

FOURTH AMENDMENT TO AGREEMENT FOR INDEPENDENT CONTRACTOR

THIS FOURTH AMENDMENT TO AGREEMENT OF SERVICES BY INDEPENDENT CONTRACTOR (“Amendment”) is made and effective as of the 5th day of December 2023 by and between the CITY OF BEAUMONT (“CITY”), a general law city, and MOFFATT & NICHOL, a California Corporation (hereinafter called “CONTRACTOR”) in consideration of the mutual promises and purpose contained herein, the parties agree as follow:

RECITALS

This Amendment is made with respect to the following facts and purpose that the parties agree are true and correct:

- A. On December 19, 2017, CITY and CONTRACTOR entered into that certain agreement entitled “Agreement for Professional Service by Independent Contractor (“Agreement”) for ENVIRONMENTAL DOCUMENTATION SERVICES FOR THE PENNSYLVANIA AVENUE INTERCHANGE IMPROVEMENT PROJECT, PENNSYLVANIA AVENUE WIDENING PROJECT AND THE PENNSYLVANIA AVENUE GRADE SEPARATION PROJECT.
- B. On January 2, 2019, the City and Contractor entered into the “First Amendment to Agreement for Professional Services” to extend the term of contract and increase the scope of services.
- C. On February 2, 2021, the City and Contractor entered into the “Second Amendment to Agreement for Professional Services” to extend the term of contract and increase the scope of services.
- D. On November 15, 2022, the City and Contractor entered into the “Third Amendment to Agreement for Professional Services” to extend the term of contract and increase the scope of services.
- E. Contractor has provided a Letter of Extension dated November 13, 2023, to extend the term of the Agreement a final time and add the scope of sewer relocation work, and close out the tasks of Pennsylvania Avenue Interchange Project and Pennsylvania Avenue Widening Project.

AMENDMENT

Section 1. Term of Agreement in accordance with Section 1 of the Agreement, the parties agree to extend the term of the Agreement by one (1) year. Notwithstanding anything in this Agreement to the contrary, this Agreement shall automatically terminate December 19, 2024, unless earlier terminated by the parties in accordance with the Agreement. The Agreement is hereby amended as follows: CONTRACTOR agrees to provide the services (“Services”) as follows: ENVIRONMENTAL DOCUMENTATION SERVICES (“Services”) per revised Exhibit “A” dated November 13, 2023, and any other services which the City may request in writing. All Services shall be performed in the manner and

according to the timeframe set forth in the Proposal. CONTRACTOR designates Stephanie Oslick as CONTRACTOR's professional responsible for overseeing the Services provided by CONTRACTOR.

The recitals to this Amendment are deemed incorporated herein by this reference. All other terms of the Agreement not expressly amended by this Amendment shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereby have made and executed this Amendment to be effective as of the day and year first above-written.

CITY:

CITY OF BEAUMONT

By: _____
Julio Martinez III, Mayor

CONTRACTOR:

Moffatt & Nichol

By: _____
Print Name: _____
Title: _____

ATTEST:

By: _____
Nicole Wheelwright, Deputy City Clerk

APPROVED AS TO FORM:

By: _____
John O. Pinkney, City Attorney

EXHIBIT "A"

PROPOSAL

November 13, 2023

Mr. Dustin Christensen
City of Beaumont Principal Engineer
550 E. 6th Street
Beaumont, CA 92223

Subject: Pennsylvania Avenue Grade Separation Project - Amendment Request #4 for Inclusion of Sewer Relocation and Update From Caltrans Local Assistance to Caltrans Oversight Process

Dear Mr. Christensen:

Moffatt and Nichol (M&N) is pleased to provide the City of Beaumont with continued assistance on the Pennsylvania Avenue Grade Separation Project. This amendment request is to our existing contract dated December 19, 2017 to provide “Environmental Documentation Services for Pennsylvania Avenue Interchange Improvement Project, Pennsylvania Avenue Widening Project and the Pennsylvania Avenue Grade Separation Project.” Specifically, this Amendment #4 request is to (1) extend the contract beyond December 19, 2023 for one additional year to December 19, 2024, (2) add in the sewer relocation work to move the City sewer from under Pennsylvania Avenue to Massachusetts Avenue, and (3) update the scope of work for the Pennsylvania Avenue Grade Separation Project to be consistent with the Caltrans oversight (not Local Assistance) project development process.

Further, no additional work will be performed on the Pennsylvania Avenue Interchange Improvement Project or the Pennsylvania Avenue Widening Project – both of these projects will be closed-out and remaining funds will be unencumbered as follows:

- Pennsylvania Interchange (\$105,210.78 remaining)
- Pennsylvania Widening (\$317.90 remaining)

Amendment #1 dated January 2, 2019 was approved for (1) extending the contract to December 19, 2020 (term of agreement) to December 19, 2023, and (2) providing Regulatory and Multiple Species Habitat Conservation Plan (MSHCP) services specifically for the Pennsylvania Avenue Widening Project (additional services and compensation). Amendment #1 services were not included in the original 2017 contract because the original contract was only for services during the environmental document phase (technical studies and the environmental document), and these regulatory services are completed during final design, which is the project phase after the environmental document phase.

Amendment #2 dated February 2, 2021 was approved for (1) extend the contract beyond December 19, 2020, and (2) provide continued California Environmental Quality Act (CEQA) services for the Pennsylvania Avenue Widening Project (Widening Project) due to project

description changes, changes to the CEQA Environmental Checklist, revision to USACE regulations on Waters of the United States definition, and new SB743 legislation (requirement to analyze vehicles miles travelled) that occurred in June-July 2020 after production of the environmental documentation had already commenced. Since 2019 and in June-July 2020, the Widening Project has undergone design changes from the original 95% Plan Set, regulatory changes (SB743 implementation and USACE jurisdiction definition), and changes in CEQA that require additional effort to complete the tasks. Design changes include removing the sidewalk from the east side of Pennsylvania Avenue, incorporating new structural Best Management Practices (BMP)s and a revised project footprint. These project description changes will require additional effort to update the supportive technical analysis/studies already completed and update environmental resource analyses in the IS/MND.

Amendment #3 dated November 15, 2022 was approved for (1) extend the contract one year to December 19, 2023, and (2) provide National Environmental Policy Act (NEPA) services for the Pennsylvania Avenue Grade Separation Project (Grade Sep Project) due to the City obtaining federal funds by FHWA to help build the Grade Sep Project. At the time of the original contract, it was not anticipated that compliance with NEPA would be required.

In Summer 2022, the City decided to procure federal funds from FHWA to help build the Grade Sep project. Since there will now be a federal nexus, the Grade Sep project is federalized, and NEPA compliance is required. Per NEPA Assignment, Caltrans acts on behalf of FHWA, and therefore the NEPA document and technical studies need to comply with Caltrans processes and templates (as applicable). At the time of Amendment #3, it was anticipated that the project would go through the Local Assistance Process, where a Preliminary Environmental Study (PES) would be required. The PES document identifies the type and level of any required technical studies and the type of NEPA environmental document (anticipated to be a NEPA Categorical Exclusion). The following technical studies may also be required:

- Part of the project is located with the Western Riverside Multiple Species Habitat Conservation Plan (MSHCP) and possible waters of the US/State. To be prepared by Noreas, Inc.
- The Union Pacific Railroad is a recorded historic site in the area, and excavation is anticipated for this project. The project will need to comply with Section 106 of the National Historic Preservation Act. To be prepared by CRM Tech.
- The project is located within City and Union Pacific right-of-way, a Phase I Initial Site Assessment (to determine any hazardous materials within the project site) will likely be needed. To be prepared by Leighton Consulting, Inc.
- The project will have a vertical change to the Pennsylvania Avenue alignment, a Noise Study Report (NSR) will likely be needed. To be prepared by Entech Consulting Group.
- A paleontological sensitivity assessment may be needed for this project. To be prepared by CRM Tech.

M&N respectfully requests a time extension (to complete this work not to exceed December 19, 2024) to incorporate the sewer relocation and follow the Caltrans oversight process. No additional fees are being requested; however, some of the existing fees may be shifted from previous tasks to account for different work tasks associated with this Amendment (and Caltrans requirements). The tasks, assumptions, and exclusions are included in Attachment A Scope of Work.

If you have any questions or require additional information, please contact me at 562-317-3491. We look forward to working with you.

Sincerely,

MOFFATT & NICHOL



Stephanie S. Oslick, AICP, ENV SP

Project Manager

Encl: Attachment A: Scope of Work

Attachment A

(Scope of Work and Fee)

TASK 1 – PROJECT DESCRIPTION

M&N will prepare the project description for inclusion in the technical studies and the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) environmental documents.

Scope of work:

- Coordinate with Project Engineer for updated Plan Set and CAD Files.

Deliverable:

- Draft and Final Project Description

TASK 2 – CEQA ENVIRONMENTAL DOCUMENT

M&N will prepare the CEQA environmental document (assumed to be a Categorical Exemption with Caltrans acting as the CEQA Lead Agency), consistent with the Project Description described under Task 1 above.

Scope of work:

- Prepare Draft and Final CEQA Categorical Exemption for City and Caltrans review (and Caltrans approval)

Deliverables:

- Prepare Draft and Final CEQA Categorical Exemption

TASK 3 – NEPA ENVIRONMENTAL DOCUMENT

M&N will prepare the NEPA environmental document (assumed to be a Categorical Exclusion with Caltrans acting as the NEPA Lead Agency), consistent with the Project Description described under Task 1 above.

Scope of work:

- Prepare Draft and Final NEPA Categorical Exclusion for City and Caltrans review (and Caltrans approval)

Deliverables:

- Prepare Draft and Final NEPA Categorical Exclusion

TASK 4 – ENVIRONMENTAL TECHNICAL STUDIES

M&N will coordinate with the technical specialists to provide the Project Description, Environmental Project Footprint and respond to requests for information needed to prepare environmental technical studies. M&N oversight will include quality control for adequacy of analysis and findings consistent with CEQA and NEPA.

Scope of work:

- Coordinate with specialists to prepare required environmental technical studies. Studies include the following: Biological Resources, Cultural Resources, Hazardous Materials, Noise and Paleontology.
- Oversee and Quality Control of environmental technical studies.
- Coordinate with City as needed regarding findings of the technical analyses.

Deliverable:

- Draft and Final Environmental Technical Studies for review/approval by City and Caltrans.

TASK 5 – REGULATORY PERMITTING

If needed, M&N will prepare regulatory permitting applications to impacts to wetlands or Waters of the US/Waters of the State from the US Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), and/or California Department of Fish and Wildlife (CDFW).

Scope of work:

- Coordinate with applicable regulatory agencies and submit permit applications.

Deliverable:

- Regulatory agency permit applications (assuming USACE Nationwide Permit, RWQCB 401 Certification, and CDFW 1600).

TASK 6 – PROJECT MANAGEMENT

M&N will manage the environmental document, coordination with subconsultants, billing, invoicing and contract between the City and M&N's subconsultants.

Deliverable:

- No specific deliverable for this Task.

FEE

Existing budgetary authority will be used to complete tasks associated with Amendment #4, and no additional fees are being requested. Please note that some individual tasks may be more/less than what was previously identified, due to compliance with the Caltrans oversight process.

Assumptions and Exclusions:

1. The Project will require Caltrans review and approval of the Environmental Document and Technical Studies. Caltrans is the CEQA and NEPA Lead Agency.
2. No additional project description changes will occur as of the 65% plans provided to M&N. Project description changes may require a revised scope of work.
3. This scope of work is valid for 90 days. Any delays beyond M&N's control may require a revised scope of work.
4. The scope of work assumes no significant environmental impacts as defined by CEQA and/or NEPA, which would require a higher-level environmental document to be prepared (e.g., CEQA Initial Study/Mitigated Negative Declaration, CEQA Environmental Impact Report, NEPA Environmental Assessment, or NEPA Environmental Impact Statement).
5. It is assumed that no federal and/or state sensitive species (e.g., threatened or endangered species) will be present within the project study area.
6. If regulatory permitting is needed, any permitting application fees will be paid by the City.