include revised drawings for a sand play table of a different design and reduced price, along with extended CA services over a longer construction schedule. The following summarizes the MIG team's request for additional work and fees that are above and beyond the original contract. All other terms in the original contract remain in effect.

Requested Add Services:

(to be added to Task 10: Construction Observation unless otherwise directed)

Extended CA services: meetings, site visits, RFIs, coordination	\$18,000
<u>Sand table cad revisions, structural review and formal ASI:</u>	<u>\$3,410</u>
Total Add Service #7	\$21,410

Sincerely,

Melissa Erikson
Principal, Director of Community Design Services
MIG