

**THIRD AMENDMENT TO PROJECT SPECIFIC AGREEMENT FOR
PROFESSIONAL CONSULTANT SERVICES
FOR THE JUAN BAUTISTA DE ANZA HISTORIC CORRIDOR SEGMENT OF MULTI-
USE TRAIL FROM EL POTRERO PARK TO IRIS AVENUE
PROJECT NO. 801 0073**

This Third Amendment to Agreement is by and between the CITY of MORENO VALLEY, a municipal corporation, hereinafter referred to as "City," and **Psomas**, a California corporation, hereinafter referred to as "Consultant." This Third Amendment to Agreement is made and entered into effective on the date the City signs this Amendment.

RECITALS:

Whereas, the City and Consultant entered into an Agreement entitled "AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES," hereinafter referred to as "Agreement," dated January 17, 2018.

Whereas, the Consultant is providing Professional Consultant Design Services for the **Juan Bautista De Anza Historic Corridor Segment of Multi-Use Trail from El Potrero Park to Iris Avenue, Project No. 801 0073.**

Whereas, the Agreement was amended by the "First Amendment to Agreement for Professional Consultant Services" dated April 29, 2020.

Whereas, the Agreement was amended by the "Second Amendment to Agreement for Professional Consultant Services" dated April 27, 2021.

Whereas, it is desirable to amend the Agreement to expand the scope of the work to be performed by the Consultant as is more particularly described in Section 1 of this Third Amendment to Agreement.

Whereas, the Consultant has submitted a Proposal dated May 10, 2021 for expansion of the scope of work which is attached as "Exhibit A" of this Third Amendment, in response to City's request.

**THIRD AMENDMENT TO AGREEMENT FOR
PROFESSIONAL CONSULTANT SERVICES
PROJECT NO. 801 0073**

SECTION 1 AMENDMENT TO ORIGINAL AGREEMENT:

1.1 The Agreement termination date of June 30, 2022 is not extended by this Amendment, unless the termination date is further extended by an Amendment to Agreement.

1.2 “Exhibit B” (Scope of Services) to the Original Agreement is hereby amended by adding to the scope of work as described in “Exhibit A” of this Third Amendment, entitled “Amendment to Phase 4 – Construction Assistance services to the City of Moreno Valley on Juan Bautista De Anza Multi-Use Trail Segment 1.”

1.3 “Exhibit D” (Terms of Payment) to the Original Agreement is hereby further amended by adding the cost as included in said “Exhibit B” of this Third Amendment to Agreement.

1.4 The total “Not to Exceed” fee for this contract is \$282,668 (\$254,773 for the original Agreement, \$0 for the First Amendment to Agreement, \$0 for the Second Amendment to Agreement, plus \$27,895 for the Third Amendment to Agreement).

SECTION 2

2.1 Except as otherwise specifically provided in this Amendment, all other terms and conditions of the Agreement shall remain in full force and effect.

SIGNATURE PAGE TO FOLLOW

**THIRD AMENDMENT TO AGREEMENT FOR
PROFESSIONAL CONSULTANT SERVICES
PROJECT NO. 801 0073**

IN WITNESS HEREOF, the parties have each caused their authorized representative to execute this Agreement.

City of Moreno Valley

Psomas

BY: _____
Public Works Director/City Engineer

BY: _____

Date

TITLE: _____
(President or Vice President)

Date

<p><u>INTERNAL USE ONLY</u></p> <p>APPROVED AS TO LEGAL FORM:</p> <p>_____ City Attorney</p> <p>_____ Date</p>
--

BY: _____

TITLE: _____
(Corporate Secretary)

Date

EXHIBIT "A"
CONSULTANT PROPOSAL

May 11, 2021

Margery Lazarus, PE
Project Manager
City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92551

Subject: Amendment to "Phase 4 - Construction Assistance" for additional services to the City of Moreno Valley on Juan Bautista De Anza Multi-Use Trail Segment 1

Dear Marge,

Pursuant to the recently allocated budget for construction on the Juan Bautista De Anza Multi-Use Trail Segment 1, expected obligation this month and our recent conversation, Psomas provides the following amendment for additional services on the project's pre-, during and post construction. Tasks 4.1 and 4.2 are newly added tasks, not envisioned or scoped at project commencement.

Phase 4 – Construction Assistance additional services

Task 4.1 – Post-Bid Support

Psomas will provide opinion and analysis on the responsiveness of bids received.

Deliverable: Opinion in the form of an email and/or phone conversation

Task 4.2 – Pre-construction Biological Monitoring & Survey at APNs 312-020-025 (Maple Lane Group's), and 312-031-033 (Burkowski's)

4.2.1 Monitoring of the installation of ESA fencing and identification of exotic plant species (BIO-3, BIO-4, and BIO-12)

Prior to the commencement of construction activities or vegetation removal, a qualified Biologist will monitor the installation of the temporary ESA exclusion fencing around the project limits as specified in the construction plans. This fencing will be installed by construction personnel and construction personnel will strictly limit their activities, vehicles, equipment, and construction materials to the project footprint and designated staging areas and routes of travel. The ESA exclusion fencing will remain in place until the completion of all construction activities.

In addition, the qualified Biologist will identify any exotic plant species that may be present in the project footprint in order for construction personnel to

1500 Iowa Avenue,
Suite 210
Riverside, CA 92507

Tel 951.787.8421
www.psomas.com

*Ms. Lazarus
Page 2 of 4
May 11, 2021
Juan Bautista de Anza Trail*

properly remove the plant species during construction. This task is required to prevent sprouting or regrowth of exotic plant species.

Note: This work effort includes two days for the monitoring of the fencing. Additional site visits will be billed on a time and materials basis or will require a budget augment. During this site visit, a brief pre-construction survey will be conducted within the project site to look for any special status species that may occur in the vicinity (this will satisfy BIO-12) even though BIO-12 will generally be implemented in the area around Lake Perris State Recreation Area which is not part of the proposed project segment.

4.2.2 Pre-construction burrowing owl survey (BIO-8)

Pursuant to the California Department of Fish and Wildlife (CDFW) protocol (CDFW 2012), a pre-construction burrowing owl survey is required prior to construction activities and will be conducted from civil twilight to 10 a.m. or two hours before sunset until evening civil twilight within areas providing suitable habitat for burrowing owl. The purpose of this survey is to verify the presence or absence of the burrowing owl on the project site or adjacent areas. The survey will be conducted by a qualified Biologist no more than 14 days prior to initiating ground disturbance and will include the project limits plus a 500-foot buffer surrounding the project. However, the 500-foot buffer will only be inspected visually from the project boundaries unless the Client obtains permission from the adjacent landowners for surveys to be conducted on their property. The locations of any burrowing owls observed on the project site will be mapped on an aerial photograph. Any pertinent behavior will also be recorded. If burrowing owls are present during the breeding season (February 1 to August 31), the burrowing owl will be fully avoided by establishing buffers in coordination with CDFW.

Upon completion of the survey effort, a Letter Report will be prepared on the survey findings. The letter will include a description of survey methods, the location and descriptions of any burrowing owls found, and any limits to construction due to burrowing owl presence on or adjacent to the project site. This scope assumes one version of the Letter Report will be delivered electronically in PDF format. Additional versions of the report will be billed on a time-and-materials basis. Any special status species observed during the surveys will be reported to the CDFW's California Natural Diversity Database (CNDDDB) as required by the surveying Biologist's permit conditions.

Note: This work effort includes one field day for the pre-construction burrowing owl survey with a qualified Biologist to cover the suitable habitat within the project limits and a 500-foot buffer. Any time lapses between project activities would trigger subsequent pre-construction surveys and will require a budget augment.

4.2.3 Pre-construction nesting bird SURVEY (BIO-11)

If construction commences during the nesting season (February 15 to August 31), a pre-construction survey for nesting birds will occur within three days prior to construction activities by a qualified Biologist. The survey will occur within all suitable nesting habitat

*Ms. Lazarus
Page 3 of 4
May 11, 2021
Juan Bautista de Anza Trail*

within the project impact area and a 500-foot buffer. If any nesting birds are found, the location will be mapped and a determination will be made on the nesting stage of the bird. In addition, if nesting birds are found in consultation with CDFW, the Biologist will establish a protective buffer around the nest based on the location of the nest, sensitivity of the species, and existing human activity in the area. Construction activities within the protective buffer around the nest would be delayed until the nest becomes inactive; the young have fledged; the young are no longer being fed by parents; the young have left the area; and/or the young will no longer be impacted by the project. The Biologist will flag the limits of avoidance around any active nest(s) with flagging and/or stakes.

Upon completion of the survey effort, a brief Letter Report will be prepared on the survey findings. The Report will include methods and results sections with locations and descriptions of any nesting birds found; any restrictions on construction activities; and recommendations for any follow-up monitoring necessary. This Scope of Work assumes one version of the Report will be submitted electronically in PDF format. Any special status species incidentally observed during the nesting bird survey will be reported to the CDFW's CNDDDB.

Note: This work effort assumes once survey visit will be conducted. Any additional site visits will require a budget augment. The project site will need to be re-surveyed if there is a lapse in construction activities for more than seven days during the nesting season.

Optional Task 4.3 (As requested by the City) :

Passive Relocation of Burrowing Owl (BIO-10, only required if burrowing owl present and not nesting)

If burrowing owl are present outside the nesting season (September 1 to January 31), passive relocation by a qualified Biologist will be conducted once it has been confirmed that pairing activities have not begun. Passive relocation efforts will be conducted in coordination with CDFW. If the burrowing owl is found to be paired and exhibiting potential nesting behavior, construction disturbance will not occur within a designated buffer determined in coordination with CDFW of the active burrow(s) until it is confirmed by the qualified Biologist that the pair is not nesting and that young are not present, or if present are independently foraging. This task will be billed on a time and materials basis up to the budget shown. If no owls are observed, this task will not be needed.

Note: The aforementioned work effort assumes a maximum total of no more than two days will be necessary with two qualified Biologists. Any additional site visits will require a budget augment.

Nesting Bird Project Management (only required if nesting birds are observed)

If active nests are observed during the nesting bird survey, Psomas will assist the Client in developing a strategy to avoid or minimize project delays.

*Ms. Lazarus
Page 4 of 4
May 11, 2021
Juan Bautista de Anza Trail*

This task includes time for phone calls, emails, conference calls, meetings, or other correspondence necessary to support the strategy (e.g., correspondence with the CDFW to obtain approval on a reduced buffer). It may also include time to revise the nesting bird report with additional information. This task includes up to 8 hours of project management and technical staff time and 6 hours of GIS support. This task will be billed on a time and materials basis up to the budget shown. If no nesting birds are observed, this task will not be needed.

We believe the aforementioned reflects what was discussed. If you have any questions, please do not hesitate to call me at (714) 481-7956, or email: Arief.naftali@psomas.com. Thank you for your consideration.

Respectfully Submitted,
Authorization to Proceed

A handwritten signature in blue ink, appearing to read 'Arief Naftali', with a long horizontal line extending to the right.

Arief Naftali, PE, TE, ENV SP
Project Manager/Vice President

EXHIBIT "B"

TERMS OF PAYMENT/CONSULTANT COST PROPOSAL

The Consultant's compensation shall not exceed **\$282,668 amount**.

Additional Project Fee

Segment 1 of
 Juan Bautista de Anza Historic Trail
 May 11, 2021

Description Consultant Services	Project Manager	Project Engineer	Staff Engineer	Project Assistant	Environmental PM	Biologist	GIS Specialist	Environmental Project Assistant	Total Hours	Direct Labor Subtotal	Subconsultant Fees	Total Cost
	\$241.39	\$129.67	\$106.08	\$104.74	\$150.34	\$112.85	\$121.96	\$108.96				
Phase 1 - PA/ED												
Subtotal - PA/ED										\$ -	\$ -	\$ -
Phase 2 - Plans, Specifications and Estimates												
Subtotal - PS&E										\$ -	\$ -	\$ -
Phase 3 - Right of Way/Utility Certification												
SubTotal - Right-of-Way/Easement										\$ -	\$ -	\$ -
Phase 4 - Construction (Additional Services)												
4.1 Post-Bid Support	4			1					5	\$ 1,070	\$ 600	\$ 1,670
4.2 Pre-Construction Biological Monitoring and Survey												
Monitoring of ESA Fencing installation and ID of Exotic plant Species (Bio-4, 5 & 12)	2				12	36	6	4	60	\$ 7,517		\$ 7,517
Pre-construction burrowing owl survey (Bio-8)	2				8	24	12	4	50	\$ 6,293		\$ 6,293
Pre-construction nesting bird survey (Bio-11)	2				8	20		2	32	\$ 4,160		\$ 4,160
Optional Task 4.3 (As requested by the City)												
<i>Passive Relocation of Burrowing Owl if present and not nesting, Nesting Bird Project Management, if present.</i>					12	36	10	2	60	\$ 7,304		\$ 7,304
Reimbursable Expenses (for Tasks 4.1 & 4.2)										\$ 950		\$ 950
PROJECT TOTAL =	10			1	40	116	28	12	207	\$ 27,295	\$ 600	\$ 27,895
STAFF UTILIZATION =	5%			0%	19%	56%	14%	6%				