

AMENDMENT NO. 2

TO PURCHASE AGREEMENT

THIS AMENDMENT TO PURCHASE AGREEMENT (“Amendment No. 2”) by and between the CITY OF CARSON, a California municipal corporation (“City”) and GOFORTH & MARTI, a California corporation doing business as G/M Business Interiors (“Seller”), is effective as of the ____ day of _____, 2023.

RECITALS

A. Section 2611(g) of the City’s Municipal Code (“CMC”) allows City, through its Purchasing Manager, to dispense with competitive bidding processes to purchase materials, supplies, equipment, or services by utilizing a cooperative purchasing program engaged in by any local, county, State, or Federal public entity or entities, even if the contracts and implementing agreements entered into by the participating entity or association under those cooperative purchasing programs were not entered into pursuant to a process that resulted in the contract being awarded to the lowest responsible and responsive bidder under CMC 2610(i); provided, that the selected bidder was selected in compliance with the competitive bidding or proposal process requirements of any participating entity or association within three years of City’s approval of the City contract entered into with the selected bidder via cooperative purchasing. The City Council has made a determination that the benefits to City of utilizing cooperative purchasing outweigh any incremental higher price that may be paid by City in certain instances as a result of not soliciting directly utilizing the lowest responsible and responsive bidder standard under CMC 2610(i).

B. The City of Charlotte, North Carolina (“Charlotte”) is part of a cooperative purchasing program through which it entered into a contract with Herman Miller, Inc. referred to as CONTRACT #: 2020000622 after engaging in a proposal process in 2019 through RFP # 269-2019-105 for purchase of furniture, installation and related products and services, whereby Charlotte now receives such products and services at a greatly discounted price. Such discounted price is now being made available to the City pursuant to Charlotte’s cooperative purchasing program.

C. Charlotte has designated OMNIA Partners as the administrative and marketing conduit for the distribution of CONTRACT #: 2020000622. CONTRACT #: 2020000622 provides that purchase orders and payments are to be issued directly to the local authorized Herman Miller, Inc. dealer.

D. Seller is an authorized reseller of certain Herman Miller, Inc. goods and services covered under RFP # 269-2019-105.

E. City and Seller entered into that certain Purchase Agreement dated October 4, 2022 (“Agreement”) whereby Seller agreed to sell and deliver to City and City agreed to purchase from Seller, certain Herman Miller, Inc. office furniture covered under RFP # 269-2019-105 for City’s use at City Hall (“Goods”) for a Purchase Price not to exceed \$883,209.27.

F. City and Seller entered into an amendment to the Agreement on June 20, 2023 (“Amendment No. 1) to accommodate a change order to modify certain aspects of the Goods, in particular, to change the sliding door to a swing door for card reader access, thereby increasing the Purchase Price by \$18,401.19 resulting in a new Purchase Price of \$901,610.46.

G. Now, City and Consultant seek to again amend the Agreement to allow City to purchase additional Goods to furnish: (i) City Hall at a cost of \$47,733.33, (ii) Veteran’s Sports Complex at a cost of \$76,915.23, and (iii) the Community Center at a cost of \$420,413.36, for a total additional cost of \$545,061.92 bringing the new total Purchase Price to \$1,446,672.38.

TERMS

1. Contract Changes. The Agreement is amended as provided herein (new text is identified in *bold italics*, deleted text in ~~strike-through~~):

A. Section 1 (Purchase and Sale of Goods) of the Agreement is hereby amended to read in its entirety as follows:

“**1. Purchase and Sale of Goods.** On and subject to the terms and conditions set forth in this Agreement, Seller agrees to sell and deliver to City and City agrees to purchase and accept from Seller the furniture and related ancillary services described herein and specified in Exhibit A, ~~and Exhibit A-1~~, Exhibit A-2, Exhibit A-3 and Exhibit A-4, attached hereto and incorporated herein by this reference (“Goods”), for the total purchase price (“Purchase Price”) set forth in Section 3.”

B. Section 2 (Description of Goods) of the Agreement is hereby amended to read in its entirety as follows:

“**2. Description of Goods.** The Goods being sold by Seller to City consists of a multitude of furniture items, together with ancillary delivery, warranty and installation and other services detailed in Exhibit A, ~~and Exhibit A-1~~, Exhibit A-2, Exhibit A-3 and Exhibit A-4, with Exhibit A-1, Exhibit A-2, Exhibit A-3 and Exhibit A-4 to serve as a change orders to the Goods listed in Exhibit A (*all services performed under the Agreement* shall hereinafter be referred to as “Services”). In performing the Services, Seller shall comply with all labor laws set out in Exhibit B, attached hereto and incorporated herein by this reference.”

C. Section 3 (Purchase Price) of the Agreement is hereby amended to read in its entirety as follows:

“**3. Purchase Price.** The total Purchase Price which City agrees to pay to Seller for purchase and sale of the Goods and their delivery *and ancillary Services* is not to exceed *One Million Four Hundred Forty Six* ~~Nine Hundred One Thousand Six Hundred~~ *Seventy Two* ~~Ten~~ Dollars and *Thirty Eight* ~~Forty Six~~ Cents (~~\$1,446,672.38~~*\$901,610.46*), as provided in further detail in Exhibit A, Exhibit A-1, Exhibit A-2, Exhibit A-3 and Exhibit A-4.”

D. Section 25 (Exhibit A) of the Agreement is hereby amended to read in its entirety as follows:

“25. Exhibit A. The Parties acknowledge and understand that Exhibit A, ~~and Exhibit A-1, Exhibit A-2, Exhibit A-3 and Exhibit A-4~~ are strictly intended to set forth the particulars that will comprise the Goods, Services and associated pricing, and that any text contained in Exhibit A, ~~and Exhibit A-1, Exhibit A-2, Exhibit A-3 and Exhibit A-4~~ that may otherwise be construed to be of legal significance (“Extraneous Text”) will be disregarded by the Parties. Additionally, in the event either Party or any court of competent jurisdiction takes the position that any Extraneous Text is not to be disregarded and in fact ought to be made part of this Agreement, to the extent of any conflict between this Agreement minus Exhibit A, ~~and Exhibit A-1, Exhibit A-2, Exhibit A-3 and Exhibit A-4~~, on the one hand, and Exhibit A, ~~and Exhibit A-1, Exhibit A-2, Exhibit A-3 and Exhibit A-4~~, on the other hand, the former shall prevail.”

2. Continuing Effect of Agreement. Except as amended by this Amendment No. 2 and Amendment No. 1, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 2, whenever the term “Agreement” appears in the Agreement, it shall mean the Agreement, as amended by this Amendment No. 2 and Amendment No. 1.

3. Affirmation of Agreement; Warranty Re Absence of Defaults. City and Consultant each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement and Amendment No. 1. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein and Amendment No. 1. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation.

Consultant represents and warrants to City that, as of the date of this Amendment No. 2, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Consultant that, as of the date of this Amendment No. 2, Consultant is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. 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 No. 2.

5. Authority. The persons executing this Amendment No. 2 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 2 on behalf of said party, (iii) by so executing this Amendment No. 2, such party is formally bound to the provisions of this Amendment No. 2, and (iv) the entering into this Amendment No. 2 does not violate any provision of any other agreement to which said party is bound.

6. Counterparts. This Amendment No. 2 may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original,

whether the signatures are originals, electronic, facsimiles or digital. All such counterparts shall together constitute but one and the same Amendment No. 2.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 2 on the date and year first-above written.

CITY:

CITY OF CARSON, a municipal corporation

Lula Davis-Holmes, Mayor

ATTEST:

Dr. Khaleah R. Bradshaw, City Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

Sunny K. Soltani, City Attorney
[rjl]

CONTRACTOR:

GOFORTH & MARTI, a California corporation
doing business as G/M Business Interiors

*By: _____
Name:
Title:

*By: _____
Name:
Title:

Two corporate officer signatures required when Contractor is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CONTRACTOR’S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONTRACTOR’S BUSINESS ENTITY.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On _____, 2023 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

<p><input type="checkbox"/> CAPACITY CLAIMED BY SIGNER</p> <p><input type="checkbox"/> INDIVIDUAL</p> <p><input type="checkbox"/> CORPORATE OFFICER</p> <p>_____</p> <p><input type="checkbox"/> PARTNER(S) <input type="checkbox"/> TITLE(S) LIMITED</p> <p><input type="checkbox"/> <input type="checkbox"/> GENERAL</p> <p><input type="checkbox"/> ATTORNEY-IN-FACT</p> <p><input type="checkbox"/> TRUSTEE(S)</p> <p><input type="checkbox"/> GUARDIAN/CONSERVATOR</p> <p><input type="checkbox"/> OTHER _____</p> <p>_____</p> <p>SIGNER IS REPRESENTING: (NAME OF PERSON(S) OR ENTITY(IES))</p> <p>_____</p> <p>_____</p>	<p>DESCRIPTION OF ATTACHED DOCUMENT</p> <p>_____</p> <p>TITLE OR TYPE OF DOCUMENT</p> <p>_____</p> <p>NUMBER OF PAGES</p> <p>_____</p> <p>DATE OF DOCUMENT</p> <p>_____</p> <p>SIGNER(S) OTHER THAN NAMED ABOVE</p>
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SIGNER IS REPRESENTING: (NAME OF PERSON(S) OR ENTITY(IES)) _____ _____	_____ NUMBER OF PAGES
_____ _____	_____ DATE OF DOCUMENT
_____ _____	_____ SIGNER(S) OTHER THAN NAMED ABOVE

EXHIBIT A

DESCRIPTION OF GOODS, SERVICES AND PRICING

SEE ATTACHED QUOTATION 206811 *FOR \$883,209.27*

(CITY HALL)

EXHIBIT A-1

DESCRIPTION OF GOODS, *SERVICES* AND PRICING

SEE ATTACHED ~~CHANGE ORDER~~ *QUOTATION 216401 FOR \$18,401.19*

(CITY HALL)

EXHIBIT A-2

DESCRIPTION OF GOODS, SERVICES AND PRICING

SEE ATTACHED QUOTATION 218664 FOR \$47,733.33

(CITY HALL)

EXHIBIT A-3

DESCRIPTION OF GOODS, SERVICES AND PRICING

SEE ATTACHED QUOTATION 216328 FOR \$76,915.23

(VETERAN'S SPORTS COMPLEX)

EXHIBIT A-4

DESCRIPTION OF GOODS, SERVICES AND PRICING

SEE ATTACHED QUOTATION 213153 FOR \$420,413.36 AND FABRIC FINISHES

(COMMUNITY CENTER)