



# City of Emeryville

CALIFORNIA

## PROFESSIONAL SERVICES CONTRACT

### FIFTH AMENDMENT

**THIS FIFTH AMENDMENT TO THE PROFESSIONAL SERVICES CONTRACT** (“Amendment”) is effective as of \_\_\_\_\_ (the “Effective Date”), by and between **THE CITY OF EMERYVILLE AS SUCCESSOR AGENCY TO THE EMERYVILLE REDEVELOPMENT AGENCY**, a municipal corporation, (“Successor Agency”) and **EKI ENVIRONMENT & WATER, INC.** (“Contractor”), individually referred to as a “Party” and collectively as the “Parties”.

### WITNESSETH THAT

**WHEREAS**, the Successor Agency and Contractor entered into a Professional Services Contract dated July 1, 2022 (“Contract”) for the purpose of retaining the services of Contractor to provide groundwater and surface water monitoring program for the South Bayfront Project (Bay Street Project - Site A), and amended that Contract on April 20, 2004, October 4, 2011, January 18, 2022, and January 17, 2023; and

**WHEREAS**, the intent of the Fifth Amendment is to augment the contract budget so that there is sufficient money available to cover the cost of the semi-annual groundwater monitoring, prepare semi annual reports, revise the draft Fourth Five-Year Review for DTSC, provide for well maintenance, repairs, and replacement, and cover the cost for long-term groundwater and management services through June 30, 2025;and

**WHEREAS**, the Successor Agency finds that specialized knowledge, skills, and training are necessary to render the environmental consulting services required for the continued implementation of post-soil remediation of groundwater on Site A; and

**WHEREAS**, the Successor Agency has reviewed the original Professional Services Agreement and prior Fourth Amendment to this Contract and has determined that the Consultant is qualified to render such services and prepared a Fifth Amendment to the Professional Services Agreement to increase the compensation by \$160,000 for a total not to exceed amount of \$1,322,000; and

**WHEREAS**, the Successor Agency 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:

FOR CITY USE ONLY			
Contract No.		CIP No.	
Resolution No.		Project No.	

**Successor Agency | Professional Services Contract Amendment**  
REV 06/2020

**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-Five**, 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 **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 **ONE HUNDRED SIXTY THOUSAND DOLLARS AND NO CENTS (\$160,000)**. The total amount paid under the Contract as compensation for Services performed and reimbursement for costs incurred shall not, in any case, exceed **ONE MILLION THREE HUNDRED TWENTY TWO THOUSAND DOLLARS AND NO CENTS (\$1,322,000)**.

**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.

**Successor Agency** | Professional Services Contract Amendment  
REV 06/2020

**5. WAIVER**

The Successor Agency'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*

**Successor Agency** | Professional Services Contract Amendment  
REV 06/2020

**6. SIGNATURE PAGE TO PROFESSIONAL SERVICES CONTRACT  
FIFTH AMENDMENT**

**IN WITNESS WHEREOF** the Successor Agency 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*  
\_\_\_\_\_  
General Counsel

Dated:

**CITY OF EMERYVILLE AS SUCCESSOR AGENCY TO  
THE EMERYVILLE REDEVELOPMENT AGENCY**

\_\_\_\_\_

Executive Director

Dated:

EKI Environment & Water, Inc.

12/06/2023  
\_\_\_\_\_

DocuSigned by:  
*Earl James*  
\_\_\_\_\_  
Earl James, Vice President (Signature)

<i>Attach: W-9 Form</i>	<i>Attach: Business License Certificate</i>	<i>Attach: Insurance Certificate and Endorsements</i>
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2001 Junipero Serra Boulevard, Suite 300  
Daly City, California 94014  
(650) 292-9100  
[ekiconsult.com](http://ekiconsult.com)

29 November 2023

Pedro Jimenez  
Assistant City Manager  
City of Emeryville as Successor Agency to the Emeryville Redevelopment Agency  
1333 Park Avenue  
Emeryville, California 94608

Subject: Proposal for Environmental Consulting Services Associated with South Bayfront -  
Site A for the Period July 2024 to June 2025  
Emeryville, California  
(EKI 990093.00)

Dear Mr. Jimenez:

EKI Environment & Water (EKI or Consultant) is pleased to submit this proposal to the City of Emeryville as Successor Agency to the Emeryville Redevelopment Agency (Successor Agency; Client) for environmental consulting services associated with South Bayfront - Site A in Emeryville, California, (Site A). Funding for annual groundwater monitoring activities conducted at Site A is provided by the Successor Agency pursuant to its recognized obligation payments schedule (ROPS) process administered by the Alameda County Oversight Board and State Department of Finance (DOF) following the dissolution of redevelopment agencies effective on 1 February 2012. The Department of Toxic Substances Control (DTSC) is providing regulatory oversight for Site A. This proposal is for services to be provided during the ROPS period 1 July 2024 through 30 June 2025 (ROPS 24-25).

## **BACKGROUND**

Soil remedial measures implemented at Site A in 2000 included soil excavation. Ongoing annual groundwater monitoring for on-site shallow groundwater and surface water and five-year reviews of the implemented remedy is required at Site A in accordance with the DTSC-approved Environmental Risk Management Plan (RMP).

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## **SCOPE OF SERVICES FOR 2024/2025 ROPS**

EKI's proposed scope of services is described below. This proposed scope of work reflects anticipated tasks to be conducted during the ROPS 24-25 period.

### **Task 1 – Conduct Annual Groundwater Monitoring**

The existing Site A groundwater monitoring well network consists of 12 on-site groundwater monitoring wells (ESB1 to ESB11 and MD5A). In addition, water samples are collected from 2 storm drain locations (SD-2 and SD-3) and 3 locations within Temescal Creek (TC-W, TC-M, and TC-E).

This task includes budget for groundwater monitoring on an annual basis in accordance with the DTSC-approved RMP. Specific tasks include: (1) pre- and post- field preparation, (2) water level monitoring, (3) coordinating water level monitoring schedules with Arcadis such that Site A groundwater monitoring level measurements occurs at approximately the same time as South Bayfront - Site B, Myers Drum, and Sherwin Williams wells, (4) purging wells and measuring field parameters, (5) collecting and analyzing groundwater samples for VOCs, arsenic, and/or total sulfide in accordance with the DTSC-approved RMP, (6) conducting traffic control, as needed, and (7) management of investigation derived waste.

### **Task 2 – Prepare Annual Groundwater Monitoring Report**

This task includes budget for preparing one annual groundwater monitoring report. The report will include: (1) background information including Site geology and hydrogeology and a description of the Site A groundwater well network, (2) sampling methods and procedures used during the groundwater monitoring event, (3) a summary of the results of the annual groundwater monitoring event, and (4) conclusions and recommendations. A draft report will be submitted for review by the Successor Agency. After receipt of any comments, a draft report will be submitted to the DTSC for review. After receipt of any comments from DTSC, a final report will be submitted to the DTSC and uploaded to DTSC's Envirostor website.

### **Task 3 – Revise and Finalize Draft Fourth Five-Year Review**

This task includes budget for revising the draft Fourth Five-Year Review (Draft 5-Year Review) for the Site A based on DTSC's comments. The Draft 5-Year Review was provided to DTSC on October 30, 2023, for their review. In the event that DTSC provides comments near or after 30 June 2024, the budget assumes there will be significant technical issues to resolve, including preparing a sea level rise evaluation, conducting indoor air sampling events on commercial areas on the

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northern portion of Building E and the northern portion of Building D, and significantly revising the Draft 5-Year Review and the Screening Level Human Health Risk Assessment. After receipt of comments from DTSC, a final report will be submitted to the DTSC and uploaded to DTSC's Envirostor website.

#### **Task 4 – Well Maintenance and Repair/Replacement**

The conditions of groundwater wells at Site A (i.e., EBS1 to EBS11, and MD5A) will be inspected during each groundwater monitoring event. The groundwater sampling technician will observe the condition of the wellhead, depth to bottom of the well, and/or any other relevant well conditions. A qualified professional will review the observations and monitor ongoing maintenance requirements for the monitoring wells. If needed, this task includes repairing wells as needed. EKI will notify and obtain approval from DTSC before repairing or replacing any of the Site A wells. This task includes budget for repairing groundwater monitoring well EBS11 and potential improvements to well EBS3 in the event that these wells are not fixed before 30 June 2024. Well EBS11 has an obstruction and was scheduled to be repaired in September 2023, however, repair activities were postponed as the encroachment permit required for this activity has expired. It is unclear at this moment how long it will take to get a new encroachment permit. Well EBS3 was covered with landscaping soil after modifications to the sidewalk were performed in the area in association with the pedestrian bridge. Even though EKI was able to locate the well, it is not easy to find it because it is covered with soil as the elevation of the well cover is significantly lower than the rest of the area and thus needs to be modified and improved.

#### **Task 5 – General Environmental Project Management Services**

This task includes project management services and ongoing technical and legal support services.

- Regulatory Coordination: Responding to inquiries and information requests from the DTSC. These responses may include additional sampling or laboratory analyses or other data acquisition. Analysis of existing data may also be required.
- RMP Implementation Support: Support for activities necessary to be implemented as part of the RMP for Site A associated with work at the project area.
- Prepare Tasks for ROPS Funding Cycle 2025/2026: EKI will prepare a proposal for the ROPS 2025/2026 funding cycle (1 July 2025 through 30 June 2026) based upon the progress of the project in 2024.
- Ongoing Technical Support and Consultation to Legal Counsel: EKI will provide continued technical support and environmental engineering consultation services regarding

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coordination with regulatory agencies, Site A property owner, Client, its staff, other consultants related to Site A, when requested by the Client. EKI representatives will attend meetings and participate in conference calls with Client, its staff, other consultants, and regulatory agencies, when requested.

## **PROJECT SCHEDULE**

It is EKI's understanding that this proposal is for the period of approximately 1 July 2024 to June 2025 and is subject to funding approval by the DOF. We are prepared to begin work on this project upon receipt of authorization to proceed from Client.

## **COMPENSATION FOR CONSULTING SERVICES**

Compensation for consulting services by EKI will be on a time and expense reimbursement basis in accordance with an updated Schedule of Charges, that will be dated 2 January 2024, as discounted for the Successor Agency. On the basis of the proposed Scope of Work, we propose a budget of \$160,000 for completion of Tasks 1 through 5, which will not be exceeded without prior authorization from Client. In order to efficiently run the program, EKI will not charge markup for subcontractors other than those associated with sampling and laboratory analyses and other tasks directly related to technical or remedial activities.

A summary breakdown of the proposed project budget by key tasks is presented below.

<b><u>Proposed Task</u></b>	<b><u>Proposed Budget</u></b>
Task 1 Conduct Annual Groundwater Monitoring Event	\$25,000
Task 2 Prepare Annual Groundwater Monitoring Report	\$25,000
Task 3 Revise and Finalize Draft Fourth Five-Year Review	\$60,000
Task 4 Well Maintenance and Repair/Replacement	\$20,000
Task 5 General Environmental Project Management Services	\$30,000
<b>Total Proposed Budget</b>	<b>\$160,000</b>

The budget may be reallocated among tasks as necessary to achieve the project goals. EKI will inform the Client in writing if work beyond the scope identified in this proposal will be required to achieve the objectives described herein or to comply with requirements of the designated regulatory agency. EKI will perform such additional services upon written authorization from the Client.



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## **AUTHORIZATION**

We assume that the Client will provide an Amendment to EKI's Professional Services Agreement (PSA), as previously done in our Agreement dated 31 March 2003 and through Amendment No. 2, dated October 2011, that provides specific work authorization for the scope of work in this proposal. We assume that the terms of this Amendment will be consistent with the most recent PSA between EKI and the Client, with modifications appropriate to this specific scope of work.

We are pleased to have the opportunity to work with you on this project. Please call if you have any questions or wish to discuss this proposal in greater detail.

Very truly yours,

EKI ENVIRONMENT & WATER, INC.



Earl James, P.G.  
Vice President

Attachments:

EKI Updated Schedule of Charges dated 2 January 2024

**Client/Address: City of Emeryville as Successor Agency to the  
Emeryville Redevelopment Agency**  
1333 Park Avenue  
Emeryville, CA 94608-3517



**SCHEDULE OF CHARGES FOR EKI ENVIRONMENT & WATER, INC.**

**2 January 2024**

<u>Personnel Classification</u>	<u>Standard Rate</u>	<u>5% Discounted Rate</u>
Officer and Chief Engineer-Scientist	345	328
Principal Engineer-Scientist	333	316
Supervising I, Engineer-Scientist	321	305
Supervising II, Engineer-Scientist	208	293
Senior I, Engineer-Scientist	297	282
Senior II, Engineer-Scientist	286	272
Associate I, Engineer-Scientist	273	259
Associate II, Engineer-Scientist	258	245
Engineer-Scientist, Grade 1	240	228
Engineer-Scientist, Grade 2	227	216
Engineer-Scientist, Grade 3	206	196
Engineer-Scientist, Grade 4	185	176
Engineer-Scientist, Grade 5	163	155
Engineer-Scientist, Grade 6	142	135
Project Assistant	134	127
Technician	129	123
Senior GIS / Database Analyst	167	159
CADD Operator / GIS Analyst	148	141
Senior Administrative Assistant	164	156
Administrative Assistant	128	122
Secretary	107	102

**Direct Expenses**

Reimbursement for direct expenses, as listed below, incurred in connection with the work will be at cost plus ten percent (10%) for items such as:

- a. Maps, photographs, reproductions, printing, equipment rental, and special supplies related to the work.
- b. Surveyors, drillers, laboratories, and contractors.
- c. Rented vehicles, local public transportation and taxis, travel, and subsistence.
- d. Outside computer processing, computation, and proprietary programs purchased for the work.

A Communication charge for e-mail access, web conferencing, cellphone calls, messaging and data access, file sharing, local and long distance telephone calls and conferences, facsimile transmittals, standard delivery U.S. postage, and incidental in-house copying will be charged at a rate of 4% of labor charges. Large volume copying of project documents, e.g., bound reports for distribution or project-specific reference files, will be charged as a project expense as described above.

Reimbursement for company-owned automobiles, except trucks and four-wheel drive vehicles, used in connection with the work will be at the rate of sixty cents (\$0.60) per mile. The rate for company-owned trucks and four-wheel drive vehicles will be seventy-five cents (\$0.75) per mile. There will be an additional charge of thirty dollars (\$30.00) per day for vehicles used for field work. Reimbursement for use of personal vehicles will be at the federally allowed rate.

CADD and other specialized software computer time will be charged at twenty dollars (\$20.00) per hour. In-house material and equipment charges will be in accordance with the current rate schedule or special quotation. Excise taxes, if any, will be added as a direct expense.

Rate for professional staff for legal proceedings or as expert witnesses will be at a rate of one and one-half times the Hourly Rates specified above.

The foregoing Schedule of Charges is incorporated into the Agreement for the Services of EKI Environment & Water, Inc. and may be updated annually.