

## AGREEMENT NO. 18-148 (1)

### AMENDMENT NO. 1 TO AGREEMENT NO. 18-148

This **AMENDMENT NO. 1 TO AGREEMENT NO. 18-148** is made and entered into on \_\_\_\_\_, by and between the **CITY OF BAKERSFIELD**, a chartered City and municipal corporation ("CITY" herein), and **NV5, Inc.**, a Corporation, ("MANAGER" herein).

#### R E C I T A L S

**WHEREAS**, on September 19, 2018, CITY and MANAGER entered into Agreement No. 18-148 ("AGREEMENT" herein), wherein MANAGER would provide Construction Management Services for the Belle Terrace Operational Improvements Project ("PROJECT" herein) for an amount not to exceed **\$3,778,549.06**; and

**WHEREAS**, the parties now desire to enter into this Amendment No. 1 to the AGREEMENT to be able to provide additional construction management services including construction observation, material testing, biological monitoring, CPM analysis, contract administration, and project closeout as outlined in **Attachment B-1**, attached hereto and incorporated herein by this reference; and

**WHEREAS**, the Compensation will also need to be increased by a not-to-exceed amount of **\$775,050.00** as a result of this additional work, to be paid as outlined in **Attachment C-1**, attached hereto and incorporated herein by this reference.

**NOW, THEREFORE**, incorporating the foregoing recitals herein, CITY and MANAGER mutually agree as follows:

1. **Section 1 of the AGREEMENT entitled "SCOPE OF WORK" is hereby amended to read as follows:**

1. **SCOPE OF WORK**. MANAGER must competently and thoroughly provide construction management services as described in the RFQ/RFP, attached hereto and incorporated herein as **Exhibit A**, and as provided in the scope of work description prepared by MANAGER, attached hereto and incorporated herein as **Exhibit B and Exhibit B-1**. Collectively, the RFQ/RFP

and the scope of work description are referred to herein as "Scope of Work." MANAGER's services must include all the procedures necessary to properly complete the Scope of Work, whether specifically included in the Scope of Work or not.

2. **Section 2 of the AGREEMENT entitled "ALLOWABLE COSTS AND PAYMENT PROCEDURE" is hereby amended to read as follows:**

**2. ALLOWABLE COSTS AND PAYMENT PROCEDURE.** The method of payment for this Agreement will be based on actual cost plus a fixed fee. CITY will reimburse MANAGER for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead, and other direct costs) incurred by MANAGER in performance of the work. MANAGER will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved MANGER'S Cost Proposal, attached hereto and incorporated herein as **Exhibit C** and **Exhibit C-1**, unless additional reimbursement is provided for by amendment of the Agreement. In no event will MANAGER be reimbursed for overhead costs at a rate that exceeds CITY's approved overhead rate set forth in the Cost Proposal. In the event the CITY determines that a change to the work from that specified in the Cost Proposal and Agreement is required, the time to perform the obligations of this Agreement or actual costs reimbursable by CITY shall be adjusted by amendment of the Agreement to accommodate the changed work. Notwithstanding anything contrary herein, the total paid for **actual costs** herein may not exceed **\$4,271,078.10**.

2.1 In addition to the allowable incurred costs, CITY will pay MANAGER a fixed fee of **\$282,520.96**. The fixed fee is nonadjustable for the term of the Agreement, except in the event of a significant change in the Scope of Work and such adjustment is made by amendment of the Agreement.

2.2 The total amount payable by CITY for performing the Scope of Work, inclusive of actual costs and the fixed fee, shall not exceed **\$4,553,599.06 ("Compensation")**.

2.3. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.

2.4. When milestone cost estimates are included in the approved Cost Proposal, MANAGER must obtain prior written approval for a revised

milestone cost estimate from the Contract Administrator before exceeding such cost estimate.

- 2.5. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this Agreement.
- 2.6. Progress payments will be made monthly in arrears based on services provided and allowable incurred costs, upon receipt by and approval of CITY's Contract Administrator of itemized invoices in triplicate. A pro rata portion of MANAGER's fixed fee will be included in the monthly progress payments. Invoices shall be submitted no later than 45 calendar days after the performance of work for which MANAGER is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this Agreement number and project title. CITY will withhold a portion of MANAGER's payment when required by the City of Bakersfield Municipal Code for the time period and purposes set forth therein. If applicable, CITY shall have the right to delay payment or terminate this Agreement in accordance with the provisions herein if MANAGER fails to submit the required deliverable items according to the Scope of Work. Invoices shall be mailed to CITY's Contract Administrator at the following address:

City of Bakersfield

1600 Truxtun Avenue, 3<sup>rd</sup> floor  
Bakersfield, California 93301

- 2.7. The final invoice must contain the final cost and all credits due to CITY including any equipment purchased under the provisions herein. MANAGER may submit to CITY a final invoice only when all of the following items have occurred: (1) Caltrans approves or rejects the original or revised independent CPA-audited ICR; (2) all work under this Agreement has been completed to CITY's satisfaction; and, (3) Caltrans has issued its final ICR review letter. MANAGER MUST SUBMIT ITS FINAL INVOICE TO CITY no later than 60 days after occurrence of the last of these items.
- 2.8. Salary increases will be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by CITY's Contract Administrator. For personnel subject to prevailing wage rates as described in the California Labor Code, all

salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

- 2.9. MANAGER agrees and understands that CITY is relying on reimbursement of a majority of the Compensation from various state and federal programs. If at any time during the duration of this Agreement, such reimbursement ceases to be available due to no fault of CITY, CITY reserves the right to terminate this Agreement.
- 2.10. CITY reserves the right to reject any work that is inadequate or incomplete without being charged for any extra time or compensation by MANAGER.
- 2.11. MANAGER must notify CITY when the Scope of Work is 75% complete or when 75% of the budget for the Scope of Work has been expended.

3. Section 5 of the AGREEMENT entitled "TIME FOR COMPLETION" is hereby amended to read as follows:

5. **TIME FOR COMPLETION.** MANAGER shall complete all assigned tasks set forth in the Scope of Work no later than **April 30, 2021.**

4. Except as amended herein, all other provisions of AGREEMENT shall remain in full force and effect.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed, the day and year first-above written.

Signatures on the following page

"CITY"

**CITY OF BAKERSFIELD**

By: \_\_\_\_\_  
**KAREN GOH**, Mayor

APPROVED AS TO CONTENT:  
**PUBLIC WORKS DEPARTMENT**

By: \_\_\_\_\_  
**NICK FIDLER**  
Public Works Director

APPROVED AS TO FORM:  
**VIRGINIA GENNARO**  
City Attorney

By: \_\_\_\_\_  
**JOSHUA RUDNICK**  
Deputy City Attorney

Insurance: \_\_\_\_\_


COUNTERSIGNED:

By: \_\_\_\_\_  
**RANDY MCKEEGAN**  
Finance Director

Attachments: **Attachments B-1 and C-1**

"MANAGER"

**NV5, Inc.**

By:  \_\_\_\_\_  
Type or Print Name: Lori Goodwin

Title: Vice President

# ATTACHMENT B-1



## **EXHIBIT T**

### **SCOPE OF CONSULTANT SERVICES**

#### ***AMENDMENT 1 TO AGREEMENT 18-148 FOR BELLE TERRACE OPERATIONAL IMPROVEMENTS PROJECT CONSTRUCTION MANAGEMENT***

#### **DESCRIPTION OF PROJECT**

NV5 shall be bound by the requirements and scope of work included in Agreement 18-148.

Amendment 1 provides additional construction management services including construction observation, materials testing, biological monitoring, CPM analysis, contract administration, and project closeout for the Belle Terrace Operational Improvements Project

#### **COMPLETIONS SCHEDULE**

The fee estimate is directly dependent on the contractor's work schedule and ability to execute the construction work. The fee estimate is based on the following assumptions:

- Construction and punch list completion by October 31, 2020
- Project closeout complete by April 30, 2021

In the event that the City Project Manager requires additional Construction Management services above the value established in the attached fee estimate or the Construction Contract duration extends beyond the above stated assumptions, NV5 will remain onsite and provide continuous Construction Management services. However, these services shall be considered as additional services, are above and beyond the scope and fee estimate of this contract, and shall be paid on a cost plus fixed fee basis as set forth by the appropriate hourly wages, mark-up, and profit shown in the contract. In addition, should the City request additional services not included in the contract, NV5 can provide those services. They shall also be considered as additional services, to be paid on a cost plus fixed fee basis.

#### **FEE SCHEDULE**

Compensation to provide Construction Management services required for the construction observation and administration for the subject construction project as detailed in this Agreement, for the time periods discussed in the previous section throughout the duration of the contract, shall be on a time and materials basis for the necessary personnel and reimbursable at the rates included in Agreement 18-148.

# ATTACHMENT C-1



EXHIBIT B-1

CITY OF BAKERSFIELD (TRIP) - Belle Terrace Operational Improvement Project  
CONSTRUCTION MANAGEMENT FEE ESTIMATE

MONTH #	NV5 FY 2020 Construction					NV5 FY 2021 Post-Construction					TOTAL JOB		TOTALS								
	Jun	Jul	Aug	Sep	Oct	TOTAL	WAGE	MARKED-UP	MARK-UP	TOTAL	Nov	Dec		TOTAL	WAGE	MARKED-UP	MARK-UP	TOTAL	TOTAL	TOTAL	
	21	22	23	24	25	HOURS	RATE	RATE	%		28	28		HOURS	RATE	RATE	%		HOURS	WAGE	
Assignment	176	184	168	168	168	2020					144	176	2021								
Construction Manager*	4	19	17	17	17	74	106.84	238.15	223%	\$17,623.14	8	0	8.00	106.84	238.15	223%	\$1,905.20	82	19,528.35	\$ 19,528.35	Construction Manager
Resident Engineer	35	138	126	126	126	551	74.28	165.58	223%	\$91,233.56	80	16	96.00	74.28	165.58	223%	\$15,895.50	647	107,129.06	\$ 107,129.06	Assistant Construction Manager*
Office Engineer**	22	92	84	84	84	366	50.26	112.04	223%	\$41,006.07	132	80	212.00	50.26	112.04	223%	\$23,752.15	578	64,758.23	\$ 64,758.23	Office Engineer
Structure Rep*	22	92	84	84	84	366	88.43	197.10	223%	\$72,138.76	32	0	32.00	88.43	197.10	223%	\$6,307.21	398	78,445.97	\$ 78,445.97	Structure Rep
Inspectors (Total 2)	88	387	353	353	353	1534	70.25	156.58	223%	\$240,191.16	24	0	24.00	70.25	156.58	223%	\$3,757.88	1558	243,949.04	\$ 243,949.04	Inspectors

SUBTOTAL LABOR \$ 513,810.66

total construction labor \$462,192.70

total post-construction labor \$51,617.95

\$ - OVERTIME (Note 3)

\$ 46,242.96 PROFIT (9.0%)

SUBTOTAL \$ 560,053.61

\$ -

\$ - DHS (DBE)

\$ 100,000.00 Materials Testing and Source Inspection

\$ 5,000.00 Surveying

\$ -

\$ - Mark-up

TOTAL LABOR + SUBCONTRACTS \$ 665,053.61

Notes

1 Subconsultants costs = 1.0 X Cost

\$ 28,200.00 Employee lodging

2 Other Expenses including Purchased Services and Materials = 1.0 X Cost

\$ 45,420.00 RE Office

3 Actual Hourly Rates invoiced may vary. Hourly rates listed are for the purposes of determining a "Not to Exceed" Contract Value.

\$ 21,660.00 Vehicles (Lease, Maintenance, Insurance, Gas)

4 Assumes early substantial project completion in October, 2020, and project close-out in December, 2020.

\$ 1,920.00 Cell Phones

\* Exempt Employee, paid straight time for all hours worked.

\$ 12,796.39 Other Direct Costs (office supplies, field supplies, etc)

\*\* positions are office positions not subject to Prevailing Wage

\$ 109,996.39 Subtotal

GRAND TOTAL \$ 775,050.00