

## **RESOLUTION NO. 18-01**

**Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute Amendment No. 2 To The Professional Services Agreement With Biggs Cardosa Associates Inc. Granting A Time Extension To March 31, 2018 For The Design Update Of The South Bayfront Pedestrian Bicycle Bridge, CIP# 16475006**

**WHEREAS**, in August 2007, the Emeryville Redevelopment Agency (Agency) entered into a Professional Services Agreement (PSA) with Biggs Cardosa Associates in an amount not to exceed \$1,300,000 for the design of the South Bayfront Bridge; and

**WHEREAS**, given that the design concept selected by the Agency was a more complex type of structure than was originally contemplated in the design consultant's scope of services, and also given that it would be most efficient to have the bridge plans include the Horton Landing Park so that it could be constructed as part of the bridge project, the PSA with Biggs Cardosa was ultimately amended four times to an amount not to exceed \$2,741,000; and

**WHEREAS**, the plans and specifications for the project were generally completed and ready for advertising in late 2010 except for the need to finalize property and construction easements on both the east and west approaches and obtain an approval of the overhead crossing from both the Union Pacific Railroad (UPRR) and the State Public Utilities Commission; and

**WHEREAS**, the project described in the 2010 Plans did not go into construction due to the dissolution of Redevelopment Agencies in the State of California whereas the Agency's funding was frozen. All work effort on the South Bayfront Bridge and Horton Landing Park was put on hold until the fate of the redevelopment agency funding could be determined; and

**WHEREAS**, in June 2015, after nearly 3.5 years of legal proceedings, the City of Emeryville was successful in restoring \$11.2 million in former Agency funds towards the project; and

**WHEREAS**, the City is now ready to move the project forward to construction; and

**WHEREAS**, the passage of time caused elements of the project plans to no longer comply with current design standards and regulations so City staff solicited a proposal from the Biggs Cardosa Associates design team to update plans to ready the project plans and specifications for public bidding; and

**WHEREAS**, in September of 2015 the City Council Authorized a Professional Services Agreement with Biggs Cardosa Associates in an amount not to exceed \$400,740 and to expire on June 30<sup>th</sup>, 2017; and

**WHEREAS**, due to issues related to procurement of right-of-way, Archeological Discovery, Hazardous Materials findings, changes in Bay Friendly Landscape requirements and other design and regulatory changes, and City Staffing changes, the Plan update was not completed by June 30<sup>th</sup>, 2017; and

**WHEREAS**, on July 11, 2017 the City Council adopted Resolution 17-116 authorizing the City Manager to execute Change Order/Amendment No. 1 granting a time extension to December 31, 2017; and

**WHEREAS**, as of December 31, 2017 outstanding issues remain with regard to procurement of right-of-way, contractor pre-qualification, building department plan check approvals as well as an anticipated Bid period in January prevent Biggs-Cardosa from completing their work scope by December 31, 2017, and

**WHEREAS**, City Staff and Biggs Cardosa are requesting an extension of time to March 31, 2018; and

**WHEREAS**, there is sufficient funding appropriated as part of the Capital Improvement Program for the South Bayfront Bridge / Horton Landing Park project to cover the cost of said Professional Services Agreement; now, therefore, be it

**RESOLVED**, that the City Council of the City of Emeryville hereby authorizes the City Manager to execute a Change Order No. 2 to the Professional Services Agreement with Biggs Cardosa Associates Inc. granting a time extension to March 31, 2018 for the Design Update of the South Bayfront Pedestrian Bicycle Bridge, CIP# 16475006.

**ADOPTED**, by the City Council of the City of Emeryville at a regular meeting held January 16, 2018, by the following vote:

AYES:	<u>5</u>	Mayor Bauters, Vice Mayor Medina and Council Members Donahue, Martinez and Patz
NOES:	<u>0</u>	
ABSTAIN:	<u>0</u>	
ABSENT:	<u>0</u>	

  
MAYOR

ATTEST:

APPROVED AS TO FORM:

  
CITY CLERK

  
CITY ATTORNEY



# City of Emeryville

CALIFORNIA

## PROFESSIONAL SERVICES AGREEMENT

### SECOND AMENDMENT

**THIS SECOND AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT** ("Amendment") is effective as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by and between **THE CITY OF EMERYVILLE**, a municipal corporation, ("City") and Biggs Cardosa Associates, Inc. ("Consultant"), collectively referred to as the "Parties."

### WITNESSETH THAT

**WHEREAS**, the City and Consultant entered into a Professional Services Agreement ("Agreement") effective November 3, 2015, 2015, whereby Consultant is to prepare South Bayfront Bridge/Horton Landing Park Project (a.k.a. South Bayfront Pedestrian and Bicycle Bridge); and

**WHEREAS**, the City Council adopted Resolution No. 17-116, authorizing the City Manager to extend the termination date for the Agreement to December 31, 2017; and

**WHEREAS**, it is now necessary to extend the termination date of the Agreement again to account for the change in date in putting the South Bayfront Bridge/Horton Landing Park Project out to bid; and

**WHEREAS**, the City finds that specialized knowledge, skills, and training are necessary to render the services necessary to do the work contemplated under this Amendment; and

**WHEREAS**, the City has determined that the Consultant is qualified by training and experience to render such services; and

**WHEREAS**, the public interest will be served by this Amendment; and

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

- A. Section 1.C of the Agreement ("Schedule and Completion Date") is hereby amended to extend the Completion Date to March 31, 2018. All other provisions of the Agreement shall remain in full force and effect, and this Amendment shall remain subject to said promises.
- B. The Effective Date of this Amendment is the date on which the Amendment is executed on behalf of the City.

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

**WAIVER OF AGREEMENT**

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.

**IN WITNESS WHEREOF** the City and the Consultant have executed this Amendment, which shall become effective as of the date the City Manager executes this Amendment on behalf of the City.

Approved As To Form:



\_\_\_\_\_  
Michael A. Guina, City Attorney

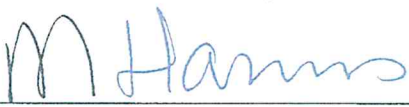
**CITY OF EMERYVILLE**

Dated: \_\_\_\_\_, 2017

\_\_\_\_\_  
Carolyn Lehr, City Manager

**CONSULTANT**

Dated: December 21, 2017

BY:   
ITS: Principal

ORIGINAL

City of Emeryville  
Change Order/Contract Amendment

Change No.	Project Name	Contractor/Consultant
1	South Bayfront Bridge	Biggs Cardosa Associates, Inc.


The document amends <sup>Professional</sup> ~~Professional~~ Services Agreement executed with Consultant on ~~October 19, 2015.~~ <sup>November 3, 2015</sup> mmH

Section C., Schedule and Completion Date, is amended, revising the contract termination date to December 31, 2017 (from date originally specified as June 30, 2017)

All other provisions of the Professional Services Agreement remain the same.

This amendment was reviewed by the City of Emeryville, City Council on July 11, 2017 and approved that day by the adoption of Resolution No. 17-116. Said Resolution authorizes the City Manager to execute this Change Order on behalf of the City of Emeryville.

Approved as to form:

  
Michael Guina, City Attorney

City of Emeryville

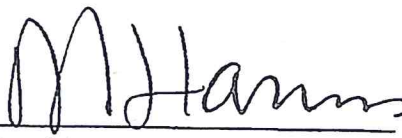
Dated: 1-8-18, 2017

  
Carolyn Lehr, City Manager

Professional Services Agreement Change Accepted:

Consultant (Biggs Cardosa Associates, Inc.)

Dated: Dec. 7, 2017

By:   
Mahvash Harms  
Its: Principal