

## RESOLUTION NO. 19-130

**Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute A First Amendment To The Professional Services Agreement With OTG EnviroEngineering Solutions, Inc., Increasing The Total Compensation Amount By \$99,268, For A Total Amount Not To Exceed \$206,284; And to Extend the Term to June 30, 2021, For Environmental Work Required By The Alameda County Department Of Environmental Health**

**WHEREAS**, the Alameda County Department of Environmental Health (ACDEH) administers the State's Leaking Underground Fuel Tank (LUFT) within the county; and

**WHEREAS**, ACDEH is requiring certain environmental work be completed to allow for closure of an open LUFT cases for which the City is the Responsible Party; and

**WHEREAS**, the City entered into a Professional Services Agreement with OTG EnviroEngineering Solutions, Inc. (OTG) to assist in providing site closure for various form Underground Storage Tank (UST) sites, including Fire Station 35 at 6303 Hollis Street for an amount not to exceed \$107,016; and

**WHEREAS**, additional ACDEH-required remediation work remains at Fire Station 35, which requires an amendment to the existing scope of services and additional expenditures; and

**WHEREAS**, OST has prepared a proposed scope of work for additional remediation services at Fire Station 35, estimated at \$69,268 and as described in the Attachment A-1 to the proposed First Amendment; and

**WHEREAS**, given the nature of subsurface investigations includes a high likelihood of additional required work and cost, staff recommends an additional \$30,000 in contingency funding to complete the remediation work; and

**WHEREAS**, a First Amendment to the Professional Services Agreement with OST has been prepared to include an updated scope of services to address the additional remediation work at Fire Station 35; now, therefore, be it

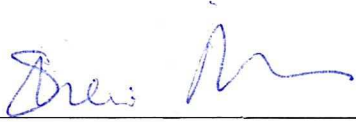
**RESOLVED**, by the City Council of the City of Emeryville that the City Manager is hereby authorized to execute and enter into a First Amendment to the July 1, 2019 Professional Services Agreement with OTG EnviroEngineering Solutions, Inc. for work related to achieving compliance with ACDEH LUFT program requirements, increasing the total compensation amount by \$99,268, for a total amount not to exceed \$206,284; and to extend the term to June 30, 2021.

**ADOPTED**, by the City Council of the City of Emeryville at a regular meeting held Tuesday, September 3, 2019, 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 CONTRACT

### FIRST AMENDMENT

**THIS FIRST AMENDMENT TO THE PROFESSIONAL SERVICES CONTRACT** ("Amendment") is effective as of this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between **THE CITY OF EMERYVILLE**, a municipal corporation, ("City") and **OTG ENVIROENGINEERING SOLUTIONS, INC.** ("Contractor"), individually referred to as a "Party" and collectively as the "Parties."

### WITNESSETH THAT

**WHEREAS**, the City and Contractor entered into a Professional Services Contract dated July 1, 2018 ("Contract") for the purpose of retaining the services of Contractor to provide underground storage tank site investigations; and

**WHEREAS**, the City 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-** \_\_\_\_\_ ;

**OR**

- ☒ Exhibit A of the Contract is hereby amended to include the provisions of **Exhibit A-1**, 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, 2021**.

#### FOR CITY USE ONLY

Contract No.		CIP No.	
Resolution No.		Project No.	

**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 **NINETY NINE THOUSAND TWO HUNDRED SIXTY EIGHT DOLLARS AND NO CENTS (\$99,268)**. 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 SIX THOUSAND TWO HUNDRED EIGHTY FOUR DOLLARS AND NO CENTS (\$206,284)**.

**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**

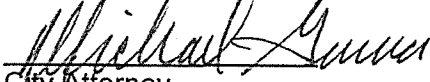
The City's failure to enforce any provision of this Amendment or the waiver in a particular instance shall not be construed as a general waiver of any future breach or default.

*SIGNATURES ON FOLLOWING PAGE*

6. SIGNATURE PAGE TO PROFESSIONAL SERVICES CONTRACT  
FIRST AMENDMENT

IN WITNESS WHEREOF the City and the Contractor have executed this Contract,  
which shall become effective as of the date first written above.

Approved As To Form:

  
City Attorney

Dated:

CITY OF EMERYVILLE

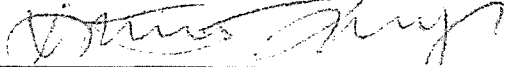
\_\_\_\_\_, 2019

\_\_\_\_\_  
Christine S. Daniel, City Manager

Dated:

OTG ENVIROENGINEERING SOLUTIONS, INC.

August 20, 2019

  
\_\_\_\_\_  
Xinggang Tong, President (Signature)