

**AMENDMENT NO. 1  
TO THE AGREEMENT FOR DESIGN PROFESSIONAL SERVICES  
BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA,  
AND  
MOTT MACDONALD GROUP, INC.**

**PREAMBLE**

This Agreement ("Amendment No. 1") is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City), and Mott MacDonald Group, Inc., a Delaware corporation (Contractor). City and Contractor may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

**RECITALS**

- A. The Parties previously entered into an agreement entitled "Agreement for Design Professional Services between the City of Santa Clara, California, and Mott MacDonald Group, Inc." dated July 1, 2020 (the "Original Agreement"); and
- B. The Parties entered into the Original Agreement for the purposes of providing engineering design services for sanitary sewer repairs in support of City's sanitary sewer condition assessment and repair program; and
- C. The Original Agreement includes of a list of sewer locations to be repaired under the initial term of the agreement upon which the scope of services and schedule of fees for the initial term of the agreement is based; and
- D. City desires to include additional sewer locations to be repaired under the initial term of the agreement in addition to and beyond those described in the Original Agreement; and
- E. City furnished a list of additional sewer locations to be repaired referred to as the "Additional Segments North of Walsh" (hereinafter "additional sewer locations") to Contractor on July 22, 2020, and Contractor furnished a proposal to City on August 3, 2020 to provide services for the additional sewer locations; and
- F. The Parties now wish to amend the Original Agreement to provide for the services to complete the repair of the additional sewer locations in addition to those included in the initial term of the agreement.

The Parties agree as follows:

## **AGREEMENT PROVISIONS**

### **1. AMENDMENT PROVISIONS**

That Section 6. Compensation and Payment, of the Original Agreement, is amended to read as follows:

#### **"2. COMPENSATION AND PAYMENT**

In consideration for Contractor's complete performance of Services, City shall pay Contractor for all materials provided and Services rendered by Contractor in accordance with Exhibit B, entitled "SCHEDULE OF FEES." The maximum compensation of this Agreement is one million five hundred sixty eight thousand nine hundred twenty nine dollars (\$1,568,929), for the Initial Term, five hundred sixty thousand dollars (\$560,000) for the first Option Period, and six hundred thousand dollars (\$600,000) for the second Option Period, for a total maximum compensation of the Agreement of two million seven hundred twenty eight thousand nine hundred twenty nine dollars (\$2,728,929) subject to budget appropriations, which includes all payments that may be authorized for Services and for expenses, supplies, materials and equipment required to perform the Services. All work performed or materials provided in excess of the maximum compensation shall be at Contractor's expense. Contractor shall not be entitled to any payment above the maximum compensation under any circumstance."

### **2. AMENDMENT PROVISIONS**

That the following paragraph is added to Exhibit A, Scope of Services, under Section III. Background, after the second paragraph of the Original Agreement:

"The following documents have been provided to CONSULTANT are incorporated herein by reference:

- List and map of repair locations described as "Additional Segments North of Walsh" as provided to CONSULTANT on July 22, 2020."

### **3. AMENDMENT PROVISIONS**

That the first sentence of the fifth paragraph of Section III. Background, of Exhibit A, Scope of Services, of the Original Agreement is amended to read as follows:

"The Attachment H, List of Repair Locations, and the "Additional Segments North of Walsh" list shall be considered as the lists of repairs to be completed under Initial Term 2021 construction contract(s) as the Baseline Solution."

### **4. AMENDMENT PROVISIONS**

That the following paragraph is added after the last paragraph of Section III. Background, of Exhibit A, Scope of Services, of the Original Agreement:

“CONSULTANT provided a proposal dated August 3, 2020 to provide Services for the “Additional Segments North of Walsh” list and the proposal, including the assumptions described therein, is incorporated herein by reference. This Scope of Services and the Schedule of Fees reflects option c of said proposal.”

## **5. AMENDMENT PROVISIONS**

That the second paragraph of Task 4.1. Environmental Review – Exemption, of Section V. Basic Scope of Services, of Exhibit A, Scope of Services, of the Original Agreement is replaced with the following:

“CONSULTANT shall review the preliminary designs for the proposed repairs and conduct a due diligence CEQA needs evaluation to verify that all projects qualify for Section 15282[k] statutory exemption. Includes preliminary screening for biological/jurisdictional habitat constraints and regulatory permit triggers at (1) repair Item in proximity to San Tomas Aquino Creek corridor. Assumes protocol-level biological surveys will not be needed.

Based on the screening evaluation, CONSULTANT shall prepare a concise memorandum that details the methodology and results of the evaluation and presents substantiated recommendations for CEQA and, if needed, regulatory permitting. Memorandum will be delivered in administrative draft for CITY review and will be revised and finalized based on (1) round of CITY review comments. All deliveries in PDF to reduce costs.”

## **6. AMENDMENT PROVISIONS**

That the first paragraph of Task 9.2.a Categorical Exemption Screening and Recommendations Memorandum, of Section V. Basic Scope of Services, of Exhibit A, Scope of Services, of the Original Agreement is replaced with the following:

“CONSULTANT shall review the preliminary designs for the proposed repairs and conduct a due diligence CEQA needs evaluation to determine whether Item Nos. 2, 28, 30, 53, 56, 96 and (1) Item adjacent to San Tomas Aquino Creek qualify for categorical exemption; all other repair locations are assumed to qualify for statutory exemption. Review will screen for projects, if any, that would (1) be located on site(s) listed for hazardous materials contamination, (2) have the potential to affect historical or biological resources, and/or (3) otherwise have potential to result in a significant environmental impact due to “unusual circumstances.”

## **7. AMENDMENT PROVISIONS**

That the first three paragraphs of Task 9.2.b Initial Study and Mitigated Negative Declaration, of Section V. Basic Scope of Services, of Exhibit A, Scope of Services, of the Original Agreement is replaced with the following:

“CONSULTANT shall prepare and circulate an IS/MND analyzing effects of proposed repairs at Item Nos. 2, 28, 30, 53, 56, and 96 and (1) repair Item adjacent to San Tomas Aquino Creek, consisting of the following activities and deliverables.

- CEQA Technical Studies. Prepare the following technical studies:
  - Screening-level air quality and greenhouse gas emissions modeling.
  - Biological Resources technical report.
  - Cultural Resources technical report.

All reports will be prepared to meet applicable CEQA standards and City requirements. Cultural Resources technical report will meet U.S. Army Corps of Engineers standards under National Historic Preservation Act Section 106 (HPSR/FOE) for repair Item in San Tomas Aquino Creek corridor and CEQA standards for all other Items. Budget assumes that pollutant dispersion modeling and health risk assessment will not be needed and that federal General Conformity analysis will not be triggered; schedule assumes that construction information can be obtained quickly. Technical reports will be delivered as appendices to the Administrative Draft IS/MND unless prior review is requested by CITY.”

## **8. AMENDMENT PROVISIONS**

That the following is added as a new section after the last paragraph of Task 9.2.b Initial Study and Mitigated Negative Declaration, of Section V. Basic Scope of Services, of Exhibit A, Scope of Services, of the Original Agreement:

### **“9.2.c Regulatory Agency Permitting**

For “North of Walsh Avenue” sites 10 and 11, CONSULTANT shall prepare and submit applications for the following regulatory agency permits, including supporting technical studies (Biological Assessment, Delineation of Jurisdictional Waters, Historic Properties Survey Report/Finding of Effect; Historic Properties Survey Report/Finding of Effect assumed to be prepared under Optional Task 9.2.b):

- Clean Water Act Section 404 and/or Rivers and Harbors Act Section 10 (U.S. Army Corps of Engineers)
- Clean Water Act Section 401 water quality certification (Regional Water Quality Control Board)
- Streambed Alteration Agreement (Department of Fish and Wildlife)
- “Section 408” (33 USC 408) review (U.S. Army Corps of Engineers)

Application packages will be prepared in administrative draft for CITY review and will be revised and finalized based on (1) round of CITY review comments. Use of the Joint Aquatic Resources Permit Application (JARPA) format is assumed. If any of the permits listed above is not needed, budget for all permits will need to be adjusted within the contracted total. Budget assumes Section 408 review will be very straightforward and will not require hydrologic and hydraulic system analysis, that project will qualify for U.S. Army Corps of Engineers Nationwide Permitting (no Section 404[b][a] alternatives analysis needed), and that state and federal Incidental Take Permitting can be avoided."

**9. AMENDMENT PROVISIONS**

That the second paragraph of Section I. General Payment, of Exhibit B, Schedule of Fees, of the Original Agreement is amended to read as follows:

"Initial Term (2021 Projects):

The total payment to the Consultant for Basic Services, as stated in Exhibit A, for the Initial Term (2021 Projects) shall not exceed \$1,426,299. The amount billed to City for pre-approved Additional Services shall not exceed the sum of \$142,630. In no event shall the amount billed to City by Consultant for Services under the Initial Term of this Agreement exceed \$1,568,929, subject to budget appropriations."

**10. AMENDMENT PROVISIONS**

That the second sentence of the fourth paragraph of Section II. Basic Services, of Exhibit B, Schedule of Fees, of the Original Agreement is amended to read as follows:

"The following table is a summary of the Tasks based upon the Proposal submitted by Mott MacDonald Group, Inc. on January 17, 2020 and subsequent proposal submitted on August 3, 2020, and agreed by CITY and CONSULTANT, attached to this Exhibit B and incorporated herein by reference."

**CONTINUED ON FOLLOWING PAGE**

**11. AMENDMENT PROVISIONS**

That the table following the fifth paragraph of Section II. Basic Services, of Exhibit B, Schedule of Fees, of the Original Agreement is amended to read as follows:

“

<b>Description</b>		<b>Amount</b>
Task 1	Project Management	\$ 55,392
Task 2	Preliminary Engineering and Evaluation	\$ 218,220
Task 3	Permitting	\$ 47,960
Task 4	Environmental Clearance and Regulatory Agency Permitting	\$ 15,653
Task 5	Construction Documents	\$ 649,811
Task 6	Bid Support Assistance	\$ 14,350
Task 7	Construction Support	\$ 100,620
Task 8	Record Drawings and Project Close-Out	\$ 37,376
	Reimbursable Expenses	\$ 21,200
<b>Subtotal</b>		<b>\$ 1,160,582</b>
Task 9	Optional Tasks	\$ 265,717
<b>Total</b>		<b>\$ 1,426,299</b>

”

**12. AMENDMENT PROVISIONS**

That the last paragraph of Section II. Basic Services, of Exhibit B, Schedule of Fees, of the Original Agreement is amended to read as follows:

“In no event shall the amount billed to City by Consultant for Basic Services under The Initial Term this Agreement exceed one million four hundred twenty six thousand two hundred ninety nine dollars (\$1,426,299), subject to budget appropriations.”

**13. AMENDMENT PROVISIONS**

That the first sentence of the first paragraph of Section III. Basic Services, of Exhibit B, Schedule of Fees, of the Original Agreement is amended to read as follows:

“Reimbursable Expenses shall not exceed twenty one thousand two hundred dollars (\$21,200) without prior written approval by the City.”

**14. TERMS**

All other terms of the Original Agreement which are not in conflict with the provisions of this Amendment No. 1 shall remain unchanged in full force and effect. In case of a conflict in the terms of the Original Agreement and this Amendment No. 1, the provisions of this Amendment No. 1 shall control.

**15. COUNTERPARTS**

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument.

**CONTINUED ON PAGE 8**

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives.

**CITY OF SANTA CLARA, CALIFORNIA**  
a chartered California municipal corporation

Approved as to Form: \_\_\_\_\_

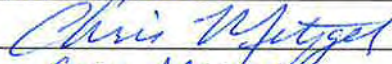
Dated: \_\_\_\_\_

\_\_\_\_\_  
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\_\_\_\_\_  
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"CITY"

**MOTT MACDONALD GROUP, INC**  
a Delaware corporation

Dated: Oct. 2, 2020  
By (Signature):   
Name: CHRIS METZGER  
Title: SR. VICE PRESIDENT  
Principal Place of Business Address: 2077 GATEWAY PL, SUITE 550  
SAN JOSE, CA 95110  
Email Address: Chris.Metzger@mottmac.com  
Telephone: ( ) 408 876 6039  
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"CONTRACTOR"