

RESOLUTION NO. 20-124

Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute And Enter Into A Second Amendment In An Amount Not To Exceed \$142,025 For A Total Contract Amount Not To Exceed \$348,309 To The Professional Services Agreement With OTG EnviroEngineering Solutions, Inc. Dated July 1, 2018 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 has required certain environmental work be completed to allow for closure of open LUFT cases for which the City is the Responsible Party; and

WHEREAS, the City has contracted with OTG to perform the required environmental work to comply ACDEH requirements; and

WHEREAS, additional work is required at Fire Station 35 and the Senior Center and OTG has provided a scope of services in the amount of \$132,025 to perform this work; and

WHEREAS, recognizing the uncertainty related to environmental remediation work, staff is recommending an additional \$10,000 contingency amount be added to the OTG contract amendment; and

WHEREAS, staff finds that the Contractor is best equipped to provide this service; 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 Second Amendment; and

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

WHEREAS, the Contractor desires to provide such services; and

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

WHEREAS, the contract shall be funded as follows:

| Project | Fund | Amount |
|-----------------|------|-----------|
| CF-07 (1545011) | 475 | \$142,025 |

; 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 Second Amendment to the Professional Services Agreement with OTG EnviroEngineering Solutions, Inc. for in the form attached hereto as

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Underground Storage Tank Site Closures
City Council Meeting | December 1, 2020
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Exhibit A-1, for an additional amount not to exceed \$142,025.00, for a total contract amount not to exceed \$348,309.00; and, be it, further

ADOPTED, by the City Council of the City of Emeryville at a regular meeting held Tuesday, December 1, 2020, by the following vote:

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

DocuSigned by:

Dianne Martinez

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MAYOR

ATTEST:

DocuSigned by:

Sheri Hartz

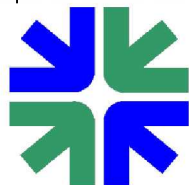
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CITY CLERK

APPROVED AS TO FORM:

Michael Quinn

CITY ATTORNEY



City of Emeryville

CALIFORNIA

PROFESSIONAL SERVICES CONTRACT

SECOND AMENDMENT

THIS SECOND AMENDMENT TO THE PROFESSIONAL SERVICES CONTRACT ("Amendment") is effective as of _____ 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 Environmental Engineering Services for Underground Storage Tank Remediation; and

WHEREAS, the City and Contractor entered into a first amendment of the Contract on October 23, 2019 for the purpose of increasing the contract amount and/or extending the termination date of the contract; 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-***Revision Number*;

OR

☒ Exhibit A of the Contract is hereby amended to include the provisions of **Exhibit A-2**, attached hereto and incorporated herein by this reference.

FOR CITY USE ONLY

| | | | |
|----------------|--|-------------|--|
| Contract No. | | CIP No. | |
| Resolution No. | | Project No. | |

City of Emeryville | Professional Services Contract Amendment
REV 01/2020

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 **DECEMBER 31, 2022.**

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 **ONE HUNDRED FORTY-TWO THOUSAND AND TWENTY-FIVE DOLLARS AND NO CENTS (\$142,025.00).** The total amount paid under the Contract as compensation for Services performed and reimbursement for costs incurred shall not, in any case, exceed **THREE HUNDRED FORTY-EIGHT THOUSAND, THREE HUNDRED AND NINE DOLLARS AND NO CENTS (\$348,309).**

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.

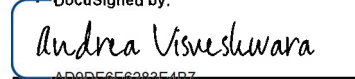
SIGNATURES ON FOLLOWING PAGE

City of Emeryville | Professional Services Contract Amendment
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**6. SIGNATURE PAGE TO PROFESSIONAL SERVICES CONTRACT
SECOND AMENDMENT**

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

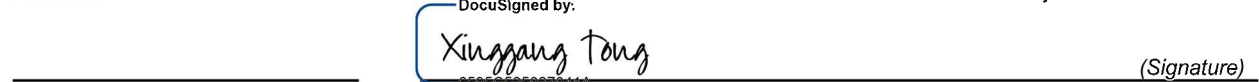
Approved As To Form:

DocuSigned by:

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City Attorney

Dated: **CITY OF EMERYVILLE**

Christine S. Daniel, City Manager

Dated: **OTG ENVIROENGINEERING SOLUTIONS, INC**

DocuSigned by:

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Xinggang Tong, President *(Signature)*