

## RESOLUTION NO. 18-170

**Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute A First Amendment To Professional Services Agreement With EKI Environment and Water, Inc., For An Additional Compensation Amount of \$49,900, For A Total Not To Exceed Amount Of \$79,900, For Consulting Services Related to the Monitoring and Cleanup of Horton Landing Park Expansion Site**

**WHEREAS**, South Bayfront Pedestrian and Bicycle Bridge and Horton Landing Park Expansion are project identified and budgeted for in the City of Emeryville Capital Improvement Program (2016-17 through 2020-2021); and

**WHEREAS**, on September 27, 2018, the City took ownership of a parcel of land that is the site for Horton Landing Park Expansion, also referred to as "The Sliver Parcel," and "Parcel I"; and

**WHEREAS**, before acquisition occurred the Sliver Parcel was analyzed with regard to soil contamination; and

**WHEREAS**, the entered into a Professional Services Agreement with EKI Environment and Water, Inc. ("EKI") to perform the soil analysis; and

**WHEREAS**, EKI found contamination on the site which must be remediated to further develop the Sliver Parcel; and

**WHEREAS**, EKI submitted two proposals for additional environmental services related to the assessment of soil contamination remediation of the Sliver Parcel; and

**WHEREAS**, the costs for the additional services performed prior to Sliver Parcel acquisition and services related to the remediation of contamination total \$49,900; and

**WHEREAS**, the Capital Improvement Program budgets funds for such professional services such as Environmental Cleanup Consultation; and

**WHEREAS**, there are sufficient funds for these proposed additional services; now, therefore, be it

**RESOLVED**, by the City Council of the City of Emeryville finds the proposals acceptable and proposed services necessary; and, be it, further

**RESOLVED**, by the City Council of the City of Emeryville authorizes the City Manager to execute the First Amendment to Professional Service Agreement with EKI Environment and Water for Consulting Services, Inc., for an additional compensation amount of \$49,900, for a total not to exceed amount of \$79,900, related to the remediation of soil contamination on the Sliver Parcel, in the form attached hereto as Exhibit A.

**ADOPTED**, by the City Council of the City of Emeryville at a regular meeting held  
Tuesday, December 18, 2018, by the following vote:

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

  
MAYOR

ATTEST:

  
CITY CLERK

APPROVED AS TO FORM:

  
CITY ATTORNEY



# 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

3 August 2018

Todd Teachout  
Project Manager  
S. Bayfront Bridge/Horton Landing Park  
City of Emeryville  
1333 Park Avenue  
Emeryville, California 94608

Subject: Proposal for Preparing Site Cleanup Plan and  
Updating Remediation Portion of Contract Documents  
Horton Landing Park Expansion  
Emeryville, California  
(EKI B70013.01)

Dear Mr. Teachout:

EKI Environment & Water, Inc. ("EKI") is pleased to submit this proposal for environmental services related to preparing a Site Cleanup Plan and updating the hazardous waste remediation portion of contract documents for Area I (the "Site"), also known as the Horton Landing Park Expansion Project in Emeryville, California. EKI services are proposed to be provided on behalf of our client, the City of Emeryville ("City"; "Client"), in accordance with similar terms in our previous agreements.

It is EKI's understanding that the City is interested in redeveloping the Site as part of the Emeryville Greenway/Horton Landing Park that extends to the north and as part of the bridge across the railroad tracks to the Bay Street development ("HLP/Bridge Project"). It is EKI's understanding that this Project has changed since the December 2017 Project plans and specifications prepared by Biggs Cardosa Associates Inc. ("BCA"). One of the changes remaining to be made is to add the Area I/Horton Landing Park Expansion Project into the HLP/Bridge Project.

The approved remedy for Areas A to H was described in the *Site Cleanup Plan, Horton Landing Park, Emeryville, California* ("SCP"), dated March 2010. The remedy includes excavation to a minimum of 1 foot below ground surface ("bgs") in areas with impacted shallow soil. Deeper soils excavations may be necessary to meet project grading requirements. Deeper soils are also impacted and will require handling in accordance with the approved plan. Excavated soils with a non-hazardous waste classification could

Formerly known as Erler & Kalinowski, Inc.



potentially be reused within the embankment fill area where the pedestrian bridge would be constructed.

It is EKI's understanding that Area I/Horton Landing Park Expansion will need to be remediated as completely as is possible. This will require excavation of fill soils to the extent practicable given certain geotechnical constraints (namely the nearby railroad tracks and the Temescal Creek culvert). Excavated soils will be disposed offsite in State approved facilities. EKI will utilize the data and information generated during the investigations conducted at Area I and documented in *the Soil Investigations Results for Area I* report dated 28 June 2018.

This proposed scope of work for EKI's services includes the following task:

- Task 1: Prepare Site Cleanup Plan
- Task 2: Prepare bid documents

Further description of the scope of work is provided below. It is assumed that the proposed scope of work will be conducted under oversight from the Site Manager.

## **PROPOSED SCOPE OF WORK**

### **Task 1 – Prepare Site Cleanup Plan**

Utilizing Site Cleanup Plan ("SCP") prepared for Horton Landing Park that was completed in 2010, EKI will prepare an SCP for Area I/Horton Landing Park Expansion. The SCP will be reviewed by Ms. Susan G. Colman, who is acting as the City's Brownfields Site Manager ("Site Manager") and who will provide regulatory and technical support to the City. It is EKI's understanding that the City is acting as the Lead Agency for the Site, under a Memorandum of Understanding ("MOU") with the California Department of Toxic Substances Control ("DTSC") and the San Francisco Bay Regional Water Quality Control Board ("SFRWQCB"). It is assumed that the Site Manager will confer with DTSC for review and approval of documents, as needed, in relation to the HLP Site and Area I.

### **Task 2 – Prepare Bid Documents**

EKI will update the remedial specification section of the most current version of the Project contract documents in accordance with the Area I/Horton Landing Park Expansion SCP and will review other portions of the Project contract documents for conformance with requirements in the updated specifications. EKI will also update soil remediation bid items on the bid sheet, as necessary, and provide an updated

engineer's estimate for these bid items. EKI will attend one coordination meeting with the City. This proposal assumes that the City will reproduce and distribute the Contract Documents as needed for public bidding in accordance with City practices.

## **PROJECT SCHEDULE**

We are prepared to begin work immediately on this project upon receipt of Client's authorization to proceed. Upon notice to proceed from the Client and subject to Client and regulatory approval, EKI anticipates that it will take approximately 4 weeks to prepare the SCP and to update Contract Documents.

## **COMPENSATION FOR CONSULTING SERVICES**

In as much as the exact level of effort to complete the proposed Scope of Work cannot be identified at this time, compensation for consulting services by EKI Environment & Water, Inc. will be on a time and expense reimbursement basis in accordance with our current Schedule of Charges, dated 1 January 2018. We propose a budget of \$35,000 for the performance of Tasks 1 and 2, described above, which will not be exceeded without additional authorization.

We assume that the City will provide a written amendment to our Agreement providing specific work authorization for this project for EKI review and approval.

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 these matters in greater detail.

Very truly yours,

EKI ENVIRONMENT & WATER, INC.

A handwritten signature in blue ink, appearing to read 'R Ford'.

Ryan Ford, P.G.  
Project Manager

A handwritten signature in blue ink, appearing to read 'Earl James'.

Earl James, P.G.  
Vice President