



# City of Emeryville

CALIFORNIA

## PROFESSIONAL SERVICES AGREEMENT

### FIRST AMENDMENT

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

("First Amendment") is effective as of this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between **THE CITY OF EMERYVILLE**, a municipal corporation, ("City") and EKI Environment & Water, Inc ("Consultant"), collectively referred to as the "Parties."

#### WITNESSETH THAT

**WHEREAS**, the City and Consultant entered into a Professional Services Agreement ("Agreement") effective October 13, 2017, whereby Consultant is to prepare a Proposal for Investigation of Area I, Horton Landing Park, Emeryville, California; and

**WHEREAS**, it is now necessary to revise the scope of work to include additional project management time and preparation of additional materials; and

**WHEREAS**, the City wishes to amend the Agreement to include the additional services; 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 First Amendment; and

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

**WHEREAS**, the Consultant desires to provide such services and has submitted proposals dated July 3, 2018 (Exhibit A), and August 3, 2018 (Exhibit B); and,

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

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

- A. Section 1.2 of the Agreement ("Services") is hereby amended to include the scope of services described in Exhibit A and Exhibit B.
- B. Section 3 of the Agreement ("Compensation and Method of Payment") is hereby amended to reflect payment based on the additional analysis described in Exhibit A, and to increase the total compensation under the Agreement. The section shall now read:

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

The amount paid under this Agreement as compensation for Services performed and reimbursement for costs incurred shall increase by **FORTY-NINE THOUSAND, NINE HUNDRED DOLLARS AND NO CENTS (\$49,900)** for a total compensation amount not, in any case, to exceed **SEVENTY NINE THOUSAND NINE HUNDRED DOLLARS AND NO CENTS (\$79,900)**, except as outlined in Section 2.3 above. The compensation for Services performed shall be **as set forth in Exhibit A and Exhibit B**. Reimbursement for costs incurred shall be limited as follows. Long distance telephone and telecommunications, facsimile transmission, normal postage and express mail charges, photocopying and microcomputer time shall be at cost. Supplies and outside services, transportation, lodging, meals and authorized subcontracts shall be at cost plus no more than a 10% administrative burden. Automobile mileage shall be no more than the current deductible rate set by the Internal Revenue Service.

- C. Section 1C, Schedule and Completion Date, is hereby amended to terminate on December 31, 2020
- D. All other provisions of the Agreement shall remain in full force and effect, and this First Amendment shall remain subject to said promises.
- E. The Effective Date of this First Amendment is the date on which the First Amendment is executed on behalf of the City.

### **WAIVER OF AGREEMENT**

The City's failure to enforce any provision of this First 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 First Amendment, which shall become effective as of the date the City Manager executes this First Amendment on behalf of the City.

Approved As To Form:

Michael A. Guina  
Michael A. Guina, City Attorney

**CITY OF EMERYVILLE**

Dated:

\_\_\_\_\_, 2018

\_\_\_\_\_  
Christine Daniel, City Manager

**CONSULTANT**

Dated:

\_\_\_\_\_, 2018

BY: Brian

ITS: Vice President