

RESOLUTION NO. 23-113

Resolution Of The City Council Of The City Of Emeryville Authorizing The Execution Of The Second Amendment Of The Professional Services Contract With David Paul Rosen And Associates To Provide Developer Selection, Negotiation And Closing Assistance Services Associated With The Christie Sites, Increasing The Contract Amount By \$50,000 To An As-Amended A Total Amount Not To Exceed \$200,000 And Extending The Contract Term Ending To March 31, 2024

WHEREAS, the City of Emeryville owns three parcels located at 5890, 5900 and 6150 Christie Avenue (Assessor Parcel Numbers 49-1493-3, -4 and -5) totaling 2.01 acres (the “Christie Sites”); and

WHEREAS, the Christie Sites were acquired by the former Emeryville Redevelopment Agency using low and moderate-income housing funds; and

WHEREAS, on August 31, 2012 the California Department of Finance (“DOF”) approved the Christie Sites as a housing asset for transfer to the City as Housing Successor to the Emeryville Redevelopment Agency; and

WHEREAS, pursuant to California Health and Safety Code Section 33334.16, activities to develop the Christie Sites are required to commence within five years of the DOF’s approval of the Christie Sites as a housing asset, with this time period subject to a single, five-year extension if the City affirms, by resolution, its intent to use the Christie Sites for the development of affordable housing; and

WHEREAS, on July 25, 2017, the City Council adopted Resolution No. 17-130, which affirmed the City’s intent to use the Christie Sites for the development of affordable housing and extended the time period for initiation of development to September 1, 2022; and

WHEREAS, in September 2021, staff circulated a Request for Proposals for planning, environmental and financial feasibility analysis for development of the Christie Sites (the “RFP”); and

WHEREAS, one proposal was received from David Paul Rosen and Associates (“DRA”) by the RFP submittal deadline of October 27, 2021; and

WHEREAS, on January 18, 2022, the City Council adopted Resolution No. 22-03 authorizing the City Manager to execute a Professional Service Contract with DRA to provide planning, environmental, and financial feasibility analysis for the Christie Sites development in the amount of \$150,000 with a term expiring December 31, 2022; and

WHEREAS, staff administratively executed the First Amendment of the Professional Service Contract with DRA on January 1, 2023, extending the term to December 31, 2023; and

WHEREAS, on November 15, 2022, the City Council adopted Resolution No. 22-153 selecting EAH Housing as the first-choice developer for the Christie Sites; and

Resolution No. 23-113
DRA Christie Sites Contract Second Amendment
City Council Meeting | September 5, 2023
Page 2 of 2

WHEREAS, on March 23, 2023, the City entered into an Exclusive Right to Negotiate (“ERN”) with EAH Housing for the purposes of negotiating the terms and conditions of a proposed Lease Disposition and Development Agreement for development of the Christie Sites; and

WHEREAS, the City executed the First Amendment to the ERN, extending the term of the ERN to March 17, 2024, thus necessitating the need to increase the funding allocation and extend the term of the Professional Service Contract with DRA; now, therefore, be it

RESOLVED, that the City Council of the City of Emeryville hereby authorizes the City Manager to execute the Second Amendment to the Professional Services Contract with David Paul Rosen and Associates, to deliver developer selection, negotiation and closing services for the City, increasing the total compensation amount by \$50,000 to an amount not to exceed \$200,000, and extending the term of the contract to March 31, 2024, in substantial form as attached hereto as Exhibit A; and be it further

RESOLVED, that the City Council of the City of Emeryville hereby authorizes the City Manager to execute further amendments to the Professional Services Contract with David Paul Rosen and Associates as may be necessary to effectuate the delivery of services, provided such amendments do not materially increase the City’s financial obligations thereunder.

ADOPTED, by the City Council of the City of Emeryville at a regular meeting held Tuesday, September 5, 2023, by the following vote:

AYES:	<u>5</u>	Mayor Bauters, Vice Mayor Welch and Council Members Kaur, Mourra and Priforce
NOES:	<u>0</u>	
ABSTAIN:	<u>0</u>	
ABSENT:	<u>0</u>	

DocuSigned by:

John Bauters

C7389E49E2C9458...

MAYOR

ATTEST:

APPROVED AS TO FORM:

DocuSigned by:

April Richardson

9AF9F07CE0284D8...

CITY CLERK

DocuSigned by:

John Kennedy

2C934D02DB55407...

CITY ATTORNEY



City of Emeryville

CALIFORNIA

PROFESSIONAL SERVICES CONTRACT

SECOND AMENDMENT

THIS SECOND 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 **DAVID PAUL ROSEN & ASSOCIATES** ("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 March 5, 2022 ("Contract") for the purpose of retaining the services of Contractor to provide Christie sites developer selection, negotiation and closing; and

WHEREAS, the City and Contractor entered into a first amendment of the Contract on 1/1/23 for the purpose of increasing the contract amount; 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:

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.	

Successor Agency | Professional Services Contract Amendment
REV 06/2020

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 **MARCH 31, 2024**.

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 THOUSAND DOLLARS AND NO CENTS (\$50,000.00)**. The total amount paid under the Contract as compensation for Services performed and reimbursement for costs incurred shall not, in any case, exceed **TWO HUNDRED THOUSAND DOLLARS AND NO CENTS (\$200,00000)**.

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 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

6. SIGNATURE PAGE TO PROFESSIONAL SERVICES CONTRACT
SECOND 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
2C934D02DB55467...
General Counsel

Dated: CITY OF EMERYVILLE AS SUCCESSOR AGENCY TO
THE EMERYVILLE REDEVELOPMENT AGENCY

Executive Director

Dated: 07/31/2023

DAVID PAUL ROSEN & ASSOCIATES
DocuSigned by:
David Paul Rosen (Signature)
9EAEFB62378A471...
DAVID ROSEN, PhD, Principal

Attach: W-9 Form	Attach: Business License Certificate	Attach: Insurance Certificate and Endorsements