



# City of Emeryville

CALIFORNIA

## PROFESSIONAL SERVICES CONTRACT

### FIRST AMENDMENT

#### THIS FIRST AMENDMENT TO THE PROFESSIONAL SERVICES CONTRACT

("Amendment") is effective as of \_\_\_\_\_ (the "Effective Date"), by and between **THE CITY OF EMERYVILLE**, a municipal corporation, ("City") and **DIABLO ENGINEERING GROUP** ("Contractor"), individually referred to as a "Party" and collectively as the "Parties".

#### WITNESSETH THAT

**WHEREAS**, the City and Contractor entered into a Professional Services Contract dated January 13, 2023 ("Contract") for the purpose of retaining the services of Contractor to provide Professional Design Services on the 40<sup>th</sup> Street Multimodal Project; 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-Revision Number**, attached hereto and incorporated herein by this reference.

#### FOR CITY USE ONLY

Contract No.		CIP No.	
Resolution No.		Project No.	

**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 **JUNE 30, 2025**.

**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 **DOLLARS AND NO CENTS (\$ )**. The total amount paid under the Contract as compensation for Services performed and reimbursement for costs incurred shall not, in any case, exceed **DOLLARS AND NO CENTS (\$ )**.

**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*

**6. SIGNATURE PAGE TO PROFESSIONAL SERVICES 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:

\_\_\_\_\_  
City Attorney

Dated: **CITY OF EMERYVILLE**

\_\_\_\_\_  
City Manager

Dated: **DIABLO ENGINEERING GROUP**

\_\_\_\_\_  
Jennifer Harmon, President/CEO *(Signature)*

<i>Attach: W-9 Form</i>	<i>Attach: Business License Certificate</i>	<i>Attach: Insurance Certificate and Endorsements</i>