



City of Emeryville

CALIFORNIA

CONSTRUCTION CONTRACT

FIRST AMENDMENT

THIS FIRST AMENDMENT TO THE CONSTRUCTION CONTRACT ("Amendment") is effective as of 02/07/2023 by and between **THE CITY OF EMERYVILLE**, a municipal corporation, ("City") and **BRANNON CORPORATION** ("Contractor"), individually referred to as a "Party" and collectively as the "Parties".

WITNESSETH THAT

WHEREAS, the City and Contractor entered into a Construction Contract dated June 17, 2022 ("Contract") for the purpose of retaining the services of Contractor to provide construction of the Point Emery Shoreline Protection Project, Project No. 18101, CIP No. 16475021; and

WHEREAS, the City and Contractor desire to amend the Contract; and

WHEREAS, the public interest will be served by this Amendment.

NOW, THEREFORE, the Parties hereto do mutually agree as follows:

1. AMENDMENT

The Parties agree to amend the Contract as checked below:

1.1 Exhibit A

- ☐ Exhibit A of the Contract is hereby amended in its entirety and replaced with **Exhibit A-**Revision Number;

OR

- ☒ Exhibit A of the Contract is hereby amended to include the provisions of **Exhibit A-1**, attached hereto and incorporated herein by this reference.

1.2 Termination Date

- ☒ The Parties desire to extend the termination date. Section 1.3 of the Contract is hereby amended to extend the termination date to **FEBRUARY 1, 2023**.
April 1, 2023

FOR CITY USE ONLY

Contract No.	22082E-0121-PW04	CIP No.	16475021
Resolution No.	22-179	Project No.	EPW101-18

1.3 Total Compensation Amount

- ☒ The Parties desire to increase the Total Compensation Amount as set forth in Section 3.2 of the Contract by **FIFTY THREE THOUSAND TWO HUNDRED AND THIRTY NINE DOLLARS AND NO CENTS (\$53,239.00)**. The total amount paid under the Contract as compensation for Services performed and reimbursement for costs incurred shall not, in any case, exceed **EIGHT HUNDRED AND SEVENTY FOUR THOUSAND AND THIRTY NINE DOLLARS AND NO CENTS (\$874,039.00)**.

2. CONTINUING EFFECT OF CONTRACT

Except as amended by this Amendment, all other provisions of the Contract remain in full force and effect and shall govern the actions of the Parties under this Amendment. From and after the date of this Amendment, whenever the term "Contract" appears in the Contract, it shall mean the Contract as amended by this Amendment.

3. ADEQUATE CONSIDERATION

The Parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment.

4. SEVERABILITY

If any portion of this Amendment is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

5. WAIVER

The City's failure to enforce any provision of this Amendment or the waiver in a particular instance shall not be construed as a general waiver of any future breach or default.

SIGNATURES ON FOLLOWING PAGE

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**6. SIGNATURE PAGE TO CONSTRUCTION CONTRACT
FIRST AMENDMENT**

IN WITNESS WHEREOF the City and the Contractor have executed this Contract,
which shall become effective as of the date first written above.

Approved As To Form:

DocuSigned by:
John Kennedy
2C934D02D655407...

City Attorney

Dated:

02/07/2023

CITY OF EMERYVILLE

DocuSigned by:
Pedro Jimenez, Acting City Manager
52E50B02CB32470...

City Manager

Dated:

12/14/2022

BRANNON CORPORATION

DocuSigned by:
Paul Brannon
0720EC25A02440E...

Paul Brannon, Owner (Signature)

EXHIBIT A-1

BRANNON CORPORATION INCREASE IN CONTRACT QUANTITY

The quantity of rock rip-rap material installed to construct the revetment to the designed line and grade exceeded the design bid quantity estimate and therefore a First Amendment to the contract in the amount of \$53,239 is necessary to pay the cost of the additional rock material, its delivery, and the work to place it.

In accordance with Section 9 of the Standard Specifications:

Item 5, Filter Layer Rock: Increase contract item quantity from 500 tons to 736.03 tons.

Item 6, Slope Revetment Protection: Increase item quantity from 3500 tons to 3713.67 tons.