



City of Emeryville

CALIFORNIA

PROFESSIONAL SERVICES CONTRACT

THIRD AMENDMENT

THIS THIRD AMENDMENT TO THE PROFESSIONAL SERVICES CONTRACT (“Amendment”) is effective as of _____, by and between **THE CITY OF EMERYVILLE**, a municipal corporation, (“City”) and **EKI ENVIRONMENT AND WATER, 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 August 25, 2017 (“Contract”) for the purpose of retaining the services of Contractor to provide certain Environmental Services related to cleanup and remediation of contaminated soils and other materials with the site of the South Bayfront Pedestrian Bicycle Bridge Project (CIP No. 16475006 and No. 17237003); and

WHEREAS, the City Council adopted Resolution 19-53 authorizing the City Manager to execute Amendment 1 to extend the term of the Agreement; and

WHEREAS, the City Council adopted Resolution 20-12 authorizing the City Manager to execute Amendment 2 to extend the term of the agreement, revise the budget and work scope to update Cleanup Plans, and provide Bid and Construction support services related to said South Bayfront Pedestrian Bicycle Bridge Project; 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

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

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- Exhibit A of the Contract is hereby amended to include the provisions of **Exhibit A-3**, attached hereto and incorporated herein by this reference.

1.2 Termination Date

- The Parties desire to extend the termination date. Section I.C of the Contract is hereby amended to extend the termination date to **the sixtieth (60th) calendar day following the date that the South Bayfront Pedestrian Bicycle Bridge is accepted as complete by the City Council** .

1.3 Total Compensation Amount

- The Parties desire to increase the Total Compensation Amount as set forth in Section III.B of the Contract by **FORTY THOUSAND DOLLARS AND NO CENTS (\$40,000)**. The total amount paid under the Contract as compensation for Services performed and reimbursement for costs incurred shall not, in any case, exceed **FOUR HUNDRED FIFTEEN THOUSAND FIVE HUNDRED DOLLARS AND NO CENTS (\$415,500)**.

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

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**6. SIGNATURE PAGE TO PROFESSIONAL SERVICES CONTRACT
THIRD 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:
Andrea Visveshwara as Interim
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City Attorney

Dated: **CITY OF EMERYVILLE**

Christine S. Daniel, City Manager

Dated: **EKI ENVIRONMENT AND WATER, INC.**

DocuSigned by:
[Signature]
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Earl James, Vice President *(Signature)*